

IMPERIAL INDUSTRIES INC
Form 10-K/A
October 15, 2007

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 10-K/A

(Amendment No. 1)

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

For the fiscal year ended December 31, 2006

Commission File Number 1-7190

IMPERIAL INDUSTRIES, INC.

(Exact name of Registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

3790 Park Central Boulevard North, Pompano Beach, Florida 33064

(Address of principal executive offices)(Zip Code)

65-0854631

(I.R.S. Employer
Identification Number)

Registrant s telephone number, including area code: (954) 917-4114

Securities registered pursuant to Section 12(b) of the Act: None.

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Securities registered pursuant to Section 12(g) of the Act: Common Stock, \$.01 par value

Indicate by check mark whether 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 15(d) of the Exchange 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, 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 the 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, and accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act.

Large accelerated filer Accelerated filer Non-accelerated filer

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

The aggregate market value of the voting stock of the Registrant held by non-affiliates computed by reference to the closing price of the registrant's Common Stock (\$.01 par value) on the NASDAQ Capital Market as of March 30, 2007 is: \$37,547,908

Number of shares of Imperial Industries, Inc. Common Stock (\$.01 par value) outstanding on March 30, 2007: 2,506,502.

DOCUMENTS INCORPORATED BY REFERENCE

Certain information required for Parts II and III of this Annual Report on Form 10-K is incorporated herein by reference to the Proxy Statement for the Registrant's 2007 Annual Meeting of Stockholders.

EXPLANATORY NOTE

The Imperial Industries, Inc. Annual Report on Form 10-K for the fiscal year ended December 31, 2006 was filed with the U. S. Securities and Exchange Commission on March 30, 2007 (the Original Filing). The only purpose of this Amendment No. 1 to Form 10-K/A is to correct a typographical error in the Consent of Independent Registered Public Accountant contained in Exhibit 23.1 of the Original Filing (the Consent). The Consent makes reference to an incorrect date of the Independent Registered Public Accountant s report accompanying our consolidated financial statements. The correct date of the report is March 30, 2007.

No other items of the Original Filing are being amended hereby.

As a result of this Amendment No. 1, the management certifications filed as exhibits to the Original Filing have been re-executed and are hereby re-filed with this Amendment No. 1.

This Amendment No. 1 should be read in conjunction with our other filings made with the Securities and Exchange Commission subsequent to the filing of the Annual Report on Form 10-K.

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3.

Exhibits

Certain of the following exhibits, designated with an asterisk (*), are filed herewith. The exhibits not so designated have been filed previously with the Commission, and are incorporated herein by reference to the documents indicated in parentheses following the descriptions of such exhibits.

| Exhibit No. | Description |
|--------------------|---|
| 2.1 | Agreement and Plan of Merger, by and between Imperial Industries, Inc. and Imperial Merger Corp. dated October 12, 1998 (Form S-4 Registration Statement, Exhibit 2). |
| 3.1 | Certificate of Incorporation of the Company, (Form S-4 Registration Statement, Exhibit 3.1). |
| 3.2 | Amendment to Certificate of Incorporation of the Company. (Incorporated by reference to Form 10-K dated December 31, 2001, Exhibit 3.2) |
| 3.3 | By-Laws of the Company, (Form S-4 Registration Statement, Exhibit 3.2). |
| 3.4 | Amendment to Certificate of Incorporation of the Company. (Incorporated by reference to Form 10-K dated December 31, 2004, Exhibit 3.4) |
| 3.5 | Amendment to Certificate of Incorporation of the Company (Incorporated by reference to Form 10-Q for the quarter ended June 30, 2006, Exhibit 3.5) |
| 10.1 | Consolidating, Amended and Restated Financing Agreement by and between Congress Financial Corporation and Premix-Marbletite Manufacturing Co., Acrocrete, Inc., and Just-Rite Supply, Inc. dated January 28, 2000. (Form 10-K for the year ended December 31, 1999, Exhibit 10.1) |
| 10.2 | Employment Agreement dated July 26, 1993 between Howard L. Ehler, Jr. and the Company. (Form 8-K dated July 26, 1993) |
| 10.3 | License Agreement between Bermuda Roof Company and Premix-Marbletite Manufacturing Co., (Form S-4 Registration Statement, Exhibit 10.5). |
| 10.4 | Employee Stock Option Plan (Incorporated by reference to Form 10-K for the year ended December 31, 2000, Exhibit 10.4). |
| 10.5 | Directors Stock Option Plan (Incorporated by reference to Form 10-K for the year ended December 31, 2000, Exhibit 10.5). |
| 10.6 | Form of Promissory Note issued in Settlement of Preferred Stock Dissenters Rights. (Incorporated by reference to Form 10-Q dated March 31, 2003, Exhibit 10.4) |
| 10.7 | Amendment No. 3 to Consolidating, Amended and Restated Financing Agreement by and between Congress Financial Corporation and Premix-Marbletite Manufacturing CO., Acrocrete, Inc., and Just-Rite Supply, Inc. dated April 22, 2003. (Incorporated by reference to Form 10-Q dated March 31, 2003, Exhibit 10.5) |
| 10.8 | Amendment No. 4 to Consolidating, Amended and Restated Financing Agreement by and between Congress Financial Corporation and Premix-Marbletite Manufacturing Co., Acrocrete, Inc. and Just-Rite Supply, Inc. dated as of September 15, 2004. (Incorporated by reference to |

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Form 10-Q dated September 30, 2004, Exhibit 10.6)

- 10.9 Amendment No. 5 to Consolidating, Amended and Restated Financing Agreement by and between Congress Financial Corporation and Premix-Marbletite Manufacturing Co., Acrocrete, Inc. and Just-Rite Supply, Inc. dated as of October 20, 2004. (Incorporated by reference to Form 10-Q dated September 30, 2004, Exhibit 10.7)
- 10.10 Stipulation to Final Judgment and Permanent Injunction, Settlement and Release Agreement by and between Just-Rite Supply, Inc. and Dennis L. Robertson, Sr. et al dated as of September 27, 2004. (Incorporated by reference to Form 10-Q dated September 30, 2004, Exhibit 10.8)
- 10.11 Amendment No. 6 to Consolidating, Amended and Restated Financing Agreement by and between Wachovia Bank, National Association, successor by merger to Congress Financial Corporation, and Premix-Marbletite Manufacturing CO., Acrocrete, Inc. and Just-Rite Supply, Inc. (Incorporated by reference to Form 10-K for the year ended December 31, 2004, Exhibit 10.11)
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| Exhibit No. | Description |
|--------------------|---|
| 10.12 | Asset Purchase Agreement dated as of July 25, 2005 by and among Degussa Wall Systems, Inc. a Delaware corporation, Degussa Construction Chemical Operations, Inc., a Delaware corporation, and Acrocrete, Inc. a Florida corporation. (Incorporated by reference to Form 8-K dated July 25, 2005 filed on July 29, 2005, Exhibit 2.1) |
| 10.13 | Distribution Agreement between Degussa Wall Systems, Inc. and Just-Rite Supply, Inc. dated July 25, 2005, to be effective as of October 1, 2005. (Incorporated by reference to Form 10-Q for the quarter ended June 30, 2005, Exhibit 10.6) |
| 10.14 | Imperial Industries, Inc. Deferred Compensation Plan effective as of May 15, 2005. (Incorporated by reference to Form 10-Q for the quarter ended June 30, 2005, Exhibit 10.7) |
| 10.15 | Amendment No.7 to Consolidating, Amended and Restated Financing Agreement by and between Wachovia Bank, National Association, successor by merger to Congress Financial Corporation, and Premix-Marbletite Manufacturing Co., DFH, Inc., formerly Acrocrete, Inc, and Just-Rite Supply, Inc. |
| 10.16 | 2006 Stock Award and Incentive Plan (Incorporated by reference to Form 8-K dated June 1, 2006.) |
| 14.1 | Imperial Industries, Inc. Code of Business Conduct. (Posted on the Company s website at www.imperialindustries.com) |
| 21 | Subsidiaries of the Company. |
| *23.1 | Consent of Grant Thornton LLP. |
| 23.2 | Consent of PricewaterhouseCoopers LLC. |
| *31.1 | Certification of the Company s Chief Executive Officer pursuant to Rule 13a - 14(a). |
| *31.2 | Certification of the Company s Chief Financial Officer pursuant to Rule 13a - 14(a). |
| 32.1 | Certification of the Company s Chief Executive Officer pursuant to Section 1350. |
| 32.2 | Certification of the Company s Chief Financial Officer pursuant to Section 1350. |

SIGNATURES

Pursuant to the requirements of Section 13 or 15 (d) 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.

IMPERIAL INDUSTRIES, INC.

October 15, 2007

By: /s/ HOWARD L. EHLER, JR
Howard L. Ehler, Jr.

Chief Operating Officer/

Principal Executive Officer

Pursuant to the requirements of the Securities and Exchange Act of 1934, this Report has been signed below by the following persons and behalf of the Registrant and in the capacities and on the dated indicated.

| | | |
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| /s/ S. DANIEL PONCE S. Daniel Ponce | Chairman of the Board of Directors | October 15, 2007 |
| /s/ LISA M. BROCK Lisa M. Brock | Director | October 15, 2007 |
| /s/ NADINE GRAMLING Nadine Gramling | Director | October 15, 2007 |
| /s/ MILTON J. WALLACE Milton J. Wallace | Director | October 15, 2007 |
| /s/ MORTON L. WEINBERGER Morton L. Weinberger | Director | October 15, 2007 |
| /s/ HOWARD L. EHLER, JR. Howard L. Ehler, Jr. | Director, Chief Operating Officer, Principal Executive Officer, and Secretary | October 15, 2007 |
| /s/ STEVEN M. HEALY, CPA Steven M. Healy, CPA | Chief Financial Officer | October 15, 2007 |