

AMBASE CORP
Form 10-Q
May 14, 2013
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-Q

Quarterly Report Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

For the quarterly period ended March 31, 2013

or

Transition Report Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

Commission file number 1-7265

AMBASE CORPORATION

(Exact name of registrant as specified in its charter)

Delaware 95-2962743

(State of incorporation) (I.R.S. Employer Identification No.)

100 PUTNAM GREEN, 3RD FLOOR
GREENWICH, CONNECTICUT 06830

(Address of principal executive offices) (Zip Code)

(203) 532-2000

(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

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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 definition of "large accelerated filer," "accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

(Check one): Large Accelerated Filer Accelerated Filer Non-Accelerated Filer Smaller Reporting Company X

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

YES NO X

At April 30, 2013, there were 42,789,398 shares outstanding of the registrant's common stock, \$0.01 par value per share.

AmBase Corporation

Quarterly Report on Form 10-Q
March 31, 2013

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PART I - FINANCIAL INFORMATION

Item 1. CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

AMBASE CORPORATION AND SUBSIDIARIES

Condensed Consolidated Statements of Operations

(Unaudited)

(in thousands, except per share data)

	Three Months Ended March 31,	
	2013	2012
Operating expenses:		
Compensation and benefits	\$ 343	\$ 338
Professional and outside services	216	109
Property operating and maintenance	26	24
Depreciation	12	12
Insurance	8	7
Other operating	67	27
Total operating expenses	672	517
Operating income (loss)	(672)	(517)
Interest income	17	3
Realized gains (losses) on sales of investment securities	2	16
Unrealized gains (losses) on trading securities	-	-
Other income – federal tax gross up	-	-
Other income	-	13
Income (loss) before income taxes	(653)	(485)
Income tax expense (benefit)	64	11
Net income (loss)	\$(717)	\$(496)
Net income (loss) per common share - basic	\$(0.02)	\$(0.01)
Net income (loss) per common share - assuming dilution	\$(0.02)	\$(0.01)
Weighted average common shares outstanding - basic	43,203	43,075
Weighted average common shares outstanding - assuming dilution	43,203	43,075

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

AMBASE CORPORATION AND SUBSIDIARIES

Notes to Unaudited Condensed Consolidated Financial Statements

Note 1 - Organization

The accompanying condensed consolidated financial statements of AmBase Corporation and its wholly-owned subsidiaries (the "Company") are unaudited and subject to year-end adjustments. All material intercompany transactions and balances have been eliminated. In the opinion of management, the interim financial statements reflect all adjustments, consisting only of normal recurring adjustments unless otherwise disclosed, necessary for a fair presentation of the Company's consolidated financial position, results of operations and cash flows. Results for interim periods are not necessarily indicative of results for the full year. The condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP") for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions, that it deems reasonable, that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from such estimates and assumptions. The unaudited interim condensed consolidated financial statements presented herein are condensed and should be read in conjunction with the Company's consolidated financial statements filed in its Annual Report on Form 10 K for the year ended December 31, 2012.

The Company's assets currently consist primarily of cash and cash equivalents, investment securities, an indemnification asset, and real estate owned. The Company earns non-operating revenue consisting principally of investment earnings on investment securities and cash equivalents. The Company continues to evaluate a number of possible acquisitions and is engaged in the management of its assets and liabilities, including the contingent assets associated with its legal claims, as described in Notes 8 and 9. Discussions and negotiations are ongoing with respect to certain of these matters. From time to time, the Company and its subsidiaries may be named as a defendant in various lawsuits or proceedings. The Company intends to aggressively contest all litigation and contingencies, as well as pursue all sources for contributions to settlements.

Note 2 – Recent Accounting Pronouncements

There are no new accounting pronouncements that would materially affect the Company's consolidated financial statements.

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	Three Months Ended March 31, 2013	Three Months Ended March 31, 2012
(in thousands)		
Net sale proceeds	\$ 3	\$ 233
Cost basis	(1)	(217)
Realized gains (losses)	\$ 2	\$ 16

AMBASE CORPORATION AND SUBSIDIARIES
Notes to Unaudited Condensed Consolidated Financial Statements
Note 6 – Common Stock Repurchase Plan

In January 2002, the Company announced a common stock repurchase plan (the "Repurchase Plan") which allows for the repurchase by the Company of its common stock in the open market.

The Repurchase Plan is conditioned upon favorable business conditions and acceptable prices for the common stock. Purchases under the Repurchase Plan may be made, from time to time, in the open market, through block trades or otherwise. Depending on market conditions and other factors, purchases may be commenced or suspended any time or from time to time without prior notice.

Pursuant to the Repurchase Plan the Company repurchased shares of common stock from unaffiliated parties at various dates at market prices at their time of purchase, including broker commissions, as detailed below. Information relating to the Repurchase Plan is as follows:

	Three Months Ended March 31, 2013	Three Months Ended March 31, 2012
(in thousands)		
Common shares repurchased to treasury during period	120	-
Aggregate cost of shares repurchased during period	\$ 133	\$ -

	March 31, 2013
(in thousands)	
Total number of common shares authorized for repurchase	10,000
Total number of common shares repurchased	3,800
Total number of shares that may still be repurchased	6,200

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single measure of the fair value of its employee stock options. No stock options were outstanding at March 31, 2013 or December 31, 2012. No stock options were granted during the three months ended March 31, 2013 and 2012. During the three months ended March 31, 2012, 136,000 stock options expired.

Common stock reserved for issuance under the Company's stock option and other employee benefit plans is as follows:

(in thousands)	March 31, 2013
Stock option plan	4,320
Other employee benefit plan	100
Total common shares reserved for issuance	4,430

AMBASE CORPORATION AND SUBSIDIARIES

Notes to Unaudited Condensed Consolidated Financial Statements

Note 8 - Income Taxes

The Company and its domestic subsidiaries file a consolidated federal income tax return. The Company recognizes both the current and deferred tax consequences of all transactions that have been recognized in the consolidated financial statements, calculated based on the provisions of enacted tax laws, including the tax rates in effect for current and future years. Net deferred tax assets are recognized immediately when a more likely than not criterion is met; that is, a greater than 50% probability exists that the tax benefits will actually be realized sometime in the future.

The components of income tax expense (benefit) are as follows:

	Three Months Ended March 31, 2013	Three Months Ended March 31, 2012
(in thousands)		
Federal - current	\$ -	\$ -
State - current	64	11
Total current	64	11
		-
Federal - deferred	(229)	(170)
Change in valuation allowance	229	170
Total deferred	-	-
Total income tax expense	\$ 64	\$ 11

The components of pretax income (loss) and the difference between income taxes computed at the statutory federal rate of 35% in 2013 and 2012, and the provision for income taxes are as follows:

	Three Months Ended March 31, 2013	Three Months Ended March 31, 2012
(in thousands)		
Income (loss) before income taxes	\$ (653)	\$ (485)
Tax expense (benefit) :		
Tax at statutory federal rate	\$ (229)	\$ (170)
Permanent items	-	-
State income taxes	64	11
Accounting loss benefit not recognized	-	-
Change in valuation allowance	229	170

Income tax expense (benefit)	\$ 64	\$ 11
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seeking pursuant to the Settlement Agreement, which was recognized as a component of the Indemnification asset - federal tax gross-up in the Company's Consolidated Balance Sheet. For additional information, see Note 9 – Legal Proceedings.

As explained above, although the Company does not believe that Carteret FSB or the Company will have a material federal income tax liability related to Carteret FSB for tax year 1995 (or any other tax year), the Company can give no assurances of the final amounts, if any, of federal income taxes owed by the Carteret FSB receivership or by the Company as a result of the Carteret FSB receivership operations. The Company believes that the Settlement Agreement, tax regulations and tax positions on the Company's tax returns as filed, would preclude additional tax owed resulting from the Carteret FSB receivership. The Company is pursuing the Carryback Claims, as further described above, which could have an impact on the analysis of the prior year tax information. The discussion of the Carteret FSB federal income tax results is intended to provide details as to the potential inter-relationship of the Carteret FSB federal income tax returns with the Company's federal income tax positions. It is not a reflection of any federal income tax liability of the Company arising from the Carteret receivership operations.

AMBASE CORPORATION AND SUBSIDIARIES

Notes to Unaudited Condensed Consolidated Financial Statements

Federal income tax refund suit on Carryback Claims. In March 2000, the Company filed with the IRS several claims and amendments to previously filed claims with respect to the Carryback Claims, seeking refunds from the IRS of alternative minimum tax and other federal income taxes paid by the Company in prior years, plus applicable IRS interest, based on the filing of the 1992 Amended Return. In February 2005, the IRS formally disallowed the Carryback Claims. On April 29, 2008, the Company filed suit with respect to the Carryback Claims in the United States District Court for the District of Connecticut, seeking federal tax refunds for tax year 1989, plus interest. On September 29, 2009, the U.S. Department of Justice (the "DOJ"), representing defendant United States in the suit, filed a Motion to Dismiss. In response, on October 19, 2009, the Company filed its opposition to the DOJ's Motion to Dismiss, as well as the Company's own Motion for Partial Summary Judgment. In June 2010, the Court issued a Memorandum Decision conditionally granting the DOJ's Motion to Dismiss the case but allowing the Company to conduct limited discovery to establish whether the Court has jurisdiction. On August 30, 2010, the Company filed a Motion to Set Aside the Court's Conditional Order of Dismissal. On February 28, 2011, the Court granted the Company's motion and issued a Memorandum of Decision concluding that the Company had timely filed a refund claim for tax year 1992 seeking to adjust the amount of bad debt deduction and that the case should not be dismissed. In March 2011, the Company filed a Motion for Partial Summary Judgment based on the Court's ruling that the Company's refund claims were timely filed. In May 2011, the DOJ filed a Cross Motion for Summary Judgment and an opposition to the Company's Summary Judgment Motion. In June 2011, the Company filed a Memorandum in Opposition to the DOJ's Cross Motion for Summary Judgment and a Reply to the DOJ's Opposition to the Company's Summary Judgment Motion, and the DOJ in June 2011, subsequently filed a response brief. The Court granted the Company's motion in part and denied it in part, in a Memorandum Decision dated November 30, 2011. On January 26, 2012, the Company filed a Motion for Partial Summary Judgment as to the amount of additional bad debt deduction that should be allowed. On February 16, 2012, the DOJ filed an Opposition to the Company's Motion for Partial Summary Judgment. On February 28, 2012, the Company filed a Reply to the DOJ's Opposition to the Company's Motion for Partial Summary Judgment. On May 23, 2012, the Court issued an order denying the Company's Motion for Partial Summary Judgment. Under the Court's rulings, the Company would not be entitled to recover a tax refund. On July 5, 2012, the Court entered its final judgment and order determining that the Company is not entitled to a refund. In December 2012, the Company filed an appeal of the adverse judgment to the United States Court of Appeals for the Second Circuit, where the matter is pending. The parties have filed their briefs and the case is currently scheduled for oral argument on June 10, 2013. The Company can give no assurances as to the final amount of refunds, if any, or when they might be received. The accompanying financial statements include no legal fees in connection with the Carryback Claims proceedings as these legal fees are payable pursuant to a contingent fee arrangement with the attorneys upon a final recovery received. See Note 8 – Income Taxes for further information.

Note 10 - Subsequent Events

The Company has performed a review of events subsequent to the balance sheet dated March 31, 2013, through the report issuance date.

which are not reimbursable to the Company as part of the Settlement Agreement. For additional information see Part I – Item 1 – Notes 8 and 9 to the Company's consolidated financial statements for a discussion of Income Taxes and the Supervisory Goodwill Settlement Agreement – Tax Gross-up.

For the three months ended March 31, 2012, cash of \$606,000 was used by operations, due to the payment of operating expenses and prior year accruals. The cash needs of the Company for the three months ended March 31, 2012, were satisfied by the Company's financial resources and to a lesser extent the receipt of investment earnings received on investment securities and cash equivalents.

increase in the overall level of repairs and maintenance expenses.

Insurance expenses increased slightly to \$8,000 in the three months ended March 31, 2013, compared with \$7,000 in the respective 2012 period. The increase is generally due to an increase in insurance premium costs.

Other operating expenses increased to \$67,000 in the three months ended March 31, 2013 versus \$27,000 for the three months ended March 31, 2012, due to an increased franchise tax expense resulting from an increased tax base in 2013 versus the same period of 2012 due to the settlement proceeds received in October 2012, in the Supervisory Goodwill legal proceedings.

PART II - OTHER INFORMATION

Item 1. LEGAL PROCEEDINGS

For a discussion of the Company's legal proceedings, including a discussion of the Company's Supervisory Goodwill litigation and Carryback Claims, see Part I - Item 1 - Note 9 - Legal Proceedings.

Item 1A. RISK FACTORS

There have been no material changes from risk factors previously disclosed in the Company's Annual Report on Form 10-K for the year ended December 31, 2012 in response to Item 1A to Part I of Form 10-K.

Item 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

None.

Item 3. DEFAULTS UPON SENIOR SECURITIES

None.

Item 4. MINE SAFETY DISCLOSURES

Not applicable.

Item 5. OTHER INFORMATION

None.

Item 6. EXHIBITS

Exhibit 31.1 Rule 13a-14(a) Certification of Chief Executive Officer

Exhibit 31.2 Rule 13a-14(a) Certification of Chief Financial Officer

Exhibit 32.1 Section 1350 Certification of Chief Executive Officer

Exhibit 32.2 Section 1350 Certification of Chief Financial Officer

The following financial statements from AmBase Corporation's quarterly report on Form 10-Q for the quarter ended March 31, 2013 formatted in XBRL: (i) Consolidated Statement of Operations (unaudited); (ii) Consolidated Balance Sheets (unaudited); (iii) Consolidated Statements of Cash Flow (unaudited); and (iv) Notes to Consolidated Financial Statements (unaudited).

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.

AMBASE CORPORATION

/s/ John P. Ferrara

JOHN P. FERRARA

Vice President, Chief Financial Officer and Controller

By (Duly Authorized Officer and Principal Financial and
Accounting Officer)

Date: May 14, 2013