Form 5500

Department of the Treasury
Internal Revenue Service

Department of Labor
Employee Benefits Security Administration

Pension Benefit Guaranty Corporation

Annual Return/Report of Employee Benefit Plan

This form is required to be filed for employee benefit plans under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and sections 6047(e), and 6058(a) of the Internal Revenue Code (the Code).

▶ **Complete all entries in accordance with the instructions to the Form 5500.**

OMB Nos. 1210-0110
1210-0089

2009

This Form is Open to Public Inspection

Part I Annual Report Identification Information

For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009

A This return/report is for:
- [ ] a multiemployer plan;
- [ ] a multiple-employer plan; or
- [X] a single-employer plan;
- [ ] a DFE (specify) ____

B This return/report is:
- [ ] the first return/report;
- [ ] the final return/report;
- [ ] an amended return/report;
- [ ] a short plan year return/report (less than 12 months).

C If the plan is a collectively-bargained plan, check here. . . . . ▶ [ ]

D Check box if filing under:
- [X] Form 5558;
- [ ] automatic extension;
- [ ] the DFVC program;
- [ ] special extension (enter description)

Part II Basic Plan Information—enter all requested information

1a Name of plan
MIGHTY TACO INC

1b Three-digit plan number (PN) ▶ 003

1c Effective date of plan 07/01/1992

2a Plan sponsor's name and address (employer, if for a single-employer plan)
(Address should include room or suite no.)
MIGHTY TACO, INCORPORATED

9362 TRANSIT ROAD
AMHERST, NY 14051

2b Employer Identification Number (EIN)
16-1087143

2c Sponsor's telephone number
716-636-1097

2d Business code (see instructions)
722110

Caution: A penalty for the late or incomplete filing of this return/report will be assessed unless reasonable cause is established.

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this return/report, including accompanying schedules, statements and attachments, as well as the electronic version of this return/report, and to the best of my knowledge and belief, it is true, correct, and complete.

SIGN HERE	Filed with authorized/valid electronic signature.	10/04/2010	MIGHTY TACO, INCORPORATED
	Signature of plan administrator	Date	Enter name of individual signing as plan administrator
SIGN HERE			
	Signature of employer/plan sponsor	Date	Enter name of individual signing as employer or plan sponsor
SIGN HERE			
	Signature of DFE	Date	Enter name of individual signing as DFE

3a Plan administrator's name and address (if same as plan sponsor, enter "Same")
MIGHTY TACO, INCORPORATED

9362 TRANSIT ROAD
AMHERST, NY 14051

3b Administrator's EIN
16-1087143

3c Administrator's telephone number
716-636-1097

4 If the name and/or EIN of the plan sponsor has changed since the last return/report filed for this plan, enter the name, EIN and the plan number from the last return/report:
a Sponsor's name

4b EIN

4c PN

5	Total number of participants at the beginning of the plan year	**5**	289
6	Number of participants as of the end of the plan year (welfare plans complete only lines **6a, 6b, 6c,** and **6d**).		
a	Active participants	**6a**	152
b	Retired or separated participants receiving benefits	**6b**	0
c	Other retired or separated participants entitled to future benefits	**6c**	87
d	Subtotal. Add lines **6a**, **6b**, and **6c**	**6d**	239
e	Deceased participants whose beneficiaries are receiving or are entitled to receive benefits	**6e**	0
f	Total. Add lines **6d** and **6e**	**6f**	239
g	Number of participants with account balances as of the end of the plan year (only defined contribution plans complete this item)	**6g**	190
h	Number of participants that terminated employment during the plan year with accrued benefits that were less than 100% vested	**6h**	30
7	Enter the total number of employers obligated to contribute to the plan (only multiemployer plans complete this item)	**7**	

8a If the plan provides pension benefits, enter the applicable pension feature codes from the List of Plan Characteristic Codes in the instructions:
2G 3D 2E 2J 2K 2T

b If the plan provides welfare benefits, enter the applicable welfare feature codes from the List of Plan Characteristic Codes in the instructions:

9a Plan funding arrangement (check all that apply)

(1)		Insurance
(2)		Code section 412(e)(3) insurance contracts
(3)	X	Trust
(4)		General assets of the sponsor

9b Plan benefit arrangement (check all that apply)

(1)		Insurance
(2)		Code section 412(e)(3) insurance contracts
(3)	X	Trust
(4)		General assets of the sponsor

10 Check all applicable boxes in 10a and 10b to indicate which schedules are attached, and, where indicated, enter the number attached. (See instructions)

a Pension Schedules

(1)	X	**R** (Retirement Plan Information)
(2)		**MB** (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information) - signed by the plan actuary
(3)		**SB** (Single-Employer Defined Benefit Plan Actuarial Information) - signed by the plan actuary

b General Schedules

(1)	X		**H** (Financial Information)
(2)			**I** (Financial Information – Small Plan)
(3)		0	**A** (Insurance Information)
(4)			**C** (Service Provider Information)
(5)			**D** (DFE/Participating Plan Information)
(6)			**G** (Financial Transaction Schedules)

SCHEDULE H (Form 5500)

Department of the Treasury
Internal Revenue Service

Department of Labor
Employee Benefits Security Administration

Pension Benefit Guaranty Corporation

Financial Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA), and section 6058(a) of the Internal Revenue Code (the Code).

▶ **File as an attachment to Form 5500.**

OMB No. 1210-0110

2009

This Form is Open to Public Inspection

For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009

A Name of plan
MIGHTY TACO INC

B Three-digit plan number (PN) ▶ 003

C Plan sponsor's name as shown on line 2a of Form 5500
MIGHTY TACO, INCORPORATED

D Employer Identification Number (EIN)
16-1087143

Part I Asset and Liability Statement

1 Current value of plan assets and liabilities at the beginning and end of the plan year. Combine the value of plan assets held in more than one trust. Report the value of the plan's interest in a commingled fund containing the assets of more than one plan on a line-by-line basis unless the value is reportable on lines 1c(9) through 1c(14). Do not enter the value of that portion of an insurance contract which guarantees, during this plan year, to pay a specific dollar benefit at a future date. **Round off amounts to the nearest dollar.** MTIAs, CCTs, PSAs, and 103-12 IEs do not complete lines 1b(1), 1b(2), 1c(8), 1g, 1h, and 1i. CCTs, PSAs, and 103-12 IEs also do not complete lines 1d and 1e. See instructions.

Assets		(a) Beginning of Year	(b) End of Year
a Total noninterest-bearing cash	1a	0	
b Receivables (less allowance for doubtful accounts):			
(1) Employer contributions	1b(1)	0	0
(2) Participant contributions	1b(2)	0	0
(3) Other	1b(3)	0	0
c General investments:			
(1) Interest-bearing cash (include money market accounts & certificates of deposit)	1c(1)	48615	194701
(2) U.S. Government securities	1c(2)	0	
(3) Corporate debt instruments (other than employer securities):			
(A) Preferred	1c(3)(A)	0	
(B) All other	1c(3)(B)	0	
(4) Corporate stocks (other than employer securities):			
(A) Preferred	1c(4)(A)	0	
(B) Common	1c(4)(B)	0	
(5) Partnership/joint venture interests	1c(5)	0	
(6) Real estate (other than employer real property)	1c(6)	0	
(7) Loans (other than to participants)	1c(7)	0	
(8) Participant loans	1c(8)	29144	22363
(9) Value of interest in common/collective trusts	1c(9)	0	0
(10) Value of interest in pooled separate accounts	1c(10)		
(11) Value of interest in master trust investment accounts	1c(11)	0	0
(12) Value of interest in 103-12 investment entities	1c(12)	0	0
(13) Value of interest in registered investment companies (e.g., mutual funds)	1c(13)	406961	541596
(14) Value of funds held in insurance company general account (unallocated contracts)	1c(14)		
(15) Other	1c(15)	0	0

			(a) Beginning of Year	(b) End of Year
1d	Employer-related investments:			
	(1) Employer securities	1d(1)	0	
	(2) Employer real property	1d(2)	0	
e	Buildings and other property used in plan operation	1e	0	
f	Total assets (add all amounts in lines 1a through 1e)	1f	484720	758660
	Liabilities			
g	Benefit claims payable	1g	0	
h	Operating payables	1h	0	
i	Acquisition indebtedness	1i	0	
j	Other liabilities	1j	0	
k	Total liabilities (add all amounts in lines 1g through1j)	1k	0	0
	Net Assets			
l	Net assets (subtract line 1k from line 1f)	1l	484720	758660

Part II Income and Expense Statement

2 Plan income, expenses, and changes in net assets for the year. Include all income and expenses of the plan, including any trust(s) or separately maintained fund(s) and any payments/receipts to/from insurance carriers. Round off amounts to the nearest dollar. MTIAs, CCTs, PSAs, and 103-12 IEs do not complete lines 2a, 2b(1)(E), 2e, 2f, and 2g.

	Income		(a) Amount	(b) Total
a	**Contributions:**			
	(1) Received or receivable in cash from: **(A)** Employers	2a(1)(A)	79241	
	(B) Participants	2a(1)(B)	83928	
	(C) Others (including rollovers)	2a(1)(C)	81243	
	(2) Noncash contributions	2a(2)		
	(3) Total contributions. Add lines **2a(1)(A), (B), (C),** and line **2a(2)**	2a(3)		244412
b	**Earnings on investments:**			
	(1) Interest:			
	(A) Interest-bearing cash (including money market accounts and certificates of deposit)	2b(1)(A)	154	
	(B) U.S. Government securities	2b(1)(B)		
	(C) Corporate debt instruments	2b(1)(C)		
	(D) Loans (other than to participants)	2b(1)(D)		
	(E) Participant loans	2b(1)(E)	1396	
	(F) Other	2b(1)(F)		
	(G) Total interest. Add lines **2b(1)(A)** through **(F)**	2b(1)(G)		1550
	(2) Dividends: **(A)** Preferred stock	2b(2)(A)		
	(B) Common stock	2b(2)(B)		
	(C) Registered investment company shares (e.g. mutual funds)	2b(2)(C)	8912	
	(D) Total dividends. Add lines **2b(2)(A)**, **(B)**, and **(C)**	2b(2)(D)		8912
	(3) Rents	2b(3)		
	(4) Net gain (loss) on sale of assets: **(A)** Aggregate proceeds	2b(4)(A)		
	(B) Aggregate carrying amount (see instructions)	2b(4)(B)		
	(C) Subtract line **2b(4)(B)** from line **2b(4)(A)** and enter result	2b(4)(C)		0

		(a) Amount	(b) Total
2b (5) Unrealized appreciation (depreciation) of assets: (A) Real estate	2b(5)(A)		
(B) Other	2b(5)(B)		
(C) Total unrealized appreciation of assets. Add lines 2b(5)(A) and (B)	2b(5)(C)		0
(6) Net investment gain (loss) from common/collective trusts	2b(6)		0
(7) Net investment gain (loss) from pooled separate accounts	2b(7)		0
(8) Net investment gain (loss) from master trust investment accounts	2b(8)		0
(9) Net investment gain (loss) from 103-12 investment entities	2b(9)		0
(10) Net investment gain (loss) from registered investment companies (e.g., mutual funds)	2b(10)		93393
c Other income	2c		
d Total income. Add all **income** amounts in column (b) and enter total	2d		348267
Expenses			
e Benefit payment and payments to provide benefits:			
(1) Directly to participants or beneficiaries, including direct rollovers	2e(1)	72336	
(2) To insurance carriers for the provision of benefits	2e(2)		
(3) Other	2e(3)		
(4) Total benefit payments. Add lines 2e(1) through (3)	2e(4)		72336
f Corrective distributions (see instructions)	2f		602
g Certain deemed distributions of participant loans (see instructions)	2g		0
h Interest expense	2h		
i Administrative expenses: (1) Professional fees	2i(1)		
(2) Contract administrator fees	2i(2)	0	
(3) Investment advisory and management fees	2i(3)		
(4) Other	2i(4)	1389	
(5) Total administrative expenses. Add lines 2i(1) through (4)	2i(5)		1389
j Total expenses. Add all **expense** amounts in column (b) and enter total	2j		74327
Net Income and Reconciliation			
k Net income (loss). Subtract line 2j from line 2d	2k		273940
l Transfers of assets:			
(1) To this plan	2l(1)		
(2) From this plan	2l(2)		

Part III Accountant's Opinion

3 Complete lines 3a through 3c if the opinion of an independent qualified public accountant is attached to this Form 5500. Complete line 3d if an opinion is not attached.

a The attached opinion of an independent qualified public accountant for this plan is (see instructions):

(1) [X] Unqualified (2) [ ] Qualified (3) [ ] Disclaimer (4) [ ] Adverse

b Did the accountant perform a limited scope audit pursuant to 29 CFR 2520.103-8 and/or 103-12(d)? [ ] Yes [X] No

c Enter the name and EIN of the accountant (or accounting firm) below:

(1) Name: BROCK, SCHECHTER & POLAKOFF, LLP (2) EIN: 16-1003516

d The opinion of an independent qualified public accountant is **not attached** because:

(1) [ ] This form is filed for a CCT, PSA, or MTIA. (2) [ ] It will be attached to the next Form 5500 pursuant to 29 CFR 2520.104-50.

Part IV Compliance Questions

4 CCTs and PSAs do not complete Part IV. MTIAs, 103-12 IEs, and GIAs do not complete 4a, 4e, 4f, 4g, 4h, 4k, 4m, 4n, or 5. 103-12 IEs also do not complete 4j and 4l. MTIAs also do not complete 4l.

During the plan year:

		Yes	No	Amount
a	Was there a failure to transmit to the plan any participant contributions within the time period described in 29 CFR 2510.3-102? Continue to answer "Yes" for any prior year failures until fully corrected. (See instructions and DOL's Voluntary Fiduciary Correction Program.)	4a		X	
b	Were any loans by the plan or fixed income obligations due the plan in default as of the close of the plan year or classified during the year as uncollectible? Disregard participant loans secured by participant's account balance. (Attach Schedule G (Form 5500) Part I if "Yes" is checked.)	4b		X	
c	Were any leases to which the plan was a party in default or classified during the year as uncollectible? (Attach Schedule G (Form 5500) Part II if "Yes" is checked.)	4c		X	
d	Were there any nonexempt transactions with any party-in-interest? (Do not include transactions reported on line 4a. Attach Schedule G (Form 5500) Part III if "Yes" is checked.)	4d		X	
e	Was this plan covered by a fidelity bond?	4e	X		100000
f	Did the plan have a loss, whether or not reimbursed by the plan's fidelity bond, that was caused by fraud or dishonesty?	4f		X	
g	Did the plan hold any assets whose current value was neither readily determinable on an established market nor set by an independent third party appraiser?	4g		X	
h	Did the plan receive any noncash contributions whose value was neither readily determinable on an established market nor set by an independent third party appraiser?	4h		X	
i	Did the plan have assets held for investment? (Attach schedule(s) of assets if "Yes" is checked, and see instructions for format requirements.)	4i	X		
j	Were any plan transactions or series of transactions in excess of 5% of the current value of plan assets? (Attach schedule of transactions if "Yes" is checked, and see instructions for format requirements.)	4j		X	
k	Were all the plan assets either distributed to participants or beneficiaries, transferred to another plan, or brought under the control of the PBGC?	4k		X	
l	Has the plan failed to provide any benefit when due under the plan?	4l		X	
m	If this is an individual account plan, was there a blackout period? (See instructions and 29 CFR 2520.101-3.)	4m		X	
n	If 4m was answered "Yes," check the "Yes" box if you either provided the required notice or one of the exceptions to providing the notice applied under 29 CFR 2520.101-3.	4n			

5a Has a resolution to terminate the plan been adopted during the plan year or any prior plan year? If yes, enter the amount of any plan assets that reverted to the employer this year ☐ **Yes** ☒ **No** **Amount:**

5b If, during this plan year, any assets or liabilities were transferred from this plan to another plan(s), identify the plan(s) to which assets or liabilities were transferred. (See instructions.)

5b(1) Name of plan(s)	**5b(2)** EIN(s)	**5b(3)** PN(s)

SCHEDULE R
(Form 5500)

Department of the Treasury
Internal Revenue Service

Department of Labor
Employee Benefits Security Administration

Pension Benefit Guaranty Corporation

Retirement Plan Information

This schedule is required to be filed under section 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and section 6058(a) of the Internal Revenue Code (the Code).

▶ **File as an attachment to Form 5500.**

OMB No. 1210-0110

2009

This Form is Open to Public Inspection.

For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009

A Name of plan
MIGHTY TACO INC

B Three-digit plan number (PN) ▶ 003

C Plan sponsor's name as shown on line 2a of Form 5500
MIGHTY TACO, INCORPORATED

D Employer Identification Number (EIN)
16-1087143

Part I Distributions

All references to distributions relate only to payments of benefits during the plan year.

1 Total value of distributions paid in property other than in cash or the forms of property specified in the instructions **1**

2 Enter the EIN(s) of payor(s) who paid benefits on behalf of the plan to participants or beneficiaries during the year (if more than two, enter EINs of the two payors who paid the greatest dollar amounts of benefits):

EIN(s): 16-1470238

Profit-sharing plans, ESOPs, and stock bonus plans, skip line 3.

3 Number of participants (living or deceased) whose benefits were distributed in a single sum, during the plan year. **3**

Part II Funding Information (If the plan is not subject to the minimum funding requirements of section of 412 of the Internal Revenue Code or ERISA section 302, skip this Part)

4 Is the plan administrator making an election under Code section 412(d)(2) or ERISA section 302(d)(2)? ..... ☐ **Yes** ☒ **No** ☐ **N/A**

If the plan is a defined benefit plan, go to line 8.

5 If a waiver of the minimum funding standard for a prior year is being amortized in this plan year, see instructions and enter the date of the ruling letter granting the waiver. **Date:** Month _____ Day _____ Year _____

If you completed line 5, complete lines 3, 9, and 10 of Schedule MB and do not complete the remainder of this schedule.

6 **a** Enter the minimum required contribution for this plan year **6a**

b Enter the amount contributed by the employer to the plan for this plan year **6b**

c Subtract the amount in line 6b from the amount in line 6a. Enter the result (enter a minus sign to the left of a negative amount) **6c**

If you completed line 6c, skip lines 8 and 9.

7 Will the minimum funding amount reported on line 6c be met by the funding deadline? ..... ☐ **Yes** ☐ **No** ☐ **N/A**

8 If a change in actuarial cost method was made for this plan year pursuant to a revenue procedure providing automatic approval for the change or a class ruling letter, does the plan sponsor or plan administrator agree with the change? ..... ☐ **Yes** ☐ **No** ☐ **N/A**

Part III Amendments

9 If this is a defined benefit pension plan, were any amendments adopted during this plan year that increased or decreased the value of benefits? If yes, check the appropriate box(es). If no, check the "No" box. ..... ☐ **Increase** ☐ **Decrease** ☐ **Both** ☐ **No**

Part IV ESOPs (see instructions). If this is not a plan described under Section 409(a) or 4975(e)(7) of the Internal Revenue Code, skip this Part.

10 Were unallocated employer securities or proceeds from the sale of unallocated securities used to repay any exempt loan? ..... ☐ **Yes** ☐ **No**

11 **a** Does the ESOP hold any preferred stock? ..... ☐ **Yes** ☐ **No**

b If the ESOP has an outstanding exempt loan with the employer as lender, is such loan part of a "back-to-back" loan? (See instructions for definition of "back-to-back" loan.) ..... ☐ **Yes** ☐ **No**

12 Does the ESOP hold any stock that is not readily tradable on an established securities market? ..... ☐ **Yes** ☐ **No**

Part V Additional Information for Multiemployer Defined Benefit Pension Plans

13 Enter the following information for each employer that contributed more than 5% of total contributions to the plan during the plan year (measured in dollars). See instructions. *Complete as many entries as needed to report all applicable employers.*

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

14 Enter the number of participants on whose behalf no contributions were made by an employer as an employer of the participant for:

a The current year	**14a**	
b The plan year immediately preceding the current plan year	**14b**	
c The second preceding plan year	**14c**	

15 Enter the ratio of the number of participants under the plan on whose behalf no employer had an obligation to make an employer contribution during the current plan year to:

a The corresponding number for the plan year immediately preceding the current plan year	**15a**	
b The corresponding number for the second preceding plan year	**15b**	

16 Information with respect to any employers who withdrew from the plan during the preceding plan year:

a Enter the number of employers who withdrew during the preceding plan year	**16a**	
b If item 16a is greater than 0, enter the aggregate amount of withdrawal liability assessed or estimated to be assessed against such withdrawn employers	**16b**	

17 If assets and liabilities from another plan have been transferred to or merged with this plan during the plan year, check box and see instructions regarding supplemental information to be included as an attachment. ☐

Part VI Additional Information for Single-Employer and Multiemployer Defined Benefit Pension Plans

18 If any liabilities to participants or their beneficiaries under the plan as of the end of the plan year consist (in whole or in part) of liabilities to such participants and beneficiaries under two or more pension plans as of immediately before such plan year, check box and see instructions regarding supplemental information to be included as an attachment ☐

19 If the total number of participants is 1,000 or more, complete items (a) through (c)

a Enter the percentage of plan assets held as:
Stock: _____% Investment-Grade Debt: _____% High-Yield Debt: _____% Real Estate: _____% Other: _____%

b Provide the average duration of the combined investment-grade and high-yield debt:
☐ 0-3 years ☐ 3-6 years ☐ 6-9 years ☐ 9-12 years ☐ 12-15 years ☐ 15-18 years ☐ 18-21 years ☐ 21 years or more

c What duration measure was used to calculate item 19(b)?
☐ Effective duration ☐ Macaulay duration ☐ Modified duration ☐ Other (specify):

Mighty Taco, Inc. 401(k)
Profit Sharing Plan & Trust

Financial Statements
December 31, 2009 and December 31, 2008

Independent Auditors' Report 1

Financial Statements

Statements of Net Assets Available for Plan Benefits - Modified Cash Basis 2

Statement of Changes in Net Assets Available for Plan Benefits - Modified Cash Basis 3

Notes to Financial Statements 4-7

Supplementary Information 8

Schedule of Assets (Held at End of Year) 9

BROCK, SCHECHTER & POLAKOFF, LLP
CERTIFIED PUBLIC ACCOUNTANTS • CONSULTANTS

Independent Auditors' Report

To the Trustees
Mighty Taco, Inc 401(k) Profit Sharing Plan & Trust
East Amherst, New York

We have audited the accompanying statements of net assets available for plan benefits (modified cash basis) of Mighty Taco, Inc 401(k) Profit Sharing Plan & Trust as of December 31, 2009 and December 31, 2008 and the related statement of changes in net assets available for plan benefits (modified cash basis) and the supplemental schedule of assets (held at end of year) as of and for the year ended December 31, 2009. These financial statements are the responsibility of the Plan's management.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the 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 audit provides a reasonable basis for our opinion.

As described in Note 2, these financial statements and supplemental schedule were prepared on the modified cash basis of accounting, which is a comprehensive basis of accounting other than U.S. generally accepted accounting principles.

In our opinion, the financial statements referred to above present fairly, in all material respects, the net assets available for plan benefits of Mighty Taco, Inc 401(k) Profit Sharing Plan & Trust as of December 31, 2009 and the changes in net assets available for plan benefits for the year ended December 31, 2009, on the basis of accounting described in Note 2.

Our audit was conducted for the purpose of forming an opinion on the basic financial statements taken as a whole. The supplemental schedule of assets (held at end of year), are presented for the purpose of additional analysis and are not a required part of the basic financial statements but are supplementary information required by the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974. This supplemental information is the responsibility of the Plan's management. The supplemental information has been subjected to the auditing procedures applied in the audits of the basic financial statements and, in our opinion, are fairly stated in all material respects in relation to the basic financial statements taken as a whole.

Brock Schechter & Polakoff, LLP

Buffalo, New York
September 29, 2010

726 Exchange Street • Suite 822
Buffalo, New York 14210
Tel: (716) 854-3034
Fax: (716) 854-7195
www.bspcpa.com

CPAMERICA INTERNATIONAL
Member of CPAmerica International

Statements of Net Assets Available for Plan Benefits
(All Participant Directed)
(Modified Cash Basis)

	December 31, 2009	December 31, 2008
Assets		
Cash	$ 194,701	$ 48,615
Participant loans	22,363	29,144
Investments at Fidelity Investments (at fair market value)		
Value of interest in registered investment companies		
Fidelity Advisor Balanced Fund (Class T)	35,874	32,089
Fidelity Advisor Dividend Growth Fund (Class T)	2,225	1,310
Fidelity Advisor Equity Income Fund (Class T)	284,162	217,438
Fidelity Advisor Freedom 2010 Fund (Class T)	204	-
Fidelity Advisor Freedom 2040 Fund (Class T)	320	435
Fidelity Advisor Government Income Fund (Class T)	29,263	5,556
Fidelity Advisor Equity Growth Fund (Class T)	27,030	31,189
Fidelity Advisor Intermediate Bond Fund (Class T)	27,525	19,362
Fidelity Advisor Mid Cap Fund (Class T)	10,058	16,555
Fidelity Advisor Growth Opportunities Fund (Class T)	27,206	25,040
Fidelity Advisor Overseas Fund (Class T)	14,608	27,615
Fidelity Advisor Small Cap Fund (Class T)	63,740	21,975
Fidelity Advisor Strategic Income Fund (Class T)	19,381	8,397
	541,596	406,961
Net assets available for plan benefits	$ 758,660	$ 484,720

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

Statement of Changes in Net Assets Available for Plan Benefits
For the Year Ended December 31, 2009
(All Participant Directed)
(Modified Cash Basis)

Net assets available for plan benefits, beginning of year	$ 484,720
Additions	
Contributions	
Employer	79,241
Participants	83,928
Rollover	81,243
	244,412
Earnings on investments	
Other interest income	154
Participant loan interest	1,396
Dividend income	8,912
Net gain from registered investment companies	93,393
	103,855
Total additions	348,267
Deductions	
Benefits paid to participants	72,336
Corrective distributions	602
Administrative expense	1,389
Total deductions	74,327
Net increase	273,940
Net assets available for plan benefits, end of year	$ 758,660

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

1. Description of the Plan

The following brief description of Mighty Taco, Inc 401(k) Profit Sharing Plan & Trust is provided for general information purposes only. Participants' should refer to the plan document for more complete information.

General

The Plan is a defined contribution plan which became effective July 1, 1992. It is subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA). The plan sponsor is Mighty Taco, Inc. Participants are employees of the Company who have attained age 21 and have completed one year of service.

The plan is administered by Mighty Taco, Inc. The plan record keeper is Paychex Retirement Services. The custodian of assets is Fidelity Investments.

Participant Accounts

An account is maintained for each participant in the Plan. This account is credited with salary reduction contributions, employer matching contributions and with earnings as allocated. The account is reduced by the payment of benefits. The participants direct where their funds are to be invested.

Vesting

Each participant is fully vested in his or her salary reduction account. After six years of service, each participant will be fully vested in his or her employer matching contribution account.

Funding Policy

Participants may elect to make salary-reducing contributions to the Plan up to a maximum of 12 percent of compensation, subject to IRS limits. The employer makes a discretionary match of 33 percent of the employee contribution up to a maximum of 6 percent of compensation.

Participants who have attained age 50 before the end of the plan year are eligible to make catch-up contributions.

Some administrative expenses are paid by the Plan, some by the plan sponsor.

Participant Loans

Participants may borrow from their vested fund accounts a minimum of $1,000 up to a maximum of $50,000. The loans are secured by the balance in the participant's account and bear interest of prime plus one percent (at December 31, 2009 the prime rate was 3.25 percent). Participant borrowing cannot exceed one-half of the participant's vested account balance. A participant may only have one loan outstanding at any time. Principal and interest are paid ratably through payroll deductions.

Benefits

The benefit to which a participant is entitled is the benefit that can be provided from the participant's account and normally takes the form of a lump sum distribution. A participant may elect other installment options as provided for in the Plan with the approval of the plan administrator.

Benefits are provided for normal retirement at attained age of 65, or may be deferred if the participant continues in active service with the Corporation. Benefits are also provided upon permanent disability, attainment of age 59 1/2, separation from service or death.

Forfeitures

Forfeited accounts shall be allocated to reduce administrative expenses or employer contributions. At December 31, 2009, forfeited non-vested accounts totaled $2,858.

2. Summary of Significant Accounting Policies

Basis of Accounting

The Plan's policy is to prepare its financial statements on the modified cash basis of accounting; consequently, certain revenue is recognized when received rather than when earned and certain expenses are recognized when cash is disbursed rather than when the obligation is incurred. Contributions are shown on the accrual basis of accounting. Benefits are recorded when paid.

Quoted market prices are used to value investments; participant loans are valued at their outstanding balances, which approximate fair value.

Subsequent Events

The Company has evaluated for subsequent events through the date of the independent auditors' report, which is the date the financial statements were made available to be issued.

3. Use of Estimates

The preparation of financial statements in conformity with the modified cash basis of accounting requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

4. Plan Termination

Although it has not expressed any intent to do so, the employer reserves the right to terminate or revoke the Plan at any time, subject to provisions of ERISA. In the event of termination or partial termination, all participants affected shall have a fully vested and non-forfeitable right to the amount credited to their accounts at the date of such termination.

5. IRS Determination Letter

The Plan uses a prototype plan document sponsored by Paychex, Inc. Paychex, Inc. received an opinion letter from the IRS dated March 31, 2008, which states that the prototype document satisfies the applicable provisions of the Internal Revenue Code (IRC). The Plan itself has not received a determination letter from the IRS. However, the Plan's management believes that the Plan is currently designed and being operated in compliance with the applicable requirements of the IRS. Therefore, no provision for income tax has been included in the Plan's Financial Statements.

6. Risks and Uncertainties

The Plan invests in various investment securities. Investment securities are exposed to various risks such as interest rate, market and credit risks. Due to the level of risk associated with certain investment securities, it is at least reasonably possible that changes in the values of investment securities will occur in the near term and that such changes could materially affect participants' account balances and the amounts reported in the statements of net assets available for benefits.

7. Fair Value Measurement

Fair market value was determined as follows:

	December 31, 2009		
	Quoted Prices in Active Markets	Other Observable Inputs	Unobservable Inputs
Participant loans	$ -	$ -	$ 22,363
Registered investment companies	-	541,596	-
	$ -	$ 541,596	$ 22,363

	December 31, 2008		
	Quoted Prices in Active Markets	Other Observable Inputs	Unobservable Inputs
Participant loans	$ -	$ -	$ 29,144
Registered investment companies	-	406,961	-
	$ -	$ 406,961	$ 29,144

The following is a reconciliation of activity for 2009 assets measured at fair value based on significant unobservable (non-market) information:

	Participant Loans
Balance, beginning of year	$ 29,144
Realized gains	-
Unrealized gains (losses)	-
Interest income	-
Purchases, sales, issuances, and settlements	(6,781)
Balance, end of year	$ 22,363

Realized and unrealized gains and losses included in earnings are reported in Statement of Changes in Net Assets Available for Plan Benefits (Modified Cash Basis) as a component of earnings (loss) on investments.

8. Corrective Distributions and Contributions

For the year ended December 31, 2009, the Plan's actual deferral percentage and actual contribution percentage ("ADP/ACP") discrimination test was completed in 2010. Based on the results of this test, it was determined that the Plan had excess contributions of $17,994. These excess contributions were refunded to plan participants in 2010.

For the year ended December 31, 2008, the Plan's actual deferral percentage and actual contribution percentage ("ADP/ACP") discrimination test was completed in 2009. Based on the results of this test, it was determined that the Plan had excess contributions of $602. These excess contributions were refunded to plan participants in 2009.

For the year ended December 31, 2009, the Plan's top heavy test was completed in 2010. Based on the results of this test, it was determined that the Plan was top-heavy. A corrective employer discretionary contribution of $81,286 was made and recorded during 2010.

For the year ended December 31, 2008, the Plan's top heavy test was completed in 2009. Based on the results of this test, it was determined that the Plan was top-heavy. A corrective employer discretionary contribution of $56,431 was made and recorded during 2009.

9. Subsequent Events

As of April 2010, the custodian of assets was changed to Genesee Valley Trust Company.

10. Income Taxes

During 2009, the Plan adopted accounting standards related to uncertain tax positions. Generally, the Plan's prior three tax years are open and subject to examination by the Internal Revenue Service. However, the Plan is not currently under audit, nor has the Plan been contacted by the Internal Revenue Service.

Supplementary Information

Schedule H, Line 4i - Schedule of Assets (Held at End of Year)

Mighty Taco, Inc 401(k) Profit Sharing Plan & Trust
Employer ID# 16-1087143 Plan Number 003
Plan Year January 01, 2009 to December 31, 2009

(a)	(b) Identity of Issuer, Borrower, Lessor or Similar Party	(c) Description of investment including maturity date, rate of interest, collateral, par or maturity value	(e) Current Value
	Participant loans	Interest rates range from 4.25 percent to 9.25 percent	$ 22,363
	Fidelity Investments	Fidelity Prime Fund; Daily Money Class	194,701
	Fidelity Investments	Fidelity Advisor Balanced Fund (Class T)	35,874
	Fidelity Investments	Fidelity Advisor Dividend Growth Fund (Class T)	2,225
	Fidelity Investments	Fidelity Advisor Equity Income Fund (Class T)	284,162
	Fidelity Investments	Fidelity Advisor Freedom 2010 Fund (Class T)	204
	Fidelity Investments	Fidelity Advisor Freedom 2040 Fund (Class T)	320
	Fidelity Investments	Fidelity Advisor Government Income Fund (Class T)	29,263
	Fidelity Investments	Fidelity Advisor Equity Growth Fund (Class T)	27,030
	Fidelity Investments	Fidelity Advisor Intermediate Bond Fund (Class T)	27,525
	Fidelity Investments	Fidelity Advisor Mid Cap Fund (Class T)	10,058
	Fidelity Investments	Fidelity Advisor Growth Opportunities Fund (Class T)	27,206
	Fidelity Investments	Fidelity Advisor Overseas Fund (Class T)	14,608
	Fidelity Investments	Fidelity Advisor Small Cap Fund (Class T)	63,740
	Fidelity Investments	Fidelity Advisor Strategic Income Fund (Class T)	19,381
			$ 758,660

Schedule H, Line 4i - Schedule of Assets (Held at End of Year)

Mighty Taco, Inc 401(k) Profit Sharing Plan & Trust
Employer ID# 16-1087143 Plan Number 003
Plan Year January 01, 2009 to December 31, 2009

(a)	(b) Identity of Issuer, Borrower, Lessor or Similar Party	(c) Description of investment including maturity date, rate of interest, collateral, par or maturity value	(e) Current Value
	Participant loans	Interest rates range from 4.25 percent to 9.25 percent	$ 22,363
	Fidelity Investments	Fidelity Prime Fund; Daily Money Class	194,701
	Fidelity Investments	Fidelity Advisor Balanced Fund (Class T)	35,874
	Fidelity Investments	Fidelity Advisor Dividend Growth Fund (Class T)	2,225
	Fidelity Investments	Fidelity Advisor Equity Income Fund (Class T)	284,162
	Fidelity Investments	Fidelity Advisor Freedom 2010 Fund (Class T)	204
	Fidelity Investments	Fidelity Advisor Freedom 2040 Fund (Class T)	320
	Fidelity Investments	Fidelity Advisor Government Income Fund (Class T)	29,263
	Fidelity Investments	Fidelity Advisor Equity Growth Fund (Class T)	27,030
	Fidelity Investments	Fidelity Advisor Intermediate Bond Fund (Class T)	27,525
	Fidelity Investments	Fidelity Advisor Mid Cap Fund (Class T)	10,058
	Fidelity Investments	Fidelity Advisor Growth Opportunities Fund (Class T)	27,206
	Fidelity Investments	Fidelity Advisor Overseas Fund (Class T)	14,608
	Fidelity Investments	Fidelity Advisor Small Cap Fund (Class T)	63,740
	Fidelity Investments	Fidelity Advisor Strategic Income Fund (Class T)	19,381
			$ 758,660