IMERGENT INC
Form 10-Q
May 04, 2009

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended **March 31, 2009**

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 001-32277

iMergent, Inc.

(Exact name of registrant as specified in its charter)

Delaware	**87-0591719**
(State or other jurisdiction of incorporation or organization)	*(I.R.S. Employer Identification No.)*
10235 South 51st Street, Phoenix, AZ	**85044**
(Address of Principal Executive Offices)	*(Zip Code)*

(801) 227-0004

(Registrant s telephone number, including area code)

1303 North Research Way, Orem, UT 84097

(Former name, former address and former fiscal year, if changed since last report)

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 þ 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, or a non-accelerated filer. See definition of accelerated filer and large accelerated filer in Rule 12b-2 of the Exchange Act. (check one):

Large Accelerated Filer ¨ Accelerated Filer þ Non-Accelerated Filer ¨.

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

The number of shares outstanding of the registrant s common stock as of April 30, 2009 was 11,415,945.

PART I - FINANCIAL INFORMATION

Item 1.

Financial Statements.

iMERGENT, INC. AND SUBSIDIARIES

Condensed Consolidated Balance Sheets
(In thousands, except per share data)
(unaudited)

		March 31, 2009		June 30, 2008
Assets				
Current Assets:				
Cash and cash equivalents	$	21,528	$	26,184
Restricted cash		2,797		
Trade receivables, net of allowance for doubtful accounts of $8,533 as of March 31, 2009 and $13,797 as of June 30, 2008		22,515		28,723
Income taxes receivable		786		793
Inventories		688		627
Deferred income tax assets		1,674		3,891
Prepaid expenses and other		2,170		3,849
Total Current Assets		52,158		64,067
Certificate of deposit		500		500
Available-for-sale securities				3,800
Long-term trade receivables, net of allowance for doubtful accounts of $5,345 as of March 31, 2009 and $4,786 as of June 30, 2008		10,888		9,845
Property and equipment, net		1,431		1,672
Deferred income tax assets		4,834		4,385
Intangible assets, net		1,508		1,831
Merchant account deposits and other		382		514
Total Assets	$	71,701	$	86,614
Liabilities and Stockholders' Equity				
Current Liabilities:				
Accounts payable	$	3,029	$	4,760
Accrued expenses and other		6,888		5,678

Income taxes payable	44	212
Dividend payable	228	
Deferred revenue, current portion	25,247	32,859
Total Current Liabilities	35,436	43,509
Deferred revenue, net of current portion	11,173	10,332
Income tax reserves and other	9,454	298
Total Liabilities	56,063	54,139
Commitments and contingencies (Note 8)		
Stockholders' Equity:		
Preferred stock, par value $0.001 per share - authorized 5,000,000 shares; none issued		
Common stock, par value $0.001 per share - authorized 100,000,000 shares; 11,409,070		
shares outstanding as of March 31, 2009 and 11,304,410 shares outstanding		
as of June 30, 2008	11	11
Additional paid-in capital	52,554	53,315
Accumulated deficit	(36,927)	(20,851)
Total Stockholders' Equity	15,638	32,475
Total Liabilities and Stockholders' Equity	$ 71,701	$ 86,614

The accompanying notes are an integral part of these condensed consolidated financial statements.

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iMERGENT, INC. AND SUBSIDIARIES

Condensed Consolidated Statements of Operations
(In thousands, except per share data)
(unaudited)

	Three Months Ended March 31,		Nine Months Ended March 31,	
	2009	**2008**	**2009**	**2008**
Revenues:				
Product and other	$ 15,071	$ 19,125	$ 54,552	$ 74,650
Commission and other	5,850	8,432	20,488	24,286
Total revenues	20,921	27,557	75,040	98,936
Operating expenses:				
Cost of product and other revenues	5,802	7,508	23,605	32,933
Selling and marketing	9,336	14,482	43,982	53,678
General and administrative	4,051	4,243	14,830	13,561
Research and development	515	587	1,595	1,580
Total operating expenses	19,704	26,820	84,012	101,752
Income (Loss) from operations	1,217	737	(8,972)	(2,816)
Other income (expense):				
Interest income	1,627	2,168	5,308	6,868
Interest expense	(3)	(1)	(10)	(1)
Other income (expense), net	(63)	91	(846)	397
Total other income, net	1,561	2,258	4,452	7,264
Income (loss) before income tax provision	2,778	2,995	(4,520)	4,448
Income tax provision	(1,226)	(1,253)	(11,556)	(1,860)
Net income (loss)	$ 1,552	$ 1,742	$ (16,076)	$ 2,588

Net income (loss) per common share:				
Basic	$ 0.14	$ 0.15	$ (1.42)	$ 0.22
Diluted	$ 0.14	$ 0.15	$ (1.42)	$ 0.22
Dividends per common share:	$ 0.02	$ 0.11	$ 0.15	$ 0.33
Weighted average common shares outstanding:				
Basic	11,366,853	11,484,336	11,356,192	11,802,766
Diluted	11,426,307	11,672,142	11,356,192	12,001,375

The accompanying notes are an integral part of these condensed consolidated financial statements.

iMERGENT, INC. AND SUBSIDIARIES

Condensed Consolidated Statement of Stockholders' Equity
Nine Months Ended March 31, 2009
(In thousands, except number of shares)
(unaudited)

	Common Stock		Additional Paid-in	Accumulated	Total Stockholders'
	Shares	Amount	Capital	Deficit	Equity
Balance, July 1, 2008	11,304,410	$ 11	$ 53,315	$ (20,851)	$ 32,475
Stock based compensation expense			1,189		1,189
Stock issued under stock award plans (net of forfeitures)	213,760		498		498
Dividends declared	-		(1,714)		(1,714)
Repurchase of common stock	(109,100)		(734)		(734)
Net loss				(16,076)	(16,076)
Balance, March 31, 2009	11,409,070	$ 11	$ 52,554	$ (36,927)	$ 15,638

The accompanying notes are an integral part of this condensed consolidated financial statements.

iMERGENT, INC. AND SUBSIDIARIES

Condensed Consolidated Statements of Cash Flows
(In thousands)
(unaudited)

	Nine Months Ended March 31, 2009	2008
CASH FLOWS FROM OPERATING ACTIVITIES		
Net income (loss)	$ (16,076)	$ 2,588
Adjustments to reconcile net income (loss) to net cash provided by (used for) operating activities:		
Depreciation and amortization	1,091	876
Expense for stock options issued to employees	1,189	1,551
Changes in deferred income tax assets	1,768	535
Changes in assets and liabilities:		
Restricted cash	(2,797)	
Trade receivables and note receivable	5,165	(434)
Inventories	(61)	(129)
Income taxes receivable	7	295
Prepaid expenses and other	1,679	(3,932)
Merchant account deposits and other	132	128
Accounts payable, accrued expenses and other liabilities	(473)	5,384
Income tax reserves and other long-term liabilities	9,156	(23)
Deferred revenue	(6,771)	1,468
Income taxes payable	(168)	(1,298)
Net cash provided by (used for) operating activities	(6,159)	7,009
CASH FLOWS FROM INVESTING ACTIVITIES		
Acquisition of property and equipment	(527)	(517)
Collections on note receivable		178
Proceeds (Purchase of) from sale of available-for-sale securities	3,800	(4,154)
Net cash provided by (used for) investing activities	3,273	(4,493)
CASH FLOWS FROM FINANCING ACTIVITIES		
Purchase of common stock	(734)	(10,938)
Proceeds from exercise of stock options and related income tax benefit	498	599
Principal payments on note payable	(48)	(5)
Dividend payments	(1,486)	(3,871)

Net cash used for financing activities		(1,770)		(14,215)
NET DECREASE IN CASH AND CASH EQUIVALENTS		(4,656)		(11,699)
CASH AND CASH EQUIVALENTS, BEGINNING OF PERIOD		26,184		36,859
CASH AND CASH EQUIVALENTS, END OF PERIOD	$	21,528	$	25,160
Supplemental disclosures of non-cash transactions:				
Dividends declared	$	228	$	
Cumulative effect adjustment (FIN 48)				199
Repurchase of common stock included in accrued liabilities	$			83
Purchase of property and equipment with note payable	$			200
Cash paid for:				
Interest		10		1
Income taxes		487		2,501

The accompanying notes are an integral part of these condensed consolidated financial statements.

iMERGENT, INC. AND SUBSIDIARIES

Notes to Condensed Consolidated Financial Statements
(unaudited)

(1)

Description of Business

iMergent, Inc. is incorporated under the laws of Delaware. As used hereafter in the notes to condensed consolidated financial statements, the Company refers to iMergent, Inc. and its wholly owned subsidiaries. iMergent is an e-services company which provides e-commerce technology, training and a variety of web-based technologies and resources to entrepreneurs and small businesses. The Company s services are designed to help decrease the risks associated with e-commerce implementation by providing low-cost, scalable solutions and providing support and information regarding industry developments.

The accompanying unaudited condensed consolidated financial statements of the Company have been prepared by the Company pursuant to the rules and regulations of the Securities and Exchange Commission (SEC) on a basis consistent with the Company s annual financial statements and, in the opinion of management, reflect all adjustments, consisting only of normal recurring adjustments, necessary to present fairly the financial information set forth therein. Certain information and note disclosures normally included in financial statements prepared in accordance with U.S. generally accepted accounting principles (US GAAP) have been condensed or omitted pursuant to SEC rules and regulations, although the Company believes that the following disclosures, when read in conjunction with the annual financial statements and the notes thereto included in the Company s most recent annual report on Form 10-K, are adequate to make the information presented not misleading. Operating results for the three and nine months ended March 31, 2009 are not necessarily indicative of the results which may be expected for the fiscal year ending June 30, 2009, or future periods. In view of the Company s revenue recognition policies and the rapidly evolving nature of its business and the markets it serves, the Company believes period-to-period comparisons of its operating results, including operating expenses as a percentage of revenues and cash flows are not necessarily meaningful and should not be relied upon as an indication of future performance.

The Company has a June 30 fiscal year end and experiences seasonality in its business. Historically, revenues from its core business during its fiscal first quarter tend to be lower than revenues in its fiscal second, third and fourth quarters. The Company believes this to be attributable to summer vacations which occur during its fiscal first quarter.

(2)

Summary of Significant Accounting Policies

(a)

Principles of Consolidation

The condensed consolidated financial statements include the accounts and operations of iMergent, Inc. and its wholly owned subsidiaries, which include Galaxy Enterprises, Inc., Galaxy Mall, Inc., StoresOnline, Inc., StoresOnline International, Inc., Avail 24/7, Inc., Internet Training Group, Inc., and Crexendo Business Solutions, Inc. All significant intercompany account balances and transactions have been eliminated in consolidation.

(b)

Trade Receivables

Since 1999, the Company has offered its customers the option to finance, through extended payment term arrangements (EPTAs), purchases made at its Internet training workshops. From time to time, a portion of these EPTAs has been sold, on a discounted basis, to third-party financial institutions for cash. The remainder of the EPTAs (those not sold to third parties) is reflected as short-term and long-term trade receivables, as applicable, if the Company has the intent and ability to hold the receivables for the foreseeable future, until maturity or payoff.

The Company records an appropriate allowance for doubtful accounts at the time the EPTA contract is perfected. The allowance represents estimated losses resulting from customers failure to make required payments. The allowance for doubtful accounts for EPTAs retained by the Company is netted against the current and long-term trade receivables balances. All allowance estimates are based on historical collection experience, specific identification of probable bad debts based on collection efforts, aging of trade receivables, customer payment history, and other known factors, including current economic conditions. The Company believes that the allowance for doubtful accounts is adequate based on the Company s assessment to date; however, actual collection results may differ materially from the Company s expectations. Because revenue generated from customers financing through EPTAs is deferred and not recognized prior to the collection of cash, adjustments to the allowance for doubtful accounts increase or decrease deferred revenue, but do not impact operating income or loss. Trade receivables are written-off against the allowance when the related customers are no longer making required payments and the trade receivables are determined to be uncollectible, typically 90 days past their original due date.

Interest income is primarily earned from EPTA contracts. EPTA contract terms generally contain an 18% simple interest rate. Interest income is recognized on these accounts only to the extent cash is received. For the three months ended March 31, 2009 and 2008, the Company recognized $1,627,000 and $2,168,000, respectively, in interest income. For the nine months ended March 31, 2009 and 2008, the Company recognized $5,308,000 and $6,868,000, respectively, in interest income.

(c)

Available-for-Sale Securities

Available-for-sale securities, consisting of equity and debt securities, are carried at their fair value based upon the quoted market prices at period end. Accordingly, unrealized gains and losses, net of income taxes, are computed on the basis of specific identification and included in other accumulated comprehensive income (loss) in stockholders equity until realized, as applicable. The Company periodically evaluates whether any declines in the fair values of its available-for-sale securities are other than temporary. This evaluation consists of a review of qualitative and quantitative factors, including: available quoted market prices; recent financial results and operating trends of the company that issued the securities; other publicly available information; implied values from any recent financings by the company that issued the securities; or other conditions that indicate the value of the investments.

(d)

Inventories

Inventories are stated at the lower of cost (first-in, first-out method) or market. Inventories consist of products provided in conjunction with the Internet training previews and workshops.

(e)

Intangible Assets

The Company s intangible assets consist of advertising lists. The fair value of identifiable intangible assets is based upon the lower of discounted future cash flow projections from those advertising lists or the amount paid in an arm s length transaction. These advertising lists are amortized over six years on an accelerated basis. The weighted-average remaining useful lives of the intangible assets was 54 months as of March 31, 2009.

The Company periodically reviews the estimated useful lives of its intangible assets and reviews such assets for impairment whenever events or changes in circumstances indicate that the carrying value of the assets may not be recoverable. The Company s determination of impairment is based on estimates of future cash flows. If an intangible asset is considered to be impaired, the amount of the impairment will equal the excess of the carrying value over the fair value of the asset.

(f)

Use of Estimates

In the preparation of financial statements in conformity with US GAAP, estimates and assumptions must be made that affect the reported amounts of assets and liabilities and disclosure of contingent liabilities, at the balance sheet reporting dates, and reported amounts of revenues and expenses during the reporting periods. Actual results could differ from those estimates. The Company has recorded within accrued liabilities approximately $1,305,000 and $685,000 as of March 31, 2009 and June 30, 2008, respectively, for estimated credit card charge-backs and customer returns. The Company has recorded liabilities of approximately $1,526,000 and $1,460,000 as of March 31, 2009 and June 30, 2008, respectively, for estimated losses resulting from various legal proceedings against the Company. In the event the Company is unable to successfully defend the various legal proceedings against the Company, the potential loss could be significantly higher than the liabilities recorded. Attorney fees associated with the various legal proceedings are expensed as incurred. Other key estimates, including reserves for utilization of net operating loss carryforwards and uncertain tax positions, are discussed elsewhere in these notes to condensed consolidated financial statements.

(g)

Revenue Recognition

The Company sells licenses to customers to use the Company s StoresOnline Software (SOS). The SOS is a web-based software product that enables customers to develop Internet websites for commerce without requiring additional assistance from the Company, if the customers desire. When customers purchase an SOS license at one of the Company s Internet preview seminars or workshops, they receive a license, site key, password, and instructions which allow immediate access to the Company s website and servers where all of the necessary software programs and tools are located to be downloaded or to complete the construction of their websites on the Company s servers.

Additionally, the Company provides website setup services, training, and customer support for incremental fees. When customers complete their websites, those websites can be hosted with the Company or any other provider of such services at the customers option. If the customers choose to host with the Company, the Company will host the websites for an additional fee. Customers have the option to create their websites completely on their own without access to the Company website and the option to host their websites with another hosting service.

Product and Other Revenues

Cash sales of SOS licenses are recognized as revenue, net of expected customer refunds, upon expiration of the customers rescission period, which typically occurs three days after the licenses and products are delivered or when the Internet training workshop takes place, whichever occurs later.

Fees for SOS licenses sold under EPTAs are recognized as revenue as cash payments are received from the customer and not at the time of sale. Although the Company is able to reasonably estimate the collectability of its receivables based upon its long history of offering EPTAs, the American Institute of Certified Public Accountants Statement of Position 97-2, *Software Revenue Recognition* (SOP 97-2), requires revenue to be deferred until customer payments are received if collection of the original principal balance is not probable. Additionally, if the Company subsequently sells the receivables on a non-recourse basis, SOP 97-2 requires that the related revenue be deferred until the customer makes cash payments to the third-party purchaser of the receivables.

Fees collected related to sales tax and other government assessed taxes are recognized on a net basis.

Commission and Other Revenues

The Company has contracts with third-party entities with respect to telemarketing product sales to the Company s customers following the sale of the initial software licenses. These products and services are intended to assist the customers with their Internet businesses. These products are sold and delivered completely by third parties. The Company receives commissions from these third parties, and recognizes the commissions as revenue as the commissions are received in cash, net of expected customer refunds, in accordance with Emerging Issues Task Force (EITF) No. 99-19, Reporting Revenue Gross as a Principal versus Net as an Agent.

Fees collected for services, including customer support and website hosting, are recognized as revenue, net of expected customer refunds, over the period during which the services are expected to be performed, based upon the vendor specific objective evidence (VSOE) of fair value for such services. Fees related to EPTA contracts are deferred and recognized as revenue during the service period or when cash is collected, whichever occurs later.

In April 2007, the Company began marketing and selling Avail 24/7, an all-in-one communications service which assists entrepreneurs and small businesses to manage phone menus, voicemail, email, and fax in one online application. Customers purchasing the Avail product are charged a non-refundable activation fee along with a monthly service fee. The non-refundable activation fee is deferred and recognized ratably over the estimated customer life, which is currently estimated to be four and one half years. The monthly service fee is recognized ratably over the service period.

(h)

Advertising Costs

The Company expenses costs of advertising and promotions as incurred, with the exception of direct-response advertising costs. SOP 93-7, *Reporting on Advertising Costs*, provides that direct-response advertising costs that meet specified criteria should be reported as assets and amortized over the estimated benefit period. The conditions for reporting the direct-response advertising costs as assets include evidence that customers have responded specifically to the advertising, and that the advertising results in probable future benefits. The Company uses direct-response advertising to register customers for its workshops. The Company is able to document the responses of each customer to the advertising that elicited the response. Due to declining conditions in certain markets, the Company has elected not to return to these markets for the foreseeable future. Consequently, during the three and nine months ended March 31, 2009, the Company wrote off approximately $0 and $420,000, respectively, in prepaid advertising costs associated with those markets. Advertising expenses included in selling and marketing expenses for the three months ended March 31, 2009 and 2008 were approximately $3,492,000 and $6,178,000, respectively. Advertising expenses, including the write off of certain prepaid advertising costs, included in selling and marketing expenses for the nine months ended March 31, 2009 and 2008 were approximately $19,392,000 and $24,545,000, respectively. As of March 31, 2009 and June 30, 2008, the Company recorded approximately $1,469,000 and $2,610,000, respectively, of direct-response advertising costs related to future workshops as prepaid expenses. Amounts recorded as prepaid advertising expenses are amortized over the estimated benefit period, typically three months.

(i)

Recently Adopted Accounting Pronouncements

On July 1, 2008, the Company adopted Statement of Financial Accounting Standards (SFAS) No. 157, Fair Value Measurements, for all financial assets and liabilities and nonfinancial assets and liabilities that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). SFAS No. 157 defines fair value, establishes a framework for measuring fair value in U.S. generally accepted accounting principles, and expands disclosures about fair value measurements. SFAS No. 157 does not require any new fair value measurements, but provides guidance on how to measure fair value by providing a fair value hierarchy used to classify the source of the information. The Company s adoption of SFAS No. 157 did not impact its consolidated financial position or results of operations. The additional disclosures required by SFAS No. 157 are included in Note 7 Fair Value Measurements.

SFAS No. 159, The Fair Value Option for Financial Assets and Financial Liabilities Including an amendment of FASB Statement No. 115, became effective for the Company on July 1, 2008. SFAS No. 159 gives the Company the irrevocable option to elect fair value for the initial and subsequent measurement for certain financial assets and liabilities on a contract-by-contract basis with the difference between the carrying value before election of the fair value option and the fair value recorded upon election as an adjustment to beginning retained earnings. The Company chose not to elect the fair value option.

In March 2008, SFAS No. 161, Disclosures about Derivative Instruments and Hedging Activities an amendment of FASB Statement No. 133, was issued which requires additional disclosures about the objectives of derivative instruments and hedging activities, the method of accounting for such instruments under SFAS No. 133 and its related interpretations, and a tabular disclosure of the effects of such instruments and related hedged items on the Company s financial position, financial performance, and cash flows. SFAS No. 161 was effective beginning January 1, 2009. The adoption of SFAS No. 161 did not have a material impact on the Company s financial statements.

(j)

Recent Accounting Pronouncements Not Yet Adopted

In February 2008, FASB Staff Position 157-2, Effective Date of FASB Statement No. 157, was issued which delays the effective date of SFAS No. 157 to July 1, 2009 for the Company, for all nonfinancial assets and nonfinancial liabilities, except for items that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). The Company believes the adoption of the delayed items of SFAS No. 157 will not have a material impact on its financial position, results of operation, or liquidity.

In December 2007, SFAS No. 141R, Business Combinations, was issued which replaces SFAS No. 141. SFAS No. 141R retains the purchase method of accounting for acquisitions, but requires a number of changes, including changes in the way assets and liabilities are recognized in the purchase accounting. It also changes the recognition of assets acquired and liabilities assumed arising from contingencies, requires the capitalization of in-process research and development at fair value, and requires the expensing of acquisition-related costs as incurred. SFAS No. 141R is effective for the Company beginning July 1, 2009 and will apply prospectively to business combinations completed on or after that date.

In December 2007, SFAS No. 160, Noncontrolling Interests in Consolidated Financial Statements an amendment of ARB No. 51, was issued which changes the accounting and reporting for minority interests. Minority interests will be recharacterized as noncontrolling interests and will be reported as a component of equity separate from the parent s equity, and purchases or sales of equity interests that do not result in a change in control will be accounted for as equity transactions. In addition, net income attributable to the noncontrolling interest will be included in net income and, upon a loss of control, the interest sold, as well as any interest retained, will be recorded at fair value, with any gain or loss recognized in net income. SFAS No. 160 is effective for the Company beginning July 1, 2009 and will apply prospectively, except for the presentation and disclosure requirements, which will apply retrospectively. The Company believes the adoption of SFAS No. 160 will not have a material impact on its financial position, results of operations or liquidity.

(k)

Reclassifications

Certain payroll costs that were previously classified as general and administrative expense in the prior period financial statements have been reclassified as cost of product and other revenues to conform to the current year financial statement presentation. These reclassifications did not have any impact on net income, cash flows, total assets or total liabilities.

(3)

Dividends

During the three and nine months ended March 31, 2009 and 2008, the Company s board of directors declared the following cash dividends:

Declaration Date	Per Share Dividend	Record Date	Total Amount	Payment Date
(Fiscal year 2009)				
March 25, 2009	$ 0.02	April 6, 2009	$ 228,000	April 20, 2009
December 19, 2008	$ 0.02	January 4, 2009	$ 227,000	January 20, 2009
September 3, 2008	$ 0.11	September 20, 2008	$ 1,259,000	September 26, 2008
(Fiscal year 2008)				
March 10, 2008	$ 0.11	March 20, 2008	$ 1,261,000	March 28, 2008
December 10, 2007	$ 0.11	December 20, 2007	$ 1,294,000	December 29, 2007
September 4, 2007	$ 0.11	September 20, 2007	$ 1,316,000	September 28, 2007

(4)

Net Income (Loss) Per Common Share

Basic net income (loss) per common share is computed by dividing the net income (loss) for the period by the weighted-average number of common shares outstanding during the period. Diluted net income per common share is computed giving effect to all dilutive common stock equivalents, which primarily consist of common stock options. The following table sets forth the computation of basic and diluted net income (loss) per common share for the three and nine months ended March 31, 2009 and 2008:

	Three Months Ended March 31,		Nine Months Ended March 31,	
	2009	2008	2009	2008

Net income (loss) (in thousands)	$ 1,552	$ 1,742	$ (16,076)	$ 2,588
Weighted-average shares outstanding:				
Basic	11,366,853	11,484,336	11,356,192	11,802,766
Employee stock options	59,454	187,806		198,609
Diluted	11,426,307	11,672,142	11,356,192	12,001,375
Net income (loss) per common share:				
Basic	$ 0.14	$ 0.15	$ (1.42)	$ 0.22
Diluted	$ 0.14	$ 0.15	$ (1.42)	$ 0.22

Weighted-average anti-dilutive common share equivalents not included in the calculation of diluted net income (loss) per common share totaled 526,901 and 621,891 for the three and nine months ended March 31, 2009, respectively, and 512,650 for both the three and nine months ended March 31, 2008.

(5)

Income Taxes

The Internal Revenue Service (IRS) is currently auditing the Company s income tax returns for fiscal years 2007, 2006, and 2005. In October 2008, the Company received a Notice of Proposed Adjustment from the IRS contesting the deductibility, under the provisions of Internal Revenue Code Section 274 (Section 274), of 50% of the cost of meals provided to attendees at the Company s preview and workshop training sessions. The Company contends that these meals are excluded from the deduction limitations of Section 274.

The IRS has also challenged the Company s ability to utilize its Net Operating Losses (NOL s) as a result of limitations imposed by Internal Revenue Code Section 382 (Section 382). The Notice of Proposed Adjustment from the IRS contends that the utilization of some of the Company s NOL s should be limited to approximately $460,000 per year. Section 382 imposes limitations on a corporation's ability to utilize its NOL s if it experiences an ownership change. In general terms, an ownership change results from transactions increasing the ownership of certain stockholders in the stock of a corporation by more than 50 percentage points over a three-year period. From the time of the Company s formation through fiscal 2002, the Company issued a significant number of shares, resulting in two changes of control, as defined by Section 382. As a result of the most recent ownership change, utilization of the Company s NOL is subject to an annual limitation under Section 382 determined by multiplying the value of its stock at the time of the ownership change by the applicable long-term tax-exempt rate resulting in an annual limitation amount. Any unused annual limitation may be carried over to later years (until those NOL s expire), and the amount of the limitation may, under certain circumstances, be increased by the recognized built-in gains that occur during the five-year period after the ownership change (the recognition period).

Additionally, in November 2008, the Company received an examination report from the IRS which also contested the Company s ability to utilize its NOL s to offset taxable during fiscal years June 30, 2004 and 2003 under Section 481(a) based upon a purported IRS change to the Company s method of accounting with respect to its recognized built-in-gains described above. The Company believes that the IRS assertion that its proposed adjustments to the Company s realized built-in gains is a change in accounting method under the provisions of Section 481(a) is without merit.

However, if the Company is unsuccessful in disputing these adjustments proposed by the IRS, the Company s total liability would be approximately $31,792,000, inclusive of interest and penalties.

The Company has been involved in settlement discussions with the IRS subsequent to the receipt of the examination report in November 2008. Although a settlement has not yet been reached, the Company believes there is a framework in place for a potential settlement. Although the timing of such settlement is not known at this time, the Company believes it will be able to reach a mutually agreeable settlement and has established a reserve of $9,281,000, included in other long-term liabilities as of March 31, 2009, for the estimated taxes, penalties, and interest in accordance with FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes an interpretation of FASB Statement 109* (FIN 48). Additionally, based upon these discussions, the Company has determined that it is more likely than not that the Company will be unable to utilize its NOL s generated prior to June 30, 2002 to offset future taxable income. Consequently, the Company has recorded a valuation allowance of $3,236,000 against its remaining NOL s as of March 31, 2009. On April 9, 2009, the Company made a deposit of $5,600,000 with the IRS to mitigate the risk associated with the IRS audit discussed above.

The aggregate changes in the balance of unrecognized tax benefits during the nine months ended March 31, 2009 were as follows (in thousands):

Balance at June 30, 2008	$	161
Increases for tax positions related to the current year		
Increases for tax positions related to the prior years		8,699
Decreases for tax positions related to prior years		
Reductions due to lapsed statute of limitations		
Balance at March 31, 2009	$	8,860

Estimated interest and penalties related to the underpayment or late payment of income taxes are classified as a component of income tax (provision) benefit in the consolidated statements of operations. Accrued interest and penalties were approximately $479,000 and $22,000 as of March 31, 2009 and June 30, 2008, respectively.

(6)

Available-For-Sale Securities

Available-for-sale securities consisted of auction-rate-securities (ARS), long-term variable rate bonds tied to short-term interest rates that were reset through a dutch auction process which historically occurred every 7 to 35 days, and other variable rate debt and equity securities as of June 30, 2008. In January 2009, the Company liquidated all remaining ARS at par.

Available-for-sale securities at fair value consisted of the following:

		March 31, 2009		June 30, 2009
		(in thousands)		
Federal, state and municipal debt securities	$		$	2,800
Corporate debt securities				1,000
Total	$		$	3,800

There were no unrealized holding gains or losses recorded in accumulated other comprehensive income as of March 31, 2009 or June 30, 2008 related to investments in debt securities.

(7)

Fair Value Measurements

As discussed in Note 2, the Company adopted SFAS No. 157, subject to the deferral provisions of FSP No. 157-2, on July 1, 2008. SFAS No. 157 defines fair value, establishes a framework for measuring fair value and expands disclosure requirements about fair value measurements. SFAS No. 157 defines fair value as the price that would be received to sell an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. The fair value hierarchy prescribed by SFAS No. 157 contains three levels as follows:

Level 1 Unadjusted quoted prices that are available in active markets for the identical assets or liabilities at the measurement date.

Level 2 Other observable inputs available at the measurement date, other than quoted prices included in Level 1, either directly or indirectly, including:

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Quoted prices for similar assets or liabilities in active markets;

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Quoted prices for identical or similar assets in non-active markets;

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Inputs other than quoted prices that are observable for the asset or liability; and

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Inputs that are derived principally from or corroborated by other observable market data.

Level 3 Unobservable inputs that cannot be corroborated by observable market data and reflect the use of significant management judgment. These values are generally determined using pricing models for which the assumptions utilize management s estimates of market participant assumptions.

The fair value hierarchy requires the use of observable market data when available. In instances in which the inputs used to measure fair value fall into different levels of the fair value hierarchy, the fair value measurement has been determined based on the lowest level input that is significant to the fair value measurement in its entirety. The Company s assessment of the significance of a particular item to the fair value measurement in its entirety requires judgment, including the consideration of inputs specific to the asset or liability. The following table sets forth, by level within the fair value hierarchy, the financial assets and liabilities that were accounted for at fair value on a recurring basis as of March 31, 2009, according to the valuation techniques used to determine their fair values.

	Fair Value as of March 31, 2009	**Fair Value Measurements Using Inputs Considered as**		
		Level 1	**Level 2**	**Level 3**
ASSETS		&		