

BROWN & BROWN INC
Form 10-K/A
May 27, 2003

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

**FORM 10-K/A
(Amendment No. 1 to Form 10-K)**

**FOR ANNUAL AND TRANSITION REPORTS PURSUANT TO SECTIONS 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934**

**ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT
OF 1934 For the fiscal year ended December 31, 2002**

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: 0-7201

BROWN & BROWN, INC.

(Exact name of registrant as specified in its charter.)

Florida

(State or other jurisdiction of incorporation or organization)

59 0864469

(I.R.S. Employer Identification Number)

220 South Ridgewood Avenue, Daytona Beach, FL 32114

(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: **(386) 252 9601**

Registrant's Website: www.bbinsurance.com

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

| <u>Title of each class</u> | <u>Name of each exchange on which Registered</u> |
|--|--|
| Common Stock, \$.10 par value | New York Stock Exchange |
| Rights to Purchase Common Stock | New York Stock Exchange |

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

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of Registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this form 10-K.

Indicate by check mark whether the Registrant is an accelerated filer (as defined in Exchange Act Rule 12b-2). Yes No

The aggregate market value of the voting stock held by non-affiliates of the Registrant (i.e., other than directors, officers, or holders of more than 5% of the Registrant's common stock) computed by reference to the last reported price at which the stock was sold on March 18, 2003, was \$30.46.

The number of shares of the Registrant's common stock, \$.10 par value, outstanding as of March 18, 2003 was 68,096,951.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Registrant's 2002 Annual Report to Shareholders are incorporated by reference into Parts I and II of this Report. With the exception of those portions which are incorporated by reference, the Registrant's Annual Report to Shareholders is not deemed filed as part of this Report.

Portions of the Registrant's Proxy Statement for the 2003 Annual Meeting of Shareholders are incorporated by reference into Part III of this Report.

AMENDMENT NO. 1 TO THE FORM 10-K FILED BY BROWN & BROWN, INC. ON MARCH 24, 2003

This Form 10-K/A constitutes Amendment No. 1 to Brown & Brown, Inc.'s Annual Report on Form 10-K for the period ended December 31, 2002 ("Amendment No. 1"). This Amendment No. 1 is being filed solely to amend Part IV, Item 15 Exhibits, Financial Statement Schedules, and Reports on Form 8-K by replacing in their entirety Exhibits 13 and 23, and to amend the cover page to indicate that the Registrant is an accelerated filer (as defined in Exchange Act Rule 12b-2). Exhibit 13 is being replaced in its entirety to include the Reports of Independent Certified Public Accountants, which were inadvertently omitted from the original filing, and Exhibit 23 is being replaced in its entirety due to the inadvertent inclusion of certain extraneous information on Exhibit 23 in the original filing. Except for the foregoing amendments, no other information included in the original report on Form 10-K is amended by this Amendment No. 1.

PART IV

ITEM 15. *EXHIBITS, FINANCIAL STATEMENT SCHEDULES, AND REPORTS ON FORM 8-K*

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

1. Consolidated Financial Statements of Brown & Brown, Inc. consisting of:
 - (a) Consolidated Statements of Income for each of the three years in the period ended December 31, 2002.
 - (b) Consolidated Balance Sheets as of December 31, 2002 and 2001.
 - (c) Consolidated Statements of Shareholders' Equity for each of the three years in the period ended December 31, 2002.
 - (d) Consolidated Statements of Cash Flows for each of the three years in the period ended December 31, 2002.
 - (e) Notes to Consolidated Financial Statements.
 - (f) Reports of Independent Certified Public Accountants.

2. Consolidated Financial Statement Schedules. The Consolidated Financial Statement Schedules are omitted because they are not applicable.

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EXHIBITS

- 2a Agreement and Plan of Reorganization, dated as of July 25, 2001, by and among the Registrant, Brown & Brown of Washington, Inc., Raleigh, Schwarz & Powell, Inc. and the Raleigh, Schwarz & Powell, Inc. Employee Stock Ownership Plan (incorporated by reference to Exhibit 2.1 to Form S-4/A filed October 3, 2001).
- 2b Amendment No. 1 to Agreement and Plan of Reorganization, dated as of August 10, 2001, by and among the Registrant, Brown & Brown of Washington, Inc., Raleigh, Schwarz & Powell, Inc. and the Raleigh, Schwarz & Powell, Inc. Employee Stock Ownership Plan (incorporated by reference to Exhibit 2.2 to Form S-4/A filed October 3, 2001).
- 3a Articles of Amendment to Articles of Incorporation (incorporated by reference to Exhibit 3a to Form 10-Q for the quarter ended September 30, 2001), and Amended

and Restated Articles of Incorporation (incorporated by reference to Exhibit 3a to Form 10-Q for the quarter ended March 31, 1999).

- 3b Bylaws of the Registrant as amended effective as of November 8, 2002.*
- 10a Amended and Restated Revolving and Term Loan Agreement dated January 3, 2001 by and between the Registrant and SunTrust Bank (incorporated by reference to Exhibit 4a to Form 10-K for the year ended December 31, 2001).
- 10a(1)

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Extension of the Term Loan Agreement between the Registrant and SunTrust (incorporated by reference to Exhibit 10b to Form 10-Q for the quarter ended September 30, 2000).

- 10a(2) Asset Purchase Agreement dated September 11, 2000, by and among the Registrant, Riedman Corporation, and Riedman Corporation's shareholders (incorporated by reference to Exhibit 10a to Form 10-Q for the quarter ended September 30, 2000).
- 10a(3) First Amendment to Asset Purchase Agreement, dated January 3, 2001, by and among the Registrant, Riedman Corporation, and Riedman Corporation's shareholders (incorporated by reference to Exhibit 10(b) to Form 8-K filed on January 18, 2001).
- 10a(4) General Assignment and Bill of Sale, dated January 1, 2001, from Riedman Insurance of Wyoming, Inc. to Brown & Brown of Wyoming, Inc. (incorporated by reference to Exhibit 10(c) to Form 8-K filed on January 18, 2001).
- 10b(1) Lease of the Registrant for office space at 220 South Ridgewood Avenue, Daytona Beach, Florida dated August 15, 1987 (incorporated by reference to Exhibit 10a(3) to Form 10-K for the year ended December 31, 1993).
- 10b(2) Lease Agreement for office space at SunTrust Financial Centre, Tampa, Florida, dated February 1995, between Southeast Financial Center Associates, as landlord, and the Registrant, as tenant (incorporated by reference to Exhibit 10a(4) to Form 10-K for the year ended December 31, 1994).
- 10b(3) Lease Agreement for office space at Riedman Tower, Rochester, New York, dated January 3, 2001, between Riedman Corporation, as landlord, and the Registrant, as tenant (incorporated by reference to Exhibit 10b(3) to Form 10-K for the year ended December 31, 2001).
- 10c(1) Loan Agreement between Continental Casualty Company and the Registrant dated August 23, 1991 (incorporated by reference to Exhibit 10d to Form 10-K for the year ended December 31, 1991).
- 10c(2) Extension to Loan Agreement, dated August 1, 1998, between the Registrant and Continental Casualty Company (incorporated by reference to Exhibit 10c(2) to Form 10-Q for the quarter ended September 30, 1998).
- 10d Indemnity Agreement dated January 1, 1979, among the Registrant, Whiting National Management, Inc., and Pennsylvania Manufacturers' Association Insurance Company (incorporated by reference to Exhibit 10g to Registration Statement No. 33-58090 on Form S-4).
- 10e Agency Agreement dated January 1, 1979 among the Registrant, Whiting National Management, Inc., and Pennsylvania Manufacturers' Association Insurance Company (incorporated by reference to Exhibit 10h to Registration Statement No. 33-58090 on Form S-4).
- 10f(1) Deferred Compensation Agreement, dated May 6, 1998, between the Registrant and Kenneth E. Hill (incorporated by reference to Exhibit 10i to Form 10-Q for the quarter ended September 30, 1998).
- 10f(2) Letter Agreement, dated May 6, 1998, between the Registrant and Kenneth E. Hill (incorporated by reference to Exhibit 10m to Form 10-Q for the quarter ended September 30, 1998).
- 10g Employment Agreement, dated as of July 29, 1999, between the Registrant and J. Hyatt Brown (incorporated by reference to Exhibit 10f to Form 10-K for the year ended December 31, 1999).

10h Portions of Employment Agreement, dated April 28, 1993 between the Registrant and Jim W. Henderson (incorporated by reference to Exhibit 10m to Form 10-K for the year ended December 31, 1993).

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- 10i Employment Agreement, dated May 6, 1998 between the Registrant and Kenneth E. Hill (incorporated by reference to Exhibit 10k to Form 10-Q for the quarter ended September 30, 1998).
- 10j Noncompetition, Nonsolicitation and Confidentiality Agreement, effective as of January 1, 2001 between the Registrant and John R. Riedman (incorporated by reference to Exhibit 10l to Form 10-K for the year ended December 31, 2000).
- 10k Asset Purchase Agreement, effective as of May 1, 2001, by and among Brown & Brown of Missouri, Inc., Parcel Insurance Plan, Inc., Overseas Partners Capital Corp., and Overseas Partners, Ltd. (incorporated by reference to Exhibit 10l to Form 10-K for the year ended December 31, 2001)
- 10l Asset Purchase Agreement, effective October 1, 2001, by and among Brown & Brown of Lehigh Valley, Inc., Henry S. Lehr, Inc., William H. Lehr, and Patsy A. Lehr (incorporated by reference to Exhibit 10m to Form 10-K for the year ended December 31, 2001).
- 10m(1) Registrant's 2000 Incentive Stock Option Plan (incorporated by reference to Exhibit 4 to Registration Statement No. 333-43018 on Form S-8 filed on August 3, 2000).
- 10m(2) Registrant's Stock Performance Plan (incorporated by reference to Exhibit 4 to Registration Statement No. 333-14925 on Form S-8 filed on October 28, 1996).
- 10n Rights Agreement, dated as of July 30, 1999, between the Registrant and First Union National Bank, as Rights Agent (incorporated by reference to Exhibit 4.1 to Form 8-K filed on August 2, 1999).
- 10o International Swap Dealers Association, Inc. Master Agreement dated as of December 5, 2001 between SunTrust Bank and the Registrant and letter agreement dated December 6, 2001, regarding confirmation of interest rate transaction (incorporated by reference to Exhibit 10p to Form 10-K for the year ended December 31, 2001).
- 10p Asset Purchase Agreement, effective October 3, 2001, by and among Brown & Brown of Lehigh Valley, Inc., Apollo Financial Corporation, William H. Lehr and Patsy A. Lehr (incorporated by reference to Exhibit 10q to Form 10-K for the year ended December 31, 2001).
- 10q Amended and Restated Asset Purchase Agreement, effective November 1, 2002, by and among Brown & Brown. Inc., CalSurance Associates, Inc., United Network of Insurance Services, Inc., Sterling Reinsurance Intermediaries, Inc., Lancer Claims Services Corporation, Donald W. Martin and Renee Martin, as Trustees of the Martin Living Trust U/D/T dated August 14, 1984, as Amended October 22, 1986, and Donald E. Martin.*
- 13 Portions of Registrant's 2002 Annual Report to Shareholders (not deemed "filed" under the Securities Exchange Act of 1934, except for those portions specifically incorporated by reference herein).**
- 16 Letter Regarding Change of Certifying Accountant (incorporated by reference to Exhibit 16 to Form 8-K filed on June 19, 2002).

- 21 Subsidiaries of the Registrant.*
- 23 Consent of Deloitte & Touche LLP.**
- 24 Powers of Attorney pursuant to which this Form 10-K has been signed on behalf of certain directors and officers of the Registrant*

* Previously filed on March 24, 2003 as part of the Annual Report on Form 10-K.
** Filed herewith.

(b) REPORTS ON FORM 8-K

We filed the following Current Reports on Form 8-K during the last quarter of the fiscal year ended December 31, 2002:

- 1. Current report on Form 8-K regarding the announcement of the election of Jim W. Henderson as President and Chief Operating Officer, the assumption of expanded responsibilities by Linda S.

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Downs, and the elections of Charles H. Lydecker and J. Powell Brown as Regional Executive Vice Presidents, filed on November 15, 2002.

- 2. Current report on Form 8-K regarding the announcement that the Company had completed the previously announced asset acquisition of CalSurance Associates, Inc., United Network of Insurance Services, Inc., Sterling Reinsurance Intermediaries, Inc., Lancer Claims Service, Inc., and Chartered Financial Services Corporation, effective November 1, 2002, filed on November 12, 2002.

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this amendment to the Annual Report of Form 10-K to be signed on its behalf by the undersigned, thereto duly authorized.

BROWN & BROWN, INC.
Registrant

/S/ CORY T. WALKER

Date: May 27, 2003

By: _____
Cory T. Walker, Chief Financial Officer

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CERTIFICATION

I, J. Hyatt Brown, certify that:

1. I have reviewed the annual report on Form 10-K of Brown & Brown, Inc. ("Registrant"), as amended by this Amendment No. 1 (herein collectively referred to as "this annual report");
2. Based on my knowledge, this annual report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this annual report;
3. Based on my knowledge, the financial statements, and other financial information included in this annual report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this annual report;
4. The Registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the Registrant and have:
 - a) designed such disclosure controls and procedures to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this annual report is being prepared;
 - b) evaluated the effectiveness of the Registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this annual report (the "Evaluation Date"); and
 - c) presented in this annual report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date.
5. The Registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the Registrant's auditors and the audit committee of the Registrant's board of directors (or persons performing the equivalent functions):
 - a) all significant deficiencies in the design or operation of internal controls which could adversely affect the Registrant's ability to record, process, summarize, and report financial data and have identified for the Registrant's auditors any material weaknesses in internal controls; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal controls.
6. The Registrant's other certifying officers and I have indicated in this annual report whether there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: May 27, 2003

/S/ J. HYATT BROWN

J. Hyatt Brown
Chief Executive Officer

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CERTIFICATION

I, Cory T. Walker, certify that:

1. I have reviewed the annual report on Form 10-K of Brown & Brown, Inc. ("Registrant"), as amended by this Amendment No. 1 (herein collectively referred to as "this annual report");
2. Based on my knowledge, this annual report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this annual report;
3. Based on my knowledge, the financial statements, and other financial information included in this annual report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this annual report;
4. The Registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the Registrant and have:
 - a) designed such disclosure controls and procedures to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this annual report is being prepared;
 - b) evaluated the effectiveness of the Registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this annual report (the "Evaluation Date"); and
 - c) presented in this annual report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date.
5. The Registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the Registrant's auditors and the audit committee of the Registrant's board of directors (or persons performing the equivalent functions):
 - a) all significant deficiencies in the design or operation of internal controls which could adversely affect the Registrant's ability to record, process, summarize, and report financial data and have identified for the Registrant's auditors any material weaknesses in internal controls; and

b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal controls.

6. The Registrant's other certifying officers and I have indicated in this annual report whether there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: May 27, 2003

/S/ CORY T. WALKER

Cory T. Walker
Chief Financial Officer