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AMCON DISTRIBUTING CO
Form 8-K
May 31, 2006

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(D) OF THE
SECURITIES ACT OF 1934

Date of Report (Date of earliest event reported) May 24, 2006

AMCON DISTRIBUTING COMPANY

(Exact name of registrant as specified in its charter)

| | | |
|--|-----------------------------|--------------------------------------|
| DELAWARE | 1-15589 | 47-0702918 |
| ----- | ----- | ----- |
| (State or other jurisdiction of incorporation) | (Commission File Number) | (IRS Employer Identification No.) |

7405 Irvington Road, Omaha, NE 68122

(Address of principal executive offices) (Zip Code)

(402) 331-3727

(Registrant's telephone number, including area code)

Not Applicable

(Former name or former address, if changed since last report)

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RELATED AUDIT REPORT OR COMPLETED INTERIM REVIEW

On January 16, 2006, the Company issued a press release disclosing management's investigation into potential accounting irregularities that were discovered in the inventory accounting records of Hawaiian Natural Water Co., Inc. ("HNWC"), a wholly owned AMCON subsidiary. This investigation revealed that there were errors made in inventory accounting, as well as, incorrect capitalization of certain product development costs, which all related to fiscal 2005.

As a result of the accounting errors, management and the Company's Audit Committee determined on May 24, 2006 that the Company's first, second and third quarter financial statements of fiscal 2005 filed on Form 10-Qs with the Securities and Exchange Commission on February 14, 2006, May 27, 2006 and August 22, 2006, respectively, should no longer be relied upon because of these errors and that these financial statements should be restated to correct these errors. Management and the Audit Committee have discussed the above with the Company's independent registered public accountants, Deloitte and Touche.

After identifying the source of the errors, management of the Company took several steps to significantly strengthen our internal control over financial reporting including terminating HNWC's then current president and chief financial officer, hiring a new acting president and a highly qualified accounting consultant to investigate and guide internal accounting personnel in the application of generally accepted accounting principles related to inventory and production costs, hiring accounting staff at HNWC with more experience and implementing procedures to ensure proper review and approval of all manual journal entries posted at HNWC.

The table set forth below gives effect to these restatements. Management expects to restate the quarterly financials prospectively as each quarter is filed in fiscal 2006.

A summary of the significant effects of this restatement by quarter is as follows:

FIRST FISCAL QUARTER ENDED DECEMBER 31, 2004

| | As previously reported | Corrections | As restated |
|---|---------------------------|--------------|---------------|
| Condensed Consolidated Unaudited Balance Sheet | | | |
| Inventory | \$ 35,454,419 | \$ (574,165) | \$ 34,880,254 |
| Deferred income taxes | 2,618,391 | 232,000 | 2,850,391 |
| Other assets | 1,485,457 | (108,759) | 1,376,698 |
| Retained earnings | 6,397,550 | (450,924) | 5,946,626 |
| Condensed Consolidated Unaudited Statement of Operations | | | |
| Cost of sales | \$198,459,240 | \$ 574,165 | \$199,033,405 |
| Selling, general and administrative expenses | 13,824,366 | 108,759 | 13,933,125 |
| Income tax (benefit) expense | 224,000 | (232,000) | (8,000) |
| Net (loss) income | (85,599) | (450,924) | (536,523) |
| Basic (loss) earnings per share | (0.16) | (0.86) | (1.02) |
| Diluted (loss) earnings per share | (0.02) | (0.86) | (1.02) /1/ |

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/1/ Before this restatement, the impact of the conversion of the stock options and preferred stock was dilutive to earnings per share because there was income from continuing operations. After making corrections for the restatement, there will now be a loss from continuing operations which makes the impact of the conversion of the stock options and preferred stock was antidilutive. This antidilutive impact results in a loss of (\$1.02) per dilutive share.

Condensed Consolidated Unaudited Statement of Cash Flows

| | | | |
|---|------------|--------------|-------------|
| Income (loss) from continuing operations available to common shareholders | \$ 394,063 | \$ (450,924) | \$ (56,861) |
| Deferred income taxes | (45,224) | (232,000) | (277,224) |
| Inventory | (464,962) | 574,165 | 109,203 |
| Other assets | (28,512) | 108,759 | 80,247 |

SECOND FISCAL QUARTER ENDED MARCH 31, 2005

Condensed Consolidated Unaudited Balance Sheet /2/

| | As previously reported | Corrections | As restated |
|-----------------------|------------------------|--------------|---------------|
| Inventory | \$ 30,304,173 | \$ (689,993) | \$ 29,614,180 |
| Deferred income taxes | 3,729,391 | 279,000 | 4,008,391 |
| Other assets | 1,494,754 | (129,904) | 1,364,850 |
| Retained earnings | 4,509,877 | (540,897) | 3,968,980 |

Condensed Consolidated Unaudited Statement of Operations /2/

| | Three months ended March 31, 2005 | | | Six months ended March 31, 2005 | | |
|--|-----------------------------------|-------------|---------------|---------------------------------|-------------|---------------|
| | As previously reported | Corrections | As restated | As previously reported | Corrections | As restated |
| Cost of sales | \$180,236,017 | \$115,828 | \$180,351,845 | \$378,695,256 | \$689,993 | \$379,385,249 |
| Selling, general and administrative expenses | 13,727,633 | 21,145 | 13,748,778 | 27,551,999 | 129,904 | 27,681,903 |
| Income tax (benefit) expense | (565,000) | (47,000) | (612,000) | (341,000) | (279,000) | (620,000) |
| Net (loss) income | (1,887,674) | (89,973) | (1,977,647) | (1,973,273) | (540,897) | (2,514,170) |
| Basic (loss) earnings per share | (3.58) | (0.17) | (3.75) | (3.74) | (1.03) | (4.77) |
| Diluted (loss) earnings per share | (3.58) | (0.17) | (3.75) | (3.74) | (1.03) | (4.77) |

Condensed Consolidated Unaudited Statement of Cash Flows /2/

| | As previously reported | Corrections | As restated |
|---|------------------------|--------------|----------------|
| Net income (loss) from continuing operations available to common shareholders | \$ (603,991) | \$ (540,897) | \$ (1,144,888) |

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| | | | |
|-----------------------|-------------|-----------|-------------|
| Deferred income taxes | (1,137,076) | (279,000) | (1,416,076) |
| Inventory | 4,639,543 | 689,993 | 5,329,536 |
| Other assets | (37,810) | 129,904 | 92,094 |

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THIRD FISCAL QUARTER ENDED JUNE 30, 2005

Condensed Consolidated Unaudited Balance Sheet /2/

| | As previously reported | Corrections | As restated |
|-----------------------|---------------------------|--------------|---------------|
| | ----- | ----- | ----- |
| Inventory | \$ 28,939,608 | \$ (889,612) | \$ 28,049,996 |
| Deferred income taxes | 3,780,391 | 353,000 | 4,133,391 |
| Other assets | 1,570,434 | (148,884) | 1,421,550 |
| Retained earnings | 4,354,000 | (685,496) | 3,668,504 |

Condensed Consolidated Unaudited Statement of Operations /2/

| | Three months ended June 30, 2005 | | | Nine months ended June 30, | | |
|---|----------------------------------|-------------|---------------|----------------------------|-------------|-------|
| | As previously reported | Corrections | As restated | As previously reported | Corrections | As |
| | ----- | ----- | ----- | ----- | ----- | ----- |
| Cost of sales | \$201,251,586 | \$199,619 | \$201,451,205 | \$579,946,842 | \$889,612 | \$580 |
| Selling, general and administrative expenses | 13,693,711 | 18,980 | 13,712,691 | 41,245,710 | 148,884 | 41 |
| Income tax (benefit) expense | 138,000 | (74,000) | 64,000 | (203,000) | (353,000) | |
| Net (loss) income | (155,877) | (144,599) | (300,476) | (2,129,150) | (685,496) | (2 |
| Basic (loss) earnings per share | (0.30) | (0.27) | (0.57) | (4.04) | (1.30) | |
| Diluted (loss) earnings per share | (0.28) | (0.27) | (0.55) | (4.04) | (1.30) | |

Condensed Consolidated Unaudited Statement of Cash Flows /2/

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| | As previously reported | Corrections | As restated |
|--|---------------------------|--------------|----------------|
| | ----- | ----- | ----- |
| Income (loss) from continuing operations available to common shareholders | \$ (441,609) | \$ (685,496) | \$ (1,127,105) |
| Deferred income taxes | (1,205,608) | (353,000) | (1,558,608) |
| Inventory | 5,911,793 | 889,612 | 6,801,405 |
| Other assets | (191,170) | 148,884 | (42,286) |

/2/ In March 2006, the Company discontinued the operations of Trinity Springs, Inc., its water bo operation located in Idaho. As a result, the balance sheets as of March 31, 2005 and June 30, 20 the statements of operations and statements of cash flows for the fiscal periods then ended will prepared reflecting TSI's financial results as discontinued operations in accordance with Stateme Financial Accounting Standards ("SFAS") No. 144 "Accounting for the Impairment or Disposal of Lon Assets" when filed. As a result, the information presented above will differ from the actual fin statements to be filed with the SEC.

SIGNATURE

Pursuant to the requirements of the Securities and Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

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AMCON DISTRIBUTING COMPANY
(Registrant)

Date: May 31, 2006

By : Andrew C. Plummer

Name: Andrew C. Plummer
Title: Vice President & Acting
Chief Financial Officer

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