

BROWN & BROWN INC  
Form 10-Q  
May 06, 2010  
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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

**FORM 10-Q**

x **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended March 31, 2010

Or

.. **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number 001-13619

**BROWN & BROWN, INC.**

(Exact name of Registrant as specified in its charter)

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**Florida**  
(State or other jurisdiction of  
incorporation or organization)

**59-0864469**  
(I.R.S. Employer  
Identification Number)

**220 South Ridgewood Avenue,**

**Daytona Beach, FL**  
(Address of principal executive offices)

**32114**  
(Zip Code)

**Registrant's telephone number, including area code: (386) 252-9601**

**Registrant's Website: [www.bbinsurance.com](http://www.bbinsurance.com)**

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months, and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☐ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer, and smaller reporting company in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☒

Accelerated filer ☐

Non-accelerated filer ☐ (Do not check if a smaller reporting company)

Smaller reporting company ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

The number of shares of the Registrant's common stock, \$.10 par value, outstanding as of May 3, 2010 was 142,150,278.

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### **Disclosure Regarding Forward-Looking Statements**

Brown & Brown, Inc., together with its subsidiaries (collectively, we, Brown & Brown or the Company ), makes forward-looking statements within the safe harbor provision of the Private Securities Litigation Reform Act of 1995, as amended, throughout this report and in the documents we incorporate by reference into this report. You can identify these statements by forward-looking words such as may, will, should, expect, anticipate, believe, intend, estimate, plan and continue or similar words. We have based these statements on our current expectations about future events. Although we believe the expectations expressed in the forward-looking statements included in this Form 10-Q and those reports, statements, information and announcements incorporated by reference are based on reasonable assumptions within the bounds of our knowledge of our business, a number of factors could cause actual results to differ materially from those expressed in any forward-looking statements, whether oral or written, made by us or on our behalf. Many of these factors have previously been identified in filings or statements made by us or on our behalf. Important factors which could cause our actual results to differ materially from the forward-looking statements in this report include the following items, in addition to those matters described in Part I, Item 2 Management's Discussion and Analysis of Financial Condition and Results of Operations :

Material adverse changes in economic conditions in the markets we serve and in the general economy;

Future regulatory actions and conditions in the states in which we conduct our business;

Competition from others in the insurance agency, wholesale brokerage, insurance programs and service business;

A significant portion of business written by Brown & Brown is for customers located in California, Florida, Indiana, Michigan, New Jersey, New York, Pennsylvania, Texas and Washington. Accordingly, the occurrence of adverse economic conditions, an adverse regulatory climate, or a disaster in any of these states could have a material adverse effect on our business;

The integration of our operations with those of businesses or assets we have acquired or may acquire in the future and the failure to realize the expected benefits of such integration; and

Other risks and uncertainties as may be detailed from time to time in our public announcements and Securities and Exchange Commission ( SEC ) filings.

Forward-looking statements that we make or that are made by others on our behalf are based on a knowledge of our business and the environment in which we operate, but because of the factors listed above, among others, actual results may differ from those in the forward-looking statements. Consequently, these cautionary statements qualify all of the forward-looking statements we make herein. We cannot assure you that the results or developments anticipated by us will be realized or, even if substantially realized, that those results or developments will yield the expected consequences for us or affect us, our business or our operations in the way we expect. We caution readers not to place undue reliance on these forward-looking statements, which speak only as of their dates. We assume no obligation to update any of the forward-looking statements.

**Table of Contents****PART I FINANCIAL INFORMATION****ITEM 1 FINANCIAL STATEMENTS (UNAUDITED)****BROWN & BROWN, INC.****CONDENSED CONSOLIDATED STATEMENTS OF INCOME****(UNAUDITED)**

(in thousands, except per share data)	For the three months ended March 31,	
	2010	2009
<b>REVENUES</b>		
Commissions and fees	\$ 250,674	\$ 263,964
Investment income	331	310
Other income (loss), net	1,268	(694)
Total revenues	252,273	263,580
<b>EXPENSES</b>		
Employee compensation and benefits	122,183	127,341
Non-cash stock-based compensation	1,955	1,816
Other operating expenses	36,333	35,864
Amortization	12,553	12,385
Depreciation	3,253	3,333
Interest	3,608	3,634
Change in estimated acquisition earn-out payable	(696)	
Total expenses	179,189	184,373
Income before income taxes	73,084	79,207
Income taxes	28,956	31,195
Net income	\$ 44,128	\$ 48,012
Net income per share:		
Basic	\$ 0.31	\$ 0.34
Diluted	\$ 0.31	\$ 0.34
Weighted average number of shares outstanding:		
Basic	137,623	136,935
Diluted	137,791	137,220
Dividends declared per share	\$ 0.0775	\$ 0.075

See accompanying notes to condensed consolidated financial statements.

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**BROWN & BROWN, INC.**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
**(UNAUDITED)**

(in thousands, except per share data)	March 31, 2010	December 31, 2009
<b>ASSETS</b>		
Current Assets:		
Cash and cash equivalents	\$ 228,805	\$ 197,113
Restricted cash and investments	146,360	155,257
Short-term investments	8,345	8,213
Premiums, commissions and fees receivable	211,897	209,462
Deferred income taxes		11,791
Other current assets	30,717	31,863
Total current assets	626,124	613,699
Fixed assets, net	60,325	61,467
Goodwill	1,091,791	1,074,397
Amortizable intangible assets, net	465,290	468,862
Other assets	5,907	5,801
Total assets	\$ 2,249,437	\$ 2,224,226
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
Current Liabilities:		
Premiums payable to insurance companies	\$ 327,281	\$ 310,296
Premium deposits and credits due customers	31,314	37,715
Accounts payable	29,353	17,431
Accrued expenses and other liabilities	61,686	96,387
Current portion of long-term debt	6,015	17,124
Total current liabilities	455,649	478,953
Long-term debt	250,030	250,209
Deferred income taxes, net	119,184	115,609
Other liabilities	19,177	9,581
Shareholders' Equity:		
Common stock, par value \$0.10 per share; authorized 280,000 shares; issued and outstanding 142,128 at 2010 and 142,076 at 2009	14,213	14,208
Additional paid-in capital	270,261	267,856
Retained earnings	1,120,918	1,087,805
Accumulated other comprehensive income, net of related income tax effect of \$3 at 2010 and \$3 at 2009	5	5
Total shareholders' equity	1,405,397	1,369,874
Total liabilities and shareholders' equity	\$ 2,249,437	\$ 2,224,226

See accompanying notes to condensed consolidated financial statements.



**Table of Contents****BROWN & BROWN, INC.****CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS****(UNAUDITED)**

(in thousands)	For the three months ended March 31,	
	2010	2009
<b>Cash flows from operating activities:</b>		
Net income	\$ 44,128	\$ 48,012
Adjustments to reconcile net income to net cash provided by operating activities:		
Amortization	12,553	12,385
Depreciation	3,253	3,333
Non-cash stock-based compensation	1,955	1,816
Change in acquisition earn-out payable	(696)	
Deferred income taxes	15,366	17,325
Net (gain) loss on sales of investments, fixed assets, and customer accounts	(635)	1,007
Changes in operating assets and liabilities, net of effect from acquisitions and divestitures:		
Restricted cash and investments decrease	8,897	3,910
Premiums, commissions and fees receivable (increase) decrease	(2,435)	15,504
Other assets decrease	1,677	6,029
Premiums payable to insurance companies increase	16,949	9,603
Premium deposits and credits due customers (decrease) increase	(6,401)	1,431
Accounts payable increase	11,912	12,825
Accrued expenses (decrease)	(34,764)	(41,022)
Other liabilities increase	2,032	1,002
<b>Net cash provided by operating activities</b>	<b>73,791</b>	<b>93,160</b>
<b>Cash flows from investing activities:</b>		
Additions to fixed assets	(2,054)	(3,158)
Payments for businesses acquired, net of cash acquired	(17,204)	(27,970)
Proceeds from sales of fixed assets and customer accounts	241	32
Purchases of investments	(509)	(544)
Proceeds from sales of investments	383	562
<b>Net cash used in investing activities</b>	<b>(19,143)</b>	<b>(31,078)</b>
<b>Cash flows from financing activities:</b>		
Payments on long-term debt	(12,396)	(4,078)
Issuances of common stock for employee stock benefit plans	455	496
Cash dividends paid	(11,015)	(10,618)
<b>Net cash used in financing activities</b>	<b>(22,956)</b>	<b>(14,200)</b>
<b>Net increase in cash and cash equivalents</b>	<b>31,692</b>	<b>47,882</b>
Cash and cash equivalents at beginning of period	197,113	78,557
<b>Cash and cash equivalents at end of period</b>	<b>\$ 228,805</b>	<b>\$ 126,439</b>

See accompanying notes to condensed consolidated financial statements.





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**BROWN & BROWN, INC.**

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

**(UNAUDITED)**

**NOTE 1· Nature of Operations**

Brown & Brown, Inc., a Florida corporation, and its subsidiaries (collectively, We, Brown & Brown, or the Company ) is a diversified insurance agency, wholesale brokerage, insurance programs and services organization that markets and sells to its customers insurance products and services, primarily in the property and casualty area. Brown & Brown's business is divided into four reportable segments: the Retail Division, which provides a broad range of insurance products and services to commercial, public and quasi-public entities, professional and individual customers; the National Programs Division, which is composed of two units Professional Programs, which provides professional liability and related package products for certain professionals delivered through nationwide networks of independent agents, and Special Programs, which markets targeted products and services designated for specific industries, trade groups, public and quasi-public entities and market niches; the Wholesale Brokerage Division, which markets and sells excess and surplus commercial insurance and reinsurance, primarily through independent agents and brokers; and the Services Division, which provides insurance-related services, including third-party claims administration and comprehensive medical utilization management services in both the workers' compensation and all-lines liability arenas, as well as Medicare set-aside services.

**NOTE 2· Basis of Financial Reporting**

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ( U.S. GAAP ) for interim financial information and with the instructions for Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by U.S. GAAP for complete financial statements. In the opinion of management, all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation have been included. These unaudited condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements and the notes thereto set forth in the Company's Annual Report on Form 10-K for the year ended December 31, 2009.

Results of operations for the three months ended March 31, 2010 are not necessarily indicative of the results that may be expected for the year ending December 31, 2010.

**NOTE 3· Net Income Per Share**

Effective in 2009, the Company adopted new Financial Accounting Standards Board ( FASB ) authoritative guidance, which states that unvested share-based payment awards that contain non-forfeitable rights to dividends or dividend equivalents are participating securities and, therefore, are included in computing earnings per share ( EPS ) pursuant to the two-class method. The two-class method determines EPS for each class of common stock and participating securities according to dividends or dividend equivalents and their respective participation rights in undistributed earnings. Performance stock shares granted to employees under the Company's Performance Stock Plan are considered participating securities as they receive non-forfeitable dividend equivalents at the same rate as common stock. This new guidance was adopted via retroactive application for the quarter ended March 31, 2009, resulting in no change in either basic or diluted EPS for periods presented.

**Table of Contents****BROWN & BROWN, INC****NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)****(UNAUDITED)**

Basic EPS is computed based on the weighted average number of common shares issued and outstanding during the period. Diluted EPS is computed based on the weighted average common shares issued and outstanding plus equivalent shares assuming exercise of stock options. The dilutive effect of stock options is computed by application of the treasury stock method. For the three months ended March 31, 2010 and 2009, the impact of outstanding options to purchase shares of common stock of 1,457,000 and 0 shares, respectively, were antidilutive and were excluded from the calculation of diluted net income per share. The following is a reconciliation between basic and diluted weighted average shares outstanding for the three months ended March 31:

(in thousands, except per share data)	For the three months ended March 31,	
	2010	2009
Net income	\$ 44,128	\$ 48,012
Net income attributable to unvested awarded performance stock	(1,394)	(1,568)
Net income attributable to common shares	\$ 42,734	\$ 46,444
Weighted average basic number of common shares outstanding	142,112	141,558
Less unvested awarded performance stock included in weighted average basic share outstanding	(4,489)	(4,623)
Weighted average number of common shares outstanding for basic earnings per common share	137,623	136,935