

HEARUSA INC
Form 8-K/A
April 04, 2007
UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, DC 20549

FORM 8-K/A

(Amendment No. 1)

CURRENT REPORT

Pursuant to Section 13 or 15 (d) of the

Securities Exchange Act of 1934

Date of Report (Date of earliest event

reported): **March 30, 2007**

HearUSA, Inc.

(Exact Name of Registrant as Specified in Charter)

Delaware

(State or Other
Jurisdiction of
Incorporation)

001-11655

(Commission
File Number)

22-2748248

(I.R.S. Employer
Identification No.)

**1250 Northpoint Parkway
West Palm Beach, Florida**

(Address of Principal Executive Offices)

Registrant's telephone number, including area code:

33407

(Zip Code)

(561) 478-8770

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Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 4.02 Non-Reliance on Previously Issued Financial Statements or a Related Audit Report or Completed Interim Review

On April 2, 2007, HearUSA, Inc. (the Company) filed an Item 4.02 Form 8-K reporting that on March 30, 2007, its board of directors determined that its consolidated financial statements for the years ended December 25, 2004 and December 31, 2005 should no longer be relied upon because of errors relating to the accounting treatment and disclosures of the recognition of deductible temporary differences and net operating loss carryforwards which were originally established in July of 2002 when the Company acquired Helix Hearing Care of America Corp. (Helix). The Company has now quantified and identified with greater certainty the amount and nature of the non-cash adjustments and is filing this Amendment No. 1 to Form 8-K to report this information. The restatements correct errors related to non-cash deferred tax items and will not affect the Company's total net revenues, income from operations, loss from continuing operations before income tax expense, minority interest, equity loss in affiliated company and loss from discontinued operations or cash flows for the affected periods.

At the time of the Helix acquisition, the Company failed to record the deferred income tax liability associated with tradenames acquired in the transaction. The effect of the correction of this error is to increase goodwill and deferred income tax liability by \$2.7 million on each of the consolidated balance sheets for the five years in the period ended December 30, 2006.

Additionally, the deferred income tax assets resulting from Helix's Canadian temporary differences and net operating loss carryforwards totaling approximately \$1.2 million at the time of the acquisition were not recorded due to the uncertainty of their utilization. As taxable income occurred in 2005 and 2004 from the Canadian operations, the Company should have recorded a deferred income tax expense and goodwill in each of these years. To correct this error, the Company will record additional deferred income tax expense of \$346,000 and \$305,000 in 2005 and 2004 with corresponding increases in goodwill each year.

Finally, as a part of the Helix acquisition, the Company acquired approximately \$12.5 million of tax goodwill that is deductible for tax purposes. As it was deducted for tax purposes between 2002 and 2006, the tax effect of such deductions should have been recorded as a deferred income tax expense with the offset as an increase to the deferred income tax liability. The additional deferred income tax expense and related increase in deferred income tax liability related to correction of this error is approximately \$1.3 million in 2005, \$390,000 in 2004, \$390,000 in 2003 and \$195,000 in 2002.

The Company will restate its consolidated balance sheets at December 31, 2005 and December 25, 2004 and the Company's consolidated statements of operations, stockholders' equity and cash flows for the years ended December 31, 2005 and December 25, 2004 and the notes related thereto.

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The Company will include footnotes in the Form 10-K for the fiscal year ending December 30, 2006 reflecting restatement of the affected quarterly 2006, 2005 and 2004 financial information. The restated financial information for fiscal years 2002 through 2005 also will be reflected in the five-year selected financial information presented in Item 6 of the 2006 Form 10-K. All of the restatement changes will be fully explained in a footnote to the consolidated financial statements in the 2006 Form 10-K. The Company will not file amendments to its previously filed annual reports on Form 10-K or quarterly reports on Form 10-Q for the periods affected by the restatements.

The Company expects to file its 2006 Form 10-K on or before Thursday, April 5, 2007. Until such time, the financial statements for the fiscal years ended December 25, 2004 and December 31, 2005 should not be relied upon.

The Audit Committee, the full Board of Directors and the authorized officers of the Company have discussed with the Company's independent registered accounting firm the matters disclosed in this Form 8-K/A.

SIGNATURE

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 hereunto duly authorized.

HearUSA, Inc.

(Registrant)

Date: April 3, 2007

By: /s/ Stephen J. Hansbrough
Name: Stephen J. Hansbrough
Title: President & Chief Executive Officer