

WINN DIXIE STORES INC  
Form 10-Q  
May 10, 2010  
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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
WASHINGTON, D.C. 20549

**FORM 10-Q**

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

For the quarterly period ended March 31, 2010

OR

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

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

Commission File Number 1-3657

**WINN-DIXIE STORES, INC.**

(Exact name of registrant as specified in its charter)

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

**59-0514290**  
(I.R.S. Employer  
Identification No.)

**5050 Edgewood Court, Jacksonville, Florida**  
(Address of principal executive offices)

**32254-3699**  
(Zip Code)

**(904) 783-5000**

(Registrant's telephone number, including area code)

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

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

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

Large accelerated filer

Accelerated filer

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

Smaller reporting company

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

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Section 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court. Yes  No

As of April 28, 2010, 55,086,282 shares of Winn-Dixie Stores, Inc. common stock were outstanding.

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**FORM 10-Q**

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**Table of Contents****Part I Financial Information****Item 1. Financial Statements****WINN-DIXIE STORES, INC. AND SUBSIDIARIES****CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS (UNAUDITED)**

	12 weeks ended	
	March 31, 2010	April 1, 2009
Amounts in thousands except per share data		
Net sales	\$ 1,685,534	1,725,946
Cost of sales, including warehouse and delivery expenses	1,206,374	1,227,216
Gross profit on sales	479,160	498,730
Other operating and administrative expenses	458,296	468,439
Impairment charges		204
Operating income	20,864	30,087
Interest expense, net	967	781
Income before income taxes	19,897	29,306
Income tax (benefit) expense	(984)	12,744
Net income	\$ 20,881	16,562
Basic and diluted earnings per share	\$ 0.38	0.30
Weighted average common shares outstanding-basic	55,000	54,389
Weighted average common shares outstanding- diluted	55,186	54,577

See accompanying notes to condensed consolidated financial statements (unaudited).

**Table of Contents****WINN-DIXIE STORES, INC. AND SUBSIDIARIES****CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS (UNAUDITED)**

	40 weeks ended	
	March 31, 2010	April 1, 2009
Amounts in thousands except per share data		
Net sales	\$ 5,502,696	5,651,927
Cost of sales, including warehouse and delivery expenses	3,944,788	4,053,944
Gross profit on sales	1,557,908	1,597,983
Other operating and administrative expenses	1,538,320	1,556,777
Gain on insurance settlement		(22,430)
Impairment charges	4,594	1,870
Operating income	14,994	61,766
Interest expense, net	3,710	3,374
Income before income taxes	11,284	58,392
Income tax (benefit) expense	(3,634)	27,998
Net income	\$ 14,918	30,394
Basic and diluted earnings per share	\$ 0.27	0.56
Weighted average common shares outstanding- basic	54,854	54,307
Weighted average common shares outstanding- diluted	55,131	54,522

See accompanying notes to condensed consolidated financial statements (unaudited).

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**WINN-DIXIE STORES, INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED BALANCE SHEETS (UNAUDITED)**

	March 31, 2010	June 24, 2009
Dollar amounts in thousands except par value		
<b>ASSETS</b>		
<b>Current assets:</b>		
Cash and cash equivalents	\$ 183,829	182,823
Trade and other receivables, less allowance for doubtful receivables of \$3,461 (\$3,946 at June 24, 2009)	65,427	70,115
Income tax receivable	2,568	3,351
Merchandise inventories, less LIFO reserve of \$42,646 (\$39,252 at June 24, 2009)	671,312	665,481
Prepaid expenses and other current assets	15,984	32,571
<b>Total current assets</b>	<b>939,120</b>	<b>954,341</b>
Property, plant and equipment, net	639,281	590,595
Intangible assets, net	215,142	226,849
Deferred tax assets, non-current	39,808	37,987
Other assets, net	3,908	5,277
<b>Total assets</b>	<b>\$ 1,837,259</b>	<b>1,815,049</b>
<b>LIABILITIES AND SHAREHOLDERS EQUITY</b>		
<b>Current liabilities:</b>		
Current obligations under capital leases	\$ 10,263	10,888
Accounts payable	354,804	333,471
Reserve for self-insurance liabilities	79,918	71,744
Accrued wages and salaries	68,246	80,796
Accrued rent	30,162	35,274
Deferred tax liabilities	47,670	45,792
Accrued expenses	79,316	81,240
<b>Total current liabilities</b>	<b>670,379</b>	<b>659,205</b>
Reserve for self-insurance liabilities	112,197	117,396
Unfavorable leases	101,785	110,936
Obligations under capital leases	21,958	24,378
Other liabilities	23,647	24,036
<b>Total liabilities</b>	<b>929,966</b>	<b>935,951</b>
<b>Commitments and contingent liabilities (Notes 1 and 8)</b>		
<b>Shareholders equity:</b>		
Common stock, \$0.001 par value. Authorized 400,000,000 shares; 55,183,896 shares issued and 55,085,369 outstanding at March 31, 2010, and 54,582,067 shares issued and 54,483,540 outstanding at June 24, 2009.	55	54
Additional paid-in-capital	805,163	791,567
Retained earnings	95,984	81,066
Accumulated other comprehensive income	6,091	6,411
<b>Total shareholders equity</b>	<b>907,293</b>	<b>879,098</b>

<b>Total liabilities and shareholders equity</b>	\$ 1,837,259	1,815,049
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**Table of Contents****WINN-DIXIE STORES, INC. AND SUBSIDIARIES****CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (UNAUDITED)**

	40 weeks ended	
	March 31, 2010	April 1, 2009
Amounts in thousands		
<b>Cash flows from operating activities:</b>		
Net income	\$ 14,918	30,394
Adjustments to reconcile net income to net cash provided by operating activities:		
(Gain) loss on sales of assets, net	(72)	190
Gain on insurance settlement		(22,430)
Impairment charges	4,594	1,870
Depreciation and amortization	77,475	75,222
Share-based compensation	13,484	11,551
Deferred income taxes	57	27,998
Change in operating assets and liabilities:		
Favorable and unfavorable leases, net	571	1,968
Trade, insurance and other receivables	4,645	21,036
Merchandise inventories	(5,831)	(10,497)
Prepaid expenses and other current assets	16,587	8,248
Accounts payable	24,552	(7,860)
Income taxes payable/receivable	(500)	1,425
Reserve for self-insurance liabilities	2,975	252
Accrued expenses and other	(18,745)	(18,828)
Net cash provided by operating activities	134,710	120,539
<b>Cash flows from investing activities:</b>		
Purchases of property, plant and equipment	(116,184)	(153,500)
(Increase) decrease in intangibles and other assets, net	(6,345)	4,909
Sales of assets	546	639
Proceeds from insurance		17,601
Net cash used in investing activities	(121,983)	(130,351)
<b>Cash flows from financing activities:</b>		
Gross borrowings on credit facilities	7,830	11,529
Gross payments on credit facilities	(7,830)	(11,454)
Decrease in book overdrafts	(3,219)	(7,481)
Principal payments on capital leases	(8,615)	(6,717)
Proceeds from sales under Employee Stock Purchase Plan	113	7
Net cash used in financing activities	(11,721)	(14,116)
<b>Increase (decrease) in cash and cash equivalents</b>	<b>1,006</b>	<b>(23,928)</b>
<b>Cash and cash equivalents at beginning of period</b>	<b>182,823</b>	<b>201,275</b>
<b>Cash and cash equivalents at end of period</b>	<b>\$ 183,829</b>	<b>177,347</b>

See accompanying notes to condensed consolidated financial statements (unaudited).





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**WINN-DIXIE STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)**

**Dollar amounts in thousands except per share data, unless otherwise stated**

**1. Proceedings Under Chapter 11 of the Bankruptcy Code**

**Emergence from Bankruptcy Protection:** On February 21, 2005 (the Petition Date ), Winn-Dixie Stores, Inc. and 23 then-existing direct and indirect wholly-owned subsidiaries (collectively, the Debtors ) filed voluntary petitions for reorganization under Chapter 11 of the United States Bankruptcy Code ( Chapter 11 or the Bankruptcy Code ) in the United States Bankruptcy Court (the Court ). Two of the then-existing wholly owned subsidiaries of Winn-Dixie Stores, Inc. (collectively with the Debtors, the Company or Winn-Dixie ) did not file petitions under Chapter 11. On November 9, 2006, the Court entered its order confirming the Debtors' modified plan of reorganization (the Plan or the Plan of Reorganization ). Although certain objecting parties appealed the confirmation order, they did not seek a stay of the order. In the absence of a stay, the Debtors were free to implement the Plan notwithstanding the pendency of the appeals. The Plan became effective and the Debtors emerged from bankruptcy protection on November 21, 2006 (the Effective Date ).

**Claims Resolution and Plan Distributions:** As of March 31, 2010, 47.1 million shares had been distributed by the disbursing agent to holders of allowed unsecured claims that totaled \$935.7 million in allowed amounts and 6.9 million shares were held in reserve by the disbursing agent to satisfy remaining disputed unsecured claims. Under the terms of the Plan, if sufficient excess shares remain in reserve after resolution of all disputed claims, such shares will be distributed to the claimants with allowed claims pro-rata, based on the number of shares they received pursuant to the Plan. Based on recent settlements of unsecured claims, the Company now expects that, during its quarter ending June 30, 2010, shares remaining in the reserve will be distributed to persons previously holding claims as Noteholders, landlords, vendors or suppliers, retirement plan participants and other unsecured creditors. The claims resolution process remains ongoing with respect to certain unsecured, secured, administrative and priority claims. The claims resolution process will continue until all claims are resolved.

**2. Summary of Significant Accounting Policies and Other Matters**

**General:** All information in this Quarterly Report on Form 10-Q should be read in conjunction with the Consolidated Financial Statements included in Item 8 of the Company's Annual Report on Form 10-K for the fiscal year ended June 24, 2009. See Note 2 to the Consolidated Financial Statements in that Form 10-K for a more detailed discussion of the Company's significant accounting policies.

**The Company:** As of March 31, 2010, the Company operated as a major food retailer in five states in the southeastern United States. The Company operated 515 retail stores, with five fuel centers and 78 liquor stores at the retail stores. In support of its stores, the Company operated six distribution centers and a beverage manufacturing facility.

**Estimates:** The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions

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**WINN-DIXIE STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED) (Continued)**

**Dollar amounts in thousands except per share data, unless otherwise stated**

about future events that affect the reported amounts of assets, liabilities, revenues, and expenses, and disclosure of contingent assets and liabilities. The Company cannot determine future events and their effects with certainty. Therefore, the determination of estimates requires the exercise of judgment based on various assumptions and other factors such as historical experience, current and expected economic conditions, and in some cases, actuarial calculations. The Company periodically reviews these significant factors and makes adjustments when appropriate. Actual results could differ from those estimates.

During the 16 weeks ended January 6, 2010, and January 7, 2009, the Company recorded adjustments that reduced its self-insurance reserves by \$8.3 million and \$9.9 million respectively, as a result of the actuarial studies performed in the second quarter of each fiscal year and primarily related to workers' compensation claims. These adjustments decreased other operating and administrative expenses by \$7.3 million and \$8.6 million during the 40 weeks ended March 31, 2010, and April 1, 2009, respectively, and decreased cost of sales by \$1.0 million and \$1.3 million for the 40 weeks ended March 31, 2010, and April 1, 2009, respectively.

**Basis of Presentation:** The accompanying unaudited Condensed Consolidated Financial Statements are prepared in accordance with U.S. generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all information and footnotes required by U.S. generally accepted accounting principles for complete financial statements. In the opinion of management, all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation have been included. Operating results for the 12 and 40 weeks ended March 31, 2010, are not necessarily indicative of the results that may be expected for the fiscal year ending June 30, 2010.

The Condensed Consolidated Balance Sheet as of June 24, 2009, was derived from the audited consolidated financial statements as of that date, but does not include all of the information and footnotes required by U.S. generally accepted accounting principles for complete financial statements. For further information, refer to the consolidated financial statements and notes thereto included in the Company's Annual Report on Form 10-K for the fiscal year ended June 24, 2009.

**Cash and Cash Equivalents:** Cash and cash equivalents consisted of United States government obligations money market funds of \$174.5 million and cash in stores of \$9.3 million as of March 31, 2010, and United States government obligations money market funds of \$173.8 million and cash in stores of \$9.0 million as of June 24, 2009. Book overdrafts of \$9.6 million and \$12.9 million were classified as accounts payable in the Condensed Consolidated Balance Sheets as of March 31, 2010, and June 24, 2009, respectively.

**Earnings Per Share:** Basic earnings per common share is based on the weighted-average number of common shares outstanding for the periods presented. Diluted earnings per share is based on the weighted-average number of common shares outstanding, plus the

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**WINN-DIXIE STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED) (Continued)**

**Dollar amounts in thousands except per share data, unless otherwise stated**

incremental shares that would have been outstanding upon the assumed vesting and exercise of all common stock equivalents (options, restricted stock and restricted stock units, collectively "CSEs") using the treasury stock method, subject to anti-dilution limitations.

The calculation of diluted earnings per share included 55.2 million and 55.1 million potentially dilutive CSEs for the 12 and 40 weeks ended March 31, 2010, respectively, and 0.2 million potentially dilutive CSEs for the 12 and 40 weeks ended April 1, 2009. Excluded from the calculation are approximately 4.4 million and 3.9 million anti-dilutive CSEs for the 12 and 40 weeks ended March 31, 2010, respectively, and 5.1 million and 4.4 million anti-dilutive CSEs for the 12 and 40 weeks ended April 1, 2009, respectively.

**Comprehensive Income:** Comprehensive income was \$20.8 million and \$14.6 million for the 12 and 40 weeks ended March 31, 2010, respectively. Comprehensive income was \$16.5 million and \$30.1 million for the 12 and 40 weeks ended April 1, 2009, respectively. Other comprehensive income consists of changes in the Company's post-retirement benefits obligation.

**Reclassifications and Revisions:** Certain prior year amounts have been reclassified to conform to the current year's presentation.

**3. Inventory**

The Company uses the last-in, first-out ("LIFO") method to value approximately 85% of its inventory. LIFO charges increased cost of sales by \$0.6 million and \$3.4 million for the 12 and 40 weeks ended March 31, 2010, respectively, and \$1.2 million and \$17.8 million for the 12 and 40 weeks ended April 1, 2009, respectively.

An actual valuation of inventory under the LIFO method is made as of the end of each fiscal year based on the inventory levels and costs as of that date. Accordingly, interim LIFO calculations are based on management's estimates of expected year-end inventory levels and costs. Because these calculations are estimates of future events and prices, interim results are subject to the final year-end LIFO inventory valuations.

**4. Impairment Charges**

The Company periodically estimates the future cash flows expected to result from the various long-lived assets and the residual values of such assets. In some cases, the Company concludes that the undiscounted cash flows are less than the carrying values of the related assets, resulting in impairment charges equal to the excess of net book value over the fair value of the impaired asset. Fair value estimates are based on assumptions the Company believes to be reasonable but are inherently uncertain, thus fall within level 3 of the fair value hierarchy. Fair value is determined using a discounted cash flow methodology, which for store assets considers the terminal value based on broker quotes. No impairment charges were

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recorded during the 12 weeks ended March 31, 2010. Impairment charges related to store facilities of \$4.6 million and were recorded during the 40 weeks ended March 31, 2010. Impairment charges related to store facilities of \$0.2 million and \$1.9 million were recorded during the 12 and 40 weeks ended April 1, 2009, respectively.

**5. Retirement Plans**

The following table provides the components of the periodic benefit expense for the Company's retirement plans.

	12 weeks ended	
	March 31, 2010	April 1, 2009
Interest cost	\$ 281	298
Amortization of actuarial gain	(96)	(99)
<b>Net periodic benefit expense</b>	<b>\$ 185</b>	<b>199</b>

	40 weeks ended	
	March 31, 2010	April 1, 2009
Interest cost	\$ 935	994
Amortization of actuarial gain	(319)	(330)
<b>Net periodic benefit expense</b>	<b>\$ 616</b>	<b>664</b>

**6. Share-Based Payments**

Under the Fiscal 2010 Equity Incentive Plan ( 2010 EIP Plan ), the Compensation Committee of the Company's Board of Directors may grant up to 6.1 million share-based payments to officers, employees and non-employee directors, among others. The 2010 EIP Plan was approved by shareholders on November 4, 2009, and is effective for all grants made subsequent to November 4, 2009.

Total compensation expense related to share-based payments was \$4.0 million and \$13.5 million for the 12 and 40 weeks ended March 31, 2010, respectively, and \$4.0 million and \$11.6 million for the 12 and 40 weeks ended April 1, 2009, respectively. As of March 31, 2010, the Company had \$23.4 million of unrecognized compensation expense related to share-based payments, which it expects to recognize over a weighted-average period of 1.6 years.

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Changes in options during the 40 weeks ended March 31, 2010, were as follows:

	Number of Shares (thousands)	Weighted- Average Exercise Price per share	Weighted- Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value (\$)
Outstanding as of June 24, 2009	3,652	\$ 18.92		
Granted	1,405	11.18		
Forfeited	(659)	28.58		
Expired	(45)	22.99		
Outstanding as of March 31, 2010	4,353	\$ 14.92	5.2	1,912

On December 9, 2009, the Company granted 242,730 stock options in exchange for 596,751 stock options held by eligible option holders in accordance with the Stock Option Exchange Program approved by shareholders on November 4, 2009. The exchange was on an estimated fair value neutral basis and resulted in no incremental compensation expense.

The fair value of options is estimated at the grant date using the Black-Scholes option-pricing model, which requires the use of various assumptions. The risk-free interest rate is based on the U.S. Treasury yield curve in effect for the expected term of the option at the grant date. The Company assumes a dividend yield of 0%, since it does not pay dividends and has no current plans to do so. The volatility assumptions are based on historical volatilities of comparable publicly traded companies using daily closing prices for the historical period commensurate with the expected term of the option and, for grants subsequent to January 7, 2009, are based on both historical volatilities of comparable publicly traded companies and the Company's own historical volatility. The expected life of the options is determined based on the simplified assumption that the options will be exercised evenly from vesting to expiration. The weighted-average grant-date fair value of the options granted during the 40 weeks ended March 31, 2010, and April 1, 2009, was \$5.43 and \$4.38, respectively, which was determined using the following assumptions:

	40 weeks ended	
	March 31, 2010	April 1, 2009
Risk-free interest rate range	1.92% - 2.68%	1.78%-2.81%
Expected dividend yield	0.0%	0.0%
Expected life range (years)	4.50 - 5.83	4.75
Volatility range	50.78% - 52.04%	30.60% - 51.07%

**Table of Contents****WINN-DIXIE STORES, INC. AND SUBSIDIARIES****NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED) (Continued)****Dollar amounts in thousands except per share data, unless otherwise stated*****Restricted Stock Units***

Changes in the restricted stock units during the 40 weeks ended March 31, 2010, were as follows:

	Number of Shares (thousands)	Weighted-Average Grant Date Fair Value per share
Nonvested balance as of June 24, 2009	1,439	\$ 14.98
Granted	1,291	11.93
Vested	(592)	15.31
Forfeited	(32)	14.87
Nonvested balance as of March 31, 2010	2,106	\$ 13.02

**7. Insurance Settlement**

During October 2008, the Company reached a final settlement with its insurers related to its claim resulting from hurricanes that occurred in fiscal 2006. Final payments totaling approximately \$25.0 million received during the 16 weeks ended January 7, 2009, exceeded the insurance receivable. Accordingly, the Company recorded a gain of \$22.4 million in the Condensed Consolidated Statements of Operations for the 40 weeks ended April 1, 2009.

**8. Commitments and Contingencies*****Bankruptcy-related Contingencies***

The Debtors' creditors generally filed proofs of claim with the Court. Through a claims resolution process and on objections of the Debtors, the Court reduced, reclassified and/or disallowed a significant number of claims for varying reasons, including claims that were duplicative, amended, without merit, misclassified or overstated. Many claims were resolved prior to the Effective Date through settlement or Court orders. This process will continue until all claims are resolved (see Note 1).

***Litigation - Bankruptcy and pre-petition matters***

On the Petition Date, Winn-Dixie Stores, Inc., and 23 of its then-existing subsidiaries filed voluntary petitions for reorganization under Chapter 11 of the Bankruptcy Code. The reorganization was jointly administered under the caption *In re: Winn-Dixie Stores, Inc., et al.*, Case No. 05-03817 by the Court. Two of the then-existing wholly owned subsidiaries of Winn-Dixie Stores, Inc., did not file petitions under Chapter 11 of the Bankruptcy Code. On August 9, 2006, the Debtors filed their final plan of reorganization and related Court-approved disclosure statement. On October 10, 2006, the Company filed a modification to the plan to address objections to confirmation of the Plan. On November 9, 2006, the Court entered its order confirming the Plan of Reorganization.

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**WINN-DIXIE STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED) (Continued)**

**Dollar amounts in thousands except per share data, unless otherwise stated**

In confirming the Plan, the Court overruled the objections to the Plan filed by, among others, several holders of landlord claims and the Florida tax collectors. Certain of the objecting parties, including four groups of landlord claimants and the Florida tax collectors, appealed the confirmation order to the United States District Court for the Middle District of Florida (the District Court). The issues placed on appeal by the landlord claimants derive from the substantive consolidation compromise contained in the Plan and the resulting treatment of landlord claims under the Plan. The issues placed on appeal by the Florida tax collectors relate to the treatment of ad valorem property taxes under the Plan, including the alleged immunity of the State of Florida and the jurisdiction of the Bankruptcy Court to determine state taxes. None of the appealing parties sought to stay the effectiveness of the confirmation order, leaving the Debtors free to move forward to implement the Plan. The Debtors implemented the Plan on November 21, 2006, which became the effective date of the Plan. On July 5, 2007, the Debtors filed a motion to dismiss as moot the appeals filed by the landlord claimants. On October 10, 2007, the District Court entered its order granting the Debtors motion and dismissing the appeals filed by the landlord claimants and on July 1, 2008, the District Court's dismissal order was affirmed by the United States Court of Appeals for the Eleventh Circuit. Similarly, on April 1, 2008, the District Court entered its order affirming the Bankruptcy Court's treatment of the objections of the Florida Tax Collectors and on December 1, 2009, the Eleventh Circuit affirmed the District Court and Bankruptcy Court orders regarding the Florida tax collectors, resolving the Florida tax collector's appeals in Winn-Dixie's favor. The Florida tax collectors claim will now be addressed as a part of the Debtors' ongoing claims resolution process.

***Litigation - Post-emergence matters***

On August 21, 2009, the Company was served with a putative class action lawsuit filed by two former employees in the United States District Court for the Middle District of Florida against Winn-Dixie Stores, Inc., alleging company-wide violations of the federal Fair Credit Reporting Act related to the Company's background check procedures. The Company denies all allegations raised in the lawsuit, has answered the complaint and has filed motions asserting various defenses to the claims. Discovery in the case is underway.

On March 19, 2010, the Company was served with a purported collective action lawsuit filed by two former employees in the United States District for the Southern District of Florida against Winn-Dixie Stores, Inc. alleging violations of the Fair Labor Standard Act related to unpaid overtime wages. The Company denies all allegations raised in the lawsuit and will file an answer to the complaint accordingly.

Various claims and lawsuits arising in the normal course of business are pending against the Company, including claims alleging violations of certain employment or civil rights laws, claims relating to both regulated and non-regulated aspects of the business and claims arising under federal, state or local environmental regulations. The Company vigorously defends these actions.

**9. Recently Adopted Accounting Standards**

The Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) (Topic 105, Generally Accepted Accounting Principles), became the single source for authoritative nongovernmental U.S. generally accepted accounting principles on July 1, 2009. The Company's adoption of FASB ASC on June 25, 2009, did not have an effect on its Condensed Consolidated Financial Statements.



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**WINN-DIXIE STORES, INC. AND SUBSIDIARIES**

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED) (Continued)**

**Dollar amounts in thousands except per share data, unless otherwise stated**

Effective June 25, 2009, the Company adopted ASC Topic 820, Fair Value Measurements and Disclosures ( Topic 820 ), as it relates to nonfinancial assets and nonfinancial liabilities. See Note 4 for disclosures related to the application to impairment of long-lived assets.

The Company adopted ASC Topic 805, Business Combinations ( Topic 805 ), on June 25, 2009. Topic 805 addresses the accounting for business combinations with acquisition dates subsequent to the adoption and requires changes in valuation allowances for acquired deferred tax assets and acquired income tax uncertainties in a business combination to adjust income tax expense. The Company currently maintains a full valuation allowance against substantially all of its net deferred tax assets. Decreases in the valuation allowance for deferred tax assets that existed at the time of emergence from bankruptcy protection previously reduced intangible assets. Decreases in the valuation allowance reduced income tax expense for the 40 weeks ended March 31, 2010. There were no business combinations during the 40 weeks ended March 31, 2010.

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### **ITEM 2: MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

The following should be read in conjunction with the Condensed Consolidated Financial Statements and Notes thereto included in Item 1 of this Quarterly Report on Form 10-Q. Unless specified to the contrary, all information herein is reported as of March 31, 2010, which was the end of our most recently completed fiscal quarter.

#### ***FORWARD-LOOKING STATEMENTS***

Certain statements made in this report, and other written or oral statements made by us or on our behalf, may constitute forward-looking statements within the meaning of the federal securities laws. Statements regarding future events and developments and our future performance, as well as management's expectations, beliefs, plans, estimates or projections related to the future, are forward-looking statements within the meaning of these laws. These forward-looking statements include and may be indicated by words or phrases such as anticipate, estimate, plans, expects, projects, should, will, believes or intends and similar words and phrases.

All forward-looking statements, as well as our business and strategic initiatives, are subject to certain risks and uncertainties that could cause actual results to differ materially from expected results. Management believes that these forward-looking statements are reasonable. However, you should not place undue reliance on such statements. These statements are based on current expectations and speak only as of the date of such statements. We undertake no obligation to publicly update or revise any forward-looking statement, whether as a result of future events, new information or otherwise. Additional information concerning the risks and uncertainties and other factors that you may wish to consider are described in Item 1A: Risk Factors in our Annual Report on Form 10-K for the fiscal year ended June 24, 2009, and elsewhere in our filings with the Securities and Exchange Commission. A number of factors, many of which are described in Item 1A: Risk Factors in the Form 10-K, could cause our actual results to differ materially from the expected results described in our forward-looking statements.

#### ***PROCEEDINGS UNDER CHAPTER 11 OF THE BANKRUPTCY CODE***

*General.* The information below should be read in conjunction with Note 1 to the Financial Statements included in Item 8 of our Annual Report on Form 10-K for the fiscal year ended June 24, 2009.

*Emergence from Bankruptcy Protection.* On February 21, 2005 (the Petition Date), Winn-Dixie Stores, Inc., and 23 then-existing direct and indirect wholly-owned subsidiaries (collectively, the Debtors) filed voluntary petitions for reorganization under Chapter 11 of the United States Bankruptcy Code (Chapter 11 or the Bankruptcy Code) in the United States Bankruptcy Court (the Court). Two of the then-existing wholly owned subsidiaries of Winn-Dixie Stores, Inc., (collectively with the Debtors, the Company or Winn-Dixie) did not file petitions under Chapter 11. On November 9, 2006, the Court entered its order confirming the Debtors' modified

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plan of reorganization (the Plan or the Plan of Reorganization ). Although certain objecting parties appealed the confirmation order, they did not seek a stay of the order. In the absence of a stay, the Debtors were free to implement the Plan notwithstanding the pendency of the appeals. The Plan became effective and the Debtors emerged from bankruptcy protection on November 21, 2006 (the Effective Date ).

*Claims Resolution and Plan Distributions.* As of March 31, 2010, 47.1 million shares had been distributed by the disbursing agent to holders of allowed unsecured claims that totaled \$935.7 million in allowed amounts and 6.9 million shares were held in reserve by the disbursing agent to satisfy remaining disputed unsecured claims. Under the terms of the Plan, if sufficient excess shares remain in reserve after resolution of all disputed claims, such shares will be distributed to the claimants with allowed claims pro-rata, based on the number of shares they received pursuant to the Plan. Based on recent settlements of unsecured claims, the Company now expects that, during its quarter ending June 30, 2010, shares remaining in the reserve will be distributed to persons previously holding claims as noteholders, landlords, vendors or suppliers, retirement plan participants and other unsecured creditors. The claims resolution process remains ongoing with respect to certain unsecured, secured, administrative and priority claims. The claims resolution process will continue until all claims are resolved.

## **OVERVIEW**

During the third quarter of fiscal 2010, we focused on maintaining profitability in a challenging economic environment through disciplined promotional practices, expense control and execution of our core strategic initiatives including our store remodel program. Our identical store sales, challenged by the economic environment, decreased 2.2% for the third quarter of fiscal 2010, due to competitive activity and other general market factors, offset by increases from remodeled stores. Our identical store sales decrease for the third quarter of fiscal 2010, can also be explained by an increase in basket size of 1.2% and a decrease in transaction count of 3.4%, compared to the same period in the prior fiscal year. Due to the competitive environment, we were not able to pass through cost increases or retain the benefit of cost decreases in certain product categories, such as dairy and meat, to the extent we were able to do so in the same period in the prior year. This was the primary reason for the 50 basis point decline in gross margin as compared to the same period in the prior year. Other operating and administrative expenses for the third quarter of fiscal 2010 decreased by \$10.1 million as compared to the same period in the previous fiscal year due primarily to lower utility rates.

In April, a drilling platform exploded in the Gulf of Mexico resulting in a sizable crude oil spill. Although it is impossible at this time to determine the potential impacts of the spill, reports indicate the spill may impact portions of the Gulf Coast and/or Florida and there may be negative impacts on fishing, tourism and shipping industries. We have stores in the Gulf Coast region, on the west coast of Florida and the Florida Keys. A decrease in tourism in these areas as a result of the spill may have a negative impact on our sales in these locations.

## **RESULTS OF OPERATIONS**

*Net sales.* Net sales for the 12 weeks ended March 31, 2010, were \$1.7 billion, a decrease of \$40.4 million, or 2.3%, compared to the same period in the prior fiscal year. Net sales for the 40 weeks

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ended March 31, 2010, were \$5.5 billion, a decrease of \$149.2 million, or 2.6%, compared to the same period in the prior fiscal year. Net sales primarily related to grocery and supermarket items. In aggregate, sales of the pharmacy, fuel, and floral departments comprised approximately 10% of retail sales for all periods reported in the accompanying Condensed Consolidated Statements of Operations. The decrease in our net sales was the result of the loss of sales from six stores we closed in fiscal 2009 and a decrease in our identical store sales offset by sales from one new store.

Identical store sales decreased 2.2% and 2.3% for the 12 and 40 weeks ended March 31, 2010, respectively, compared to the same periods in the prior fiscal year. We define identical store sales as sales from continuing operations stores, including stores that we remodeled or enlarged during the period and excluding stores that opened or closed during the period.

The decrease in our identical store sales for the 12 weeks ended March 31, 2010, can be explained by an increase in basket size (average sales per customer visit on identical store sales) of 1.2% and a decrease in transaction count (number of customer visits on identical store sales) of 3.4%. The decrease in our identical store sales for the 40 weeks ended March 31, 2010, can be explained by a decrease in basket size (average sales per customer visit on identical store sales) of 0.5% and a decrease in transaction count (number of customer visits on identical store sales) of 1.8%.

Identical store sales for the 12 weeks ended March 31, 2010, were negatively impacted by factors including, but not limited to, competitive activity and other general market factors, the continued mix shift from brand name pharmaceutical products to generics which negatively impacted identical store sales by 50 basis points, partially offset by sales increases related to remodeled stores.

Identical store sales for the 40 weeks ended March 31, 2010, were negatively impacted by factors including, but not limited to, competitive activity and other general market factors, non-recurring storm-related sales occurring in the prior year which negatively impacted identical store sales by 50 basis points, the continued mix shift from brand name pharmaceutical products to generics which negatively impacted identical store sales by 40 basis points, partially offset by sales increases related to remodeled stores.

Inflation was a significant contributor to the increase in identical sales we experienced during fiscal 2009 as compared to fiscal 2008. During the 40 weeks ended March 31, 2010, we have experienced deflation in certain categories and lower inflation in others, which had a negative impact on identical store sales. We have seen a low level of food inflation return during the 12 weeks ended March 31, 2010, which we expect will continue over the remainder of fiscal 2010.

*Gross Profit on Sales.* Gross profit on sales decreased \$19.6 million and \$40.1 million for the 12 and 40 weeks ended March 31, 2010, respectively, compared to the same periods in the prior fiscal year. As a percentage of net sales, gross margin was 28.4% and 28.9% for the 12 weeks ended March 31, 2010, and April 1, 2009, respectively, and 28.3% for both the 40 weeks ended March 31, 2010, and April 1, 2009.

Gross margin for the 12 weeks ended March 31, 2010, decreased by approximately 50 basis points as compared to the same period in the prior fiscal year. Due to the competitive environment, we were not able to pass through cost increases or retain the benefit of cost decreases in certain

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product categories such as dairy and meat to the extent we were able to do so in the same period in the prior year (70 basis points). This decline was partially offset by reductions in other costs (20 basis points).

Gross margin for the 40 weeks ended March 31, 2010, was unchanged from the same period in the prior fiscal year. Due to the competitive environment, we were not able to pass through cost increases or retain the benefit of cost decreases in certain product categories such as dairy and meat to the extent we were able to do so in the same period in the prior year (30 basis points). This decline was offset by a lower LIFO charge (20 basis points) and reductions in other costs (10 basis points).

*Other Operating and Administrative Expenses.* Other operating and administrative expenses decreased \$10.1 million and \$18.5 million for the 12 and 40 weeks ended March 31, 2010, respectively, as compared to the same periods in the prior fiscal year. As a percentage of net sales, other operating and administrative expense was 27.2% and 27.1% for the 12 weeks ended March 31, 2010, and April 1, 2009, respectively, and 28.0% and 27.5% for the 40 weeks ended March 31, 2010, and April 1, 2009, respectively.

Several items contributed to the decrease in operating and administrative expenses for the 12 and 40 weeks ended March 31, 2010, as compared to the same period in the prior fiscal year as follows (in millions):

	12 weeks ended March 31, 2010	40 weeks ended March 31, 2010
Decrease in:		
Utilities, primarily related to lower rates	\$ 5.3	7.3
Payroll and payroll-related expenses	2.3	3.4
Occupancy costs, primarily related to store closures	0.7	2.3
Prior year hurricanes and tropical storm-related expenses		2.4
Other, net	1.8	3.1
	\$ 10.1	18.5

*Gain on Insurance Settlement.* During October 2008, we reached a final settlement with our insurers related to our claim resulting from hurricanes that occurred in fiscal 2006. Final payments totaling approximately \$25.0 million received during the 16 weeks ended January 7, 2009, exceeded the insurance receivable. Accordingly, we recorded a gain of \$22.4 million in the condensed consolidated statements of operations for the 40 weeks ended April 1, 2009.

*Impairment Charges.* No impairment charges were recorded for the 12 weeks ended March 31, 2010. Impairment charges related to store facilities of \$4.6 million were recorded during the 40 weeks ended March 31, 2010. Impairment charges related to store facilities of \$0.2 million and \$1.9 million were recorded during the 12 and 40 weeks ended April 1, 2009, respectively. See Part I, Item 1, Note 4 for further discussion of impairment charges.

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*Interest Expense, Net.* Interest expense, net, is primarily interest on long-term and short-term debt and capital leases, offset by interest income. Interest expense, net, remained relatively unchanged for the 12 and 40 weeks ended March 31, 2010, as compared to the same periods in the prior fiscal year. Interest expense, net was \$1.0 million and \$0.8 million for the 12 weeks ended March 31, 2010, and April 1, 2009, respectively, and \$3.7 million and \$3.4 million for the 40 weeks ended March 31, 2010, and April 1, 2009, respectively.

*Income Taxes.* Income tax benefit was \$1.0 million and \$3.6 million for the 12 and 40 weeks ended March 31, 2010, respectively. The effective tax rate was a benefit of 4.9% and 32.2% for 12 and 40 weeks ended March 31, 2010, respectively. The rate for both the 12 and 40 weeks ended March 31, 2010, reflect our ability to carry back certain net operating losses while maintaining a full valuation allowance and recording certain refundable credits and the benefit of a reduction of an uncertain tax position.

Income tax expense was \$12.7 million and \$28.0 million for the 12 and 40 weeks ended April 1, 2009, respectively. The effective tax rate was an expense of 43.5% and 47.9% for the 12 and 40 weeks ended April 1, 2009, respectively, which differs from statutory rates primarily due to permanent items and the impact of our prior year tax return to provision adjustment recorded in the second quarter of fiscal 2009.

We maintain a full valuation allowance against substantially all of our net deferred tax assets. The valuation allowance will be maintained until there is sufficient positive evidence to conclude that it is more likely than not that the net deferred tax assets will be realized.

As of March 31, 2010, we had net operating loss carryforwards ( NOLs ) for federal income tax purposes of approximately \$564 million that will begin to expire in fiscal 2025.

## ***LIQUIDITY AND CAPITAL RESOURCES***

### *Summary*

As of March 31, 2010, we had \$696.6 million of liquidity, comprised of \$512.8 million of borrowing availability under the Credit Agreement (defined below) and \$183.8 million of cash and cash equivalents. We anticipate our capital expenditures for the remainder of fiscal 2010 will be funded substantially by cash flows from operations, working capital improvements, and cash and cash equivalents on hand. We believe that we have sufficient liquidity through borrowing availability, available cash and cash flows from operating activities to fund our cash requirements for existing operations and capital expenditures for the remainder of fiscal 2010. Based on borrowing availability and anticipated improvement in operating results, we believe that we will have sufficient resources beyond fiscal 2010 to operate our business and fund our capital-spending program.

### *Credit Agreement*

On the Effective Date, Winn-Dixie Stores, Inc., and certain of our subsidiaries entered into an Amended and Restated Credit Agreement ( Credit Agreement ). The Credit Agreement, to be used

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for working capital and general corporate purposes, provides for a \$725.0 million senior secured revolving credit facility, of which a maximum of \$300.0 million may be utilized for letters of credit. The Credit Agreement matures November 21, 2011, at which time all amounts then outstanding under the agreement will be due and payable. At our request, under certain conditions the facility may be increased by up to \$100.0 million. Obligations under the Credit Agreement are guaranteed by substantially all of our subsidiaries and are secured by senior liens on substantially all of our assets. The Credit Agreement contains certain covenants, including an EBITDA financial covenant, which is tested only when Excess Availability falls below \$75.0 million. This Form 10-Q contains only a general description of the terms of the Credit Agreement and is qualified in its entirety by reference to the full Credit Agreement (filed as Exhibit 10.1 to the Form 8-K filed on November 28, 2006) and Amendment 1 to the Credit Agreement (filed as Exhibit 10.1 to the Form 8-K filed on September 5, 2008). The following capitalized terms have specific meanings as defined in the Credit Agreement: Agent, Borrowing Base, Capital Expenditures, EBITDA, Excess Availability, and Reserves.

We had no material borrowings on the Credit Agreement, other than fees charged by the lender, during the 40 weeks ended March 31, 2010.

Borrowing availability was \$512.8 million as of March 31, 2010, as summarized below (in thousands):

	<b>March 31, 2010</b>
Lesser of Borrowing Base or Credit Agreement capacity <sup>1</sup>	\$ 562,759
Outstanding borrowings	
Excess Availability	562,759
Limitation on Excess Availability <sup>2</sup>	(50,000)
<b>Borrowing availability</b>	<b>\$ 512,759</b>

<sup>1</sup> Net of Reserves of \$162.1 million, including \$142.0 million related to outstanding letters of credit.

<sup>2</sup> Assumes the Credit Agreement's EBITDA covenant is met or is not being tested.

As shown in the table above, Borrowing availability under the Credit Agreement was determined net of Reserves, which are subject to revision by the Agent to reflect events or circumstances that adversely affect the value of the Borrowing Base assets. Accordingly, a determination by the Agent to increase Reserves would reduce availability.

Letters of credit are considered reserves against the borrowing availability. As of March 31, 2010, letters of credit totaling \$142.0 million were issued under the Credit Agreement. Outstanding letters of credit related primarily to insurance programs including workers' compensation.

**Table of Contents***Historical Cash Flow Data*

The table below sets forth certain Condensed Consolidated Statements of Cash Flows data for the 40 weeks ended March 31, 2010, and April 1, 2009 (in thousands):

	40 weeks ended	
	March 31, 2010	April 1, 2009
Cash provided by (used in):		
Operating activities	\$ 134,710	120,539
Investing activities	(121,983)	(130,351)
Financing activities	(11,721)	(14,116)

*Operating Activities.* Net cash provided by operating activities of \$134.7 million and \$120.5 million for the 40 weeks ended March 31, 2010, and April 1, 2009, respectively, was due primarily to operating cash flows and changes in working capital items. Insurance proceeds collected in the 40 weeks ended April 1, 2009, totaled \$28.9 million of which \$11.3 million related to operating activities and \$17.6 million related to property and equipment and is classified as an investing activity.

*Investing Activities.* For the 40 weeks ended March 31, 2010, and April 1, 2009, net cash used in investing activities was \$122.0 million and \$130.4 million, respectively. Capital expenditures including our store-remodeling program were \$116.2 million and \$153.5 million for the 40 weeks ended March 31, 2010, and April 1, 2009, respectively. During the 40 weeks ended April 1, 2009, we collected \$17.6 million of proceeds from insurance claims related to investing activities.

*Financing Activities.* For the 40 weeks ended March 31, 2010, and April 1, 2009, net cash used in financing activities was \$11.7 million and \$14.1 million, respectively, due primarily to principal payments on capital leases.

*Capital Expenditures.* In fiscal 2010, we expect capital expenditures to total approximately \$200 million, a majority of which is for our store-remodeling program and also includes other capital expenditures such as maintenance and other store-related projects, information technology projects, new stores, back-up generators and logistics projects.

**CRITICAL ACCOUNTING ESTIMATES**

Our critical accounting estimates for the third quarter of fiscal 2010 are consistent with those included in our Annual Report on Form 10-K for the fiscal year ended June 24, 2009. See Note 9 of Notes to Condensed Consolidated Financial Statements in this Form 10-Q for a description of recently adopted accounting standards and the impact on our consolidated financial statements.



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**Item 3. Quantitative and Qualitative Disclosures about Market Risk**

As of March 31, 2010, we had no derivative instruments that increased our exposure to market risks for interest rates, foreign currency rates, commodity prices or other market price risks. We do not use derivatives for speculative purposes. Our current exposure to market risks results primarily from changes in interest rates, principally with respect to our Credit Agreement, which is a variable rate financing agreement. As of March 31, 2010, we had no borrowing outstanding under the Credit Agreement. We currently do not use swaps or other interest rate protection agreements to hedge this risk.

**Item 4. Controls and Procedures**

***Evaluation of Disclosure Controls and Procedures***

As of March 31, 2010, the Chief Executive Officer and the Chief Financial Officer, together with a disclosure review committee appointed by the Chief Executive Officer, evaluated the Company's disclosure controls and procedures. Based on the evaluation, the Chief Executive Officer and the Chief Financial Officer concluded that, as of March 31, 2010, the Company's disclosure controls and procedures are effective in recording, processing, summarizing and reporting, on a timely basis, information required to be disclosed by the Company in the reports that it files or submits under the Securities Exchange Act of 1934, as amended (the Exchange Act) and are effective in ensuring that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act, is accumulated and communicated to the Company's management, including the Company's Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

***Changes in Internal Control over Financial Reporting***

There were no changes in the Company's internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the fiscal quarter ended March 31, 2010, that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

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**Part II Other Information**

**Item 1. Legal Proceedings**

See Part I, Item 1, Note 8 for a discussion of legal proceedings.

**Item 1A. Risk Factors**

The risks described in Item 1A, Risk Factors, in our Annual Report on Form 10-K for the fiscal year ended June 24, 2009, could materially and adversely affect our business, financial condition and results of operations. There have been no material changes to the risk factors disclosed in our Annual Report on Form 10-K for the fiscal year ended June 24, 2009. Additional information concerning those risks and uncertainties and other factors that you may wish to consider are contained elsewhere in our filings with the Securities and Exchange Commission.

**Item 2. Unregistered Sales of Equity Securities and Use of Proceeds**

Not applicable.

**Item 3. Defaults Upon Senior Securities**

Not applicable.

**Item 4. Reserved**

**Item 5. Other Information**

Not applicable.

**Table of Contents****Item 6. Exhibits**

<b>Exhibit Number</b>	<b>Description of Exhibit</b>	<b>Incorporated by Reference From</b>
2.1	Order Confirming Joint Plan of Reorganization of Winn-Dixie Stores, Inc. and Affiliated Debtors entered November 9, 2006.	Previously filed as Exhibit 99.2 to Form 8-K on November 15, 2006, which Exhibit is herein incorporated by reference.
3.1	Amended and Restated Certificate of Incorporation of Winn-Dixie Stores, Inc.	Previously filed as Exhibit 3.1 to Form 8-A/A on November 21, 2006, which Exhibit is herein incorporated by reference.
3.2	Amended and Restated By-Laws of Winn-Dixie Stores, Inc.	Previously filed as Exhibit 3.1 to Form 8-K on November 12, 2008, which Exhibit is herein incorporated by reference.
31.1	Certification of the Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.	
31.2	Certification of the Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.	
32.1	Certification of the Chief Executive Officer pursuant to 18 U.S.C. Section 1350.	
32.2	Certification of the Chief Financial Officer pursuant to 18 U.S.C. Section 1350.	

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**SIGNATURES**

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

WINN-DIXIE STORES, INC.

Date: May 10, 2010

/s/ BENNETT L. NUSSBAUM  
**Bennett L. Nussbaum**  
**Senior Vice President and**  
**Chief Financial Officer**  
**(Principal Financial Officer and Duly Authorized Officer)**

Date: May 10, 2010

/s/ D. MICHAEL BYRUM  
**D. Michael Byrum**  
**Vice President, Corporate Controller**  
**and Chief Accounting Officer**  
**(Principal Accounting Officer)**

**Table of Contents****EXHIBIT INDEX**

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