BEAZER HOMES USA INC
Form 10-K/A
December 07, 2009

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
Form 10-K/A
(Amendment No. 1)

(Mark One)

þ **Annual report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**
For the fiscal year ended September 30, 2009

o **Transition report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**
Commission file number: 001-12822
BEAZER HOMES USA, INC.
(Exact name of registrant as specified in its charter)

Delaware	**58-2086934**
(State or other jurisdiction of incorporation or organization)	(IRS Employer Identification No.)

1000 Abernathy Road, Suite 1200, Atlanta, Georgia 30328
(Address of principal executive offices) (Zip Code)
(770) 829-3700
(Registrant s telephone number including area code)
Securities registered pursuant to Section 12(b) of the Act:

Title of Securities:	Exchanges on which Registered:
Common Stock, $.001 par value per share	New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer (as defined in Rule 405 of the Securities Act) Yes o No þ

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes o No þ

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 o

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 during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes o No o

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant s knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. þ

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

Large accelerated filer o	Accelerated filer o	Non-accelerated filer þ (Do not check if a smaller reporting	Smaller reporting company o

company)

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

The aggregate market value of the registrant s Common Stock held by non-affiliates of the registrant (39,248,956 shares) as of March 31, 2009, based on the closing sale price per share as reported by the New York Stock Exchange on such date, was $39,641,446.

The number of shares outstanding of the registrant s Common Stock as of December 7, 2009 was 39,818,977.

DOCUMENTS INCORPORATED BY REFERENCE

None.

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EXPLANATORY NOTE

Beazer Homes USA, Inc. is filing this Amendment No. 1 on Form 10-K/A (this Amendment) to its Annual Report on Form 10-K for the fiscal year ended September 30, 2009, originally filed on November 10, 2009, for the purpose of including certain information required by Part III of Form 10-K. In addition, the registrant is also including as exhibits to this Amendment powers of attorney and the certifications required pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. Because no financial statements are contained within this Amendment, the registrant is not including certifications pursuant to Section 906 of the Sarbanes-Oxley Act. Except as set forth herein, the registrant is making no other changes to its Annual Report on Form 10-K for the fiscal year ended September 30, 2009.

References to we, us, our, Beazer, Beazer Homes, and the Company in this annual report on Form 10-K Beazer Homes USA, Inc.

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PART III

Item 10. Directors, Executive Officers and Corporate Governance

Directors

LAURENT ALPERT. Mr. Alpert, 63, has served as a director of the Company since February 2002. Mr. Alpert is a partner in the international law firm of Cleary, Gottlieb, Steen & Hamilton. He joined Cleary, Gottlieb, Steen & Hamilton in 1972 and became a partner in 1980. He received his undergraduate degree from Harvard College and a law degree from Harvard Law School. Mr. Alpert is also an overseer of the International Rescue Committee, a non-profit organization providing relief and resettlement services to refugees.

BRIAN C. BEAZER. Mr. Beazer, 74, is the Non-Executive Chairman of the Company and has served as a director of the Company since its initial public offering (the IPO) in 1994. From 1968 to 1983, Mr. Beazer was Chief Executive Officer of Beazer PLC, a United Kingdom company, and then was Chairman and CEO of that company from 1983 to the date of its acquisition by an indirect, wholly-owned subsidiary of Hanson PLC (effective December 1, 1991). During that time Beazer PLC expanded its activities to include homebuilding, quarrying, contracting and real estate, and became an international group with annual revenue of approximately $3.4 billion. Mr. Beazer was educated at the Cathedral School, Wells, Somerset, England. He is a director of Beazer Japan, Ltd., Seal Mint, Ltd., United Pacific Industries Limited and Numerex Corp. and is a private investor.

PETER G. LEEMPUTTE. Mr. Leemputte, 52, has been a director of the Company since August 2005. Mr. Leemputte joined Mead Johnson Nutritionals, a global leader in infant and children s nutrition as Senior Vice President and Chief Financial Officer in September 2008. Previously, Mr. Leemputte was Senior Vice President and Chief Financial Officer for Brunswick Corporation, a global manufacturer and marketer of recreation products. He joined Brunswick in 2001 as Vice President and Controller. Prior to joining Brunswick Corporation, Mr. Leemputte was Executive Vice President, Chief Financial and Administrative Officer of Chicago Title Corporation, a leading publicly traded national service provider offering residential and commercial title insurance. Before joining Chicago Title Corporation, Mr. Leemputte was a Vice President with Mercer Management Consulting in Chicago where he was a partner in the firm s global practice covering strategy and operational studies within process industries. His career also includes domestic and international financial assignments with Armco Inc., FMC Corporation and BP Amoco. He also served as a product development engineer with Procter & Gamble Company. Mr. Leemputte holds a Bachelor of Science degree in Chemical Engineering from Washington University, St. Louis and a Master of Business Administration in Finance and Marketing from the University of Chicago Graduate School of Business. Mr. Leemputte currently serves as the Co-Chairman of Washington University s School of Engineering Scholarship Initiative.

IAN J. MCCARTHY. Mr. McCarthy, 56, is the President and Chief Executive Officer of the Company and has served as a director of the Company since the IPO. Mr. McCarthy has served as President of predecessors of the Company since January 1991 and was responsible for all United States residential homebuilding operations in that capacity. During the period May 1981 to January 1991, Mr. McCarthy was employed in Hong Kong and Thailand, becoming a director of Beazer Far East and from January 1980 to May 1981 was employed by Kier, Ltd., a company engaged in the United Kingdom construction industry which became an indirect, wholly owned subsidiary of Beazer PLC. Mr. McCarthy is a Chartered Civil Engineer with a Bachelor of Science degree from The City University, London. Mr. McCarthy currently serves as a member of the Board of Directors of HomeAid America and of Builder Homesite, Inc. He was inducted into the California Building Industry Hall of Fame in 2004, the first non-California resident to receive this honor.

NORMA A. PROVENCIO. Ms. Provencio, 52, has been a director of the Company since November 2009. Ms. Provencio is President and owner of Provencio Advisory Services Inc., a healthcare financial and operational consulting firm. Prior to forming Provencio Advisory Services in October 2003, she was the Partner-in-Charge of KPMG s Pacific Southwest Healthcare Practice since May 2002. From 1979 to 2002, she was with Arthur Andersen, serving as that firm s Partner-in-Charge of the Pharmaceutical, Biomedical and Healthcare Practice for the Pacific Southwest from November 1995 to May 2002. She is currently a member of the Board of Directors of Valeant Pharmaceutical International. Ms. Provencio received her Bachelor of Science in Accounting

from Loyola Marymount University. She is a Certified Public Accountant and also a member of the Board of Regents of Loyola Marymount University.

LARRY T. SOLARI. Mr. Solari, 67, has served as a director of the Company since the IPO and the lead independent director since February 5, 2009. He is a partner in Kenner & Company, Inc., a private equity investment firm in New York, a position he has held since 2002. Mr. Solari is the past Chairman and CEO of BSI Holdings, Inc., a position he held from 1998 to 2001. Prior to starting BSI, Mr. Solari was the Chairman and CEO of Sequentia, Inc. and President of the Building Materials Group of Domtar, Inc. Mr. Solari was President of the Construction Products Group of Owens-Corning from 1986 to 1994 and held various other positions with Owens-Corning since 1966. Mr. Solari earned a Bachelor of Science degree in Industrial Management and a Master of Business Administration degree from San Jose State University and is a graduate of Stanford University s Management Program. Mr. Solari is a director of Pacific Coast Building Products, Inc., Atrium Companies, Inc., TruStile Doors, LLC, Performance Contracting Group, Pace Industries and Cascade Windows. Mr. Solari is a past director of the Policy Advisory Board of the Harvard Joint Center for Housing Studies and the National Home Builders Advisory Board.

STEPHEN P. ZELNAK, JR. Mr. Zelnak, 64, has served as a director of the Company since February 2003. He is currently the Chairman and Chief Executive Officer of Martin Marietta Materials, Inc., a producer of aggregates for the construction industry. As previously announced by Martin Marietta, Mr. Zelnak intends to retire as Chief Executive Officer on January 1, 2010 and continue to serve as Chairman until his full retirement in mid-year 2010. Following his full retirement, Mr. Zelnak will continue to serve on the board of Martin Marietta as non-executive Chairman. Mr. Zelnak joined Martin Marietta Corporation in 1981 and prior to assuming his current position in 1993, had been the President of Martin Marietta s Materials Group and of Martin Marietta s Aggregates Division. Mr. Zelnak received a Bachelor s degree from Georgia Institute of Technology and Masters degrees in Administrative Science and Business Administration from the University of Alabama System. Mr. Zelnak is a director of Concrete Supply Company and Pace Industries. He has served as Chairman of the North Carolina Citizens for Business and Industry, and is the past Chairman of the North Carolina Community College Foundation. He serves on the Advisory Boards of North Carolina State University and Georgia Institute of Technology.

Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Securities Exchange Act of 1934, as amended, requires the Company s executive officers and directors and persons who own more than ten percent of the Company s stock, as well as certain affiliates of such persons, to file initial reports of ownership and changes of ownership with the Securities and Exchange Commission (the SEC) and the New York Stock Exchange (NYSE). These parties are required to furnish the Company with copies of the reports they file. Based solely on a review of the copies of the Section 16(a) reports and amendments thereto received by the Company and on written representations that no other reports were required, the Company believes that all reports required pursuant to Section 16(a) for fiscal year 2009 were timely filed by all persons known by the Company to be required to file such reports with respect to the Company s securities.

Procedures Regarding Director Candidates Recommended by Stockholders

There have been no material changes to the procedures by which security holders may recommend nominees to the Company s Board of Directors since the Company last described those procedures in its proxy statement on Schedule 14A filed with the SEC on December 22, 2008.

Audit Committee

The Company has an Audit Committee that meets the definition of an audit committee as set forth in Section 3(a)(58)(A) of the Securities Exchange Act of 1934. The Company s Audit Committee members are Peter G. Leemputte, Laurent Alpert, Norma A. Provencio and Larry T. Solari. Mr. Leemputte serves as the Chairman of the Audit Committee, and, along with Ms. Provencio, serves as an Audit Committee Financial Expert, as defined by SEC regulations. On the basis of information solicited from each director, and upon the advice and recommendation of the Company s Nominating/Corporate Governance Committee, the Board of Directors determined that each of the members of the Audit Committee had no material relationship with the Company, other than their relationship as members of the Board, and were independent within the meaning of the Sarbanes-Oxley Act and NYSE standards.

Item 11. Executive Compensation

Compensation Discussion and Analysis

Introduction

For 2009, our Named Executive Officers (NEOs) were comprised of our Chief Executive Officer, our Chief Financial Officer and our two other most-highly compensated executive officers. As explained below, the actions taken by our Compensation Committee during fiscal 2009 with respect to NEO compensation reflects the seriousness with which the Committee views executive compensation particularly in light of distressed financial markets, the worst homebuilding environment in history and the significant litigation and regulatory challenges the Company confronted during the past year. During fiscal 2009, our Compensation Committee approached executive compensation by focusing on areas where the efforts of key members of our leadership team more directly led to meaningful improvements in the Company s financial and operating performance. For instance, during fiscal 2009, we continued to reduce our direct costs, overhead expenses and land spending. In addition, we took important steps to protect our liquidity and reduce our total indebtedness while continuing to focus on our net worth position. Further, we were able to resolve and settle important potential governmental enforcement actions and related private litigation, removing major uncertainties for the Company and enabling us to better focus on our business and access capital markets as we continue to navigate very challenging economic conditions.

Role of the Committee, Management and Advisors

Historically, the fundamental responsibilities of our Compensation Committee have included:

- establishing, reviewing, overseeing and approving yearly performance objectives for our NEOs;
- evaluating the NEOs performance in light of those performance objectives; and
- based on this evaluation, either as a Committee, or together with other independent directors (as directed by the Board), determine and approve the compensation level and individual compensation elements for our Chief Executive Officer (with input from our Non-Executive Chairman) and, with our Chief Executive Officer s input, for other executive officers.

During fiscal 2009, the Compensation Committee relied heavily on regular discussions and information sessions with key members of the management team to stay informed of the evolving needs of the Company as well as suggestions for appropriate compensation plans that would suitably incentivize the management team in light of those needs. Specifically, during the course of fiscal 2009, the Committee received support from the Company s Non-Executive Chairman, Chief Executive Officer, Chief Financial Officer, General Counsel and Senior Vice President for Human Resources. However, our Chief Executive Officer and Non-Executive Chairman clearly played the largest roles among this group. During fiscal 2009, our Chief Executive Officer reviewed the performance of each of his direct reports, which included all of our other current NEOs, and made recommendations to the Compensation Committee based on his review. In addition, our Non-Executive Chairman prepared and presented an assessment to the Compensation Committee of the performance of the Chief Executive Officer. Our Chief Executive Officer was present for Committee deliberations related to the compensation of his direct reports, but not for Committee discussions related to his own pay.

In addition, during fiscal 2009, the Compensation Committee received executive compensation advice from PricewaterhouseCoopers (PWC). The Committee engaged PWC to provide general executive compensation consulting services and to be available to respond to Committee members questions as necessary. PWC s services during fiscal 2009 included compensation plan design services, compensation benchmarking and providing review and advice regarding compensation disclosures in this Annual Report.

Compensation Philosophy and Objectives

Business conditions in the residential housing industry remained exceedingly difficult during fiscal 2009, resulting in continued declines in the Company s revenues and continued losses. In addition, fiscal 2009 was a critical year for the Company as it dealt with the potential for significant criminal and civil actions arising from several high profile governmental investigations of the Company and related private litigation. Accordingly, the Compensation Committee determined it was imperative that pay practices remain flexible throughout the year in order that they could be rapidly adapted to the Company s changing needs. That said, the fundamental principles of the Compensation Committee s executive compensation philosophy remained unchanged for fiscal 2009. Our core compensation objective continues to be that we will pay for performance we believe we should pay higher compensation when our management team succeeds and lower compensation when it does not. In addition we believe that the Company s pay programs should be structured to attract, retain and motivate the senior management team to help ensure the Company weathers the current economic downturn and is appropriately positioned to capitalize on a housing market recovery when it occurs.

Historically, our executive compensation programs were premised on the achievement of pre-determined financial and non-financial metrics. However, as a result of the highly unique set of circumstances facing the Company at the start and during most of fiscal 2009, the Committee believed that establishing strict performance metrics that in all likelihood would require significant revisions and adjustment as the year progressed would not only be impractical but would not serve their intended purposes of rewarding performance and incentivizing senior management.

For the last several years our top executives have worked with fewer resources, yet with greater duties and responsibilities due to overhead and workforce reductions. In addition, due to significant declines in the price of our stock, the stock options previously issued to our executives currently have significantly reduced value or potential value, and the restricted stock they have been awarded in the past is worth only a fraction of what it was worth when it was awarded. Typically, when such equity grants are not providing the long-term incentives that they were intended to produce, companies will make new grants to its executive management team at the then-lower prices to ensure management is properly motivated, retained and their interests are aligned with stockholders. However, during the last several years and in particular during fiscal 2009 our Compensation Committee was severely limited in its ability to grant such additional equity-based awards. As a result of the criminal and civil investigations of the Company by the U.S. Department of Justice, in December 2007 the Company imposed a black out period with respect to the purchase of shares of its common stock under the Company s 401(k) plan. As required by the Sarbanes-Oxley Act, until the blackout was lifted late in fiscal 2009 after the resolution of the Department of Justice investigations, the Compensation Committee could not make equity-based grants to the Company s executive management team, including our NEOs.

In addition, the low number of shares that remained available under the Company s Amended and Restated 1999 Stock Incentive Plan (the 1999 Plan) and the depressed trading price of the Company s common stock, coupled with its volatility as a result of continued difficult market conditions and the other uncertainties facing the Company, also impacted the Company s ability to utilize equity-based long-term incentive awards to provide a level of value consistent with its normal long-term compensation philosophy. When the criminal and civil investigations were settled late in fiscal 2009, the Company was once again able to (and did) make equity awards, although at significantly reduced value levels. The Compensation Committee desires that for fiscal 2010, the total compensation of the Company s executive management team, including our NEOs, will again include more long-term equity incentive grants consistent with the Company s normal compensation practices. To do this, we expect to ask our stockholders to approve a new equity incentive plan at our 2010 annual meeting of stockholders. However, the limited number of shares likely to be allocated to such a plan may still not be sufficient to provide competitive incentives and rewards to our management team, including our NEOs.

The balance between the Company s annual and long-term compensation historically has been struck through a mix of base salary, annual cash incentive compensation and long-term incentives consisting of equity-based compensation. Our Compensation Committee believes that levels of base salary and incentive compensation with respect to total compensation should be set based on a variety of factors, including Company and executive performance, each executive s specific roles, responsibilities and skill sets as well as our ability to attract and retain qualified executives. The Committee believes this breakdown of total compensation under normal conditions is consistent with its pay for performance philosophy, helps to ensure management s interests are directly aligned with those of stockholders and reduces risks that may be associated with compensation that is focused on the achievement of only short-term objectives. The totality of each NEO s compensation is also important so that overall compensation is in line with what the Committee believes is appropriate and competitive with other companies within our peer group with which the Company competes for executive talent at the NEO level.

Given the unfavorable business conditions and other uncertainties facing the Company during fiscal 2009, the Compensation Committee used its best judgment when approving the mix and levels of the various compensation components for our NEOs and did not adhere to any set formulas or formal allocations for any one component within the total amount of an NEO s overall compensation. Although when considering compensation for each of our NEOs, the Compensation Committee took into account the broad range of both quantitative and qualitative factors described above, the most important factor was the Company s current financial condition.

During fiscal 2009 our Compensation Committee reviewed and examined publicly-available compensation and performance data from a peer group of large homebuilders. The peer group consisted of D.R. Horton, Inc., Hovnanian Enterprises, Inc., KB Home, Lennar Corporation, M.D.C. Holdings, Inc., NVR, Inc., Pulte Homes, Inc. (which in 2009 acquired Centex Corporation, a company our Compensation Committee previously included in our peer group), The Ryland Group, Inc., and Toll Brothers, Inc. These companies were chosen because they constitute the nation s largest publicly-traded homebuilders and tend to be among our chief competition in markets where we operate. While the Committee believes information regarding pay practices at other publicly-held homebuilders is useful to establish that our executive compensation practices are reasonable, the Committee does not establish compensation levels based on benchmarking industry practices alone.

For fiscal 2010, as market and other factors have begun to stabilize, our Compensation Committee expects to continue to focus on and reward our executives for achievement of goals where their efforts more directly lead to meaningful improvements in the Company s financial and operating performance. In addition, the more stabilized operating environment also means that the Compensation Committee likely will be able to return to its prior practice of pre-establishing annual performance metrics. Critical goals for 2010 will be to continue to maintain a strong cash position to preserve liquidity, restructure the Company s capitalization (including executing strategies to reduce debt and extend debt maturities) and access growth capital in a cost effective manner.

Elements of Executive Compensation

The following discussion summarizes each element of our compensation program for our NEOs during fiscal 2009 and the rationale for compensation decisions made during the fiscal year.

Base Salary

In addition to the factors described above, base salaries for our NEOs depend on a number of considerations, including the executive s qualifications, responsibilities and contributions to the Company as well as the amount the Company historically has paid for a particular position. Base salaries for our NEOs are typically reviewed by the Compensation Committee annually. However, from time to time, circumstances may warrant a review of an NEO s base salary between annual reviews and the Committee s ability to use its discretion to set base salaries based on qualitative factors is an important design feature of the Company s compensation program.

Due to the difficult conditions in the homebuilding industry for fiscal 2009, the Compensation Committee froze the base salaries of our NEOs as well as those of our entire management teams. Messrs. McCarthy and Furlow have not received an increase in base salary since January 1, 2005, and the annual base salaries for Messrs. Merrill and Khoury have not increased since they joined the Company. In 2010, base salaries for our NEOs will remain frozen in light of the continued economic downturn and challenging conditions in the housing market.

During 2009, Michael H. Furlow, our former Executive Vice President and Chief Operating Officer, indicated that he was considering retiring from the Company. Our Board of Directors believed it was important to retain Mr. Furlow s long-term knowledge of the Company and expertise in the homebuilding industry, particularly during such difficult market conditions as those being experienced by the Company. The Company was able to negotiate a new two-year employment agreement with Mr. Furlow pursuant to which Mr. Furlow will serve as Division President for several of the Company s most important and attractive markets. Mr. Furlow s initial salary under the agreement is $569,800 and will increase in the second year to $800,000 an arrangement that we believe will serve to retain Mr. Furlow and help assure us of his continued services and advice during an important time for the Company.

Annual Incentive Compensation

Bonus Plan

The Compensation Committee previously established the Beazer Homes USA, Inc. Employee Bonus Plan (the 2006 Bonus Plan) for certain of the Company s employees, including the NEOs. Awards under this plan may be granted to participants based in whole or in part on the achievement of financial and non-financial performance guidelines established from time to time at the discretion of the Committee, but awards may also be made by the Compensation Committee under this plan without reference to any specific performance guidelines. Payments under the 2006 Bonus Plan do not qualify as performance-based compensation under Internal Revenue Code Section 162(m).

The 2006 Bonus Plan was the only annual incentive program employed by the Compensation Committee for our NEOs in fiscal 2009. Normally, the Chairman of the Compensation Committee, our Non-Executive Chairman and our Chief Executive Officer are charged with recommending performance guidelines at the start of the year and reviewing our executives performance against such guidelines. However, for the reasons outlined above, for fiscal 2009 the Compensation Committee did not adopt strict performance criteria in advance, but instead based awards on a review of individual performance near year end.

As a result of this discretionary review, the Compensation Committee awarded discretionary cash bonuses under the 2006 Bonus Plan to two of our NEOs, Messrs. Merrill and Khoury. See our Summary Compensation Table below for additional information regarding these bonuses. Mr. Khoury s award was granted in recognition of his contributions in connection with the settlement and resolution of significant litigation involving the Company, including matters involving federal and state investigations, class action securities litigation, as well as shareholder derivative litigation. The award made to Mr. Merrill was granted in recognition of his successful efforts to preserve the Company s liquidity during an extremely volatile and difficult operating environment, increase our net worth and begin reducing our indebtedness. In light of the Company s difficult financial position, Mr. McCarthy did not receive a cash bonus in fiscal 2009, even though the Compensation Committee believed that Mr. McCarthy s leadership and decisive action, during an extraordinarily tough business environment, were instrumental to the Company as it adapted to rapidly changing and deteriorating economic conditions. The Compensation Committee determined it would not be appropriate to award a cash bonus to Mr. Furlow in light of his new employment arrangements with the Company.

Long-Term Incentive Compensation

Equity-Based Long-Term Incentives

We have historically utilized four equity-based, long-term incentives: stock options, stock-settled stock appreciation rights (SSARs), time-based restricted stock, and performance-based restricted stock, all of which were issued under the 1999 Plan.

Grants of equity incentive awards generally have been made annually. Any interim grants typically are made from time to time for new executive appointments and promotions. The Compensation Committee believes that such grants are an important element of management s total compensation because they help to align management s interests with those of our stockholders. In addition, the long-term nature of these awards help balance out any risks that may be associated with the short-term performance elements of the compensation program. Beginning in February 2006, the Compensation Committee adopted a practice of awarding to NEOs 50% of equity incentives in the form of stock options or SSARs and 50% in the form of restricted stock, generally half of which is in the form of time-based restricted stock and half in the form of performance-based restricted stock.

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However, based on the limited remaining awards available under the 1999 Plan as described above - especially with respect to shares of restricted stock the Compensation Committee s equity incentive grant for fiscal 2009 equated to a mix of 60% stock options and 40% restricted stock.

The Compensation Committee believes the grant of stock options and restricted stock in tandem provides several benefits. The stock option component provides an absolute performance measure tied directly to the performance of our common stock. In other words, the option has little or no value unless our stock price appreciates meaning it provides the potential for an increased pay-out if the value of the Company s common stock increases significantly over the exercise price during the life of the option. In addition, we believe restricted stock provides a strong retention incentive in an uncertain market, because it retains some value even during periods of declining stock prices.

Further information on the vesting of performance-based restricted stock and other equity incentives are included in the Narrative Disclosure to the Summary Compensation Table and Grants of Plan-Based Awards Table set forth below.

For fiscal 2009, the Compensation Committee awarded equity grants to two of our NEOs, Messrs. Khoury and Merrill. See Grants of Plan Based Awards below for additional information regarding these grants. The grants made to Mr. Khoury in 2009 were in recognition of his contributions in connection with the settlement and resolution of the significant litigation involving the Company, described above. In addition, in the relatively short time he has been with the Company, Mr. Khoury has taken meaningful steps to reduce outside counsel expenses in an environment of increased risk and regulation as well as help build a strong culture of compliance at the Company. Mr. Khoury also provided valuable Board support throughout fiscal 2009. The 2009 awards made to Mr. Merrill were granted in recognition of his successful efforts to preserve the Company s liquidity, increase our net worth and begin reducing our indebtedness, all as more fully described above. During fiscal 2009, Mr. Merrill also increased our visibility and reputation in, and access to, the capital markets. The Compensation Committee determined it would not be appropriate to award Mr. Furlow any equity grants in light of his new employment arrangements with the Company.

The Compensation Committee notes that had there been sufficient shares available for a meaningful grant under the 1999 Plan, it would have considered an award for fiscal 2009 to Mr. McCarthy in recognition of his leadership efforts which were instrumental to the Company as it weathered a very difficult year. However, Mr. McCarthy expressed to the Compensation Committee that he felt it more appropriate to use remaining shares available under the 1999 Plan to compensate other employees and thus, at Mr. McCarthy s request, the Committee did not grant any equity-based awards to Mr. McCarthy in fiscal 2009.

Deferred Compensation Plan

Effective January 1, 2002, we adopted the Beazer Homes USA, Inc. Deferred Compensation Plan to provide eligible employees the opportunity to defer receipt of a portion of their current compensation. For fiscal 2009, we provided matching cash contributions equal to the lesser of 50% of compensation deferred under the plan or 3% of eligible compensation, reduced by the matching contributions credited to the participant under our 401(k) plan. In the case of our Chief Executive Officer, our former Chief Operating Officer and our Chief Financial Officer, the Compensation Committee has historically, in lieu of matching contributions, made discretionary deferred compensation payments on behalf of these executives in annual amounts of $200,000, $100,000, $50,000, respectively, in order to provide an attractive and competitive element of deferred, post-employment or supplemental retirement benefit. For these reasons, discretionary deferred compensation payments generally consistent with those historically paid were made to Messrs. McCarthy, Furlow and Merrill, in fiscal 2009. Our other NEO, Mr. Khoury, does not participate in our Deferred Compensation Plan.

Other Benefits

We do not have a defined benefit pension plan or supplemental executive retirement plan. During fiscal 2009, certain of our NEOs were eligible, as were other senior managers, to use a company car or receive car allowance. Our executive management team, including our NEOs, participate in our various benefit programs on the same terms as other employees; however, our NEOs pay more for their health and welfare programs than other employees for the same benefits. These programs are designed to facilitate retention and are part of our broad-based total compensation, which the Compensation Committee believe to be reasonable, competitive and consistent with the Company s overall executive compensation program.

Change of Control Agreements

Our Board of Directors, at the recommendation of the Compensation Committee, has determined that it is in the best interests of the Company and its stockholders to assure that the Company will have the continued dedication of our NEOs, notwithstanding the possibility, threat or occurrence of a change of control of the Company. The Board believes it is imperative to diminish the inevitable distraction of an executive by virtue of the personal uncertainties and risks created by a pending or threatened change of control and to encourage the executive s full attention and dedication to the Company currently and in the event of any threatened or pending change of control, and to provide the executive with compensation and benefits arrangements upon a change of control which ensure that the compensation and benefits expectations of the executive will be satisfied and which are competitive. As such, we have entered into supplemental employment (change of control) agreements with each of our NEOs. These supplemental employment agreements provide for continued employment of the NEO for two years following a change of control or stated benefits if the NEO s employment is terminated without cause, or he or she leaves with good reason (as defined in the agreements), within two years of a change of control. The change of control provisions in these agreements supersede any similar provisions in an NEO s employment agreement.

PWC served as advisors to the Compensation Committee in establishing the terms of the supplemental employment agreements. Based in part on the information provided by PWC, the Compensation Committee concluded that the agreements were reasonable in terms of both comparability to competitive practice and advancement of stockholder interests.

A description of additional terms of the supplemental employment agreements may be found below under Potential Payments Upon Termination or Change of Control.

Tax Deductibility of Compensation

It is the Compensation Committee s general policy to consider whether particular payments and awards are deductible to the Company for federal income tax purposes under Section 162(m) of the Internal Revenue Code. Section 162(m) limits the deductibility for federal income tax purposes of compensation payments to certain executive officers in excess of $1 million subject to certain exemptions and exceptions. Although the Compensation Committee takes into consideration the provisions of Section 162(m), maintaining tax deductibility is but one consideration among many in the design of the Company s executive compensation program.

Report of the Compensation Committee

The Compensation Committee has reviewed and discussed the Compensation Discussion and Analysis set forth above with management. Based on such review and discussions, the Compensation Committee recommended to the Company s Board of Directors that the Compensation Discussion and Analysis set forth above be included in this Form 10-K/A and the Company s 2010 proxy statement.

Larry T. Solari
Stephen P. Zelnak, Jr.
The Members of the Committee

Compensation Committee Interlocks and Insider Participation

The members of our Compensation Committee during fiscal 2009 were Messrs. Solari and Zelnak. None of the members of our Compensation Committee has ever been an officer or employee of the Company or any of its subsidiaries. None of the members of our Compensation Committee had any relationship requiring disclosure under Transactions with Related Persons below. During fiscal 2009, none of our executive officers served as a director or member of the Compensation Committee (or other Board committee performing equivalent functions) of another entity an executive officer of which served on our Board of Directors.

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Summary Compensation Table

Set forth below is summary compensation information for (1) each person who was at any time during fiscal 2009 our Chief Executive Officer or Chief Financial Officer and (2) at September 30, 2009, our only other two executive officers, other than our Chief Executive Officer and our Chief Financial Officer. We believe it is important to note that the compensation information relating to stock and option awards appearing in the following table is calculated according to SEC rules and does not represent current values which, with respect to Messrs. McCarthy, Furlow and Merrill, are substantially lower due to declines in the value of our Company s common stock. Supplementary disclosure is provided in footnote 3 to the table that we believe provides more meaningful current values.

Name and Principal Position	Year	Salary ($) (1)	Bonus ($)	Stock Awards ($)(2)(3)	Option Awards ($)(2)(3)	Non-Equity Incentive Plan Compensation ($)	All Other Compensation ($) (4)	Total
Ian J. McCarthy -	2009	$1,200,000	$ 0	$2,613,238	$2,408,342	$ 0	$208,673	$6,430,253
President and Chief	2008	$1,200,000	$ 0	$3,183,274	$2,692,655	$600,000	$222,936	$7,898,865
Executive Officer	2007	$1,200,000	$ 0	$3,168,413	$2,947,523	$ 0	$219,522	$7,535,458
Michael H. Furlow -	2009	$ 760,272	$ 0	$1,214,037	$1,074,977	$ 0	$114,247	$3,163,533
Division President,	2008	$ 800,000	$ 0	$1,495,018	$1,237,532	$400,000	$111,697	$4,044,247
Charleston/Myrtle Beach/Savannah (5)	2007	$ 800,000	$ 0	$1,495,010	$1,395,412	$ 0	$111,011	$3,801,433
Kenneth F. Khoury - Executive Vice President and General Counsel (5)	2009	$ 297,180	$100,000	$ 14,594	$ 27,001	$ 0	$ 5,436	$ 444,211
Allan P. Merrill -	2009	$ 600,000	$120,000	$ 758,475	$1,025,819	$ 0	$ 66,950	$2,571,244
Executive Vice	2008	$ 600,000	$100,000	$ 729,287	$ 974,480	$300,000	$608,252	$3,312,019
President and Chief Financial Officer (5)	2007	$ 250,000	$450,000	$ 303,870	$ 405,368	$ 0	$ 93,667	$1,502,905

(1) Includes $7,000, $21,000 and $3,000 for Mr. Merrill in fiscal 2009, fiscal 2008 and fiscal 2007, respectively, which were deferred by

Mr. Merrill under our Deferred Compensation Plan.

(2) Amounts reflect the dollar amount recognized for financial statement reporting purposes for the applicable fiscal year in accordance with FAS 123(R) except that estimated forfeitures have been disregarded for these purposes. These columns reflect the Company s FAS 123(R) amortization expense from awards of restricted stock, RSUs, stock options and SSARs granted in fiscal years 2002, 2004, 2005, 2006, 2007 and 2009, as applicable, that relate to awards that were outstanding during all or a portion of the fiscal year presented above. In fiscal 2009, Messrs. McCarthy and Furlow did not receive any new stock or option award grants and forfeited 26,254 and 11,668 shares of restricted common stock previously granted,

respectively, due to failure to achieve specified performance criteria.

(3) The Company cautions that the amounts reported in the table for these awards may not represent the amounts that the NEOs will actually realize from the awards. Whether, and to what extent, an NEO realizes value will depend on a number of factors, including the Company s performance and stock price. For example, the table below reflects the value of the stock awards of certain of our NEOs that would have been expensed in 2009 if our share price at the respective grant dates was $5.59, which was our closing share price at September 30, 2009. In addition, the table also reflects the value of the option awards of certain of our NEOs that would have been expensed in 2009 if our share price on the respective grant dates was $5.59 and the exercise prices

remained unchanged from those on the grant dates. The value of Mr. Khoury s awards are not shown as they are not meaningful in light of his recently joining the Company and receipt of only one grant in August 2009. Further information regarding the valuation of stock and option awards can be found in Note 1 to our Consolidated Financial Statements in our Annual Report on Form 10-K for the year ended September 30, 2009.

Change in Equity Value

	Stock Awards			Option Awards				
	2009 Expense in Summary Compensation Table	**2009 Expense if Share Price was $5.59 on the Grant Dates**	**Difference**	**2009 Expense in Summary Compensation Table**	**2009 Expense if Share Price was $5.59 on the Grant Dates (a)**	**Difference**	**Total Difference**	**Total 2009 Compensation if Share Price was $5.59 on the Grant Date (b)**
Ian J. McCarthy	$2,613,238	$254,431	-$2,358,807	$2,408,342	$166,281	-$2,242,061	-$4,600,868	$1,829,385
Michael H. Furlow	$1,214,037	$120,110	-$1,093,927	$1,074,977	$ 74,284	-$1,000,693	-$2,094,620	$1,068,913
Allan P. Merrill	$ 758,475	$160,614	-$ 597,861	$1,025,819	$314,635	-$ 711,184	-$1,309,045	$1,262,199

(a) Assumes the dividend yield, risk-free interest rate, remaining expected life and volatility as of September 30, 2009 for Black-Scholes calculation purposes.

(b) Includes Salary, Bonus, Non-Equity Incentive Plan Compensation and All Other Compensation from Summary Compensation Table above and 2009 Expense if Share Price was $5.59 on the Grant Dates for Stock and Option Awards.

(4) All Other Compensation consists of the following:

Name	Year	Deferred Compensation Discretionary Lump Sum Contributions	401(k) Company Match	Car Allowance/ Company Car	Relocation Expenses	Total
Ian J. McCarthy	**2009**	$200,000	$7,350	$1,323	N/A	$208,673
Michael H. Furlow	**2009**	$ 84,977	$7,350	$3,134	$18,786*	$114,247
Kenneth F. Khoury	**2009**	$ 0	$5,436	$ 0	N/A	$ 5,436
Allan P. Merrill	**2009**	$ 50,000	$7,350	$9,600	N/A	$ 66,950

* Relocation expenses for

Mr. Furlow reflect costs related to his relocation to South Carolina from Georgia, and include $4,412 representing the gross up for the taxable portion of certain of the relocation expenses.

(5) Mr. Khoury joined the Company effective January 5, 2009. Mr. Merrill joined the Company effective May 1, 2007. Mr. Furlow resigned his position as Executive Vice President and Chief Operating Officer effective August 6, 2009 and became our Division President Charleston/Myrtle Beach/Savannah. Accordingly, he ceased to be an executive officer on August 6, 2009.

Grants of Plan-Based Awards

The following table shows information about eligible or granted plan-based awards for fiscal 2009 to our NEOs.

Name	Grant Date	All Other Stock Awards: Number of Shares of Stock or Units (#)	All Other Option Awards: Number of Securities Underlying Options (#)	Exercise or Base Price of Option Awards ($/sh)	Grant Date Fair Value of Stock and Option Awards ($)
Ian J. McCarthy					

Michael H. Furlow					
Kenneth F. Khoury	8/10/2009	66,672		$ 3.94	$ 262,688
	8/10/2009		100,007	$ 3.94	$ 297,021
Allan P. Merrill	8/10/2009	133,344		$ 3.94	$ 525,375
	8/10/2009		200,014	$ 3.94	$ 594,042

Narrative Disclosure to Summary Compensation Table and Grants of Plan-Based Awards Table

Equity-Based Incentives

Grants of equity incentive plan awards and the full grant date fair value (determined in accordance with FAS 123(R)) of such awards are disclosed in the Grants of Plan-Based Awards Table in the year they are granted. The amount recorded as compensation expense in our income statement in accordance with FAS 123(R) relating to any such awards is disclosed in the Summary Compensation Table in the year when the compensation expense is recorded. The Company cautions that the amounts reported in the Summary Compensation Table for these awards reflect the Company s accounting expense and may not represent the amounts that the NEOs will actually realize from the awards. Whether, and to what extent, an NEO realizes value will depend on a number of factors, including the Company s performance and the stock price. See Note 3 to Summary Compensation Table above.

We have utilized four equity-based, longer-term incentives: stock options, SSARs, time-based restricted stock, and performance-based restricted stock pursuant to the 1999 Plan.

Except in the case of the grants made to Messrs. McCarthy and Furlow in February 2006 and to Mr. Merrill in May 2007, outstanding equity incentives vest as follows:

Grants of stock options and SSARs prior to August 2009 vest after three years from the date of grant; grants of stock options beginning in August 2009 vest ratably over a three year period. Awards of stock options and SSARs expire seven years after grant (ten years for stock options granted prior to May 2003).

Grants of time-based restricted stock prior to August 2009 vest five years from the date of grant; grants of time-based restricted stock beginning in August 2009 vest three years from the date of grant.

Performance-based restricted stock vests after three years from grant contingent upon the ranking of the compound annual growth rate (CAGR) of total return to stockholders of the Company s common stock as compared to the CAGR of total stockholder return of the stock of the Performance Stock Peer Group over a defined time period (the performance period).

In order to compete more effectively with industry peers in terms of equity vesting and to strengthen the retention impact of equity awards, in June 2008, the Compensation Committee determined that subsequent grants of stock options or SSARs will vest ratably over a three year period and that subsequent grants of time-based restricted stock will vest three years from the date of grant.

The performance criteria and corresponding vesting percentages for performance-based restricted stock are defined as follows:

CAGR Peer Ranking	**Vesting Percentage**
Above 3rd Ranked Peer	150%
Equal to 3rd Ranked Peer	130%
Equal to or Above 4th Ranked Peer	115%
Equal to or Above 5th Ranked Peer	100%
Equal to or Above 6th Ranked Peer	75%
Equal to or Above 7th Ranked Peer	50%
Below 7th Ranked Peer	0%

Total stockholder return is defined as ending stock price plus dividends paid, divided by beginning stock price. Beginning stock price is defined as the average of the closing stock prices for the 20 trading days ending on the last trading day prior to the first trading day of the applicable performance period. Ending stock price is defined as the average of the closing stock prices for the 20 trading days ending on the last trading day of the performance period.

In February 2006, the Committee approved long-term stock incentive grants for Messrs. McCarthy and Furlow. Mr. Merrill received a similar grant in May 2007, at the time he joined the Company. For all three NEOs, the vesting schedule for these grants differed from those described above as follows:

Performance-Based Restricted Stock: One-third each of the aggregate number of performance-based restricted shares is eligible to vest depending on performance three, four and five years respectively after the beginning of the performance period, as defined in the award agreement. Depending on the level of performance achieved, as measured by the performance criteria described above, between 0% and 150% of shares then eligible for vesting on the performance date will vest. Upon termination of employment other than for cause or voluntary resignation, a portion of the performance-based restricted stock will vest, depending on length of service since the grant date. For Messrs. McCarthy and Furlow, one third of the aggregate number of performance-based restricted shares eligible to vest

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three years after the beginning of the performance period were forfeited in February 2009 due to failure to achieve any of the specified performance criteria.

Time-Based Restricted Stock: Beginning five years after the date of grant, the restrictions on one-third of the time-based restricted stock will lapse each year for three years subject to continued employment. Upon termination of employment other than for cause or voluntary resignation, a portion of the restricted stock will vest, depending on length of service since the grant date.

Stock Options or SSARs: Beginning three years after the date of grant, the stock options or SSARs vest one third each year for three years and will expire seven years after the date of grant. Upon termination of employment other than for cause or voluntary resignation, a portion of the stock options or SSARs will vest, depending on length of service since the grant date.

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Outstanding Equity Awards at Fiscal Year-End

The following table provides information with respect to the common stock that may be issued upon the exercise of options and SSARs by our NEOs under our existing equity incentive plans as of September 30, 2009.

	Option Awards	Stock Awards
	Number of Securities Underlying Unexercised	