

BEASLEY BROADCAST GROUP INC

Form 10-Q

November 06, 2017

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**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

**WASHINGTON, D.C. 20549**

**FORM 10-Q**

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

**For the Quarterly Period Ended September 30, 2017**

**OR**

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

**Commission File No. 000-29253**

**BEASLEY BROADCAST GROUP, INC.**

**(Exact Name of Registrant as Specified in Its Charter)**

**Delaware**  
**(State of**  
**Incorporation)**

**65-0960915**  
**(I.R.S. Employer**  
**Identification Number)**

**3033 Riviera Drive, Suite 200**  
**Naples, Florida 34103**  
**(Address of Principal Executive Offices and Zip Code)**

**(239) 263-5000**  
**(Registrant's Telephone Number, Including Area Code)**

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 (or for such shorter period that the registrant was required to file such reports), 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, smaller reporting company, or an emerging growth company. See the definitions of large accelerated filer, accelerated filer, smaller reporting company, and emerging growth 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

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

Class A Common Stock, \$0.001 par value, 12,124,389 Shares Outstanding as of October 30, 2017



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**Table of Contents****BEASLEY BROADCAST GROUP, INC.****CONDENSED CONSOLIDATED BALANCE SHEETS (UNAUDITED)**

	<b>December 31, 2016</b>	<b>September 30, 2017</b>
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 20,325,415	\$ 15,454,914
Accounts receivable, less allowance for doubtful accounts of \$1,537,353 in 2016 and \$1,481,779 in 2017	48,186,463	45,350,450
Prepaid expenses	4,909,799	7,056,426
Merger consideration receivable	7,877,577	15,543,722
Beneficial interest in trust	19,947,261	
Other current assets	2,172,892	1,812,467
<b>Total current assets</b>	<b>103,419,407</b>	<b>85,217,979</b>
Property and equipment, net	60,166,812	59,107,836
FCC broadcasting licenses	476,571,140	477,977,719
Goodwill	3,393,234	3,393,234
Other intangibles, net	535,582	348,025
Assets held for sale	11,320,286	
Other assets	6,263,587	5,875,234
<b>Total assets</b>	<b>\$ 661,670,048</b>	<b>\$ 631,920,027</b>
<b>LIABILITIES AND STOCKHOLDERS EQUITY</b>		
Current liabilities:		
Current installments of long-term debt	\$ 6,686,077	\$ 63,284
Accounts payable	6,087,436	7,845,623
Other current liabilities	21,173,419	18,860,796
<b>Total current liabilities</b>	<b>33,946,932</b>	<b>26,769,703</b>
Due to related parties	855,753	783,219
Long-term debt, net of current installments and unamortized debt issuance costs	247,692,171	206,909,580
Deferred tax liabilities	160,539,268	166,412,419
Other long-term liabilities	16,144,301	14,029,118
<b>Total liabilities</b>	<b>459,178,425</b>	<b>414,904,039</b>
Commitments and contingencies		
Stockholders' equity:		
Preferred stock, \$0.001 par value; 10,000,000 shares authorized; none issued		
Class A common stock, \$0.001 par value; 150,000,000 shares authorized; 15,112,529 issued and 12,174,542 outstanding in 2016; 15,111,779 issued and 12,124,389 outstanding in 2017	15,113	15,112

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Class B common stock, \$0.001 par value; 75,000,000 shares authorized; 16,662,743 issued and outstanding in 2016 and 2017	16,662	16,662
Additional paid-in capital	146,339,925	147,853,603
Treasury stock, Class A common stock; 2,937,987 shares in 2016; 2,987,390 shares in 2017	(15,560,021)	(16,066,431)
Retained earnings	72,401,766	86,006,927
Accumulated other comprehensive loss	(721,822)	(809,885)
<b>Total stockholders' equity</b>	<b>202,491,623</b>	<b>217,015,988</b>
<b>Total liabilities and stockholders' equity</b>	<b>\$ 661,670,048</b>	<b>\$ 631,920,027</b>

**Table of Contents****BEASLEY BROADCAST GROUP, INC.****CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (UNAUDITED)**

	<b>Three Months Ended September 30,</b>	
	<b>2016</b>	<b>2017</b>
Net revenue	\$ 27,729,026	\$ 58,902,050
Operating expenses:		
Station operating expenses (including stock-based compensation of \$36,412 in 2016 and \$69,815 in 2017 and excluding depreciation and amortization shown separately below)	19,519,464	42,481,721
Corporate general and administrative expenses (including stock-based compensation of \$164,752 in 2016 and \$472,167 in 2017)	2,394,970	4,026,521
Merger expenses	1,200,573	
Other operating expenses		290,581
Depreciation and amortization	816,394	1,453,167
Change in fair value of contingent consideration		(2,524,195)
Total operating expenses	23,931,401	45,727,795
Operating income	3,797,625	13,174,255
Non-operating income (expense):		
Interest expense	(855,378)	(4,717,530)
Other income (expense), net	316,126	46,219
Income before income taxes	3,258,373	8,502,944
Income tax expense	1,564,005	2,432,740
Net income	1,694,368	6,070,204
Other comprehensive income:		
Unrealized loss on securities (net of income tax benefit of \$3,038 in 2016 and \$726 in 2017)	(4,958)	(1,119)
Comprehensive income	\$ 1,689,410	\$ 6,069,085
Net income per Class A and B common share:		
Basic and diluted	\$ 0.07	\$ 0.22
Dividends declared per common share	\$ 0.045	\$ 0.045
Weighted average shares outstanding:		
Basic	23,025,764	27,705,736
Diluted	23,176,632	27,907,570

**Table of Contents****BEASLEY BROADCAST GROUP, INC.****CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (UNAUDITED)**

	<b>Nine Months Ended September 30,</b>	
	<b>2016</b>	<b>2017</b>
Net revenue	\$ 82,961,354	\$ 173,656,015
Operating expenses:		
Station operating expenses (including stock-based compensation of \$109,236 in 2016 and \$203,530 in 2017 and excluding depreciation and amortization shown separately below)	59,235,576	131,344,313
Corporate general and administrative expenses (including stock-based compensation of \$532,608 in 2016 and \$1,310,147 in 2017)	7,339,588	11,745,100
Merger and disposition expenses	1,200,573	746,070
Other operating expenses		871,743
Depreciation and amortization	2,486,381	4,575,646
Gain on dispositions, net		(3,707,993)
Change in fair value of contingent consideration		(7,666,145)
Termination of postretirement benefits plan		(1,812,448)
Total operating expenses	70,262,118	136,096,286
Operating income	12,699,236	37,559,729
Non-operating income (expense):		
Interest expense	(2,742,462)	(14,296,913)
Other income (expense), net	545,537	441,936
Income before income taxes	10,502,311	23,704,752
Income tax expense	4,517,712	6,242,531
Net income	5,984,599	17,462,221
Other comprehensive income:		
Unrealized losses on securities (net of income tax benefit of \$33,356 in 2016 and \$16,463 in 2017)	(54,445)	(25,364)
Unrecognized actuarial losses on postretirement plans (net of income tax benefit of \$40,697)		(62,699)
Comprehensive income	\$ 5,930,154	\$ 17,374,158
Net income per Class A and B common share:		
Basic and diluted	\$ 0.26	\$ 0.63
Dividends declared per common share	\$ 0.135	\$ 0.135
Weighted average shares outstanding:		
Basic	23,010,933	27,690,199



Diluted

23,142,178

27,886,984

**Table of Contents****BEASLEY BROADCAST GROUP, INC.****CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (UNAUDITED)**

	<b>Nine Months Ended September 30,</b>	
	<b>2016</b>	<b>2017</b>
<b>Cash flows from operating activities:</b>		
Net income	\$ 5,984,599	\$ 17,462,221
<b>Adjustments to reconcile net income to net cash provided by operating activities:</b>		
Stock-based compensation	641,844	1,513,677
Provision for bad debts	653,934	1,138,019
Depreciation and amortization	2,486,381	4,575,646
Gain on dispositions		(3,707,993)
Change in fair value of contingent consideration		(7,666,145)
Termination of postretirement benefits plan		(1,812,448)
Amortization of loan fees	275,247	1,640,424
Deferred income taxes	1,431,302	5,785,088
<b>Change in operating assets and liabilities:</b>		
Accounts receivable	18,202	1,697,994
Prepaid expenses	(108,344)	(2,146,627)
Other assets	(693,660)	921,482
Accounts payable	553,004	1,758,187
Other liabilities	2,003,539	(3,453,897)
Other operating activities	(107,575)	49,118
<b>Net cash provided by operating activities</b>	<b>13,138,473</b>	<b>17,754,746</b>
<b>Cash flows from investing activities:</b>		
Change in restricted cash	743,195	
Capital expenditures	(2,072,389)	(2,962,466)
Proceeds from dispositions of radio stations		35,000,000
Payments for translator licenses		(1,109,103)
Payments for investments	(166,667)	
Loan to related party		(150,000)
<b>Net cash provided by (used in) investing activities</b>	<b>(1,495,861)</b>	<b>30,778,431</b>
<b>Cash flows from financing activities:</b>		
Payments on debt	(6,043,699)	(49,045,808)
Dividends paid	(3,104,523)	(3,851,460)
Purchase of treasury stock	(162,000)	(506,410)
<b>Net cash used in financing activities</b>	<b>(9,310,222)</b>	<b>(53,403,678)</b>
<b>Net increase (decrease) in cash and cash equivalents</b>	<b>2,332,390</b>	<b>(4,870,501)</b>

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Cash and cash equivalents at beginning of period	14,318,494	20,325,415
Cash and cash equivalents at end of period	\$ 16,650,884	\$ 15,454,914
Cash paid for interest	\$ 2,485,147	\$ 12,672,589
Cash paid for income taxes	\$ 2,555,650	\$ 2,021,125
Supplement disclosure of non-cash investing and financing activities:		
Dividends declared but unpaid	\$ 1,036,341	\$ 1,286,010
Translator license and equipment received as consideration	\$	\$ 332,000

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Our ability to service our debt and to fund our planned capital expenditures and ongoing operations will depend on our ability to generate cash and to obtain financing in the future. This, to a certain extent, is subject to general economic, financial, competitive, legislative, regulatory and other factors affecting our industry that are beyond our control. If we do not generate sufficient cash flow from operations, and sufficient future borrowings are not available under our senior credit facilities or from other sources of financing, we may not be able to repay our debt or fund capital expenditures or our other liquidity needs. As of March 31, 2006, on a consolidated basis, we had principal repayment obligations of \$0 in each of fiscal years 2006, 2007 and 2008, \$19 million in fiscal year 2009, \$71 million in fiscal year 2010 and \$205 million thereafter. Pro forma, after giving effect to the repayment of \$47.5 million in aggregate principal amount of the outstanding term loan amounts under our senior credit facilities in May 2006, as of March 31, 2006, on a consolidated basis, we had principal repayment obligations of \$0 in each of fiscal years 2006, 2007, 2008 and 2009, \$42.5 million in fiscal year 2010 and \$205 million thereafter. Based on our debt obligations and interest rates at March 31, 2006, our current annual debt service costs are approximately \$24 million per year, and pro forma, after giving effect to the repayment of \$47.5 million in aggregate principal amount of our outstanding term loan, our current annual debt service costs are approximately \$21 million.

**Our outstanding notes and our senior credit facilities are subject to change of control provisions. We may not have the ability to raise funds necessary to fulfill our obligations under our debt following a change of control, which could place us in default thereunder.**

We may not have the ability to raise funds necessary to fulfill our obligations under our debt following a change of control, which would place us in default thereunder. We may not have the ability to raise the funds necessary to fulfill our obligations under our outstanding notes and our senior credit facilities following a change of control. Under the indentures governing our notes, upon the occurrence of specified change of control events, we are required to offer to repurchase the notes. However, we may not have sufficient funds at the time of the change of control event to make the required repurchase of our notes. In addition, a change of control under our senior credit facilities would result in an event of default thereunder and permit the acceleration of the outstanding obligations under the senior credit facilities.

## **RISKS RELATED TO OUR COMMON STOCK**

**The price of our common stock may fluctuate, which could negatively affect the value of your investment.**

The market price of our common stock may fluctuate widely as a result of various factors, such as period-to-period fluctuations in our actual or anticipated operating results, sales of our common stock by our existing equity investors, developments in our industry, the failure of securities analysts to cover our common stock or changes in financial estimates by analysts, failure to meet financial estimates by analysts, competitive factors, general economic and securities market conditions and other external factors. Also, securities markets worldwide experience significant price and volume fluctuations. This market volatility, as well as general economic or market conditions,

and market conditions affecting the stock of companies in our industry in particular, could reduce the market price of our common stock in spite of our operating performance. You may be unable to resell your shares of our common stock at or above the purchase price for your shares or at all.

**If our share price is volatile, we may be the target of securities litigation, which is costly and time-consuming to defend.**

In the past, following periods of market volatility in the price of a company's securities, securityholders have often instituted class action litigation. If the market value of our common stock experiences adverse fluctuations and we become involved in this type of litigation, regardless of the outcome, we could incur substantial legal costs and our management's attention could be diverted from the operation of our business, causing our business to suffer.

**Future sales of shares of our common stock in the public market could depress our stock price and make it difficult for you to recover the full value of your investment.**

We cannot predict the effect, if any, that market sales of shares of common stock or the availability of shares of common stock for sale will have on the market price of our common stock prevailing from time to time. Future sales, or the perception or availability for sale in the public market, of substantial amounts of our common stock could adversely affect the market price of our common stock.

In addition, we may issue a substantial number of shares of our common stock under our stock incentive and stock purchase plans. As of May 15, 2006, we had options outstanding to purchase 3,191,698 shares of our common stock under our 2000 Stock Option Plan, our 2004 Stock Incentive Plan and our 2006 Equity and Performance Incentive Plan, of which 2,359,225 were exercisable as of such date. In addition our 2006 Equity and Performance Incentive Plan and 2006 Employee Stock Purchase Plan provide for the issuance of up to an additional 1,853,645 shares of our common stock to officers, directors and consultants. The issuance of significant additional shares of our common stock upon the exercise of outstanding options or otherwise pursuant to these stock plans could have a material adverse effect on the market price of our common stock and could significantly dilute the interests of other stockholders.

**The controlling position of Cypress will limit your ability to influence corporate matters.**

As of May 15, 2006, entities affiliated with The Cypress Group collectively own over 55.5% of our outstanding shares of common stock. Accordingly, the entities affiliated with Cypress have significant influence over our management and affairs and over most matters requiring stockholder approval, including the election of directors and the approval of significant corporate transactions. The entities affiliated with Cypress will also be able to deter any attempted change of control. This concentrated control will limit your ability to influence corporate matters and, as a result, we may take actions that some of our stockholders do not view as beneficial. Accordingly, the market price of our common stock could be adversely affected.

**Our anti-takeover provisions could prevent or delay a change in control of our company, even if such change of control would be beneficial to our stockholders.**

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Provisions of our amended and restated certificate of incorporation and amended and restated bylaws as well as provisions of Delaware law could discourage, delay or prevent a merger, acquisition or other change in control of our company. These provisions include:

a board of directors that is classified such that only one-third of directors are elected each year;

authorizing the issuance of blank check preferred stock that could be issued by our board of directors to increase the number of outstanding shares and thwart a takeover attempt;

limitations on the ability of stockholders to call special meetings of stockholders;

prohibiting stockholder action by written consent and requiring all stockholder actions to be taken at a meeting of our stockholders;

establishing advance notice requirements for nominations for election to the board of directors or for proposing matters that can be acted upon by stockholders at stockholder meetings; and

requiring that the affirmative vote of the holders of at least two thirds (66 2/3%) of the voting power of our issued and outstanding capital stock entitled to vote in the election of directors be obtained to amend certain provisions of our amended and restated certificate of incorporation.

In addition, Section 203 of the Delaware General Corporation Law, which will apply to us after affiliates of Cypress collectively cease to own at least 15% of the total voting power of our common stock, limits business combination transactions with 15% stockholders that have not been approved by the board of directors. These provisions and other similar provisions make it more difficult for a third party to acquire us without negotiation. These provisions may apply even if the transaction may be considered beneficial by some stockholders.

**The failure to maintain a minimum share price of \$1.00 per share of common stock could result in delisting of our shares on the Nasdaq National Market, which would harm the market price of our common stock.**

In order to retain our listing on the Nasdaq National Market we are required to maintain a minimum bid price of \$1.00 per share. If the bid price falls below the \$1.00 minimum for more than 30 consecutive trading days, we will have 180 days to satisfy the \$1.00 minimum bid price for a period of at least 10 trading days. If we are unable to take action to increase the bid price per share (either by reverse stock split or otherwise), we could be subject to delisting from the Nasdaq National Market.

The failure to maintain our listing on the Nasdaq National Market would harm the liquidity of our common stock and would have an adverse effect on the market price of our common stock. As a result, the liquidity of our common stock would be impaired, not only in the number of shares that could be bought or sold, but also through delays in the timing of transactions, reduction in security analysts' and news media's coverage and lower prices for our common stock than might otherwise be attained. In addition, our common stock would become subject to the penny stock rules that impose additional sales practice requirements on broker-dealers who sell such securities.

#### USE OF PROCEEDS

We will not receive any of the proceeds from the sale of our common stock by the selling stockholders pursuant to this resale prospectus. All proceeds from the sale of our common stock by the selling stockholders will be for the account of such selling stockholders.

#### SELLING STOCKHOLDERS

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The following table lists the names of each selling stockholder and the number of shares of our common stock that could be sold by that individual pursuant to this resale prospectus.

Name & Title	Number of Shares of Common Stock Beneficially Owned Prior to the Offering	Number of Shares of Common Stock That May be Offered(1)	Number of Shares of Common Stock Beneficially Owned After the Offering	Percent of Outstanding Common Stock Beneficially Owned After the Offering(2)
Michael F. Finley Director(3)(4)	8,872,071	3,333	8,868,738	55.3%
Jeffrey P. Hughes, Director(3)(5)	8,869,849	1,111	8,868,738	55.3%
Michael Targoff Chairman(6)	77,049	2,222	74,827	*
Chris Toffales Vice Chairman and Director(7)	20,671	1,111	19,560	*
William P. Rutledge Director(8)	2,222	2,222		*



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\* Represents less than 1% of total.

(1) Does not constitute a commitment to sell any or all of the stated number of shares of our common stock. The number of shares of our common stock offered shall be determined from time to time by each selling stockholder in his sole discretion.

(2) Percentage of beneficial ownership is based on 16,030,153 shares of our common stock issued and outstanding as of May 15, 2006.

(3) Amount of shares beneficially owned includes 8,868,738 shares beneficially owned by Cypress Associates II LLC ( **Cypress Associates** ), which consists of 8,429,065 shares owned by Cypress Merchant Banking Partners II L.P., 358,332 shares owned by Cypress Merchant B II C.V. and 81,341 shares owned by 55th Street Partners II L.P. (collectively, the **Cypress Funds** ). Cypress Associates is the managing general partner of Cypress Merchant B II C.V. and the general partner of Cypress Merchant Banking Partners II L.P. and 55th Street Partners II L.P., and has voting and investment power over the shares held or controlled by each of these funds. Jeffrey P. Hughes and James A. Stern, each of whom is a managing member of Cypress Associates, may be deemed to share beneficial ownership of the shares shown as beneficially owned by Cypress Associates and by the Cypress Funds. In addition, Messrs. Finley and Hughes are members of the investment committee that exercises voting control over the shares owned by the Cypress Funds. Each of the foregoing individuals disclaims beneficial ownership of the shares shown as beneficially owned by Cypress Associates and the shares shown as beneficially owned by the Cypress Funds.

(4) Amount of shares beneficially owned includes 3,333 unvested shares. The unvested shares will vest as follows: 1/3 of the shares will vest on the day before the 2007 annual stockholders meeting, 1/3 of the shares will vest on the day before the 2008 annual stockholders meeting and 1/3 of the shares will vest on the day before the 2009 annual stockholders meeting. Unvested shares are generally subject to forfeiture restrictions in the event of the termination of Mr. Finley's status as a director.

(5) Amount of shares beneficially owned includes 1,111 unvested shares. The unvested shares will vest on the day before the 2007 annual stockholders meeting. Unvested shares are generally subject to forfeiture restrictions in the event of the termination of Mr. Hughes' status as a director.

(6) Amount of shares beneficially owned includes (i) 2,222 unvested shares and (ii) 9,807 shares of our common stock issuable upon the exercise of options that are presently exercisable or exercisable within sixty (60) days after May 15, 2006. The unvested shares will vest as follows: 1/2 of the shares will vest on the day before the 2007 annual stockholders meeting and 1/2 of the shares will vest on the day before the 2008 annual stockholders meeting. Unvested shares are generally subject to forfeiture restrictions in the event of the termination of Mr. Targoff's status as a director.

(7) Amount of shares beneficially owned includes (i) 1,111 unvested shares and (ii) 9,807 shares of our common stock issuable upon the exercise of options that are presently exercisable or exercisable within (60) days after May 15, 2006. The unvested shares will vest on the day before the 2007 annual

stockholders meeting. Unvested shares are generally subject to forfeiture restrictions in the event of the termination of Mr. Toffales status as a director.

(8) Amount of shares beneficially owned consists of 2,222 unvested shares. The unvested shares will vest as follows: 1/2 of the shares will vest on the day before the 2007 annual stockholders meeting and 1/2 of the shares will vest on the day before the 2008 annual stockholders meeting. Unvested shares are generally subject to forfeiture restrictions in the event of the termination of Mr. Rutledge s status as a director.

#### PLAN OF DISTRIBUTION

The selling stockholders and their successors, including their transferees and donees, may sell the common stock offered under this resale prospectus directly to purchasers or through underwriters, broker-dealers or agents, who may receive compensation in the form of discounts, concessions or commissions from the selling stockholders or the purchasers. These discounts, concessions or commissions as to any particular underwriter, broker-dealer or agent may be in excess of those customary in the types of transactions involved. Neither we nor the selling stockholders can estimate the amount of this compensation.

The common stock offered under this resale prospectus may be sold from time to time in one or more transactions at fixed prices, at prevailing market prices at the time of sale, at prices related to the prevailing market prices, at varying prices determined at the time of sale, or at negotiated prices. These sales may be effected in transactions, that may involve crosses or block transactions:

on any national securities exchange or U.S. inter-dealer system of a registered national securities association on which the common stock may be listed or quoted at the time of sale;

in the over-the-counter market;

in transactions otherwise than on these exchanges or systems or in the over-the-counter market;

through the writing of options, whether the options are listed on an options exchange or otherwise; or

through the settlement of short sales.

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In connection with the sale of the common stock, the selling stockholders may enter into hedging transactions with broker-dealers or other financial institutions, which may in turn engage in short sales of the common stock in the course of hedging the positions they assume. Except as provided in Section 16(c) of the Securities Act of 1933, the selling stockholders may also sell the common stock short and deliver these securities to close out their short positions, or loan or pledge the common stock to broker-dealers that in turn may sell these securities.

The aggregate proceeds to the selling stockholders from the sale of the common stock offered by them will be the purchase price of the common stock less discounts and commissions, if any. Each of the selling stockholders reserves the right to accept or to reject, in whole or in part, any proposed purchase of common stock to be made directly or through agents.

The selling stockholders and any underwriters, broker-dealers or agents that participate in the sale of the common stock may be underwriters within the meaning of Section 2(11) of the Securities Act of 1933. Any discounts, commissions, concessions or profit they earn on any resale of the shares may be underwriting discounts and commissions under the Securities Act of 1933. If the selling stockholders are underwriters within the meaning of Section 2(11) of the Securities Act of 1933, they will be subject to the prospectus delivery requirements of the Securities Act of 1933.

In addition, any securities covered by this resale prospectus that qualify for sale pursuant to Rule 144 of the Securities Act of 1933 may be sold under Rule 144 rather than pursuant to this resale prospectus. A selling

stockholder may not sell any common stock described in this resale prospectus and may not transfer, devise or gift these securities by other means not described in this resale prospectus.

To the extent required, the specific common stock to be sold, the names of the selling stockholders, the respective purchase prices and public offering prices, the names of any agent, dealer or underwriter, and any applicable commissions or discounts with respect to a particular offer will be set forth in an accompanying prospectus supplement or, if appropriate, a post-effective amendment to the registration statement of which this resale prospectus is a part. This resale prospectus also may be used, with our consent, by donees of the selling stockholders, or by other persons acquiring shares and who wish to offer and sell shares under circumstances requiring or making desirable its use.

In order to comply with the securities laws of some states, if applicable, the common stock may be sold in these jurisdictions only through registered or licensed brokers or dealers.

The selling stockholders may indemnify brokers, dealers, agents or underwriters that participate in transactions involving sales of the shares against specific liabilities, including liabilities arising under the Securities Act of 1933 and/or the Securities Exchange Act of 1934. We will pay substantially all of the expenses incident to this offering of the shares by the selling stockholders to the public other than commissions and discounts of underwriters, brokers, dealers or agents.

We may suspend the use of this resale prospectus if we learn of any event that causes this resale prospectus to include an untrue statement of a material fact or to omit to state a material fact required to be stated in the resale prospectus or necessary to make the statements in the resale prospectus not misleading in the light of the circumstances then existing. If this type of event occurs, a prospectus supplement or post-effective amendment, if required, will be distributed to each selling stockholder.

## **LEGAL MATTERS**

The validity of the issuance of the shares offered hereby has been passed upon by Irell & Manella LLP, Los Angeles, California.

## **EXPERTS**

The consolidated balance sheets of CPI International, Inc. and subsidiaries as of September 30, 2005 and October 1, 2004, and the related consolidated statements of operations, stockholders' equity (deficit) and comprehensive income, and cash flows for the year ended September 30, 2005 and for the 36-week period ended October 1, 2004, and for the 16-week period ended January 22, 2004 and the year ended October 3, 2003 of Communications & Power Industries Holding Corporation and subsidiaries, have each been incorporated by reference herein in reliance upon the report of KPMG LLP, an independent registered public accounting firm, incorporated by reference herein, and upon the authority of said firm as experts in accounting and auditing.



**PART II**  
**INFORMATION NOT REQUIRED IN PROSPECTUS**

**Item 3. Incorporation of Documents by Reference.**

The following documents and information previously filed with the Securities and Exchange Commission by us are hereby incorporated by reference in this Registration Statement:

- (i) Our annual report on Form 10-K for the fiscal year ended September 30, 2005, and our Form 10-K/A for such fiscal year;
- (ii) Our quarterly report on Form 10-Q for the quarter ended December 30, 2005;
- (iii) Our quarterly report on Form 10-Q for the quarter ended March 31, 2006;
- (iv) Our current report on Form 8-K filed on February 16, 2006;
- (v) Our current report on Form 8-K filed on May 3, 2006;
- (vi) Our prospectus dated April 27, 2006, as filed by us under Rule 424(b)(4) on May 1, 2006; and
- (vii) The description of our common stock set forth, or incorporated by reference, in our Registration Statement on Form 8-A filed pursuant to Section 12 of the Securities Exchange Act of 1934, as amended (the **Exchange Act** ), on April 24, 2006, and any amendment or report filed for the purpose of updating any such description.

All reports and other documents subsequently filed by us (other than information furnished pursuant to Item 2.02, Item 7.01 or Item 9.01 of Form 8-K or as otherwise permitted by the rules of the Securities and Exchange Commission) pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act after the date of this prospectus and prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which de-registers all securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be part hereof from the date of filing of such documents.

Any statement contained herein or in a document incorporated or deemed to be incorporated herein by reference shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any subsequently filed document which also is incorporated or deemed to be incorporated herein by reference modifies or supersedes such prior statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

**Item 4. Description of Securities.**

Not applicable.

**Item 5. Interests of Named Experts and Counsel.**

Not applicable.

**Item 6. Indemnification of Directors and Officers.**

Section 145 of the Delaware General Corporation Law ( **DGCL** ) authorizes a corporation to indemnify any person who was or is a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding, if the person acted in good faith and in a manner the person reasonably believed to be in, or not opposed to, the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the person's conduct was unlawful. The DGCL does not permit indemnification in any threatened, pending or completed action or suit by or in the right of the corporation in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery of the State of Delaware in which



such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery of the State of Delaware or such other court shall deem proper. To the extent that a present or former director or officer of a corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to above, or in defense of any claim, issue or matter, such person shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred by such person in connection therewith. Section 102 of the DGCL also allows a corporation to eliminate or limit the personal liability of a director to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director provided that such provisions shall not eliminate or limit the liability of a director:

- (i) for any breach of the director's duty of loyalty to the corporation or its stockholders;
- (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;
- (iii) for unlawful payments of dividends or unlawful stock purchases or redemptions; or
- (iv) for any transaction from which the director derived an improper personal benefit.

These provisions will not limit the liability of directors or officers under the federal securities laws of the United States.

The registrant's amended and restated certificate of incorporation provides that, to the fullest extent that the DGCL or any other applicable law as it exists or as it may be amended permits the limitation or elimination of the liability of directors, no directors of the registrant will be liable to the registrant or its stockholders for monetary damages for breach of fiduciary duty as a director.

The registrant's amended and restated certificate of incorporation and amended and restated bylaws provide that, to the fullest extent permitted by law, the registrant shall indemnify any director or officer of the registrant against all expenses (including attorneys' fees), judgments, fines and amounts paid in the defense or settlement actually and reasonably incurred by him in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, investigative or otherwise, and whether brought by or in the right of the registrant, to which he or she was or is a party or threatened to be made a party by reason of his or her current or former position with the registrant or by reason of the fact that he or she is or was serving, at the request of the registrant, as a director, officer, partner, trustee, employee or agent of another corporation, partnership, joint venture, trust or other enterprise.

The registrant maintains officers' and directors' insurance covering certain liabilities that may be incurred by officers and directors in the performance of their duties. In addition, the registrant has entered into indemnification agreements with each of its directors and executive officers that provide for indemnification and expense advancement to the fullest extent permitted under the DGCL.

**Item 7. Exemption From Registration Claimed.**

The securities that may be reoffered or resold pursuant to this Registration Statement were issued to the selling stockholders named herein in connection with their service as directors of the Registrant in a transaction that did not involve any public offering and was exempt from the registration requirements of the Securities Act of 1933, as amended, pursuant to Section 4(2) of the Securities Act of 1933.

**Item 8. Exhibits.**

See Exhibit Index beginning on page II-5 of this Registration Statement, which is incorporated herein by reference.

**Item 9. Undertakings.**

(a) The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the

aggregate, represent a fundamental change in the information set forth in the Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective Registration Statement.

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement.

*provided, however*, that paragraphs (a)(1)(i) and (a)(1)(ii) of this section do not apply if the Registration Statement is on Form S-8, and the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new Registration Statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the Registration Statement shall be deemed to be a new Registration Statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.



**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Palo Alto, state of California, on May 26, 2006.

CPI International, Inc.  
 By: /s/ Joel A. Littman  
 Joel A. Littman  
 Chief Financial Officer

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities indicated on May 26, 2006.

<b>Signature</b>	<b>Title</b>
<p style="text-align: center;">/s/* O. Joe Caldarelli</p>	<p>Chief Executive Officer and Director (Principal Executive Officer)</p>
<p style="text-align: center;">/s/ Joel A. Littman Joel A. Littman</p>	<p>Chief Financial Officer, Treasurer and Secretary (Principal Financial and Accounting Officer)</p>
<p style="text-align: center;">/s/* Michael Targoff</p>	<p>Chairman of the Board of Directors</p>
<p style="text-align: center;">/s/* Michael F. Finley</p>	<p>Director</p>
<p style="text-align: center;">/s/* Jeffrey P. Hughes</p>	<p>Director</p>
<p style="text-align: center;">/s/* William P. Rutledge</p>	<p>Director</p>
<p style="text-align: center;">/s/* Chris Toffales</p>	<p>Director</p>

\*By: /s/ Joel A. Littman  
 Joel A. Littman, Attorney-in-fact

**INDEX TO EXHIBITS**

## Edgar Filing: BEASLEY BROADCAST GROUP INC - Form 10-Q

### Exhibit No.

- 4.1 Specimen common stock certificate (incorporated by reference to Exhibit 4.5 to the registrant's Registration Statement on Form S-1/A filed on April 11, 2006 (Commission File No. 333-130662))
- 4.2 Amended and Restated Certificate of Incorporation of the registrant, filed with the Delaware Secretary of State on April 7, 2006 (incorporated by reference to Exhibit 3.3 to the registrant's Registration Statement on Form S-1/A filed on April 11, 2006 (Commission File No. 333-130662))
- 4.3 Amended and Restated Bylaws of the registrant (incorporated by reference to Exhibit 3.4 to the registrant's Registration Statement on Form S-1/A filed on April 11, 2006 (Commission File No. 333-130662))
- 4.4 2006 Equity and Performance Incentive Plan (incorporated by reference to Exhibit 10.24 to the registrant's Registration Statement on Form S-1/A filed on April 11, 2006 (Commission File No. 333-130662))
- 4.5 Form of Stock Option Agreement (IPO Grant) under 2006 Equity and Performance Incentive Plan (incorporated by reference to Exhibit 10.25 to the registrant's Registration Statement on Form S-1/A filed on April 11, 2006 (Commission File No. 333-130662))
- 4.6 Form of Stock Option Agreement (Senior Executives) (IPO Grant) under 2006 Equity and Performance Incentive Plan (incorporated by reference to Exhibit 10.26 to the registrant's Registration Statement on Form S-1/A filed on April 11, 2006 (Commission File No. 333-130662))
- 4.7 Form of Stock Option Agreement (Directors) under 2006 Equity and Performance Incentive Plan (incorporated by reference to Exhibit 10.27 to the registrant's Registration Statement on Form S-1/A filed on April 11, 2006 (Commission File No. 333-130662))
- 4.8 Form of Restricted Stock Agreement (Directors) under 2006 Equity and Performance Incentive Plan (incorporated by reference to Exhibit 10.28 to the registrant's Registration Statement on Form S-1/A filed on April 11, 2006 (Commission File No. 333-130662))
- 5.1 Opinion of Irell & Manella LLP
- 23.1 Consent of Irell & Manella LLP (included as part of Exhibit 5.1)
- 23.2 Consent of KPMG LLP
- 24.1 Power of Attorney