

ASSURANCEAMERICA CORP
Form 10-K/A
April 05, 2011

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

Amendment No. 1

on

Form 10-K/A

ANNUAL REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended December 31, 2010

TRANSITION REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES ACT OF 1934
Commission File Number: 0-6334

ASSURANCEAMERICA CORPORATION

NEVADA
(State or Other Jurisdiction of
Incorporation or Organization)

5500 Interstate North Pkwy.,
Suite 600, Atlanta, Georgia
(Address of Principal Executive Offices)

87-0281240
(I.R.S. Employer
Identification No.)

30328
(Zip Code)

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Registrant's telephone number, including area code:

(770) 952-0200

Securities registered under Section 12(b) of the Exchange Act:

None

Securities registered under Section 12(g) of the Exchange Act:

Common Stock, par value \$0.01 per share

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

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

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

Large accelerated filer 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

The aggregate market value of the voting and non-voting common equity held by persons other than affiliates of the registrant as of June 30, 2010 was \$11,923,332 based on a sale price of \$.35 per share.

There were 65,847,295 shares of the registrant's common stock outstanding as of March 22, 2011.

Documents Incorporated By Reference

Parts of the Registrant's definitive proxy statement for the 2011 Annual Meeting of Shareholders to be held on April 28, 2011 are incorporated by reference into Part III of this report.

EXPLANATORY NOTE

AssuranceAmerica Corporation (the Company) is filing this Amendment No. 1 on Form 10-K/A (this Amendment) to amend its Annual Report on Form 10-K for the year ended December 31, 2010, filed with the Securities and Exchange Commission (the SEC) on March 29, 2011 (the Original Report). This Amendment is being filed with the SEC to amend the Original Report to include (i) the age of Joseph J. Skruck in Item 10 thereof and (ii) Exhibit 23.1 (Consent of Porter Keadle Moore, LLP) in Item 15 thereof. Except for the foregoing amendments, this Amendment does not modify or update any disclosures presented in the Original Report. Accordingly, this Amendment does not reflect events occurring after the filing of the Original Report or modify or update those disclosures contained in the Original Report which may have been affected by subsequent events. Information not affected by this Amendment is unchanged and reflects the disclosures made at the time the Original Report was filed.

PART III
Item 10. DIRECTORS, EXECUTIVE OFFICERS, AND CORPORATE GOVERNANCE

All information regarding executive officers, all information required to be disclosed in Item 10 with respect to our directors is incorporated by reference from the section entitled "Nominees for Board of Directors" in the Company's Proxy Statement for the Annual Meeting of Shareholders to be held on April 28, 2011 ("Proxy Statement").

All information required to be disclosed in Item 10 with respect to our directors is incorporated by reference from the section entitled "Biographies of Directors" in the Company's Proxy Statement.

All information required to be disclosed in Item 10 with respect to our directors is incorporated by reference from the section entitled "Beneficial Ownership Reporting Compliance" in the Company's Proxy Statement.

All information required to be disclosed in Item 10 with respect to corporate governance is incorporated by reference from the section entitled "Meetings and Committees of the Board" in the Company's Proxy Statement.

Code of Conduct

We have adopted a code of conduct that applies to all of our directors, officers and employees. This code is publicly available in the investor relations area of our website at www.assuranceamerica.com and provided as an exhibit to this Annual Report. Copies of our code of conduct may also be requested in print without charge by writing to Investor Relations at AssuranceAmerican Corporation, 5500 Interstate North Parkway, Suite 600, Atlanta, Georgia 30328.

Executive Officers

The following table sets forth the name, age and position of each of our executive officers.

| Name | Age | Positions Held |
|------------------|------------|--|
| David Anthony | 51 | Senior Vice President and Chief Information Officer, AssuranceAmerica Managing General Agency, LLC |
| Charlie Brock | 56 | Senior Vice President - Business Development, AssuranceAmerica Managing General Agency, LLC |
| Mark H. Hain | 61 | Executive Vice President, General Counsel and Secretary |
| Guy W. Millner | 75 | Chairman and Chief Executive Officer |
| Joseph J. Skruck | 46 | President and Chief Operating Officer |
| Sheree Williams | 55 | Senior Vice President and Chief Financial Officer |
| Stacey Warren | 43 | Senior Vice President - Sales, AssuranceAmerica Managing General Agency, LLC |
| Gregory D. Woods | 49 | Controller |
| Al Yeager | 49 | Senior Vice President Claims and Product, AssuranceAmerica Managing General Agency, LLC |

Biographies of Executive Officers

David H. Anthony has served as Senior Vice President and Chief Information Officer since August 2010 and Vice President of Information Technology from March 2004 to August 2010 of AssuranceAmerica Managing General Agency, LLC., a subsidiary of the Company, since March 2004. Mr. Anthony has over 21 years of experience in the Information Technology industry with the last 12 focused in the area of consulting. Prior to joining the Company, he served as Vice President of CGI Information Systems and Management Consultants for four years.

Charlie Brock has served as Senior Vice President of Business Development since November 2010 and Vice President Sales of AssuranceAmerica Managing General Agency, LLC since he joined the Company in December 2008. He was Chief Marketing Officer and Vice president of Sales for Access Insurance Company from April 2008 to December 2008. He was the President and COO of Executrack, Inc., an executive coaching and training company in Atlanta, GA, from 2003 to April 2008. Prior to 2003, Mr. Brock served in several capacities with The Coca-Cola Company, Frito-Lay and Proctor and Gamble.

Mark H. Hain has served as Executive Vice President, General Counsel and Secretary since February 2009. He served as Senior Vice President since August 2005 prior to becoming Executive Vice President 2009. Prior to joining the Company, Mr. Hain was in the private practice of law for two years and was General Counsel for Computer Jobs.com, Inc. for two years. He served as Senior Vice President and General Counsel for Norrell Corporation from 1988 to 1999 and as General Counsel for American First Corporation, C.L. Frates & Co, Inc. and the Oklahoma Insurance Department prior to 1988.

Guy W. Millner has served as the Chairman of the Board and Chief Executive Officer since June 2003. Mr. Millner served as Chairman of AA Holdings, LLC, the predecessor of AssuranceAmerica Corporation, a Georgia corporation, from 1999 to 2003. From 1961 to 1999, Mr. Millner served as Chairman of Norrell Corporation, a leading provider of staffing and outsourcing solutions.

Joseph J. Skruck, CPCU, has served as President and Chief Operating Officer since October 2009. Prior to that Mr. Skruck served as President and Chief Operating Officer of AssuranceAmerica Managing General Agency, LLC, an insurance subsidiary of the Company since January 2002. He served as Senior Vice-President of Sun States Insurance Group from 1998 through 2001.

Stacy Warren has served as Senior Vice President of Sales and Customer Service of AssuranceAmerica Managing General Agency, LLC, an insurance subsidiary of the Company since November 2010. Ms. Warren was Assistant Vice President of Sales and Marketing for Chartis Insurance from 2009 through November 2010; she was Vice President of Operations for 21st Century Insurance and Financial Services (previously AIG Agency Auto), from 2002 through November 2009. Ms. Warren has over 15 years of executive experience in the insurance industry, specializing in sales, marketing and customer service.

Sheree S. Williams has served as Senior Vice President and Chief Financial Officer of AssuranceAmerica Corporation since September 2010. Ms. Williams was Vice President of Finance for 21st Century Insurance and Financial Services (previously AIG Agency Auto), from 2006 through September 2010; she was Corporate Controller for 21st Century Insurance and Financial Services from 2004 to 2006. Prior to working with 21st Century Insurance and Financial Services, Ms. Williams served as Senior Vice President of Finance and Senior Vice President of Logistics for Swift Denim as well as Corporate Controller for Tom's Foods, Inc.

Gregory D. Woods, joined the Company in 2005 and serves as Controller. Prior to joining the Company, he spent three years with Assurant Group, an insurance products provider in various financial management roles within the company. Mr. Woods also served as the Controller with Aon Specialty Corporation for three years from 1999 to 2002. Prior to 1999, Mr. Woods served in several financial capacities with Orion Capital Companies and Aon Re. He has an insurance accounting career that spans over 20 years.

Al Yeager is Senior Vice President of Product and Claims of Assurance America Managing General Agency, LLC., a subsidiary of the Company. Mr. Yeager has 22 years of claims, product, sales and general management experience with leading companies in the insurance industry. Prior to joining the Company in October 2008, Al served as Regional Vice President of Product Management and as a Vice President of Claims for AIG personal lines from 2004 to 2008. Prior to AIG, he spent 17 years with Progressive Insurance in a variety of capacities across the country. Mr. Yeager holds a B.S. degree in Biochemistry.

The officers serve at the pleasure of the board until their successors are elected and qualified.

PART IV

Item 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(a) Documents filed as part of this report:

(1) *Financial Statements*

The following financial statements of the Company, together with the Report of the Company's Independent Registered Public Accounting Firm dated March 28, 2011, are filed herewith:

| | Page |
|---|-------------|
| Report of Independent Registered Public Accounting Firm | F-2 |
| Consolidated Balance Sheets as of December 31, 2010 and 2009 | F-3 |
| Consolidated Statements of Operations for the years ended December 31, 2010 and 2009 | F-4 |
| Consolidated Statements of Changes in Stockholders' Equity for the years ended December 31, 2010 and 2009 | F-5 |
| Consolidated Statements of Comprehensive Income for the years ended December 31, 2010 and 2009 | F-6 |
| Consolidated Statements of Cash Flows for the years ended December 31, 2010 and 2009 | F-7 |
| Notes to Consolidated Financial Statements | F-8 |

(2) *Financial Statement Schedules*

All financial statement schedules are omitted, as the required information is inapplicable or the information is presented in the respective financial statements or related notes.

(3) *Exhibit of Index*

- 2.1 Agreement and Plan of Merger and Reorganization dated April 1, 2003, by and among the Company, AA Holdings Acquisition Sub, Inc., AA Holdings, LLC and AssuranceAmerica Corporation (incorporated by reference to Exhibit 2.1 to the Company's Current Report on Form 8-K filed on April 16, 2003).
- 2.2 Asset Purchase Agreement by and between TrustWay Insurance Agencies, LLC, AssuranceAmerica Corporation, Thomas-Cook Holding Company and James C. Cook (incorporated by reference to Exhibit 2.1 to the Company's Current Report on Form 8-K dated August 3, 2004).
- 3.1 Amended And Restated Articles of Incorporation of the Company (incorporated by reference to Exhibit 3.1 to the Company's Quarterly Report on Form 10-QSB for the quarter ended September 30, 2003).
- 3.2 Amendment to Amended and Restated Articles of Incorporation of the Company (incorporated by reference to Appendix A to the Company's Definitive Proxy Statement filed on September 9, 2003).
- 3.3 By-Laws of the Company (incorporated by reference to the Company's Form 10 filed on May 30, 1972).
- 3.4 Amendment to the Company's By-Laws adopted February 14, 2001 (incorporated by reference to Exhibit 3ii to the Company's Quarterly Report on Form 10-QSB for the quarter ended December 31, 2000).
- 3.5 Amendment to the Company's By-Laws adopted June 26, 2003 (incorporated by reference to Exhibit 3.4 to the Company's Annual Report on Form 10-KSB/A for the year ended March 31, 2003).
- 3.6 Amendment to the Company's By-Laws adopted June 15, 2004 (incorporated by reference to Exhibit 3.6 to the Company's Annual Report on Form 10-KSB/A for the year ended December 31, 2004).
- 4.1

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Certificate of Designations Establishing the Powers, Preferences, limitations, Restrictions and Relative Rights of Series A Convertible Preferred Stock of AssuranceAmerica Corporation (incorporated by reference to Exhibit 4.1 to the Company's Quarterly Report on Form 10-QSB for the quarter ended June 30, 2004).

- 4.2 Amendment to Certificate of Designations Establishing the Powers, Preferences, Limitations, Restrictions and Relative Rights of Series A Convertible Preferred Stock of AssuranceAmerica Corporation (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed on April 15, 2005).
- 4.3 Amended and Restated Trust Agreement dated December 22, 2005 (incorporated by reference to Exhibit 4.1 to the Company's Form 8-K filed on December 27, 2005).
- 4.4 Junior Subordinated Indenture dated December 22, 2005 (incorporated by reference to Exhibit 4.2 to the Company's Form 8-K filed on December 27, 2005).

- 10.1* Brainworks Ventures, Inc. Stock Option Plan (incorporated by reference to Exhibit A to the Company's Definitive Proxy Statement filed on October 20, 2000).
- 10.2* Amendment to the Brainworks Ventures, Inc. Stock Option Plan (incorporated by reference to Appendix 3 to the Company's Definitive Proxy Statement filed on April 11, 2006).
- 10.3* Promissory Note assumed by the Company to Guy W. Millner dated February 10, 2003 (incorporated by reference to Exhibit 10.2 to the Company's Form 10-KSB/A for the year ending December 31, 2004).
- 10.4 Promissory Note assumed by the Company to Lawrence Stumbaugh dated January 3, 2003 (incorporated by reference to Exhibit 10.3 to the Company's Form 10-KSB/A for the year ending December 31, 2004).
- 10.5* Promissory Note assumed by the Company to Guy W. Millner dated August 31, 2002 (incorporated by reference to Exhibit 10.4 to the Company's Form 10-KSB/A for the year ending December 31, 2004).
- 10.6* Employment Agreement between Agencies and James C. Cook dated July 31, 2004 (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K dated August 3, 2003).
- 10.7* Executive Employment Agreement between AssuranceAmerica Managing General Agency, LLC and Joseph J. Skruck (incorporated by reference to Exhibit 10.1 to the Company's current report on Form 8-K dated March 8, 2006).
- 10.8 Stock Purchase Agreement (incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed on April 15, 2005).
- 10.9 Amendment to Stock Purchase Agreement (incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed on May 10, 2005).
- 10.10* Registration Rights Agreement (incorporated by reference to Exhibit 10.2 to the Company's Form 8-K filed on April 15, 2005).
- 10.11* Description of Executive Bonus Plan (incorporated by reference to Exhibit 10.1 of the Company's Form 10-QSB for the quarter ended June 30, 2005).
- 10.12 Guarantee Agreement dated December 22, 2005 (incorporated by reference to Exhibit 10.2 to the Company's Form 8-K filed on December 27, 2005).
- 10.13* Executive Employment Agreement between Sercap Holdings, LLC and Lawrence Stumbaugh effective July 10, 2002 and assumed by the Company effective April 1, 2003 (incorporated by reference to Exhibit 10.12 to the Company's Form 10KSB for the year ending December 31, 2005).
- 10.14 Loan Agreement, dated July 17, 2009, by and between AssuranceAmerica Corporation and Wachovia Bank, National Association (incorporated by reference to Exhibit 10.1 to the Company's 10-Q for quarter ended June 30, 2009).
- 10.15 Revolving Loan Note, dated July 17, 2009, by and between AssuranceAmerica Corporation and Wachovia Bank, National Association (incorporated by reference to Exhibit 10.2 to the Company's 10-Q for quarter ended June 30, 2009).
- 10.16 Pledge Agreement, dated July 17, 2009, by and between AssuranceAmerica Corporation and Wachovia Bank, National Association (incorporated by reference to Exhibit 10.3 to the Company's 10-Q for quarter ended June 30, 2009).
- 10.17 Guaranty of Payment Agreement, dated July 17, 2009, by and between AssuranceAmerica Managing General Agency, LLC and Wachovia Bank, National Association (incorporated by reference to Exhibit 10.4 to the Company's 10-Q for quarter ended June 30, 2009).
- 10.18 Guaranty of Payment Agreement, dated July 17, 2009, by and between Trustway T.E.A.M., Inc. and Wachovia Bank, National Association (incorporated by reference to Exhibit 10.5 to the Company's 10-Q for quarter ended June 30, 2009).
- 10.19 Guaranty of Payment Agreement, dated July 17, 2009, by and between Trustway Insurance Agencies, LLC and Wachovia Bank, National Association (incorporated by reference to Exhibit 10.6 to the Company's 10-Q for quarter ended June 30, 2009).
- 10.20 Pledge Agreement, dated July 17, 2009, by and between Trustway Insurance Agencies, LLC and Wachovia Bank, National Association (incorporated by reference to Exhibit 10.7 to the Company's 10-Q for quarter ended June 30, 2009).

- 10.21* Executive Employment Agreement between AssuranceAmerica Corporation and Mark H. Hain effective November 20, 2007, as amended by that certain Addendum to Employment Agreement, dated November 20, 2007, by and between AssuranceAmerica Corporation and Mark H. Hain. (incorporated by reference from Exhibit 10.2 to the Company's current report on Form 10-K dated March 26, 2010).
- 10.22 AssuranceAmerica Corporation 2010 Incentive Plan (incorporated by reference to Appendix 1 to the Company's Definitive Proxy Statement filed on March 29, 2011).
- 10.23 Quota share reinsurance agreement between AssuranceAmerica Insurance Company and Swiss Reinsurance America Corporation, dated as of January 1, 2011 (previously filed).
- 10.24* Employment Agreement and Addendum to Employment agreement between Guy W. Millner and the Company (incorporated by reference from Exhibit 10.1 to the Company's current report on Form 8-K dated March 29, 2011).
- 10.25* Amended and Restated Employment Agreement and Addendum to Employment Agreement between Joseph J. Skruck and the Company (incorporated by reference from Exhibit 10.2 to the Company's current report on Form 8-K dated March 29, 2011).
- 10.26* Amended and Restated Employment Agreement and Addendum to Employment Agreement between Mark H. Hain and the Company (incorporated by reference from Exhibit 10.2 to the Company's current report on Form 8-K dated March 29, 2011).
- 10.27 First Amendment to the Revolving Loan Note, dated June 30, 2010, to the Loan Agreement dated July, 17, 2009, by and between AssuranceAmerica Corporation and Wells Fargo Bank, N.A. (as successor in interest by merger to Wachovia Bank, N.A.) (the Lender). (incorporated by reference to Exhibit 10.1 to the Company's current Form 8-K dated July 1, 2010).
- 14.1 Code of Conduct (incorporated by reference to Exhibit 14.1 to the Company's Transition Report on Form 10-KSB for the transition period from April 1, 2003 to December 31, 2003).
- 21.1 List of Subsidiaries (previously filed).
- 23.1 Consent of Porter Keadle Moore, LLP.
- 31.1 Certification of Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 31.2 Certification of Chief Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 32.1 Certification of Chief Executive Officer and Chief Financial Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, the Registrant has caused this amendment to be signed on its behalf by the undersigned, thereunto duly authorized.

April 5, 2011

Registrant:

ASSURANCEAMERICA CORPORATION

By: /s/ GUY W. MILLNER
Guy W. Millner,
Chairman and Chief Executive Officer