

BERKSHIRE BANCORP INC /DE/  
Form 10-Q  
November 12, 2009

UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 10-Q  
(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15 (d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended September 30, 2009

or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15 (d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number: 0-13649

BERKSHIRE BANCORP INC.  
(Exact Name of Registrant as Specified in Its Charter)

Delaware  
(State or Other Jurisdiction of  
Incorporation or Organization)

94-2563513  
(I.R.S. Employer  
Identification No.)

160 Broadway, New York, New York  
(Address of Principal Executive Offices)

10038  
(Zip Code)

Registrant's Telephone Number, Including Area Code: (212) 791-5362

N/A

(Former Name, Former Address and Former Fiscal Year, if Changed Since Last Report)

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 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 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.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

(Do not check if a 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

As of November 11, 2009, there were 7,054,183 outstanding shares of the issuer's Common Stock, \$.10 par value.

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BERKSHIRE BANCORP INC. AND SUBSIDIARIES

FORWARD-LOOKING STATEMENTS

Forward-Looking Statements. Statements in this Quarterly Report on Form 10-Q that are not based on historical fact may be "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Words such as "believe", "may", "will", "expect", "estimate", "anticipate", "continue" or similar terms identify forward-looking statements. A wide variety of factors could cause the actual results and experiences of Berkshire Bancorp Inc. (the "Company") to differ materially from the results expressed or implied by the Company's forward-looking statements. Some of the risks and uncertainties that may affect operations, performance, results of the Company's business, the interest rate sensitivity of its assets and liabilities, and the adequacy of its loan loss allowance, include, but are not limited to: (i) deterioration in local, regional, national or global economic conditions which could result, among other things, in an increase in loan delinquencies, a decrease in property values, or a change in the housing turnover rate; (ii) changes in market interest rates or changes in the speed at which market interest rates change; (iii) changes in laws and regulations affecting the financial services industry; (iv) changes in competition; (v) changes in consumer preferences, (vi) changes in banking technology; (vii) ability to maintain key members of management, (viii) possible disruptions in the Company's operations at its banking facilities, (ix) cost of compliance with new corporate governance requirements, and other factors referred to in this Quarterly Report and in Item 1A, "Risk Factors", of the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2008.

Certain information customarily disclosed by financial institutions, such as estimates of interest rate sensitivity and the adequacy of the loan loss allowance, are inherently forward-looking statements because, by their nature, they represent attempts to estimate what will occur in the future.

The Company cautions readers not to place undue reliance upon any forward-looking statement contained in this Quarterly Report. Forward-looking statements speak only as of the date they were made and the Company assumes no obligation to update or revise any such statements upon any change in applicable circumstances.

BERKSHIRE BANCORP INC. AND SUBSIDIARIES  
 QUARTERLY REPORT ON FORM 10-Q

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## BERKSHIRE BANCORP INC. AND SUBSIDIARIES

## CONSOLIDATED BALANCE SHEETS

(Dollars in Thousands)

(unaudited)

|  | September 30,<br>2009 | December 31,<br>2008 |
|--|-----------------------|----------------------|
| <b>ASSETS</b>  |                       |                      |
| Cash and due from banks  | \$ 7,955              | \$ 3,290             |
| Interest bearing deposits  | 41,986                | 69,097               |
| Federal funds sold   | —                     | 30,000               |
| Total cash and cash equivalents  | 49,941                | 102,387              |
| Investment Securities:   |                       |                      |
| Available-for-sale   | 348,188               | 298,763              |
| Held-to-maturity, fair value of \$350 in 2009 and \$362 in 2008  | 344                   | 360                  |
| Total investment securities  | 348,532               | 299,123              |
| Loans, net of unearned income  | 441,449               | 466,753              |
| Less: allowance for loan losses  | (10,756)              | (9,204)              |
| Net loans  | 430,693               | 457,549              |
| Accrued interest receivable  | 4,471                 | 5,866                |
| Premises and equipment, net  | 8,538                 | 8,844                |
| Goodwill, net  | 18,549                | 18,549               |
| Trade date securities receivable   | —                     | 13,431               |
| Other assets   | 25,522                | 37,963               |
| Total assets   | \$ 886,246            | \$ 943,712           |
| <b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>  |                       |                      |
| <b>Deposits:</b>   |                       |                      |
| Non-interest bearing   | \$ 57,778             | \$ 51,312            |
| Interest bearing   | 629,777               | 674,797              |
| Total deposits   | 687,555               | 726,109              |
| Securities sold under agreements to repurchase   | 57,000                | 59,504               |
| Long term borrowings   | 34,610                | 45,272               |
| Subordinated debt  | 22,681                | 22,681               |
| Accrued interest payable   | 3,005                 | 6,522                |
| Other liabilities  | 4,220                 | 17,672               |
| Total liabilities  | 809,071               | 877,760              |
| <b>Stockholders' equity</b>  |                       |                      |
| Preferred stock - \$.01 Par value: Authorized — 2,000,000 shares Issued — 60,000 shares Outstanding September 30, 2009, 60,000 shares December 31, 2008, 60,000 shares         | 1                     | 1                    |
| Common stock - \$.10 par value Authorized — 25,000,000 shares Issued — 7,698,285 shares Outstanding — September 30, 2009, 7,054,183 shares December 31, 2008, 7,054,183 shares | 770                   | 770                  |
| Additional paid-in capital   | 150,985               | 150,985              |
| Accumulated Deficit  | (47,154)              | (39,795)             |
| Accumulated other comprehensive loss, net  | (21,016)              | (39,598)             |
| Treasury Stock at cost September 30, 2009, 644,102 shares December 31, 2008, 644,102 shares  | (6,411)               | (6,411)              |

|                            |            |            |
|----------------------------|------------|------------|
| Total stockholders' equity | 77,175     | 65,952     |
|                            | \$ 886,246 | \$ 943,712 |

The accompanying notes are an integral part of these statements

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BERKSHIRE BANCORP INC. AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF OPERATIONS  
(In Thousands, Except Per Share Data)  
(unaudited)

|   | For The<br>Three Months Ended<br>September 30, |             | For The<br>Nine Months Ended<br>September 30, |             |
|---|--|-------------|---|-------------|
|   | 2009   | 2008        | 2009  | 2008        |
| <b>INTEREST INCOME</b>  |  |             |   |             |
| Loans, including related fees   | \$ 7,290                                       | \$ 8,296    | \$ 22,510                                     | \$ 24,597   |
| Investment securities   | 3,486  | 5,793       | 11,931  | 20,914      |
| Federal funds sold and interest bearing deposits                            | 129  | 433         | 582   | 857         |
| Total interest income   | 10,905   | 14,522      | 35,023  | 46,368      |
| <b>INTEREST EXPENSE</b>   |  |             |   |             |
| Deposits  | 2,561  | 5,623       | 9,815   | 19,711      |
| Short-term borrowings   | 595  | 636         | 1,770   | 1,750       |
| Long-term borrowings  | 592  | 840         | 1,937   | 2,450       |
| Total interest expense  | 3,748  | 7,099       | 13,522  | 23,911      |
| Net interest income   | 7,157  | 7,423       | 21,501  | 22,457      |
| PROVISION FOR LOAN LOSSES   | 1,000  | 150         | 1,550   | 954         |
| Net interest income after provision for loan losses                         | 6,157  | 7,273       | 19,951  | 21,503      |
| <b>NON-INTEREST INCOME</b>  |  |             |   |             |
| Service charges on deposit accounts   | 126  | 149         | 364   | 442         |
| Investment securities gains (losses) on sales                               | 253  | (99)        | 440   | (21)        |
| Other income  | 123  | 217         | 475   | 689         |
| Total non-interest income   | 502  | 267         | 1,279   | 1,110       |
| <b>NON-INTEREST EXPENSE</b>   |  |             |   |             |
| Salaries and employee benefits  | 2,339  | 2,395       | 7,011   | 7,211       |
| Net occupancy expense   | 477  | 521         | 1,529   | 1,566       |
| Equipment expense   | 92   | 97          | 286   | 289         |
| FDIC assessment   | 330  | 128         | 1,598   | 366         |
| Data processing expense   | 119  | 118         | 329   | 339         |
| Other than temporary impairment charges on securities                       | 5,138  | 94,346      | 10,263  | 94,346      |
| Other   | 842  | 847         | 2,615   | 2,222       |
| Total non-interest expense  | 9,337  | 98,452      | 23,631  | 106,339     |
| Loss before provision for taxes   | (2,678)  | (90,912)    | (2,401)                                       | (83,726)    |
| Provision (benefit) for income taxes  | (285)  | (2,218)     | 1,358   | (323)       |
| Net loss  | \$ (2,393)                                     | \$ (88,694) | \$ (3,759)                                    | \$ (83,403) |
| Dividends on preferred stock  | 1,200  | —           | 3,600   | —           |
| Loss allocated to common stockholders                                       | \$ (3,593)                                     | \$ (88,694) | \$ (7,359)                                    | \$ (83,403) |
| <b>Net loss per common share:</b>   |  |             |   |             |
| Basic   | \$ (.51)                                       | \$ (12.57)  | \$ (1.04)                                     | \$ (11.82)  |
| Diluted   | \$ (.51)                                       | \$ (12.57)  | \$ (1.04)                                     | \$ (11.82)  |
| <b>Number of shares used to compute net income (loss) per common share:</b> |  |             |   |             |
| Basic   | 7,054  | 7,054       | 7,054   | 7,054       |
| Diluted   | 7,054  | 7,054       | 7,054   | 7,054       |
| Dividends per share   | \$ —   | \$ —        | \$ —  | \$ .10      |

The accompanying notes are an integral part of these statements.



BERKSHIRE BANCORP INC. AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY

For The Nine Months Ended September 30, 2009 and 2008

(In Thousands)

(Unaudited)

|  | Common<br>Shares | Preferred<br>Shares | Par<br>Value | Par<br>Value | Additional<br>paid-in<br>capital | Accumulated<br>other<br>comprehensive<br>income<br>net | Retained<br>Earnings/<br>(Accumulated<br>deficit) | Treasury<br>stock | Comprehensive<br>income<br>(loss) | Total<br>stockholders'<br>equity |
|--|------------------|---------------------|--------------|--------------|----------------------------------|--|---|-------------------|-----------------------------------|----------------------------------|
| Balance at<br>January 1, 2008                    | 7,698            | —                   | \$ 770       | \$ —         | 90,986                           | \$ (3,439)   | \$ 42,352   | \$ (6,411)        |                                   | \$ 124,258                       |
| Net loss   |                  |                     |              |              |                                  |  | (83,403)  |                   | (83,403)                          | (83,403)                         |
| Other<br>comprehensive<br>(loss) net of<br>taxes |                  |                     |              |              |                                  | (33,200)   |   |                   | (33,200)                          | (33,200)                         |
| Comprehensive<br>(loss)                          |                  |                     |              |              |                                  |  |   |                   | \$ (116,603)                      |                                  |
| Cash dividends -<br>common stock                 |                  |                     |              |              |                                  |  | (703)   |                   |                                   | (703)                            |
| Balance at<br>September 30,<br>2008              | 7,698            | —                   | \$ 770       | \$ —         | 90,986                           | \$ (36,639)  | \$ (41,754)                                       | \$ (6,411)        |                                   | \$ 6,952                         |
| Balance at<br>January 1, 2009                    | 7,698            | 60                  | \$ 770       | \$ 1         | \$ 150,985                       | \$ (39,598)  | \$ (39,795)                                       | \$ (6,411)        |                                   | \$ 65,952                        |
| Net loss   |                  |                     |              |              |                                  |  | (3,759)   |                   | (3,759)                           | (3,759)                          |
| Other<br>comprehensive<br>income net of<br>taxes |                  |                     |              |              |                                  | 18,582   |   |                   | 18,582                            | 18,582                           |
| Comprehensive<br>income                          |                  |                     |              |              |                                  |  |   |                   | \$ 14,823                         |                                  |
| Cash dividends -<br>Preferred Stock              |                  |                     |              |              |                                  |  | (3,600)   |                   |                                   | (3,600)                          |
| Balance at<br>September 30,<br>2009              | 7,698            | 60                  | \$ 770       | \$ 1         | \$ 150,985                       | \$ (21,016)  | \$ (47,154)                                       | \$ (6,411)        |                                   | \$ 77,175                        |

The accompanying notes are an integral part of these statements.

BERKSHIRE BANCORP INC. AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF CASH FLOWS  
(in thousands)  
(unaudited)

|  | For The Nine Months Ended<br>September 30, |             |
|--|--|-------------|
|  | 2009                                       | 2008        |
| <b>Cash flows from operating activities:</b>   |  |             |
| Net loss   | \$ (3,759)                                 | \$ (83,403) |
| <b>Adjustments to reconcile net loss to net cash provided by (used in) operating activities:</b> |  |             |
| Realized (gains) losses on investment securities sold  | (440)                                      | 21          |
| Other than temporary impairment charges on securities  | 10,263                                     | 94,346      |
| Net amortization (accretion) of premiums of investment securities                                | 708  | (178)       |
| Depreciation and amortization  | 402  | 463         |
| Provision for loan losses  | 1,550                                      | 954         |
| Decrease in accrued interest receivable  | 1,395                                      | 1,957       |
| Decrease (increase) in other assets  | 25,872                                     | (24,884)    |
| (Decrease) in accrued interest payable and other liabilities                                     | (16,969)                                   | (3,904)     |
| Net cash provided by (used in) operating activities  | 19,022                                     | (14,628)    |
| <b>Cash flows from investing activities:</b>   |  |             |
| <b>Investment securities available for sale</b>  |  |             |
| Purchases  | (205,666)                                  | (240,478)   |
| Sales, maturities and calls  | 164,292                                    | 413,487     |
| <b>Investment securities held to maturity</b>  |  |             |
| Maturities   | 16   | 16          |
| Net decrease (increase) in loans   | 25,306                                     | (41,641)    |
| Acquisition of premises and equipment  | (96)                                       | (66)        |
| Net cash (used in) provided by investing activities  | (16,148)                                   | 131,318     |
| <b>Cash flows from financing activities:</b>   |  |             |
| Net increase (decrease) in non interest bearing deposits   | 6,466                                      | (5,066)     |
| Net decrease in interest bearing deposits  | (45,020)                                   | (63,454)    |
| Decrease in securities sold under agreements to repurchase                                       | (2,504)                                    | (5,870)     |
| Proceeds from long term debt   | —  | 25,000      |
| Repayment of long term debt  | (10,662)                                   | (9,293)     |
| Dividends paid on preferred stock  | (3,600)                                    | —           |
| Dividends paid on common stock   | —  | (703)       |
| Net cash (used in) financing activities  | (55,320)                                   | (59,386)    |
| Net (decrease) increase in cash and cash equivalents   | (52,446)                                   | 57,304      |
| Cash and cash equivalents at beginning of period   | 102,387                                    | 47,193      |
| Cash and cash equivalents at end of period   | \$ 49,941                                  | \$ 104,497  |
| <b>Supplemental disclosure of cash flow information:</b>   |  |             |
| Cash used to pay interest  | \$ 17,039                                  | \$ 28,397   |
| Cash used to pay taxes, net of refunds   | \$ 1,330                                   | \$ 1,790    |

The accompanying notes are an integral part of these statements.



BERKSHIRE BANCORP INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

September 30, 2009 and 2008

NOTE 1. General

Berkshire Bancorp Inc., a Delaware corporation, is a bank holding company registered under the Bank Holding Company Act of 1956. References herein to "Berkshire", the "Company" or "we" and similar pronouns, shall be deemed to refer to Berkshire Bancorp Inc. and its consolidated subsidiaries unless the context otherwise requires. Berkshire's principal activity is the ownership and management of its indirect wholly-owned subsidiary, The Berkshire Bank (the "Bank"), a New York State chartered commercial bank. The Bank is owned through Berkshire's wholly-owned subsidiary, Greater American Finance Group, Inc. ("GAFG").

In August 2009, the Federal Deposit Insurance Corporation and the New York State Banking Department approved the Bank's application to open a new bank branch in Teaneck, New Jersey. We expect to open the branch in the fourth quarter of fiscal 2009.

The accompanying financial statements of Berkshire Bancorp Inc. and subsidiaries includes the accounts of the parent company, Berkshire Bancorp Inc., and its wholly-owned subsidiaries: The Berkshire Bank, GAFG and East 39, LLC.

We have prepared the accompanying financial statements pursuant to the rules and regulations of the Securities and Exchange Commission (the "SEC") for interim financial reporting. These consolidated financial statements, including the notes thereto, are unaudited and, in our opinion, include all adjustments, consisting of normal recurring adjustments and accruals, necessary for a fair presentation of our consolidated balance sheets, operating results, and cash flows for the periods presented. Operating results for the periods presented are not necessarily indicative of the results that may be expected for the remaining quarter of fiscal 2009 due to a variety of factors. Certain information and footnote disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States ("GAAP") have been omitted in accordance with the rules and regulations of the SEC. These consolidated financial statements should be read in conjunction with the audited consolidated financial statements and accompanying notes included in our 2008 Annual Report on Form 10-K.

NOTE 2. Trust Preferred Securities.

As of May 18 2004, the Company established Berkshire Capital Trust I, a Delaware statutory trust, ("BCTI"). The Company owns all the common capital securities of BCTI. BCTI issued \$15.0 million of preferred capital securities to investors in a private transaction and invested the proceeds, combined with the proceeds from the sale of BCTI's common capital securities, in the Company through the purchase of \$15.464 million aggregate principal amount of Floating Rate Junior Subordinated Debentures (the "2004 Debentures") issued by the Company. The 2004 Debentures, the sole assets of BCTI, mature on July 23, 2034 and bear interest at a floating rate, three month LIBOR plus 2.70%, currently 3.20%.

On April 1, 2005, the Company established Berkshire Capital Trust II, a Delaware statutory trust, ("BCTII"). The Company owns all the common capital securities of BCTII. BCTII issued \$7.0 million of preferred capital securities to investors in a private transaction and invested the proceeds, combined with the proceeds from the sale of BCTII's common capital securities, in the Company through the purchase of \$7.217 million aggregate principal amount of Floating Rate Junior Subordinated Debentures (the "2005 Debentures") issued by the Company. The 2005 Debentures, the sole assets of BCTII, mature on May 23, 2035 and bear interest at a floating rate, three month LIBOR plus 1.95%, currently 2.36%.



BERKSHIRE BANCORP INC. AND SUBSIDIARIES  
Notes to Consolidated Financial Statements (continued)

NOTE 2. - (continued)

Based on current interpretations of the banking regulators, the 2004 Debentures and 2005 Debentures (collectively, the "Debentures") qualify under the risk-based capital guidelines of the Federal Reserve as Tier 1 capital, subject to certain limitations. The Debentures are callable by the Company, subject to any required regulatory approvals, at par, in whole or in part, at any time after five years from the date of issuance. The Company's obligations under the Debentures and related documents, taken together, constitute a full, irrevocable and unconditional guarantee on a subordinated basis by the Company of the obligations of BCTI and BCTII under the preferred capital securities sold by BCTI and BCTII to investors. Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") 810, Consolidations, precludes consideration of the call option embedded in the preferred capital securities when determining if the Company has the right to a majority of BCTI and BCTII expected residual returns. Accordingly, BCTI and BCTII are not included in the consolidated balance sheet of the Company.

The Federal Reserve has issued guidance on the regulatory capital treatment for the trust-preferred securities issued by BCTI and BCTII. This rule would retain the current maximum percentage of total capital permitted for Trust Preferred Securities at 25%, but would enact other changes to the rules governing Trust Preferred Securities that affect their use as part of the collection of entities known as "restricted core capital elements." The rule was to become effective on March 31, 2009. However, on March 23, 2009 the Federal Reserve adopted a rule extending the compliance date for tighter limits to March 31, 2011 in light of the current stressful financial conditions. Management has evaluated the effects of this rule and does not anticipate a material impact on the Company's capital ratios when the proposed rule is finalized.

NOTE 3. Series A Preferred Stock.

On October 31, 2008, the Company sold an aggregate of 60,000 shares of its 8% Non-Cumulative Mandatorily Convertible Perpetual Series A Preferred Stock (the "Series A Preferred Shares") at \$1,000 per share, or \$60 million in the aggregate, to the Company's Chairman of the Board and majority stockholder, and two non-affiliated investors. Each Series A Preferred Share bears non-cumulative cash dividends at the rate of 8% per annum, payable quarterly, is mandatorily convertible into 123.153 shares of our Common Stock on October 31, 2011, unless previously redeemed, and is redeemable at the option of the Company between April 30, 2009 and November 1, 2010 at a redemption price of \$1,100. So long as any share of Series A Preferred Shares remains outstanding, unless the full dividends for the most recent dividend payment date have been paid or declared, no dividends may be paid or declared on the Company's Common Stock. For the three and nine month periods ended September 30, 2009, we declared and paid cash dividends of \$1.2 million and \$3.6 million, respectively, on the Series A Preferred Shares.

BERKSHIRE BANCORP INC. AND SUBSIDIARIES  
Notes to Consolidated Financial Statements (continued)

## NOTE 4. Loss Per Share

Loss per common share is calculated by dividing loss available to common stockholders by the weighted average common stock outstanding, excluding stock options from the calculation. In calculating diluted earnings per share, the dilutive effect of stock options is calculated using the average market price for the Company's common stock during the period. There is no effect for dilutive shares for the three and nine months ended September 30, 2009 and 2008 due to the net loss incurred. The following table presents the calculation of earnings per common share for the periods indicated:

|  | For The Three Months Ended      |                         |                        |                       |                         |                        |
|--|---------------------------------|-------------------------|------------------------|-----------------------|-------------------------|------------------------|
|  | September 30, 2009              |                         |                        | September 30, 2008    |                         |                        |
|  | Income<br>(Loss)<br>(numerator) | Shares<br>(denominator) | Per<br>share<br>amount | Income<br>(numerator) | Shares<br>(denominator) | Per<br>share<br>amount |
| (In thousands, except per share data)                                |                                 |                         |                        |                       |                         |                        |
| <b>Basic earnings (loss) per share</b>                               |                                 |                         |                        |                       |                         |                        |
| Net (loss)   | \$ (2,393)                      |                         |                        | \$ (88,694)           |                         |                        |
| Dividends paid to preferred shareholders                             | (1,200)                         |                         |                        | —                     |                         |                        |
| Net (loss) available to common stockholders                          | (3,593)                         | 7,054                   | \$ (.51)               | (88,694)              | 7,054                   | \$ (12.57)             |
| Effect of dilutive securities options                                | —                               | —                       | —                      | —                     | —                       | —                      |
| Diluted earnings (loss) per share                                    |                                 |                         |                        |                       |                         |                        |
| Net (loss) available to common stockholders plus assumed conversions | \$ (3,593)                      | 7,054                   | \$ (.51)               | \$ (88,694)           | 7,054                   | \$ (12.57)             |

|   | For The Nine Months Ended       |                         |                        |                       |                         |                        |
|---|---------------------------------|-------------------------|------------------------|-----------------------|-------------------------|------------------------|
|   | September 30, 2009              |                         |                        | September 30, 2008    |                         |                        |
|   | Income<br>(Loss)<br>(numerator) | Shares<br>(denominator) | Per<br>share<br>amount | Income<br>(numerator) | Shares<br>(denominator) | Per<br>share<br>amount |
| (In thousands, except per share data)       |                                 |                         |                        |                       |                         |                        |
| <b>Basic earnings (loss) per share</b>      |                                 |                         |                        |                       |                         |                        |
| Net (loss)                                  | \$ (3,759)                      |                         |                        | \$ (83,403)           |                         |                        |
| Dividends paid to preferred shareholders    | (3,600)                         |                         |                        | —                     |                         |                        |
| Net (loss) available to common stockholders | (7,359)                         | 7,054                   | \$ (1.04)              | (83,403)              | 7,054                   | \$ (11.82)             |
| Effect of dilutive securities options       | —                               | —                       | —                      | —                     | —                       | —                      |
| Diluted earnings (loss) per share           |                                 |                         |                        |                       |                         |                        |
|   | \$ (7,359)                      | 7,054                   | \$ (1.04)              | \$ (83,403)           | 7,054                   | \$ (11.82)             |

Net (loss) available  
to common stockholders plus  
assumed conversions

Options to purchase 2,076 common shares at a weighted average exercise price of \$8.29 were not included in the dilutive earnings per common share for the three and nine months ended September 30, 2009 and 2008 as these options are anti-dilutive.

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BERKSHIRE BANCORP INC. AND SUBSIDIARIES  
Notes to Consolidated Financial Statements (continued)

## NOTE 5. Loan Portfolio

The following table sets forth information concerning the Company's loan portfolio by type of loan at the dates indicated:

|                                   | September 30, 2009     |               | December 31, 2008 |               |
|-----------------------------------|------------------------|---------------|-------------------|---------------|
|                                   | Amount                 | % of<br>Total | Amount            | % of<br>Total |
|                                   | (Dollars in thousands) |               |                   |               |
| Commercial and professional loans | \$ 49,414              | 11.2%         | \$ 68,418         | 14.6%         |
| Secured by real estate            |                        |               |                   |               |
| 1-4 family                        | 131,517                | 29.7          | 140,150           | 30.0          |
| Multi family                      | 3,563                  | 0.8           | 4,031             | 0.9           |
| Non-residential (commercial)      | 257,337                | 58.2          | 254,831           | 54.4          |
| Consumer                          | 524                    | 0.1           | 460               | 0.1           |
| Total loans                       | 442,355                | 100.0%        | 467,890           | 100.0%        |
| Deferred loan fees                | (906)                  |               | (1,137)           |               |
| Allowance for loan losses         | (10,756)               |               | (9,204)           |               |
| Loans, net                        | \$ 430,693             |               | \$ 457,549        |               |

As of September 30, 2009, nonaccrual loans totalled \$13.52 million compared to \$130,000 as of December 31, 2008. At September 30, 2009 there were no loans contractually past due 90 days or more but still accruing interest as compared to \$99,000 at December 31, 2008.

The following table sets forth information concerning the Company's nonaccrual loans by type of loan at the dates indicated:

|                        | September 30,<br>2009 | December 30,<br>2008 |
|------------------------|-----------------------|----------------------|
|                        | (In thousands)        |                      |
| Residential 1-4 Family | \$ 39                 | \$ 130               |
| Commercial Real Estate | 13,485                | —                    |
| Total Nonaccrual Loans | \$ 13,524             | \$ 130               |

The increase in nonaccrual commercial real estate loans is primarily due to one loan which is in the process of foreclosure.

BERKSHIRE BANCORP INC. AND SUBSIDIARIES  
Notes to Consolidated Financial Statements (continued)

NOTE 6. Investment Securities

The following is a summary of held to maturity investment securities:

|                          | Amortized<br>Cost | September 30, 2009<br>Gross<br>unrealized<br>gains |      | Gross<br>unrealized<br>losses | Fair<br>value |
|--------------------------|-------------------|--|------|-------------------------------|---------------|
|                          |                   | (In thousands)                                     |      |                               |               |
| U.S. Government Agencies | \$ 344            | \$ 6   | \$ — | \$ —                          | \$ 350        |

The following is a summary of available-for-sale investment securities:

|  | Amortized<br>Cost | September 30, 2009<br>Gross<br>unrealized<br>gains |             | Gross<br>unrealized<br>losses | Fair<br>value |
|--|-------------------|--|-------------|-------------------------------|---------------|
|  |                   | (In thousands)                                     |             |                               |               |
| U.S. Treasuries                        | \$ 30,257         | \$ 75  | \$ —        | \$ —                          | \$ 30,332     |
| U.S. Government Agencies               | 55,323            | 217  | (80)        |                               | 55,460        |
| Municipal obligations                  | 1,973             | 361  | —           |                               | 2,334         |
| Mortgage-backed securities             | 152,004           | 2,579  | (608)       |                               | 153,975       |
| Corporate notes                        | 34,329            | 490  | (14,657)    |                               | 20,162        |
| Auction Rate Securities                | 88,128            | 92   | (18,899)    |                               | 69,321        |
| Marketable equity securities and other | 17,698            | 115  | (1,209)     |                               | 16,604        |
| Totals                                 | \$ 379,712        | \$ 3,929   | \$ (35,453) | \$ —                          | \$ 348,188    |

The Company has investments in certain debt and equity securities that have unrealized losses or may be otherwise impaired, but an other-than-temporary impairment has not been recognized in the financial statements as management believes the decline is due to the credit markets coupled with the interest rate environment. The following table indicates the length of time individual securities have been in a continuous unrealized loss position at September 30, 2009 (in thousands):

| Description of Securities              | Less than 12 months |                      | 12 months or longer |                      | Total      |                      |
|--|---------------------|----------------------|---------------------|----------------------|------------|----------------------|
|  | Fair Value          | Unrealized<br>Losses | Fair Value          | Unrealized<br>Losses | Fair Value | Unrealized<br>Losses |
| U.S. Government Agencies               | \$ 14,727           | \$ 69                | \$ 9,989            | \$ 11                | \$ 24,716  | \$ 80                |
| Mortgage-backed securities             | 21,295              | 42                   | 12,299              | 566                  | 33,594     | 608                  |
| Corporate notes                        | 1,120               | 6                    | 7,007               | 14,651               | 8,127      | 14,657               |
| Auction Rate Securities                | 4,697               | 727                  | 51,828              | 18,172               | 56,525     | 18,899               |
| Subtotal, debt securities              | 41,839              | 844                  | 81,123              | 33,400               | 122,962    | 34,244               |
| Marketable equity securities and other | 903                 | 132                  | 2,056               | 1,077                | 2,959      | 1,209                |
| Total temporarily impaired securities  | \$ 42,742           | \$ 976               | \$ 83,179           | \$ 34,477            | \$ 125,921 | \$ 35,453            |



BERKSHIRE BANCORP INC. AND SUBSIDIARIES  
Notes to Consolidated Financial Statements (continued)

## NOTE 6. - (continued)

During the quarter ended September 30, 2009, the Company recorded other than temporary impairment ("OTTI") pre-tax charges of approximately \$5.14 million which were charged against earnings in the Consolidated Statement of Operations. The OTTI charge included \$2.14 million on a \$2.63 million investment at cost in a corporate note as the result of the issuer's bankruptcy proceedings and the discontinuation of interest payments. The OTTI charge also included \$3.0 million on a \$10.0 million investment at cost in a trust preferred security based upon an analysis of cash flows and defaults by several banks involved with the security.

The Company had a total of 31 debt securities, excluding auction rate securities, with a fair market value of \$66.44 million which were temporarily impaired at September 30, 2009. The total unrealized loss on these securities was approximately \$15.35 million, all of which is substantially attributable to changes in interest rates which have decreased the market value of these securities. The remaining unrealized loss of approximately \$18.90 million is on 13 auction rate securities which have declined in value due to the auction failures beginning in February 2008. We have the intention to hold all these securities to maturity, if necessary, and we believe we will not be required to sell these securities prior to maturity. Therefore, the unrealized losses associated with these securities are not considered to be other than temporary.

The Company also had 7 equity securities with an aggregated fair market value of approximately \$3.0 million which were temporarily impaired at September 30, 2009. The total unrealized loss on these securities was approximately \$1.21 million. Based upon our review of the available information, such unrealized losses are not considered to be other than temporary.

The amortized cost and fair value of investment securities available for sale and held to maturity, by contractual maturity, at September 30, 2009 are shown below. Expected maturities will differ from contractual maturities because borrowers may have the right to call or prepay obligations with or without call or prepayment penalties.

|  | September 30, 2009 |                   |                   |               |
|--|--------------------|-------------------|-------------------|---------------|
|  | Available for Sale |                   | Held to Maturity  |               |
|  | Amortized<br>Cost  | Fair<br>Value     | Amortized<br>Cost | Fair<br>Value |
|  | (In thousands)     |                   |                   |               |
| Due in one year or less                | \$ 45,906          | \$ 41,805         | \$ —              | \$ —          |
| Due after one through five years       | 57,745             | 58,667            | —                 | —             |
| Due after five through ten years       | 7,863              | 7,478             | —                 | —             |
| Due after ten years                    | 162,371            | 154,313           | 344               | 350           |
| Auction rate securities                | 88,128             | 69,321            | —                 | —             |
| Marketable equity securities and other | 17,699             | 16,604            | —                 | —             |
| <b>Totals</b>                          | <b>\$ 379,712</b>  | <b>\$ 348,188</b> | <b>\$ 344</b>     | <b>\$ 350</b> |

BERKSHIRE BANCORP INC. AND SUBSIDIARIES  
Notes to Consolidated Financial Statements (continued)

## NOTE 6. - (continued)

Gross gains realized on the sales of investment securities for the nine months ended September 30, 2009 and 2008 were approximately \$494,000 and \$247,000, respectively. Gross losses on the sales of investment securities for the nine months ended September 30, 2009 and 2008 were approximately \$54,000 and \$268,000, respectively.

As of September 30, 2009, securities sold under agreements to repurchase with a book value of approximately \$57.0 million were outstanding. The book value of the securities pledged for these repurchase agreements was \$64.6 million. As of September 30, 2009, the Company did not have any investment securities of any one issuer where the carrying value exceeded 10% of shareholders' equity.

## NOTE 7. Deposits

The following table summarizes the composition of the average balances of major deposit categories:

|                         | Nine Months Ended<br>September 30, 2009 |                  | Twelve Months Ended<br>December 31, 2008 |                  |
|-------------------------|---|------------------|--|------------------|
|                         | Average<br>Amount                       | Average<br>Yield | Average<br>Amount                        | Average<br>Yield |
|                         | (Dollars in thousands)                  |                  |  |                  |
| Demand deposits         | \$ 54,825                               | —                | \$ 54,452                                | —                |
| NOW and money<br>market | 23,814                                  | 0.35%            | 39,849                                   | 1.58%            |
| Savings deposits        | 178,500                                 | 1.30             | 247,923                                  | 2.84             |
| Time deposits           | 426,918                                 | 2.50             | 456,803                                  | 3.79             |
| Total deposits          | \$ 684,057                              | 1.91%            | \$ 799,027                               | 3.13%            |

BERKSHIRE BANCORP INC. AND SUBSIDIARIES  
Notes to Consolidated Financial Statements (continued)

## NOTE 8. Comprehensive Income (Loss)

The Company follows the provisions of FASB ASC 220, Comprehensive Income, ("ASC 220") which includes net income as well as certain other items which result in a change to equity during the period. The following table presents the components of comprehensive income (loss), based on the provisions of ASC 220:

|  | For The Nine Months Ended |                             |                      |                      |                             |                      |
|--|---------------------------|-----------------------------|----------------------|----------------------|-----------------------------|----------------------|
|  | September 30, 2009        |                             |                      | September 30, 2008   |                             |                      |
|  | Before tax<br>amount      | Tax<br>(expense)<br>benefit | Net of tax<br>amount | Before tax<br>amount | Tax<br>(expense)<br>benefit | Net of tax<br>amount |
|  | (In thousands)            |                             |                      |                      |                             |                      |
| Unrealized gains (losses) on investment securities:                        |                           |                             |                      |                      |                             |                      |
| Unrealized holding gains (losses) arising during period                    | \$ 20,942                 | \$ (8,377)                  | \$ 12,565            | \$ (55,388)          | \$ 22,155                   | \$ (33,233)          |
| Less reclassification adjustment for gains (losses) realized in net income | (9,823)                   | 3,929                       | (5,894)              | (21)                 | 8                           | (13)                 |
| Unrealized gain (loss) on investment securities                            | 30,765                    | (12,306)                    | 18,459               | (55,409)             | 22,163                      | (33,246)             |
| Change in minimum pension liability  | 123                       | —                           | 123                  | 46                   | —                           | 46                   |
| Other comprehensive income (loss), net                                     | \$ 30,888                 | \$ (12,306)                 | \$ 18,582            | \$ (55,363)          | \$ 22,163                   | \$ (33,200)          |

## NOTE 9. Accounting For Stock Based Compensation

At September 30, 2009, the Company had one stock-based employee compensation plan. The Company accounts for the plan in accordance with FASB ASC 718, Compensation-Stock Compensation, ("ASC 718"). Under the fair value recognition provisions of ASC 718, share-based compensation cost is measured at the grant date based on the fair value of the award and is recognized as expense over the vesting period. Determining the fair value of share-based awards at the grant date requires judgement, including estimating the Company's stock price volatility, employee stock option exercise behaviors and employee option forfeiture rates.

The Company did not grant stock options, nor did any stock options vest during the nine-month periods ended September 30, 2009 and 2008, as a result of which, no stock based compensation expense was recorded in either of those periods.

BERKSHIRE BANCORP INC. AND SUBSIDIARIES  
Notes to Consolidated Financial Statements (continued)

## NOTE 10. Employee Benefit Plans

The Company has a Retirement Income Plan (the "Plan"), a noncontributory defined benefit plan covering substantially all full-time, non-union United States employees of the Company. The following interim-period information is being provided in accordance with FASB ASC 715, Compensation-Retirement Benefits, based upon the most recent actuarial valuation dated December 31, 2008.

|                                | For The                             |            | For The                            |            |
|--------------------------------|-------------------------------------|------------|------------------------------------|------------|
|                                | Three Months Ended<br>September 30, |            | Nine Months Ended<br>September 30, |            |
|                                | 2009                                | 2008       | 2009                               | 2008       |
| Service cost                   | \$ 103,250                          | \$ 105,250 | \$ 309,750                         | \$ 315,750 |
| Interest cost                  | 64,250                              | 54,750     | 192,750                            | 164,250    |
| Expected return on plan assets | (70,500)                            | (62,250)   | (211,500)                          | (186,750)  |
| Amortization and Deferral:     |                                     |            |                                    |            |
| Prior service cost             | 4,500                               | 4,500      | 13,500                             | 13,500     |
| Loss                           | 36,500                              | 10,750     | 109,500                            | 32,250     |
| Net periodic pension cost      | \$ 138,000                          | \$ 113,000 | \$ 414,000                         | \$ 339,000 |

The Pension Protection Act of 2006 (the "PPA") changes the funding rules for defined benefit pension plans, beginning in 2008. A key element of the PPA is the introduction of benefit restrictions on plans that are funded below 80% of the plan's target liabilities. In order to avoid these restrictions, during the fiscal year ending December 31, 2009, we expect that the minimum contribution to the Plan will be approximately \$1.43 million. During the nine months ended September 30, 2009 and 2008, we contributed approximately \$1.10 million and \$772,000, respectively, to the Plan. Effective December 31, 2009, further benefit accruals will be frozen and the Plan will be terminated.

## NOTE 11. Fair Value of Financial Instruments

The FASB issued FASB ASC 825, Financial Instruments, ("ASC 825") to require disclosures about fair value of financial instruments on a quarterly basis, as well as on an annual basis, for public companies. For the Company, as for most financial institutions, the majority of its assets and liabilities are considered financial instruments as defined in ASC 825. However, many such instruments lack an available trading market, as characterized by a willing buyer and seller engaging in an exchange transaction. Also, it is the Company's general practice and intent to hold its financial instruments to maturity and not to engage in trading or sales activities, except for certain loans. Therefore, the Company had to use significant estimations and present value calculations to prepare this disclosure.

Changes in the assumptions or methodologies used to estimate fair values may materially affect the estimated amounts. Also, management is concerned that there may not be reasonable comparability between institutions due to the wide range of permitted assumptions and methodologies in the absence of active markets. This lack of uniformity gives rise to a high degree of subjectivity in estimating financial instrument fair values.

Estimated fair values have been determined by the Company using the best available data and an estimation methodology suitable for each category of financial instruments. The estimation methodologies used, the estimated fair values, and recorded book balances at September 30, 2009 are outlined below.





BERKSHIRE BANCORP INC. AND SUBSIDIARIES  
Notes to Consolidated Financial Statements (continued)

## NOTE 11. - (continued)

For cash and cash equivalents, the recorded book value of \$49.94 million at September 30, 2009 approximates fair value.

The estimated fair values of investment securities are based on quoted market prices, if available. Estimated fair values are based on quoted market prices of comparable instruments if quoted market prices are not available. Estimated fair values are also determined using unobservable inputs that are supported by little or no market values and significant assumptions and estimates.

|                               | September 30, 2009 |                         |
|-------------------------------|--------------------|-------------------------|
|                               | Carrying<br>amount | Estimated<br>fair value |
|                               | (In thousands)     |                         |
| Investment securities         | \$ 348,532         | \$ 348,538              |
| Loans, net of unearned income | 441,449            | 440,289                 |
| Time Deposits                 | 424,431            | 425,229                 |
| Repurchase Agreements         | 57,000             | 56,809                  |
| Long-term Debt                | 34,610             | 35,444                  |
| Subordinated Debt             | 22,681             | 22,681                  |

The net loan portfolio at September 30, 2009 has been valued using a present value discounted cash flow where market prices were not available. The discount rate used in these calculations is the estimated current market rate adjusted for credit risk. The carrying value of accrued interest approximates fair value. The fair value of time deposits have been valued using net present value discounted cash flow.

The estimated fair values of demand deposits (i.e. interest bearing checking and non-interest bearing demand accounts, savings and certain types of money market accounts) are, by definition, equal to the amount payable on demand at the reporting date (i.e. their carrying amounts). The carrying amount of accrued interest payable approximates its fair value.

The fair value of commitments to extend credit is estimated based upon the amount of unamortized deferred loan commitment fees. The fair value of letters of credit is based upon the amount of unearned fees plus the estimated cost to terminate letters of credit. Fair values of unrecognized financial instruments, including commitments to extend credit, and the fair value of letters of credit are considered immaterial.

The fair value of interest rate caps, included in other assets, are based upon the estimated amount the Company would receive or pay to terminate the contracts or agreements, taking into account current interest rates and, when appropriate, the current creditworthiness of the counterparties. The aggregate fair value for the interest rate caps were approximately \$155,000 at September 30, 2009.

The fair value of the long term debt and the subordinated debt approximates the carrying value due to the re-pricing of the debt.



BERKSHIRE BANCORP INC. AND SUBSIDIARIES  
Notes to Consolidated Financial Statements (continued)

NOTE 11. - (continued)

The Company adopted FASB ASC 820, Fair Value Measurements and Disclosures, ("ASC 820") which defines fair value, establishes a framework for measuring fair value, and expands disclosure about fair value. ASC 820 defines fair value as the price that would be received to sell an asset or paid to transfer a liability (an exit price) in an orderly transaction between market participants on the measurement date. ASC 820 also establishes a fair value hierarchy which requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. The standard describes three levels of inputs that may be used to measure fair value. A financial instrument's level within the fair value hierarchy is based on the lowest level of input significant to the fair value measurement. There have been no material changes in valuation techniques as a result of the adoption of ASC 820.

Level 1 - Quoted prices (unadjusted) in active markets for identical assets or liabilities that the Company has the ability to access at the measurement date.

Level 2 - Observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities in active markets; quoted prices in markets that are not active for identical or similar assets or liabilities; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.

Level 3 - Unobservable inputs that are supported by little or no market activity and significant to the fair value of the assets or liabilities that are developed using the reporting entities' estimates and assumptions, which reflect those that market participants would use.

Assets and Liabilities Measured at Fair Value on a Recurring Basis

A description of the valuation methodologies used for financial instruments measured at fair value on a recurring basis, as well as the classification of the instruments pursuant to the valuation hierarchy, are as follows:

Securities Available for Sale

When quoted market prices are available in an active market, securities are classified within Level 1 of the fair value hierarchy. If quoted market prices are not available or accessible, then fair values are estimated using pricing models, matrix pricing, or discounted cash flow models. The fair values of securities estimated using pricing models or matrix pricing are generally classified within Level 2 of the fair value hierarchy. When discounted cash flow models are used there is omitted activity or less transparency around inputs to the valuation and securities are classified within Level 3 of the fair value hierarchy.

BERKSHIRE BANCORP INC. AND SUBSIDIARIES  
Notes to Consolidated Financial Statements (continued)

## NOTE 11. - (continued)

Assets measured at fair value on a recurring basis are summarized below.

|  | Fair Value Measurement Using   |  |  | Balance<br>September 30,<br>2009 |
|--|--|--|--|----------------------------------|
|  | Quoted Prices in Significant<br>Active Markets<br>for Identical<br>Assets/Liabilities<br>(Level 1) | Other<br>Observable<br>Inputs<br>(Level 2) | Significant<br>Unobservable<br>Inputs<br>(Level 3) |                                  |
|  | (Dollars in thousands)   |  |  |                                  |
| <b>Assets</b>                            |  |  |  |                                  |
| U.S. Treasuries                          | \$ 30,332  | \$ —                                       | \$ —   | 30,332                           |
| U.S. Government Agencies                 |  | 55,460                                     |  | 55,460                           |
| Municipal obligations                    | 2,334  |  |  | 2,334                            |
| Mortgage-backed securities               |  | 153,975                                    |  | 153,975                          |
| Corporate notes                          |  | 20,162                                     |  | 20,162                           |
| Auction Rate Securities                  |  |  | 69,321   | 69,321                           |
| Marketable equity securities and other   |  | 16,604                                     |  | 16,604                           |
| Investment securities available for sale | \$ 32,666  | \$ 246,201                                 | \$ 69,321  | \$ 348,188                       |

The above table includes \$31.52 million in net unrealized losses on the Company's available for sale securities. The Company has reviewed its investment portfolio at September 30, 2009, and has determined that the unrealized losses are temporary, except as discussed in Note 6. Such determination was based upon an evaluation of the creditworthiness of the issuers and/or guarantors, the underlying collateral, if applicable, as well as the continuing performance of the securities. Management also evaluates other facts and circumstances that may be indicative of an other-than-temporary impairment condition. This includes, but is not limited to, an evaluation of the type of security and length of time and extent to which the fair value has been less than cost, as well as certain collateral related characteristics. In addition, management considers the Company's ability to hold such securities to maturity, if necessary, thereby recovering its investment.

The fair value of the interest rate caps is approximately \$155,000 and valued as a Level 3 input. Further disclosures are omitted as they are deemed to be immaterial.

BERKSHIRE BANCORP INC. AND SUBSIDIARIES  
Notes to Consolidated Financial Statements (continued)

NOTE 11. - (continued)

Assets and Liabilities Measured at Fair Value on a Recurring Basis Using Significant Unobservable Inputs (Level 3)

The following table presents a reconciliation for auction rate securities, the only asset measured at fair value on a recurring basis for which the Company has utilized significant unobservable inputs (Level 3), all of which are auction rate securities with any losses only included as a component of other comprehensive income.

| (Dollars in thousands)  | Investment<br>Securities<br>Available<br>for Sale |
|---|---|
| Balance, January 1, 2009  | \$ 63,080   |
| Total gains/losses (realized/unrealized)  |   |
| Included in earnings  | —   |
| Included in other comprehensive income  | 19,223  |
| Purchases, Sales, Issuances and Settlements   | 18  |
| Redemptions   | (13,000)  |
| Interest  | —   |
| Other than temporary impairment expense   | —   |
| Capital deductions for operating expenses   | —   |
| Balance, September 30, 2009   | \$ 69,321   |
| The amount of total gains (losses) for the period included in earnings attributable to the change in unrealized gains or losses relating to assets still held at September 30, 2009 |   |
|   | \$ —  |

Impaired loans totalling \$13.52 million are measured for fair value using Level 3 inputs, primarily appraisals by independent third parties.

NOTE 12. New Accounting Pronouncements

Accounting For Business Combinations

The FASB issued FASB ASC 805, Business Combinations, ("ASC 805"), which defines the acquirer as the entity that obtains control of one or more businesses in the business combination and establishes the acquisition date as the date that the acquirer achieves control. This code section requires an acquirer to recognize the assets acquired, the liabilities assumed, and any noncontrolling interest in the acquiree at the acquisition date, measured at their fair values as of that date, with limited exceptions. This code section also requires that costs incurred to complete the acquisition, including restructuring costs, are to be recognized separately from the acquisition. This code section also requires an acquirer to recognize assets or liabilities arising from all other contingencies as of the acquisition date, measured at their acquisition-date fair values, only if they meet the definition of an asset or liability in FASB ASC 210, Balance Sheet, ("ASC 210"). This code section also provides specific guidance on the subsequent accounting for assets and liabilities arising from contingencies acquired or assumed in a business combination. ASC 805 is effective for business combinations for which the acquisition date is on or after the

beginning of the first annual reporting period beginning on or after December 15, 2008. Early adoption was not permitted. The adoption of ASC 805 on January 1, 2009 did not have a material effect on the Company's results of operations or financial condition.

BERKSHIRE BANCORP INC. AND SUBSIDIARIES  
Notes to Consolidated Financial Statements (continued)

NOTE 12. - (continued)

Accounting For Noncontrolling Interests In Consolidated Financial Statements

The FASB issued FASB ASC 810, Consolidation, ("ASC 810"), which requires that ownership interests in subsidiaries held by parties other than the parent company be clearly identified, labeled, and presented in the consolidated statement of financial position within equity, but separate from the parent's equity. This requirement includes the amount of consolidated net income attributable to the parent company and to the noncontrolling interest be clearly identified and presented on the face of the consolidated statement of income. ASC 810 is effective for fiscal years, and interim periods within those fiscal years, beginning on or after December 15, 2008. Early adoption was not permitted. The adoption of ASC 810 on January 1, 2009 did not have a material effect on the Company's results of operations or financial condition.

Accounting For Derivative Instruments and Hedging Activities

The FASB issued FASB ASC 815, Derivatives and Hedging, ("ASC 815"), which requires enhanced disclosures about an entity's derivative and hedging activities, including information about (a) how and why an entity uses derivative instruments, (b) how derivative instruments and related hedged items are accounted for under ASC 815 and its related interpretations, and (c) how derivative instruments and related hedged items affect an entity's financial position, financial performance, and cash flows. The requirements are effective for all financial statements issued for fiscal years and interim periods beginning after November 15, 2008, with earlier adoption permitted. Adoption of ASC 815 on January 1, 2009 did not have a material impact on the Company's results of operations or financial condition.

Determining Whether Instruments Granted in Share-Based Payment Transactions Are Participating Securities

The FASB issued FASB ASC 260, Earnings Per Share, ("ASC 260"), which addresses whether instruments granted in share-based payment transactions are participating securities prior to vesting and, therefore, need to be included in the earnings allocation in computing earnings per share ("EPS") under the two-class method described in ASC 260. ASC 260 concluded that unvested share-based payment awards that contain nonforfeitable rights to dividends or dividend equivalents are participating securities and shall be included in the computations of EPS pursuant to the two-class method. Our restricted stock awards are considered participating securities under ASC 260. This update is effective for fiscal years beginning after December 15, 2008, and interim periods within those years. All prior-period EPS data presented shall be adjusted retrospectively to conform with the provisions of this ASC 260. Early application is not permitted. Adoption of ASC 260 on January 1, 2009 did not have a material impact on our computation of EPS.

BERKSHIRE BANCORP INC. AND SUBSIDIARIES  
Notes to Consolidated Financial Statements (continued)

NOTE 12. - (continued)

Determining The Fair Value Of A Financial Asset When The Market For That Asset Is Not Active

The FASB amended FASB ASC 820, Fair Value Measurements and Disclosures, ("ASC 820"), which applies to financial assets within the scope of accounting pronouncements that require or permit fair value measurements in accordance with ASC 820. ASC 820 clarifies the application of ASC 820 in a market that is not active and provides an example to illustrate key considerations in determining the fair value of a financial asset when the market for that financial asset is not active. ASC 820 permits, in determining fair value for a financial asset in a dislocated market, the use of a reporting entity's own assumptions about future cash flows and appropriately risk-adjusted discount rates when relevant observable inputs are not available. ASC 820 was effective upon issuance. Adoption of ASC 820 did not have a material impact on the Company's results of operations or financial condition.

Employer's Disclosures about Postretirement Benefit Plan Assets

The FASB issued FASB ASC 715, Compensation-Retirement Benefits, ("ASC 715"), which provides guidance on an employer's disclosures about plan assets of a defined benefit pension or other postretirement plan. ASC 715 clarifies that the objectives of the disclosures about plan assets in an employer's defined benefit pension or other postretirement plan are to provide users of financial statements with an understanding of: (1) how investment allocation decisions are made, including the factors that are pertinent to an understanding of investment policies and strategies; (2) the categories of plan assets; (3) the inputs and valuation techniques used to measure the fair value of plan assets; (4) the effect of fair value measurements using significant unobservable inputs (Level 3) on changes in plan assets for the period; and (5) significant concentrations of risk within plan assets. ASC 715 also expands the disclosures related to these objectives. The disclosures about plan assets required by ASC 715 are effective for fiscal years ending after December 15, 2009, or January 1, 2010 as to the Company. Upon initial application, the provisions of ASC 715 are not required for earlier periods that are presented for comparative purposes, although application of the provisions of ASC 715 to prior periods is permitted. Early adoption is not permitted. Adoption of ASC 715 is not expected to have a material impact on the Company's results of operations or financial condition.

FASB ASC 325, Investments-Other, ("ASC 325")

The FASB amended ASC 325, Investments-Other, to align the impairment guidance with that in FASB ASC 320, Investments-Debt and Equity Securities, and related implementation guidance. ASC 325 was effective for reporting periods ending after December 15, 2008, and is applied prospectively. Adoption of ASC 325 on January 1, 2009 did not have a material impact on the Company's results of operations or financial condition.

Recognition and Presentation of Other-Than-Temporary Impairments

The FASB issued FASB ASC 320, Investments-Debt and Equity Securities, ("ASC 320"), to make the guidance on other-than-temporary impairments of debt securities more operational and improve the financial statement disclosures related to other-than-temporary impairments for debt and equity securities. ASC 320 clarifies the interaction of the factors that should be considered when determining whether a debt security is other-than-temporarily impaired.



BERKSHIRE BANCORP INC. AND SUBSIDIARIES  
Notes to Consolidated Financial Statements (continued)

NOTE 12. - (continued)

To evaluate whether a debt security is other-than-temporarily impaired, an entity must first determine whether the fair value of the debt security is less than its amortized cost basis at the statement of condition date. If the fair value is less than the amortized cost basis, then the entity must assess whether it intends to sell the security or whether it is more likely than not that it will be required to sell the debt security before recovery of its amortized cost basis. If an entity determines that it will sell a debt security or that it more likely than not will be required to sell a debt security before recovery of its amortized cost basis, then it must recognize the difference between the fair value and the amortized cost basis of the debt security in earnings. Otherwise, the other-than-temporary impairment must be separated into two components: the amount related to the credit loss and the amount related to all other factors. The amount related to the credit loss must be recognized in earnings, while the other component must be recognized in other comprehensive income, net of tax. The portion of other-than-temporary impairment recognized in earnings would decrease the amortized cost basis of the debt security, and subsequent recoveries in the fair value of the debt security would not result in a write-up of the amortized cost basis.

The Company adopted ASC 320 effective April 1, 2009. The adoption did not have a material impact on the Company's financial condition and results of operations. The additional disclosures related to ASC 320 are included in Note 6. - Investment Securities.

Determining Fair Value When The Volume And Level of Activity For The Asset Or Liability Have Significantly Decreased And Identifying Transactions That Are Not Orderly

The FASB amended FASB ASC 820 to provide additional guidance on estimating fair value when the volume and level of activity for an asset or liability have significantly decreased. ASC 820 also includes guidance on identifying circumstances that indicate a transaction is not orderly. ASC 820 emphasizes that, regardless of whether the volume and level of activity for an asset or liability have decreased significantly and regardless of which valuation technique was used, the objective of a fair value measurement remains the same - to estimate the price that would be received to sell an asset or transfer a liability in an orderly transaction between market participants at the measurement date under current market conditions.

The Company adopted ASC 820 effective April 1, 2009. The adoption did not have a material impact on the Company's financial condition and results of operations. The additional disclosures related to ASC 820 are included in Note 11. - Fair Value of Financial Instruments.

Interim Disclosures About Fair Value Of Financial Instruments

The FASB amended FASB ASC 825, Financial Instruments, ("ASC 825") to require disclosures about fair value of financial instruments for interim reporting periods of publicly traded companies as well as in annual financial statements. ASC 825 is effective for interim and annual reporting periods ending after June 15, 2009. The required disclosures are included in Note 11. - Fair Value of Financial Instruments.

BERKSHIRE BANCORP INC. AND SUBSIDIARIES  
Notes to Consolidated Financial Statements (continued)

NOTE 12. - (continued)

Subsequent Events

The FASB issued FASB ASC 855, Subsequent Events, ("ASC 855"), to incorporate the accounting and disclosures requirements for subsequent events into GAAP. ASC 855 introduces new terminology, defines a date through which management must evaluate subsequent events, and lists the circumstances under which an entity must recognize and disclose events or transactions occurring after the balance-sheet date. The Company adopted ASC 855 as of June 30, 2009, which was the required effective date. The Company evaluated its September 30, 2009 financial statements for subsequent events through November 12, 2009. The Company is not aware of any subsequent events which would require recognition or disclosure in the financial statements.

The FASB Accounting Standards Codification

The FASB issued FASB ASC 105, Generally Accepted Accounting Principles, ("ASC 105"), which has become the source of authoritative U.S. GAAP recognized by the FASB to be applied by nongovernmental entities. Rules and interpretive releases of the Securities and Exchange Commission ("SEC") under authority of the federal securities laws are also sources of authoritative GAAP for SEC registrants. On the effective date of ASC 105, the Codification will supersede all then-existing non-SEC accounting and reporting standards. All other non-grandfathered non-SEC accounting literature not included in the Codification will become non-authoritative. ASC 105 is effective for financial statements issued for interim and annual periods ending after September 15, 2009. In the FASB's views, the issuance of ASC 105 and the Codification does not change GAAP, except for those nonpublic nongovernmental entities that must now apply FASB ASC 985-Software. The Company adopted ASC 105 as of September 30, 2009 with no material impact on the Company's consolidated financial statements.

## Internal Control Over Financial Reporting

The objective of the Company's Internal Control Program is to allow the Bank and management to comply with Part 363 of the FDIC's regulations ("FDICIA") and to allow the Company to comply with Section 302 of the Sarbanes-Oxley Act of 2002 (the "Act"). In November 2005, the FDIC amended Part 363 of its regulations by raising the asset-size threshold from \$500 million to \$1 billion for internal control assessments by management and external auditors. The final rule was effective December 28, 2005.

Section 302 of the Act requires the CEOs and CFOs of the Company to (i) certify that the annual and quarterly reports filed with the Securities and Exchange Commission are accurate and (ii) acknowledge that they are responsible for establishing, maintaining and periodically evaluating the effectiveness of the disclosure controls and procedures. Section 404 of the Act requires management to (i) report on internal control over financial reporting, (ii) assess the effectiveness of such internal controls, and (iii) obtain an external auditor's report on management's assessment of its internal control. The Company is not an accelerated filer as defined in Rule 12b-2 of the Securities Exchange Act of 1934.

On October 2, 2009, the SEC issued a final extension of SOX 404(b) for non-accelerated filers to fiscal years ending on or after June 15, 2010. Therefore, the Company, which was first required to comply with Section 404 for the fiscal year ended December 31, 2007, will be required to obtain an external auditor's report on internal control over financial reporting for the fiscal year ending December 31, 2010.

The Committee of Sponsoring Organizations (COSO) methodology may be used to document and test the internal controls pertaining to the accuracy of Company issued financial statements and related disclosures. COSO requires a review of the control environment (including anti-fraud and audit committee effectiveness), risk assessment, control activities, information and communication, and ongoing monitoring.

ITEM 2 - MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.

The following discussion and analysis is intended to provide a better understanding of the consolidated financial condition and results of operations of Berkshire Bancorp Inc., a Delaware corporation, and its subsidiaries. All references to earnings per share, unless stated otherwise, refer to earnings per diluted share. References to Notes herein are references to the "Notes to Consolidated Financial Statements" of the Company located in Item 1 herein.

Critical Accounting Policies, Judgments and Estimates

The accounting and reporting policies of the Company conform with accounting principles generally accepted in the United States of America and general practices within the financial services industry. The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported in the financial statements and the accompanying notes. Actual results could differ from those estimates.

The Company considers that the determination of the allowance for loan losses involves a higher degree of judgment and complexity than any of its other significant accounting policies. The allowance for loan losses is calculated with the objective of maintaining a reserve level believed by management to be sufficient to absorb estimated credit losses. Management's determination of the adequacy of the allowance is based on periodic evaluations of the loan portfolio and other relevant factors. However, this evaluation is inherently subjective as it requires material estimates, including, among others, expected default probabilities, loss given default, the amounts and timing of expected future cash flows on impaired loans, mortgages, and general amounts for historical loss experience. The process also considers economic conditions, uncertainties in estimating losses and inherent risks in the loan portfolio. All of these factors may be susceptible to significant change. To the extent actual outcomes differ from management estimates, additional provisions for loan losses may be required that would adversely impact earnings in future periods.

With the adoption of FASB ASC 350, Intangibles-Goodwill and Other, the Company discontinued the amortization of goodwill resulting from acquisitions. Goodwill is now subject to impairment testing at least annually or when triggering events occur to determine whether write-downs of the recorded balances are necessary. The Company tests for impairment based on the goodwill maintained at the Bank. A fair value is determined for each reporting unit based on at least one of three various market valuation methodologies. If the fair value of the reporting unit exceeds the book value, no write-down of recorded goodwill is necessary. If the fair value of the reporting unit is less, an expense may be required on the Company's books to write down the related goodwill to the carrying value. As of December 31, 2008, the goodwill was evaluated for impairment with no recognition of impairment considered necessary. For the nine months ended September 30, 2009, management determined that there were no additional impairment indicators since the December 31, 2008 evaluation.

The Company recognizes deferred tax assets and liabilities for the future tax effects of temporary differences, net operating loss carryforwards and tax credits. Deferred tax assets are subject to management's judgment based upon available evidence that future realization is more likely than not. If management determines that the Company may be unable to realize all or part of net deferred tax assets in the future, a direct charge to income tax expense may be required to reduce the recorded value of the net deferred tax asset to the expected realizable amount.

The Company conducts a periodic review and evaluation of its securities portfolio, taking into account the severity and duration of each unrealized loss, as well as management's intent and ability to hold the security until the unrealized loss is substantially eliminated, in order to determine if a decline in market value of any security below its carrying value is either temporary or other than temporary. Unrealized losses on held-to-maturity securities that are deemed temporary are disclosed but not recognized. Unrealized losses on debt or equity securities available-for-sale that are deemed temporary are excluded from net income and reported net of deferred taxes as other comprehensive income or loss. All unrealized losses that are deemed other than temporary on either available-for-sale or held-to-maturity securities are recognized immediately as a reduction of the carrying amount of the security, with a charge recorded in the Company's consolidated statements of income.

The following table presents the total dollar amount of interest income from average interest-earning assets and the resultant yields, as well as the interest expense on average interest-bearing liabilities, expressed in both dollars and rates.

|  | For The Three Months Ended September 30, |                                      |                       |                    |                                      |                       |
|--|--|--------------------------------------|-----------------------|--------------------|--------------------------------------|-----------------------|
|  | Average<br>Balance                       | 2009<br>Interest<br>and<br>Dividends | Average<br>Yield/Rate | Average<br>Balance | 2008<br>Interest<br>and<br>Dividends | Average<br>Yield/Rate |
| (Dollars in Thousands)   |  |                                      |                       |                    |                                      |                       |
| <b>INTEREST - EARNING ASSETS:</b>  |  |                                      |                       |                    |                                      |                       |
| Loans (1)  | \$ 440,146                               | \$ 7,290                             | 6.63%                 | \$ 471,103         | \$ 8,296                             | 7.04%                 |
| Investment securities  | 315,395                                  | 3,486                                | 4.42                  | 472,086            | 5,793                                | 4.91                  |
| Other (2)(5)   | 56,314                                   | 129                                  | 0.92                  | 68,764             | 433                                  | 2.52                  |
| Total interest-earning assets  | 811,855                                  | 10,905                               | 5.37                  | 1,011,953          | 14,522                               | 5.74                  |
| Noninterest-earning assets   | 55,456                                   |                                      |                       | 52,130             |                                      |                       |
| Total Assets   | \$ 867,311                               |                                      |                       | \$ 1,064,083       |                                      |                       |
| <b>INTEREST-BEARING LIABILITIES:</b>   |  |                                      |                       |                    |                                      |                       |
| Interest bearing deposits  | 201,817                                  | 533                                  | 1.06%                 | 298,931            | 1,838                                | 2.46%                 |
| Time deposits  | 414,620                                  | 2,028                                | 1.96                  | 450,342            | 3,785                                | 3.36                  |
| Other borrowings   | 115,044                                  | 1,187                                | 4.13                  | 139,042            | 1,476                                | 4.25                  |
| Total interest-bearing liabilities   | 731,481                                  | 3,748                                | 2.05                  | 888,315            | 7,099                                | 3.20                  |
| Demand deposits  | 56,821                                   |                                      |                       | 54,259             |                                      |                       |
| Noninterest-bearing liabilities  | 7,611                                    |                                      |                       | 9,217              |                                      |                       |
| Stockholders' equity (5)   | 71,398                                   |                                      |                       | 112,292            |                                      |                       |
| Total liabilities and stockholders' equity                                       | \$ 867,311                               |                                      |                       | \$ 1,064,083       |                                      |                       |
| Net interest income  |  | \$ 7,157                             |                       |                    | \$ 7,423                             |                       |
| Interest-rate spread (3)   |  |                                      | 3.32%                 |                    |                                      | 2.54%                 |
| Net interest margin (4)  |  |                                      | 3.53%                 |                    |                                      | 2.93%                 |
| Ratio of average interest-earning assets to average interest bearing liabilities | 1.11                                     |                                      |                       | 1.14               |                                      |                       |

(1) Includes nonaccrual loans.

(2) Includes interest-bearing deposits, federal funds sold and securities purchased under agreements to resell.

(3) Interest-rate spread represents the difference between the average yield on interest-earning assets and the average cost of interest bearing liabilities.

- (4) Net interest margin is net interest income as a percentage of average interest-earning assets.
- (5) Average balances are daily average balances except for the parent company which have been calculated on a monthly basis.

|                                   | For The Nine Months Ended September 30, |                              |                       |                    |                              |                       |
|-----------------------------------|---|------------------------------|-----------------------|--------------------|------------------------------|-----------------------|
|                                   | 2009                                    |                              |                       | 2008               |                              |                       |
|                                   | Average<br>Balance                      | Interest<br>and<br>Dividends | Average<br>Yield/Rate | Average<br>Balance | Interest<br>and<br>Dividends | Average<br>Yield/Rate |
|                                   | (Dollars in Thousands)                  |                              |                       |                    |                              |                       |
| <b>INTEREST - EARNING ASSETS:</b> |   |                              |                       |                    |                              |                       |
| Loans (1)                         | \$ 450,176                              | \$ 22,510                    | 6.67%                 | \$ 458,166         | \$ 24,597                    | 7.16%                 |
| Investment securities             | 303,555                                 | 11,931                       | 5.24                  | 520,606            | 20,914                       | 5.36                  |
| Other (2)(5)                      | 61,669                                  | 582                          | 1.26                  | 43,958             | 857                          | 2.60                  |
| Total interest-earning assets     | 815,400                                 | 35,023                       | 5.73                  |                    |                              |                       |