

MILLER INDUSTRIES INC /TN/
Form 10-K/A
May 02, 2005

**SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

**FORM 10-K/A
Amendment No. 1**

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

For the fiscal year
ended December 31, 2004

Commission File
No. 0-24298

MILLER INDUSTRIES, INC.
(Exact Name of Registrant as Specified in Its Charter)

Tennessee
(State or Other Jurisdiction of
Incorporation or Organization)

62-1566286
(I.R.S. Employer Identification No.)

**8503 Hilltop Drive, Ooltewah,
Tennessee**
(Address of Principal Executive
Offices)

37363
(Zip Code)

(423) 238-4171
(Registrant's Telephone Number, Including Area Code)

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class	Name of Each Exchange on Which Registered
Common Stock, par value \$.01 per share	New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act:

None
(Title of Class)

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 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.

Indicate by check mark whether the registrant is an accelerated filer (as defined in Exchange Act Rule 12b-2).

Yes No.

The aggregate market value of the voting stock for non-affiliates (which for purposes hereof are all holders other than executive officers and directors) of the Registrant as of June 30, 2004 (the last business day of the Registrant's most recently completed second fiscal quarter) was \$94,393,675 (based on 9,573,395 shares held by non-affiliates at \$9.86 per share, the last sale price on the NYSE on June 30, 2004).

At March 9, 2005 there were 11,194,782 shares of Common Stock, par value \$0.01 per share, outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

The information called for by Part III (Items 10, 11, 12, 13 and 14) is incorporated herein by reference to the Registrant's definitive proxy statement for its 2005 Annual Meeting of Shareholders which is to be filed pursuant to Regulation 14A.

EXPLANATORY NOTES

In reliance on the Order of the Securities and Exchange Commission in Release No. 50754, dated November 30, 2004 (the "Order"), the report of our management on internal control over financial reporting, and the corresponding attestation of Joseph Decosimo and Company, PLLC, our independent registered public accounting firm, were omitted from our Annual Report on Form 10-K for the year ended December 31, 2004, as filed with the Securities and Exchange Commission on March 14, 2005 (the "Original Filing").

Pursuant to the Order, we are filing this Amendment No. 1 to the Original Filing (this "Amendment") to:

- amend and restate Item 9A to include the report of our management on internal control over financial reporting; and
- include the corresponding attestation report of Joseph Decosimo and Company, PLLC, independent registered public accounting firm.

In connection with this Amendment, included herewith as exhibits are the certifications required pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, which have been updated and re-executed as of the date of this Amendment, and the consent of Joseph Decosimo and Company, PLLC to the inclusion herein of its attestation report regarding our internal control over financial reporting.

In addition, we are filing this Amendment to correct footnote 7 of our audited financial statements which contained inadvertent inaccuracies in the amount of interest reported as having been paid to William G. Miller, our Chairman and Co-Chief Executive Officer, and to Harbourside Investments LLLP under our senior credit facility and junior credit facilities, respectively, during 2004.

Except for the amendments described above, this Amendment does not modify or update our previously reported financial statements, results of operations or other related financial disclosures, or any other disclosures in or exhibits to the Original Filing.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

The response to this item is included in Item 15 of this Amendment.

ITEM 9A. CONTROLS AND PROCEDURES

Disclosure Controls and Procedures

We carried out an evaluation, under the supervision and with the participation of our management, including our chief executive and chief financial officers, of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as of the end of the period covered by this report. Based upon this evaluation, our Co-Chief Executive Officers and our Chief Financial Officer have concluded that the disclosure controls and procedures were effective as of the end of the period covered by this Annual Report to ensure that information required to be disclosed in our reports that we file or submit under the Exchange Act are recorded, processed, summarized and reported within the time periods specified in Securities and Exchange Commission rules and forms.

Management's Report On Internal Control Over Financial Reporting

Management of Miller Industries, Inc. is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act). Our internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with accounting principles generally accepted in the United States of America.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may be inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Management, including our principal executive officers and principal financial officer, conducted an evaluation of the effectiveness of our internal control over financial reporting as of December 31, 2004. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in "Internal Control—Integrated Framework". Based on our assessment under those criteria, we concluded that, as of December 31, 2004, we maintained effective internal control over financial reporting.

Joseph Decosimo and Company, PLLC, the independent registered public accounting firm who also audited our consolidated financial statements included in this report, has issued an attestation report on management's assessment of internal control over financial reporting, which attestation report appears herein.

April 29, 2005

Attestation Report of Registered Public Accounting Firm

Report of Independent Registered Public Accounting Firm

Board of Directors and Shareholders

Miller Industries, Inc.

Ooltewah, Tennessee

We have audited management's assessment, included in the accompanying "Management's Report on Internal Control Over Financial Reporting," that Miller Industries, Inc. and subsidiaries (Company) maintained effective internal control over financial reporting as of December 31, 2004, based on criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (the COSO criteria). The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting. Our responsibility is to express an opinion on management's assessment and an opinion on the effectiveness of the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, evaluating management's assessment, testing and evaluating the design and operating effectiveness of internal control, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have

a material effect on the financial statements.

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Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, management's assessment that Miller Industries, Inc. and subsidiaries maintained effective internal control over financial reporting as of December 31, 2004, is fairly stated, in all material respects, based on the COSO criteria. Also in our opinion, Miller Industries, Inc. and subsidiaries maintained, in all material respects, effective internal control over financial reporting as of December 31, 2004, based on the COSO criteria.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets as of December 31, 2004 and 2003, and the related consolidated statements of operations, shareholders' equity, and cash flows for each of the three years in the period ended December 31, 2004, of Miller Industries, Inc. and subsidiaries and our report dated February 25, 2005, except for note 6 as to which the date is March 7, 2005, expressed an unqualified opinion on those consolidated financial statements.

/s/ Joseph Decosimo and Company, PLLC
Chattanooga, Tennessee
April 30, 2005

Changes in Internal Control Over Financial Reporting

There were no changes in our internal control over financial reporting that occurred during our most recent fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(a) The following documents are filed as part of this Amendment:

1. Financial Statements

Description	Page Number in Report
Report of Independent Accountants	F-2
Consolidated Balance Sheets as of December 31, 2004 and 2003	F-3
Consolidated Statements of Operations for the years ended December 31, 2004, 2003 and 2002	F-4
Consolidated Statements of Shareholders' Equity for the years ended December 31, 2004, 2003 and 2002	F-5
Consolidated Statements of Cash Flows for the years ended December 31, 2004, 2003 and 2002	F-6
Notes to Consolidated Financial Statements	F-7

2. Financial Statement Schedules

The following Financial Statement Schedule for the Registrant is filed as part of this Amendment and should be read in conjunction with the Consolidated Financial Statements:

Description	Page Number in Report
Schedule II - Valuation and Qualifying Accounts	S-1

All schedules, except those set forth above, have been omitted since the information required is included in the financial statements or notes or have been omitted as not applicable or not required.

3. Exhibits

The following exhibits are filed with this Amendment:

Exhibit Number	Description
23.1	Consent of Joseph Decosimo and Company, PLLC
31.1	Certification Pursuant to Rules 13a-14(a)/15d-14(a) by Co-Chief Executive Officer
31.2	Certification Pursuant to Rules 13a-14(a)/15d-14(a) by Co-Chief Executive Officer
31.3	Certification Pursuant to Rule 13a-14(a)/15d-14(a) by Chief Financial Officer

(b) The Registrant hereby files as exhibits to this Report the exhibits set forth in Item 15(a)3 hereof.

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REPORT OF INDEPENDENT ACCOUNTANTS F-2

CONSOLIDATED BALANCE SHEETS AS OF DECEMBER 31, 2004 AND
2003 F-3

CONSOLIDATED STATEMENTS OF OPERATIONS FOR THE YEARS
ENDED F-4
DECEMBER 31, 2004, 2003 AND 2002

CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY FOR THE
YEARS F-5
ENDED DECEMBER 31, 2004, 2003 AND 2002

CONSOLIDATED STATEMENTS OF CASH FLOWS FOR THE YEARS
ENDED F-6
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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS F-7

SCHEDULE II - VALUATION AND QUALIFYING ACCOUNTS S-1

F-1

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTANTING FIRM

Board of Directors and Shareholders
Miller Industries, Inc.
Ooltewah, Tennessee

We have audited the accompanying consolidated balance sheets of Miller Industries, Inc. and subsidiaries as of December 31, 2004 and 2003, and the related consolidated statements of operations, shareholders' equity, and cash flows for each of the three years in the period ended December 31, 2004. These consolidated financial statements and financial statement schedule are the responsibility of the company's management. Our responsibility is to express an opinion on these consolidated financial statements and financial statement schedule based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Miller Industries, Inc. and subsidiaries as of December 31, 2004 and 2003, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2004, in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, the financial statement schedule when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

As discussed in note 5 to the financial statements, the company changed its method of accounting for intangible assets in 2002.

/s/ Joseph Decosimo and Company, PLLC

Chattanooga, Tennessee
February 25, 2005, except for note 6 as to which
the date is March 7, 2005

MILLER INDUSTRIES, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
DECEMBER 31, 2004 AND 2003

(In thousands, except share data)

	2004	2003
ASSETS		
CURRENT ASSETS:		
Cash and temporary investments	\$ 2,812	\$ 5,240
Accounts receivable, net of allowance for doubtful accounts of \$1,116 and \$1,062, at December 31, 2004 and 2003, respectively	49,336	37,990
Inventories, net	34,994	26,715
Prepaid expenses and other	1,525	1,783
Current assets of discontinued operations held for sale	5,728	23,757
Total current assets	94,395	95,485
PROPERTY, PLANT, AND EQUIPMENT, net	18,762	20,977
GOODWILL	11,619	11,619
OTHER ASSETS	1,918	1,783
NONCURRENT ASSETS OF DISCONTINUED OPERATIONS HELD FOR SALE	1,128	1,954
	\$ 127,822	\$ 131,818
LIABILITIES AND SHAREHOLDERS' EQUITY		
CURRENT LIABILITIES:		
Current portion of long-term obligations	\$ 2,052	\$ 2,050
Accounts payable	36,224	34,164
Accrued liabilities and other	5,736	4,371
Current liabilities of discontinued operations held for sale	10,405	23,764
Total current liabilities	54,417	64,349
LONG-TERM OBLIGATIONS, less current portion	24,345	29,927
NONCURRENT LIABILITIES OF DISCONTINUED OPERATIONS HELD FOR SALE	2,275	9,545
COMMITMENTS AND CONTINGENCIES (Notes 6, 8 and 10)		
SHAREHOLDERS' EQUITY:		
Preferred stock, \$.01 par value; 5,000,000 shares authorized, none issued or outstanding	0	0
Common stock, \$.01 par value; 100,000,000 shares authorized, 11,182,606 and 9,342,151 outstanding at December 31, 2004 and 2003, respectively	112	93
Additional paid-in capital	157,202	145,090
Accumulated deficit	(112,468)	(117,943)
Accumulated other comprehensive income	1,939	757