

BANK OF NOVA SCOTIA /
Form 424B5
November 08, 2013

The information in this Preliminary Pricing Supplement is not complete and may be changed. We may not sell these Notes until the Pricing Supplement is delivered in final form. We are not selling these Notes, nor are we soliciting offers to buy these Notes, in any State where such offer or sale is not permitted.

PRELIMINARY PRICING SUPPLEMENT **Filed Pursuant to Rule 424(b)(5)**
Subject to Completion **Registration No. 333-185049**
Dated November 7, 2013

Pricing Supplement dated 1 to the

Prospectus dated August 1, 2013

Prospectus Supplement and Product Prospectus Supplement (Equity Linked Index Notes, Series A) dated August 8, 2013

The Bank of Nova Scotia

\$

Capped Buffered Notes, Series A

Linked to the S&P Banks Select Industry Index

Due

The notes will not bear interest. The amount that you will be paid on your notes at maturity is based on the performance of the S&P Banks Select Industry Index (which we refer to as the Reference Asset) as measured from the trade date to and including the valuation date. **If the percentage change (defined below) of the Reference Asset is less than -10.00% (the final level is less than the initial level by more than 10.00%), you will lose a portion of your investment in the notes on an accelerated basis and may lose all or a substantial portion of your investment depending on the performance of the Reference Asset. Additionally, the amount you may receive for each \$1,000 principal amount of your notes at maturity is subject to a maximum redemption amount (set on the trade date and expected to be between \$1,150.00 and \$1,190.00). Any payment on your notes is subject to the creditworthiness of The Bank of Nova Scotia.**

To determine your payment at maturity, we will first calculate the percentage increase or decrease in the final level (determined on the valuation date, subject to adjustment) from the initial level (which will be the closing level of the Reference Asset on the pricing date), which we refer to as the percentage change. The percentage change may reflect a positive return (based on any increase in the level of the Reference Asset over the life of the notes) or a negative return (based on any decrease in the level of the Reference Asset over the life of the notes). At maturity, for each \$1,000 principal amount of your notes:

if the final level is *greater than* the initial level (the percentage change is *positive*), you will receive an amount in cash equal to the *sum* of (i) \$1,000 *plus* (ii) the *product* of \$1,000 *times* the percentage change, subject to the maximum

redemption amount;

if the final level is *less than* or *equal to* the initial level but not by more than 10.00% (the percentage change is *zero* or *negative* but not below -10.00%), you will receive an amount in cash equal to \$1,000; or

if the final level is *less than* the initial level by more than 10.00% (the percentage change is *negative* and is *below* -10.00%), you will receive an amount in cash *equal to the sum of*: (1) \$1,000 *plus* (2) the *product of* (i) \$1,000 *times* (ii) approximately 1.1111 *times* (iii) the *sum* of the percentage change *plus* 10.00%. You will receive less than \$1,000.

Following the determination of the initial level, the amount you will be paid on your notes at maturity will not be affected by the closing level of the Reference Asset on any day other than the valuation date. You could lose all or a substantial portion of your investment in the notes. A percentage decrease of more than 10.00% between the initial level and the final level will reduce the payment you will receive at maturity below the principal amount of your notes. Further, the maximum payment that you could receive at maturity with respect to each \$1,000 principal amount of your notes (the minimum denomination) is limited to the maximum redemption amount of between \$1,150.00 and \$1,190.00 (set on the trade date). In addition, the notes will not bear interest, and no other payments on your notes will be made prior to maturity.

The estimated value of your Notes on the trade date (as determined by reference to pricing models used by Goldman, Sachs & Co. (GS&Co.) and taking into account our credit spreads) is approximately \$1 per \$1,000 face amount, which is less than the original issue price. The value of your Notes at any time will reflect many factors and cannot be predicted; however, the price (not including GS&Co.'s customary bid and ask spreads) at which GS&Co. would initially buy or sell Notes (if it makes a market, which it is not obligated to do) and the value that GS&Co. will initially use for account statements and otherwise equals approximately \$1 per \$1,000 face amount, which exceeds the estimated value of your Notes as determined by reference to these models. The amount of the excess will decline on a straight line basis over the period from the trade date through .

The Capped Buffered Notes, Series A Linked to the S&P Banks Select Industry Index Due (the "Notes") offered hereunder are unsecured obligations of The Bank of Nova Scotia (the "Bank") and are subject to investment risks including possible loss of the principal amount invested due to the negative performance of the Reference Asset and the credit risk of The Bank of Nova Scotia. As used in this pricing supplement, the "Bank," "we," "us" or "our" refers to The Bank of Nova Scotia.

The Notes will not be listed on any U.S. securities exchange or automated quotation system.

The return on your Notes will relate to the price return of the Reference Asset and will not include a total return or dividend component. The Notes are derivative products based on the performance of the Reference Asset. The Notes do not constitute a direct investment in any of the shares, units or other securities represented by the Reference Asset. By acquiring Notes, you will not have a direct economic or other interest in, claim or entitlement to, or any legal or beneficial ownership of any such share, unit or security and will not have any rights as a shareholder, unitholder or other security holder of any of the issuers including, without limitation, any voting rights or rights to receive dividends or other distributions.

Neither the United States Securities and Exchange Commission ("SEC"), nor ANY state securities commission has approved or disapproved of the Notes or passed upon the accuracy or the adequacy of this document, the accompanying prospectus, prospectus supplement or product prospectus supplement. Any representation to the contrary is a criminal offense. THE NOTES ARE NOT INSURED by the Canada Deposit Insurance Corporation pursuant to the Canada Deposit Insurance Corporation Act OR THE U.S. FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY OF CANADA, THE UNITED STATES OR ANY OTHER JURISDICTION.

Scotia Capital (USA) Inc., our affiliate, will purchase the Notes from us for distribution to other registered broker dealers or will offer the Notes directly to investors. Scotia Capital (USA) Inc. or any of its affiliates or agents may use this pricing supplement in market-making transactions in Notes after their initial sale. Unless we, Scotia Capital

(USA) Inc. or another of its affiliates or agents selling such Notes to you informs you otherwise in the confirmation of sale, the final pricing supplement to which this pricing supplement relates is being used in a market-making transaction. See “Supplemental Plan of Distribution (Conflicts of Interest)” in this pricing supplement and “Supplemental Plan of Distribution” on page PS-30 of the accompanying product prospectus supplement.

	Per Note Total	
Price to public	100.00%	\$
Underwriting commissions ¹	%	\$
Proceeds to The Bank of Nova Scotia ²	%	\$

Investment in the Notes involves certain risks. You should refer to “Additional Risks” in this pricing supplement and “Additional Risk Factors Specific to the Notes” beginning on page PS-5 of the accompanying product prospectus supplement and “Risk Factors” beginning on page S-2 of the accompanying prospectus supplement and on page 6 of the accompanying prospectus.

We may decide to sell additional Notes after the date of this pricing supplement, at issue prices and with underwriting discounts and net proceeds that differ from the amounts set forth above. We will deliver the Notes in book-entry form through the facilities of The Depository Trust Company (“DTC”) on or about 1 against payment in immediately available funds.

Scotia Capital (USA) Inc. Goldman, Sachs & Co.

¹ Scotia Capital (USA) Inc. or one of our affiliates will purchase the Notes at the Principal Amount and as part of the distribution of the Notes may pay varying discounts and underwriting commissions of up to \$1 per \$1,000 Principal Amount of Notes in connection with the distribution of the Notes. Scotia Capital (USA) Inc. may also receive a structuring and development fee of up to \$0.50 per \$1,000 Principal Amount of Notes. See “Supplemental Plan of Distribution (Conflicts of Interest)” in this pricing supplement.

² Excludes profits from hedging. For additional considerations relating to hedging activities see “Additional Risks—The Inclusion of Dealer Spread and Projected Profit from Hedging in the Original Issue Price is Likely to Adversely Affect Secondary Market Prices” in this pricing supplement.

The difference between the estimated value of your Notes and the original issue price reflects costs that the Bank or its affiliates expect to incur and profits that the Bank or its affiliates expect to realize in connection with hedging activities related to the Notes. These costs and profits will likely reduce the secondary market price, if any secondary market develops, for the Notes. As a result, you may experience an immediate and substantial decline in the market value of your Notes on the trade date and you may lose all or a substantial portion of your initial investment. The Bank's profit in relation to the Notes will vary based on the difference between (i) the amounts received by the Bank in connection with the issuance and the reinvestment return received by the Bank in connection with those funds and (ii) the costs incurred by the Bank in connection with the issuance of the Notes and the hedging transactions it enters into with its affiliates or Goldman, Sachs & Co. The Bank's affiliates and Goldman, Sachs & Co. will also realize a profit that will be based on the (i) cost of creating and maintaining the hedging transactions minus (ii) the payments received on the hedging transactions.

Summary

The information in this “Summary” section is qualified by the more detailed information set forth in this pricing supplement, the prospectus, the prospectus supplement, and the product prospectus supplement, each filed with the SEC. See “Additional Terms of Your Notes” in this pricing supplement.

Issuer:	The Bank of Nova Scotia (the "Bank")
Reference Asset:	The S&P Banks Select Industry Index (Bloomberg Ticker: SPSIBK)
Minimum Investment and Denominations:	\$1,000 and integral multiples of \$1,000 in excess thereof
Principal Amount:	\$1,000 per Note
Original Issue Price:	100% of the Principal Amount of each Note
Currency:	U.S. Dollars
Pricing Date:	1
Trade Date:	1
Original Issue Date:	1 (to be determined on the Trade Date and expected to be the 5th scheduled Business Day after the Trade Date).
Maturity Date:	1 (to be determined on the Trade Date and expected to be the 3rd scheduled Business Day after the Valuation Date), subject to adjustment as described in more detail in the accompanying product prospectus supplement.
Principal at Risk:	You may lose all or a substantial portion of your initial investment at maturity if there is a percentage decrease from the Initial Level to the Final Level of more than 10.00%. Scotia Capital (USA) Inc. or one of our affiliates may pay varying discounts and underwriting commissions of up to \$1 per \$1,000 Principal Amount of Notes in connection with the distribution of the Notes. The underwriting commission set forth on the cover page of this pricing supplement per \$1,000 face amount is comprised of \$1 of underwriting fees and \$1 of selling commission, to be set on the Trade Date. Scotia Capital (USA) Inc. may also receive a structuring and development fee of up to \$0.50 per \$1,000 Principal Amount of Notes.

Fees and Expenses:

The price at which you purchase the Notes includes costs that the Bank or its affiliates expect to incur and profits that the Bank or its affiliates expect to realize in connection with hedging activities related to the Notes, as set forth above. These costs and profits will likely reduce the secondary market price, if any secondary market develops, for the Notes. As a result, you may experience an immediate and substantial decline in the market value of your Notes on the Trade Date. See “Additional Risks—The Inclusion of Dealer Spread and Projected Profit from Hedging in the Original Issue Price is Likely to Adversely Affect Secondary Market Prices” in this pricing supplement.

Payment at Maturity: The Payment at Maturity will be based on the performance of the Reference Asset and will be calculated as follows:
If the Final Level is greater than the Initial Level, then the Payment at Maturity will equal:

the lesser of (a) the Principal Amount + (Principal Amount x Percentage Change) or (b) the Maximum Redemption Amount
If the Final Level is greater than or equal to the Buffer Level, but less than or equal to the Initial Level, then the Payment at Maturity will equal the Principal Amount
If the Final Level is less than the Buffer Level, then the Payment at Maturity will equal:

$$\text{Principal Amount} + [\text{Principal Amount} \times \text{Buffer Rate} \times (\text{Percentage Change} + \text{Buffer Percentage})]$$

In this case you will suffer a loss on your initial investment in an amount equal to the Buffer Rate multiplied by the negative Percentage Change in excess of the Buffer Percentage. Accordingly, you could lose up to 100% of your initial investment.

Initial Level: The closing level of the Reference Asset on the Pricing Date.
The Final Level of the Reference Asset will be determined based upon the closing level published on the Bloomberg page “SPSIBK<Index>” or any successor page on Bloomberg or any successor service, as applicable, on the Valuation Date. In certain special circumstances, the final level will be determined by the Calculation Agent, in its discretion, and such determinations will, under certain circumstances, be confirmed by an independent calculation expert. See “General Terms of the Notes—Unavailability of the Level of the Reference Asset on a Valuation Date” and “General Terms of the Notes—Market Disruption Events” beginning on page PS-19 and “Appointment of Independent Calculation Experts” on page PS-22, in the accompanying product prospectus supplement.

Final Level:

Percentage Change: The Percentage Change, expressed as a percentage, with respect to the Payment at Maturity, is calculated as follows:

Final Level – Initial Level

Initial Level

For the avoidance of doubt, the Percentage Change may be a negative value.

Buffer Level:

To be determined on the Pricing Date (equal to the Initial Level multiplied by the difference of 100% minus the Buffer Percentage).

Buffer Percentage:

10.00%

Initial Level , which equals approximately 111.11%

Buffer Rate:

Buffer Level

\$1,150.00-\$1,190.00, which equals Principal Amount x 115.00%-119.00% (The actual Maximum

Maximum Redemption Amount:

Redemption Amount to be determined on Trade Date). The Maximum Redemption Amount sets a cap on appreciation of the Reference Asset of 15.00%-19.00%

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1 (to be determined on the Trade Date and expected to be approximately 24-27 months after the Trade Date).

Valuation Date:	The Valuation Date could be delayed by the occurrence of a market disruption event. See “General Terms of the Notes—Market Disruption Events” beginning on page PS-19 in the accompanying product prospectus supplement.
CUSIP/ISIN:	CUSIP 064159346 / ISIN US0641593464
Form of Notes:	Book-entry
Type of Notes:	Capped Buffered Notes, Series A
Calculation Agent:	Scotia Capital Inc., an affiliate of the Bank
Status:	<p>The Notes will constitute direct, unsubordinated and unsecured obligations of the Bank ranking <i>pari passu</i> with all other direct, unsecured and unsubordinated indebtedness of the Bank from time to time outstanding (except as otherwise prescribed by law). Holders will not have the benefit of any insurance under the provisions of the <i>Canada Deposit Insurance Corporation Act</i>, the U.S. <i>Federal Deposit Insurance Act</i> or under any other deposit insurance regime.</p> <p>The Bank (or its successor) may redeem the Notes, in whole but not in part, at a redemption price determined by the Calculation Agent in a manner reasonably calculated to preserve your and our relative economic position, if it is determined that changes in tax laws or their interpretation will result in the Bank (or its successor) becoming obligated to pay additional amounts with respect to the Notes. See “Tax Redemption” below.</p>
Tax Redemption:	
Listing:	The Notes will not be listed on any securities exchange or quotation system.
Use of Proceeds:	General corporate purposes
Clearance and Settlement:	Depository Trust Company
Business Day:	New York and Toronto
Terms Incorporated:	All of the terms appearing above the item under the caption “General Terms of the Notes” beginning on page PS-14 in the accompanying product prospectus supplement, as modified by this pricing supplement.

INVESTING IN THE NOTES INVOLVES SIGNIFICANT RISKS. YOU MAY LOSE YOUR ENTIRE PRINCIPAL AMOUNT. THE DOWNSIDE MARKET EXPOSURE TO THE REFERENCE ASSET IS BUFFERED ONLY AT MATURITY. ANY PAYMENT ON THE NOTES, INCLUDING ANY REPAYMENT OF PRINCIPAL, IS SUBJECT TO THE CREDITWORTHINESS OF THE BANK. IF THE BANK WERE TO DEFAULT ON ITS PAYMENT OBLIGATIONS YOU MAY NOT RECEIVE ANY AMOUNTS OWED TO YOU UNDER THE NOTES AND YOU COULD LOSE YOUR ENTIRE INVESTMENT.

Additional Terms Of Your Notes

You should read this pricing supplement together with the prospectus dated August 1, 2013, as supplemented by the prospectus supplement dated August 8, 2013 and the product prospectus supplement (Equity Linked Index Notes, Series A) dated August 8, 2013, relating to our Senior Note Program, Series A, of which these Notes are a part. Capitalized terms used but not defined in this pricing supplement will have the meanings given to them in the product prospectus supplement. In the event of any conflict, this pricing supplement will control. ***The Notes may vary from the terms described in the accompanying product prospectus supplement in several important ways. You should read this pricing supplement carefully.***

This pricing supplement, together with the documents listed below, contains the terms of the Notes and supersedes all prior or contemporaneous oral statements as well as any other written materials including preliminary or indicative pricing terms, correspondence, trade ideas, structures for implementation, sample structures, brochures or other educational materials of ours. You should carefully consider, among other things, the matters set forth in “Additional Risk Factors Specific to the Notes” in the accompanying product prospectus supplement, as the Notes involve risks not associated with conventional debt securities. We urge you to consult your investment, legal, tax, accounting and other advisors before you invest in the Notes. You may access these documents on the SEC website at www.sec.gov as follows (or if that address has changed, by reviewing our filings for the relevant date on the SEC website at

<http://www.sec.gov/cgi-bin/browse-edgar?action=getcompany&CIK=0000009631>):

Prospectus dated August 1, 2013:

http://www.sec.gov/Archives/edgar/data/9631/000089109213006699/e54840_424b3.htm

Prospectus Supplement dated August 8, 2013:

http://www.sec.gov/Archives/edgar/data/9631/000089109213006938/e54968_424b3.htm

Product Prospectus Supplement (Equity Linked Index Notes, Series A), dated August 8, 2013

http://www.sec.gov/Archives/edgar/data/9631/000089109213006939/e54971_424b5.htm

The Bank of Nova Scotia has filed a registration statement (including a prospectus, a prospectus supplement, and a product prospectus supplement) with the SEC for the offering to which this pricing supplement relates. Before you invest, you should read those documents and the other documents relating to this offering that we have filed with the SEC for more complete information about us and this offering. You may obtain these documents without cost by visiting EDGAR on the SEC Website at www.sec.gov. Alternatively, The Bank of Nova Scotia, any agent or any dealer participating in this offering will arrange to send you the prospectus, the

prospectus supplement and the product prospectus supplement if you so request by calling 1-416-866-3672.

Investor Suitability

The Notes may be suitable for you if:

You fully understand the risks inherent in an investment in the Notes, including the risk of losing your entire initial investment.

You can tolerate a loss of up to 100% of your initial investment and are willing to make an investment that may have an accelerated downside risk greater than the downside market risk of an investment in the Reference Asset or in the Reference Asset constituent stocks, subject to the Buffer Percentage.

You believe that the Reference Asset will appreciate over the term of the Notes and that the appreciation is unlikely to exceed the cap on appreciation within the Maximum Redemption Amount (the actual Maximum Redemption Amount will be determined on the Trade Date).

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You are willing to hold the Notes to maturity, a term of approximately 24-27 months, and accept that there may be little or no secondary market for the Notes.

You understand and accept that your potential return is limited to the Maximum Redemption Amount and you would be willing to invest in the Notes if the Maximum Redemption Amount was set equal to the bottom of the range indicated above (the actual Maximum Redemption Amount will be set on the Trade Date).

You can tolerate fluctuations in the price of the Notes prior to maturity that may be similar to or exceed the downside fluctuations in the level of the Reference Asset.

You do not seek current income from your investment.

You are willing to assume the credit risk of the Bank for all payments under the Notes, and understand that if the Bank defaults on its obligations you may not receive any amounts due to you including any repayment of principal.

The Notes may not be suitable for you if:

You do not fully understand the risks inherent in an investment in the Notes, including the risk of losing your entire initial investment.

You require an investment designed to guarantee a full return of principal at maturity.

You cannot tolerate a loss of all or a substantial portion of your initial investment and are not willing to make an investment that may have an accelerated downside risk greater than the downside market risk as an investment in the Reference Asset or in the Reference Asset constituent stocks, subject to the Buffer Percentage.

You believe that the level of the Reference Asset will decline during the term of the Notes and the Final Level will likely decline below the Initial Level by a percentage that is greater than the Buffer Percentage, or you believe the Reference Asset will appreciate over the term of the Notes and that the appreciation is likely to equal or exceed the cap on appreciation within the Maximum Redemption Amount (the actual Maximum Redemption Amount will be determined on the Trade Date).

You seek an investment that has unlimited return potential without a cap on appreciation and you would be unwilling to invest in the Notes if the Maximum Redemption Amount was set equal to the bottom of the range indicated above (the actual Maximum Redemption Amount will be set on the Trade Date).

You cannot tolerate fluctuations in the price of the Notes prior to maturity that may be similar to or exceed the downside fluctuations in the level of the Reference Asset.

You seek current income from your investment or prefer to receive dividends paid on the stocks included in the Reference Asset.

You are unwilling to hold the Notes to maturity, a term of approximately 24-27 months, or you seek an investment for which there will be a secondary market.

You are not willing to assume the credit risk of the Bank for all payments under the Notes.

The investor suitability considerations identified above are not exhaustive. Whether or not the Notes are a suitable investment for you will depend on your individual circumstances and you should reach an investment decision only after you and your investment, legal, tax, accounting and other advisors have carefully considered the suitability of an investment in the Notes in light of your particular circumstances. You should also review “Additional Risks” in this preliminary pricing supplement and the “Additional Risk Factors Specific to the Notes” beginning on page PS-5 of the Product Prospectus Supplement for Equity Linked Index Notes, Series A for risks related to an investment in the Notes.

EVENTS OF DEFAULT AND ACCELERATION

If the Notes have become immediately due and payable following an event of default (as defined in the accompanying prospectus) with respect to the Notes, the Calculation Agent will determine the default amount as described below.

Default Amount

The default amount for your Notes on any day (except as provided in the last sentence under “Default Quotation Period” below) will be an amount, in the specified currency for the principal of your Notes, equal to the cost of having a qualified

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financial institution, of the kind and selected as described below, expressly assume all our payment and other obligations with respect to your Notes as of that day and as if no default or acceleration had occurred, or to undertake other obligations providing substantially equivalent economic value to you with respect to your Notes. That cost will equal:

- the lowest amount that a qualified financial institution would charge to effect this assumption or undertaking, plus the reasonable expenses, including reasonable attorneys' fees, incurred by the trustees of your Notes in preparing any documentation necessary for this assumption or undertaking.

During the default quotation period for your Notes, described below, the trustees and/or the Bank may request a qualified financial institution to provide a quotation of the amount it would charge to effect this assumption or undertaking. If either party obtains a quotation, it must notify the other party in writing of the quotation. The amount referred to in the first bullet point above will equal the lowest — or, if there is only one, the only — quotation obtained, and as to which notice is so given, during the default quotation period. With respect to any quotation, however, the party not obtaining the quotation may object, on reasonable and significant grounds, to the assumption or undertaking by the qualified financial institution providing the quotation and notify the other party in writing of those grounds within two business days after the last day of the default quotation period, in which case that quotation will be disregarded in determining the default amount.

Default Quotation Period

The default quotation period is the period beginning on the day the default amount first becomes due (the “due day”) and ending on the third business day after that day, unless:

- no quotation of the kind referred to above is obtained, or
- every quotation of that kind obtained is objected to within five business days after the due day as described above.

If either of these two events occurs, the default quotation period will continue until the third business day after the first business day on which prompt notice of an objection is given as described above. If that quotation is objected to as described above within five business days after that first business day, however, the default quotation period will continue as described in the prior sentence and this sentence.

Qualified Financial Institutions

For the purpose of determining the default amount at any time, a qualified financial institution must be a financial institution organized under the laws of any jurisdiction in the United States of America, Europe or Japan, which at that time has outstanding debt obligations with a stated maturity of one year or less from the date of issue and that is, or whose securities are, rated either:

A-1 or higher by Standard & Poor's Ratings Services, or any successor, or any other comparable rating then used by that rating agency, or
P-1 or higher by Moody's Investors Service or any successor, or any other comparable rating then used by that rating agency.

If the Notes have become immediately due and payable following an event of default, you will not be entitled to any additional payments with respect to the Notes. For more information, see "Description of the Debt Securities We May Offer—Events of Default" beginning on page 21 of the accompanying prospectus.

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Tax Redemption

The Bank (or its successor) may redeem the Notes, in whole but not in part, at a redemption price determined by the Calculation Agent in a manner reasonably calculated to preserve your and our relative economic position, upon the giving of a notice as described below, if:

- as a result of any change (including any announced prospective change) in or amendment to the laws (or any regulations or rulings promulgated thereunder) of Canada (or the jurisdiction of organization of the successor to the Bank) or of any political subdivision or taxing authority thereof or therein affecting taxation, or any change in official position regarding the application or interpretation of such laws, regulations or rulings (including a holding by a court of competent jurisdiction), which change or amendment is announced or becomes effective on or after the Pricing Date (or, in the case of a successor to the Bank, after the date of succession), and which in the written opinion to the Bank (or its successor) of legal counsel of recognized standing has resulted or will result (assuming, in the case of any announced prospective change, that such announced change will become effective as of the date specified in such announcement and in the form announced) in the Bank (or its successor) becoming obligated to pay, on the next succeeding date on which a payment is due, additional amounts with respect to the Notes; or
- on or after the Pricing Date (or, in the case of a successor to the Bank, after the date of succession), any action has been taken by any taxing authority of, or any decision has been rendered by a court of competent jurisdiction in, Canada (or the jurisdiction of organization of the successor to the Bank) or any political subdivision or taxing authority thereof or therein, including any of those actions specified in the paragraph immediately above, whether or not such action was taken or decision was rendered with respect to the Bank (or its successor), or any change, amendment, application or interpretation shall be officially proposed, which, in any such case, in the written opinion to the Bank (or its successor) of legal counsel of recognized standing, will result (assuming, that such change, amendment or action is applied to the Notes by the taxing authority and that, in the case of any announced prospective change, that such announced change will become effective as of the date specified in such announcement and in the form announced) in the Bank (or its successor) becoming obligated to pay, on the next succeeding date on which a payment is due, additional amounts with respect to the Notes;

and, in any such case, the Bank (or its successor), in its business judgment, determines that such obligation cannot be avoided by the use of reasonable measures available to it (or its successor).

The redemption price will be determined by the Calculation Agent, in its discretion, and such determination will, under certain circumstances, be confirmed by an independent calculation expert. See “Appointment of Independent Calculation Experts” on page PS-22, in the accompanying product prospectus supplement.

In the event the Bank elects to redeem the Notes pursuant to the provisions set forth in the preceding paragraph, it shall deliver to the trustees a certificate, signed by an authorized officer, stating that the Bank is entitled to redeem such Notes pursuant to their terms in whole only.

The Bank will give notice of intention to redeem such Notes to holders of the Notes not more than 45 nor less than 30 days prior to the date fixed for redemption specifying, among other things, the date fixed for redemption, and on or promptly after the redemption date, it will give notice of the redemption price.

Other than as described above, the Notes are not redeemable prior to their maturity.

Hypothetical Payments AT MATURITY On the Notes

The examples set out below are included for illustration purposes only. The hypothetical Percentage Changes of the Reference Asset used to illustrate the calculation of the Payment at Maturity (rounded to two decimal places) are not estimates or forecasts of the Initial Level, the Final Level or the level of the Reference Asset on the Valuation Date or on any Trading Day prior to the Maturity Date. All examples assume that a holder purchased Notes with an aggregate Principal Amount of \$1,000.00, a Buffer Percentage of 10.00% (the Buffer Level is 90.00% of the Initial Level), a Buffer Rate of

approximately 111.11%, a Maximum Redemption Amount of \$1,150.00 (115.00% of the Principal Amount) (the bottom of the Maximum Redemption Amount range of \$1,150.00 to \$1,190.00, 115.00% to 119.00% of the Principal Amount; the actual Maximum Redemption Amount will be determined on Trade Date) and that no market disruption event occurs on the Valuation Date. Amounts below may have been rounded for ease of analysis.

Example 1— Calculation of the Payment at Maturity where the Percentage Change is positive.

Percentage Change: 5.00%

Payment at Maturity: $\$1,000.00 + (\$1,000.00 \times 5.00\%) = \$1,000.00 + \$50.00 = \$1,050.00$

On a \$1,000.00 investment, a 5.00% Percentage Change results in a Payment at Maturity of \$1,050.00.

Example 2— Calculation of the Payment at Maturity where the Percentage Change is positive (and the Payment at Maturity is subject to the Maximum Redemption Amount).

Percentage Change: 50.00%

$\$1,000.00 + (\$1,000.00 \times 50.00\%) = \$1,000.00 + \$500.00 = \$1,500.00$

Payment at Maturity: however, the Maximum Redemption Amount is \$1,150.00 and the Payment at Maturity would be \$1,150.00.

On a \$1,000.00 investment, a 50.00% Percentage Change results in a Payment at Maturity of \$1,150.00.

Example 3— Calculation of the Payment at Maturity where the Percentage Change is negative (but not by more than the Buffer Percentage).

Percentage Change: -8.00%

Payment at Maturity: \$1,000.00 (at maturity, if the Percentage Change is negative BUT the decrease is not more than the Buffer Percentage, then the Payment at Maturity will equal the Principal Amount)

On a \$1,000.00 investment, a -8.00% Percentage Change results in a Payment at Maturity of \$1,000.00.

Example 4—

Calculation of the Payment at Maturity where the Percentage Change is negative (the decrease is more than the Buffer Percentage).

Percentage Change: -50.00%

Payment at Maturity: $\$1,000.00 + [\$1,000.00 \times 111.11\% \times (-50.00\% + 10.00\%)] = \$1,000.00 - \$444.44 = \555.56

On a \$1,000.00 investment, a -50.00% Percentage Change results in a Payment at Maturity of \$555.56

Accordingly, if the Percentage Change is less than -10.00%, meaning the percentage decline from the Initial Level to the Final Level is greater than 10.00%, the Bank will pay you less than the full Principal Amount, resulting in a loss on your investment that is equal to the Buffer Rate multiplied by the negative Percentage Change in excess of the Buffer Percentage. You may lose up to 100% of your principal.

Any payment on the Notes, including any repayment of principal, is subject to the creditworthiness of the Bank. If the Bank were to default on its payment obligations, you may not receive any amounts owed to you under the Notes and you could lose your entire investment.

P-11

The following graph represents hypothetical returns only and is not indicative of actual results. The graph demonstrates the hypothetical return on the Notes at maturity for the set of Percentage Changes of the Reference Asset from -100.00% to 100.00% using the same assumptions as set forth above. Your investment may result in a complete loss of your principal at maturity.

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ADDITIONAL RISKS

An investment in the Notes involves significant risks. In addition to the following risks included in this pricing supplement, we urge you to read “Additional Risk Factors Specific to the Notes” beginning on page PS-5 of the accompanying product prospectus supplement and “Risk Factors” beginning on page S-2 of the accompanying prospectus supplement and page 6 of the accompanying prospectus.

You should understand the risks of investing in the Notes and should reach an investment decision only after careful consideration, with your advisors, of the suitability of the Notes in light of your particular financial circumstances and the information set forth in this pricing supplement and the accompanying prospectus, prospectus supplement and product prospectus supplement.

The Estimated Value of Your Notes At the Time the Terms of Your Notes Are Set On the Trade Date (As Determined By Reference to Pricing Models Used By Goldman, Sachs & Co.) Will Be Less Than the Original Issue Price Of Your Notes

The original issue price for your notes exceeds the estimated value of your notes as of the time the terms of your notes were set on the trade date, as determined by reference to Goldman, Sachs & Co.’s (as “Dealer” of the Notes) pricing models and taking into account our credit spreads. Such estimated value on the trade date is set forth on the cover of this pricing supplement; after the trade date, the estimated value as determined by reference to these models will be affected by changes in market conditions, our creditworthiness and other relevant factors. The price at which Goldman, Sachs & Co. would initially buy or sell Notes (if Goldman, Sachs & Co. makes a market, which it is not obligated to do) and the value that Goldman, Sachs & Co. will initially use for account statements and otherwise, also exceeds the estimated value of your Notes, as determined by reference to these models. The amount of the excess will decline on a straight line basis over the period from the date hereof through . After , if Goldman, Sachs & Co. buys or sells your notes it will do so at prices that reflect the estimated value determined by reference to such pricing models at that time. The price at which Goldman, Sachs & Co. will buy or sell Notes at any time also will reflect its then current bid and ask spread for similar sized trades of structured notes.

In estimating the value of the Notes as of the time the terms of the Notes are set on the trade date, as disclosed on the front cover of this pricing supplement, Goldman, Sachs & Co.’s pricing models consider certain variables, including principally its credit spreads, interest rates (forecasted, current and historical rates), volatility, price-sensitivity analysis and the time to maturity of the notes. These pricing models are proprietary and rely in part on certain assumptions about future events, which may prove to be incorrect. As a result, the actual value you would receive if you sold your Notes in the secondary market, if any, to others may differ, perhaps materially, from the estimated value of your notes determined by reference to Goldman Sachs & Co.’s models due to, among other things, any differences in pricing models or assumptions used by others.

The difference between the estimated value of the Notes as of the time the terms of the Notes are set on the trade date and the original issue price is a result of certain factors, including principally the underwriting discount and commissions, the expenses incurred in creating, documenting and marketing the notes, and an estimate of the difference between the amounts we pay to Goldman, Sachs & Co. and the amounts Goldman, Sachs & Co. pays to us in connection with your notes. We pay to Goldman, Sachs & Co. amounts based on what we would pay to holders of a non-structured note with a similar maturity. In return for such payment, Goldman, Sachs & Co. pays to us the difference between the total payment amount due at maturity on your notes and the face amount of your notes.

In addition to the factors discussed above, the value and quoted price of the Notes at any time will reflect many factors and cannot be predicted. If Goldman, Sachs & Co. makes a market in the Notes, the price quoted by Goldman, Sachs & Co. would reflect any changes in market conditions and other relevant factors, including any deterioration in our creditworthiness or perceived creditworthiness. These changes may adversely affect the value of the Notes, including the price you may receive for the Notes in any market making transaction. To the extent that Goldman, Sachs & Co. makes a market in the notes, the quoted price will reflect the estimated value determined by reference to Goldman, Sachs & Co.'s pricing models at that time, plus or minus its then current bid and ask spread for similar sized trades of structured notes (and subject to the declining excess amount described above).

If at any time a third party dealer quotes a price to purchase your Notes or otherwise values your Notes, that price may be significantly different (higher or lower) than any price quoted by Goldman, Sachs & Co. See “—The Price at Which the Notes may be Sold prior to Maturity will Depend on a Number of Factors and May Be Substantially Less Than the Amount for Which They Were Originally Purchased.”

Furthermore, if you sell your Notes, you will likely be charged a commission for secondary market transactions, or the price will likely reflect a dealer discount. This commission or discount will further reduce the proceeds you would receive for your notes in a secondary market sale.

There is no assurance that Goldman, Sachs & Co. or any other party will be willing to purchase your Notes at any price and, in this regard, Goldman, Sachs & Co. is not obligated to make a market in the Notes. See “—The Notes Lack Liquidity.”

The Inclusion of Dealer Spread and Projected Profit from Hedging in the Original Issue Price is Likely to Adversely Affect Secondary Market Prices

Assuming no change in market conditions or any other relevant factors, the price, if any, at which Scotia Capital (USA) Inc. or any other party is willing to purchase the Notes at any time in secondary market transactions will likely be significantly lower than the original issue price, since secondary market prices are likely to exclude underwriting commissions paid with respect to the Notes and the cost of hedging our obligations under the Notes that are included in the original issue price. The cost of hedging includes the projected profit that we and/or our subsidiaries may realize in consideration for assuming the risks inherent in managing the hedging transactions. These secondary market prices are also likely to be reduced by the costs of unwinding the related hedging transactions. In addition, any secondary market prices may differ from values determined by pricing models used by Scotia Capital (USA) Inc. as a result of dealer discounts, mark-ups or other transaction costs.

Risk of Loss at Maturity

Any payment on the Notes at maturity depends on the Percentage Change of the Reference Asset. The Bank will only repay you the full Principal Amount of your Notes if the Percentage Change is equal to or greater than -10.00%. If the Percentage Change is less than -10.00%, meaning the percentage decline from the Initial Level to the Final Level is greater than the 10.00% Buffer Percentage, you will lose a significant portion of your initial investment in an amount equal to the Buffer Rate multiplied by that negative Percentage Change in excess of the Buffer Percentage.

Accordingly, you may lose your entire investment in the Notes if the percentage decline from the Initial Level to the Final Level is greater than 10.00%.

The Downside Market Exposure to the Reference Asset is Buffered Only at Maturity

You should be willing to hold your Notes to maturity. If you are able to sell your Notes prior to maturity in the secondary market, you may have to sell them at a loss relative to your initial investment even if the level of the Reference Asset at such time is not below the Initial Level by a percentage greater than the Buffer Percentage.

Your Potential Payment at Maturity Is Limited by the Maximum Redemption Amount

The Payment at Maturity will not exceed the Maximum Redemption Amount. Therefore, if the appreciation of the Reference Asset exceeds the cap on appreciation in the Maximum Redemption Amount, the Notes will provide less opportunity to participate in the appreciation of the Reference Asset than an investment in a security linked to the Reference Asset providing full participation in the appreciation. Accordingly, the return on the Notes may be less than the return would be if you made an investment in a security directly linked to the positive performance of the Reference Asset.

The Notes Differ from Conventional Debt Instruments

The Notes are not conventional notes or debt instruments. The Notes do not provide you with interest payments prior to maturity as a conventional fixed-rate or floating-rate debt security with the same maturity would. The return that you will receive on the Notes, which could be negative, may be less than the return you could earn on other investments. Even if your return is positive, your return may be less than the return you would earn if you bought a conventional senior interest bearing debt security of the Bank.

No Interest

The Notes will not bear interest and, accordingly, you will not receive any interest payments on the Notes.

Your Investment is Subject to the Credit Risk of The Bank of Nova Scotia

The Notes are senior unsecured debt obligations of the Bank, and are not, either directly or indirectly, an obligation of any third party. As further described in the accompanying prospectus, prospectus supplement and product prospectus supplement, the Notes will rank on par with all of the other unsecured and unsubordinated debt obligations of the Bank, except such obligations as may be preferred by operation of law. Any payment to be made on the Notes, including the Payment at Maturity, depends on the ability of the Bank to satisfy its obligations as they come due. As a result, the actual and perceived creditworthiness of the Bank may affect the market value of the Notes and, in the event the Bank were to default on its obligations, you may not receive the amounts owed to you under the terms of the Notes. If you sell the Notes prior to maturity, you may receive substantially less than the Principal Amount of your Notes.

The Notes are Subject to Market Risk

The return on the Notes is directly linked to the performance of the Reference Asset and indirectly linked to the value of the Reference Asset constituent stocks, and the extent to which the Percentage Change is positive or negative. The levels of the Reference Asset can rise or fall sharply due to factors specific to the Reference Asset constituent stocks, as well as general market factors, such as general market volatility and levels, interest rates and economic and political conditions.

The Payment at Maturity Is Not Linked to the Level of the Reference Asset at Any Time Other Than the Valuation Date

The Payment at Maturity will be based on the Final Level (subject to adjustments as described). Therefore, for example, if the closing level of the Reference Asset declined substantially as of the Valuation Date compared to the Trade Date, the Payment at Maturity may be significantly less than it would otherwise have been had the Payment at Maturity been linked to the closing levels of the Reference Asset prior to the Valuation Date. Although the actual level of the Reference Asset at maturity or at other times during the term of the Notes may be higher than the Final Level, you will not benefit from the closing levels of the Reference Asset at any time other than the Valuation Date.

If the Levels of the Reference Asset or the Reference Asset Constituent Stocks Change, the Market Value of Your Notes May Not Change in the Same Manner

Your Notes may trade quite differently from the performance of the Reference Asset or the Reference Asset constituent stocks. Changes in the levels of the Reference Asset or the Reference Asset constituent stocks may not result in a comparable change in the market value of your Notes. We discuss some of the reasons for this disparity under “—The Price at Which the Notes may be Sold prior to Maturity will Depend on a Number of Factors and May Be Substantially Less Than the Amount for Which They Were Originally Purchased” below.

Holding the Notes is Not the Same as Holding the Reference Asset Constituent Stocks

Holding the Notes is not the same as holding the Reference Asset constituent stocks. As a holder of the Notes, you will not be entitled to the voting rights or rights to receive dividends or other distributions or other rights that holders of the Reference Asset constituent stocks would enjoy.

No Assurance that the Investment View Implicit in the Notes Will Be Successful

It is impossible to predict with certainty whether and the extent to which the level of the Reference Asset will rise or fall. There can be no assurance that the level of the Reference Asset will rise above the Initial Level or that the percentage decline from the Initial Level to the Final Level will not be greater than the Buffer Percentage. The Final Level may be influenced by complex and interrelated political, economic, financial and other factors that affect the Reference Asset constituent stocks.

You should be willing to accept the risks of the price performance of equity securities in general and the Reference Asset constituent stocks in particular, and the risk of losing some or all of your initial investment.

Furthermore, we cannot give you any assurance that the future performance of the Reference Asset or the Reference Asset constituent stocks will result in your receiving an amount greater than or equal to the Principal Amount of your Notes. Certain periods of historical performance of the Reference Asset or the Reference Asset constituent stocks would have resulted in you receiving less than the Principal Amount of your Notes if you had owned notes with terms similar to these Notes in the past. See “Information Regarding The Reference Asset” in this pricing supplement for further information regarding the historical performance of the Reference Asset.

The Reference Asset Reflects Price Return Only and Not Total Return

The return on your Notes is based on the performance of the Reference Asset, which reflects the changes in the market prices of the Reference Asset constituent stocks. It is not, however, linked to a “total return” index or strategy, which, in addition to reflecting those price returns, would also reflect dividends paid on the Reference Asset constituent stocks. The return on your Notes will not include such a total return feature or dividend component.

Past Performance is Not Indicative of Future Performance

The actual performance of the Reference Asset over the life of the Notes, as well as the amount payable at maturity, may bear little relation to the historical performance of the Reference Asset or to the hypothetical return examples set forth elsewhere in this pricing supplement. We cannot predict the future performance of the Reference Asset.

We May Sell an Additional Aggregate Principal Amount of the Notes at a Different Issue Price

We may decide to sell an additional aggregate Principal Amount of the Notes subsequent to the date of this pricing supplement. The issue price of the Notes in the subsequent sale may differ substantially (higher or lower) from the original issue price you paid as provided on the cover of this pricing supplement.

Changes Affecting the Reference Asset Could Have an Adverse Effect on the Value of the Notes

The policies of Standard and Poor's Financial Services LLC, a subsidiary of the McGraw Hill Companies, the sponsor of the Reference Asset (the "Sponsor"), concerning additions, deletions and substitutions of the Reference Asset constituent stocks and the manner in which the Sponsor takes account of certain changes affecting those Reference Asset constituent stocks may adversely affect the level of the Reference Asset. The policies of the Sponsor with respect to the calculation of the Reference Asset could also adversely affect the level of the Reference Asset. The Sponsor may discontinue or suspend calculation or dissemination of the Reference Asset. Any such actions could have a material adverse effect on the value of the Notes.

The Bank Cannot Control Actions by the Sponsor and the Sponsor Has No Obligation to Consider Your Interests

The Bank and its affiliates are not affiliated with the Sponsor and have no ability to control or predict its actions, including any errors in or discontinuation of public disclosure regarding methods or policies relating to the calculation of the Reference Asset. The Sponsor is not involved in the Notes offering in any way and has no obligation to consider your interest as an owner of the Notes in taking any actions that might negatively affect the market value of your Notes.

The Performance of the Reference Asset is Likely to Differ from the Performance of the S&P Total Market Index

Although the Reference Asset consists of companies drawn from the universe of companies included in the S&P Total Market Index, the companies comprising the Reference Asset represent only certain sub-indices as further described below. As a result, the performance of the Reference Asset is likely to differ from the performance of the S&P Total Market Index because the composition and weighting of the Reference Asset differs markedly from the composition and weighting of the S&P Total Market Index. As a result, the return on the Notes will not be the same as a debt security with a payment at maturity based on the performance of the S&P Total Market Index.

The Reference Asset is Concentrated in the Banking Sector and Related Sub-Industries

All or substantially all of the stocks that are included in the Reference Asset are issued by companies that are classified in the GICS® as asset management & custody banks, diversified banks, regional banks, other diversified financial services and thrifts & mortgage finance sub-industries. Because the value of the Notes is based on the performance of the Reference Asset, an investment in these Notes will be concentrated in the banking sector and the related sub-industries. As a result, the value of the Notes may be subject to greater volatility and may be more adversely affected by a single economic, political or regulatory occurrence affecting the banking industry or one of the related sub-industries included in the Reference Asset than a different investment linked to securities of a more broadly diversified group of companies.

The Price at Which the Notes May Be Sold Prior to Maturity will Depend on a Number of Factors and May Be Substantially Less Than the Amount for Which They Were Originally Purchased

The price at which the Notes may be sold prior to maturity will depend on IZE="1">

Number of shares of Common Stock which the aggregate
consideration received for such sale or issuance would purchase
at such per share market value plus number of shares of
Common Stock outstanding immediately prior to such sale or
issuance

Adjustment of Exercise Price

Exercise price of the Lion Warrant immediately after such sale	=	Exercise price of the Lion Warrant immediately prior to such	x	Number of shares of Common Stock issuable upon exercise of the Lion Warrant immediately before the preceding adjustment to the number of shares
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or issuance

sale or issuance

New number of shares of Common Stock issuable upon exercise

of the Lion Warrant determined in accordance with the

preceding adjustment to the number of shares

Description of the Lion Warrant's Floor Price Limitation

The Lion Warrant provides that the Company will not enter into any transaction that would result in the exercise price being adjusted pursuant to the Adjustments described above less than a floor price of \$1.93 (the Floor Price), unless the Company obtains stockholder approval of the Adjustments and the corresponding issuance of the shares of Common Stock in accordance with the rules of the NYSE Amex described below.

Stockholder Approval

Section 713 of the NYSE Amex Company Guide requires stockholder approval for the sale, issuance, or potential issuance by an issuer, other than in a public offering, of common stock (or securities convertible into common stock) equal to 20% or more of the presently outstanding stock for a price that is less than the greater of book or market value of the stock. The Company is subject to NYSE Amex rules because its Common Stock is listed on NYSE Amex.

The issuance of the Lion Warrant did not require stockholder approval because the exercise price was in excess of the greater of book or market value of the Common Stock at the time of the closing of the Lion transaction. Stockholder approval of the Adjustments and the corresponding issuance of shares of Common Stock upon exercise of the Lion Warrant at a price less than the Floor Price is necessary because if, following an Adjustment Event, the exercise price of the Lion Warrant is adjusted below the Floor Price, then, as described in more detail above, the price at which such Common Stock would be issued upon the exercise of the Lion Warrant would be below the greater of book or market value of the Common Stock as of the closing of the Lion transaction, and the number of shares of Common Stock issued upon the exercise of the Lion Warrant could be in excess of 20% of the outstanding

shares (not taking into account the shares issuable upon exercise of the Lion Warrant) as of the closing of the Lion transaction. As described above, the Company has agreed not to enter into any such transaction unless the Company obtains stockholder approval of the Adjustments and corresponding issuance of the shares of Common Stock in accordance with the rules of the NYSE Amex.

Accordingly, the Company is seeking stockholder approval of the Adjustments and corresponding issuance of the shares of Common Stock upon exercise of the Lion Warrant at a price less than the Floor Price if the anti-dilution provisions of the Lion Warrant so require. Elimination of the Floor Price would provide the Company with the flexibility to issue in the future additional securities, even if that issuance would constitute an Adjustment Event and would cause the exercise price to be adjusted pursuant to the Adjustments to a price that is less than the Floor Price. In the event that this Proposal 3 is not approved by the stockholders, the Company may be limited in its ability to obtain future financing in that the Company would not be permitted to issue additional securities that would constitute an Adjustment Event if that issuance were to cause the exercise price to be adjusted pursuant to the Adjustments to a price that is less than the Floor Price.

Effect of Approval of this Proposal on Current Stockholders

The total number of shares of Common Stock currently issuable upon exercise of the Lion Warrant is 16,000,000, representing approximately 18% of the outstanding shares of Common Stock (after giving effect to the issuance of such shares). As of April 13, 2009, the Lion Warrant had not been exercised and, accordingly, no shares of Common Stock have been issued under the Lion Warrant.

If an Adjustment Event were to occur, the exercise price of the Lion Warrant would be adjusted and, in addition, the number of shares of Common Stock issuable upon exercise of the Lion Warrant would be adjusted. However, the Company has agreed in the Investment Agreement not to enter into any such transaction if such adjustment would result in the exercise price being adjusted to below the Floor Price unless the Company obtains stockholder approval of the Adjustments and corresponding issuance of the shares of Common Stock in accordance with the rules of the NYSE Amex. If this Proposal 3 is approved, the Company would be permitted to engage in any such transaction, which could result in an adjustment of the exercise price of the Lion Warrant below the Floor Price and an increase in the number of shares of Common Stock issuable upon exercise of the Lion Warrant. As a result, the same or a greater number of shares could be issuable upon a future exercise of the Lion Warrant but at a lower exercise price, and this could result in dilution to the Company's stockholders.

Vote Required

A majority of votes cast at the Annual Meeting is required to approve the Adjustments and corresponding issuance of the shares of Common Stock upon exercise of the Lion Warrant at a price less than the Floor Price if the anti-dilution provisions of the Lion Warrant so require. **Unless instructed to the contrary in the proxy, the shares represented by the proxies will be voted FOR this Proposal 3.**

Dov Charney, the beneficial owner of approximately 52.6% of the outstanding shares of Common Stock and voting power of the Company as of April 13, 2009, has informed the Company that he intends to vote in favor of this Proposal 3, and his vote is sufficient to approve this Proposal 3 without further affirmative votes from the other stockholders. For more information on shares owned by Mr. Charney and other directors and executive officers of the Company, see [Beneficial Ownership of Shares](#) herein.

Any broker non-votes or abstentions with respect to this Proposal 3 will not count as votes cast and therefore will be disregarded for purposes of determining the outcome of the vote on this Proposal 3.

The Board of Directors unanimously recommends a vote FOR this Proposal 3.

PROPOSAL 4: APPROVAL OF THE AMERICAN APPAREL, INC. INCENTIVE COMPENSATION PLAN

On April 13, 2009, the Board of Directors approved the American Apparel, Inc. Incentive Compensation Plan (the Incentive Plan), under which certain cash awards are intended to qualify as performance-based compensation under Section 162(m) (Section 162(m)) of the Internal Revenue Code of 1986, as amended, subject to stockholder approval.

Section 162(m) disallows deductions for publicly-held corporations with respect to compensation in excess of \$1 million paid to the Chief Executive Officer and the Company s three most highly compensated other executive officers other than the Chief Financial Officer. However, compensation payable solely on account of attainment of one or more performance goals is not subject to the deduction limitation if: (i) the performance goals are objective, pre-established and determined by a compensation committee comprised solely of two or more outside directors; (ii) the material terms of the performance goals under which the compensation is to be paid are disclosed to the stockholders and approved by a majority vote; and (iii) the compensation committee certifies that the performance goals and other material terms were in fact satisfied before the compensation is paid. Each of (i), (ii) and (iii) are included in the description of the Incentive Plan below.

The Board of Directors believes that adoption of the Incentive Plan is in the best interests of the Company, its stockholders, and its employees and is necessary to meet the Company s objectives of attracting, motivating and retaining qualified employees and of tying a portion of compensation to Company performance. The stockholders are being asked to approve the Incentive Plan so that certain awards granted under the plan may qualify as performance-based compensation under Section 162(m).

Summary of the Material Terms of the Incentive Plan

The following is a brief description of the material features of the Incentive Plan. It does not purport to be complete and is qualified in its entirety by the full text of the Incentive Plan, which is attached hereto as Appendix A.

Administration

The Incentive Plan will be administered by the Compensation Committee, which consists, unless otherwise determined by the Board of Directors, of not fewer than two members who are outside directors within the meaning of Section 162(m). Except with respect to awards to certain executives that are intended to satisfy the requirements of Section 162(m), or as otherwise required for compliance with other applicable law, the Compensation Committee may delegate any or all of its authority under the Incentive Plan to any employee, including but not limited to, the Chief Executive Officer.

The Compensation Committee has the authority, in its sole discretion, subject to and not inconsistent with the express provisions of the Incentive Plan, to administer the Incentive Plan and to exercise all the powers and authorities either specifically granted under the Incentive Plan or necessary or advisable in the administration of the Incentive Plan, including, without limitation, the authority to grant awards; to determine the persons to whom and the time or times at which awards will be granted; to determine the terms, conditions, restrictions and performance criteria, including applicable performance goals and the performance period, relating to any award; to determine whether, to what extent, and under what circumstances an award may be settled, cancelled, forfeited, or surrendered; to construe and interpret the Incentive Plan and any award; to prescribe, amend and rescind rules and regulations relating to the Incentive Plan; and to make all other determinations deemed necessary or advisable for the administration of the Incentive Plan.

Eligibility

The Compensation Committee with respect to the executive officers of the Company, or an employee designated by the Compensation Committee solely with respect to non-executive officer employees of the Company, will designate the employees of the Company, if any, who will be eligible for awards under the Incentive Plan.

Performance Periods

The length of any performance period or periods will be determined by the Compensation Committee in its sole discretion.

Performance Goals

The payment of awards under the Incentive Plan may be based upon the attainment of (or a specified increase or decrease in) one or more of the following performance goals as determined by the Compensation Committee and applied to a participant under the Incentive Plan and/or a business unit, product line or subsidiary of the Company or its affiliates: earnings (including, without limitation, gross margin, earnings before taxes (EBT), earnings before interest and taxes (EBIT), earnings before interest, taxes, depreciation and amortization (EBITDA), net earnings, earnings per share, net sales or return on sales, total stockholder return, net revenue per employee, revenue growth, net income (before or after taxes), operating income, return on operating revenue, operating profit, return on capital, return on equity, return on assets or net assets, return on investment, cash flow, working capital, number of stores, comparable-store sales growth, earnings growth, gross revenue or revenue by pre-defined business segment, stock price (absolute or peer-group comparative), and ratio of operating expenses to operating revenues, market share, overhead or other expense reduction, growth in stockholder value relative to various indices, including, without limitation, the S&P 500 Index or the Russell 2000 Index, implementation of Company policy, development of long-term business goals or strategic plans for the Company, cost targets, customer satisfaction or employee satisfaction goals, goals relating to merger synergies, management of employment practices and employee benefits, or supervision of litigation and information technology, and goals relating to acquisitions or divestitures, affiliates or joint ventures or the exercise of specific areas of management responsibility; provided, however, that with respect to any awards intended to qualify as performance-based compensation for purposes of Section 162(m), the performance goals applicable to such awards must be objective and objectively determinable within the meaning of Section 162(m) and will be designed to satisfy all other applicable requirements of Section 162(m).

Each of the foregoing performance goals will be determined in accordance with generally accepted accounting principles, as applicable; provided that the Compensation Committee will have the authority to make equitable adjustments to the performance goals in recognition of unusual or non-recurring events affecting the Company, in response to changes in applicable laws or regulations, or to account for items of gain, loss or expense determined to be extraordinary or unusual in nature or infrequent in occurrence or related to the disposal of a segment of a business or related to a change in accounting principles, except to the extent that doing so would cause an award intended to be exempt from Section 162(m) to fail to be exempt. Payments of awards will be made, in the case of employees covered under Section 162(m), solely on account of the attainment of such performance goals established in writing by the Compensation Committee to the extent the awards are intended to satisfy the requirements of Section 162(m). The Compensation Committee will determine the applicable performance goals within 90 days of the beginning of the performance period (or if sooner, no later than after 25% of the period of service to which the award relates has elapsed).

Discretionary Awards

Notwithstanding anything to the contrary herein, but subject to the \$4,000,000 maximum award limit described below, an award granted under this Incentive Plan, as determined by the Committee in its sole discretion, will not be required to be subject to the achievement of any performance goal or any other requirement otherwise applicable to awards under this plan.

Committee Certification of Performance Goal Attainment and Payment of Awards

Following the completion of each performance period, the Compensation Committee with respect to the executive officers of the Company, or an employee designated by the Compensation Committee solely with respect to non-executive officer employees of the Company, will certify in writing whether the applicable performance goals have been achieved in the applicable performance period. With respect to awards that are intended to satisfy Section 162(m), the Compensation Committee will have the right to reduce or eliminate (but not to increase) the amount payable at a given level of performance to take into account additional factors that the Compensation Committee may deem relevant to the assessment of performance for the applicable performance period.

Unless otherwise determined by the Compensation Committee, an award will be paid in cash within 60 days after the end of the applicable performance period, but in no event later than two and a half months following the end of the year in which the awards are no longer subject to a substantial risk of forfeiture. Except as determined by the Compensation Committee, an award will be paid only if the participant is employed by American Apparel at the conclusion of the performance period in respect of which it is paid. In no event will payment in respect of awards granted for any performance period of one year or less in length be made to a participant in an amount that exceeds \$4,000,000, and for awards for any other performance period, the maximum amount of the payment to a participant may not exceed \$4,000,000 multiplied by a fraction, the numerator of which is the number of months in the performance period and the denominator of which is twelve.

Termination of Employment

Except as otherwise determined by the Compensation Committee, if a participant's employment terminates prior to the end of a performance period for any reason, no award will be payable to the participant with respect to that performance period.

Change In Control

The Compensation Committee may determine, on a case by case basis, the treatment of an award upon the occurrence of a change in control of the Company or in the event of certain terminations of employment following a change in control.

Amendment and Termination

The Incentive Plan will remain in effect until terminated by the Board of Directors. The Board of Directors may amend, modify or terminate the Incentive Plan or any portion of the Incentive Plan at any time, except that an amendment that requires stockholder approval in order for the Incentive Plan to continue to comply with Section 162(m) or other applicable requirements will not be effective unless approved by the requisite vote of the Company's stockholders. No amendment to the Incentive Plan may be made if such amendment would adversely affect any award already granted to a participant unless the participant consents to the amendment.

Benefits under the Incentive Plan

Inasmuch as individual benefits under the Incentive Plan will be determined by the Compensation Committee (or, to the extent applicable, its delegate), benefits to be paid under the Incentive Plan are not determinable at this time.

Equity Compensation Plan Information

The following table provides information as of December 31, 2008, for equity securities of the Company that may be issued under our 2007 Performance Equity Plan.

Plan Category	Number of securities to be issued upon exercise of outstanding options, warrants and rights (a)	Weighted-average exercise price of outstanding options, warrants and rights (b)	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a)) (c)
Equity compensation plans approved by security holders			9,103,297
Total			9,103,297

Vote Required

A majority of votes cast at the Annual Meeting is required to approve the American Apparel, Inc. Incentive Compensation Plan. **Unless instructed to the contrary in the proxy, the shares represented by the proxies will be voted FOR this Proposal 4.**

Dov Charney, the beneficial owner of approximately 52.6% of the outstanding shares of Common Stock and voting power of the Company as of April 13, 2009, has informed the Company that he intends to vote in favor of this Proposal 4, and his vote is sufficient to approve this Proposal 4 without further affirmative votes from the other stockholders. For more information on shares owned by Mr. Charney and other directors and executive officers of the Company, see "Beneficial Ownership of Shares" herein.

Any broker non-votes or abstentions with respect to this Proposal 4 will not count as votes cast and therefore will be disregarded for purposes of determining the outcome of the vote on this Proposal 4.

The Board of Directors unanimously recommends a vote FOR this Proposal 4.

DIRECTORS AND EXECUTIVE OFFICERS

The directors, director nominees for election and executive officers of the Company as of April 13, 2009 are as follows:

Name	Age	Position
Dov Charney	40	Chairman of the Board, Chief Executive Officer, President, Director
Adrian Kowalewski	31	Director, Executive Vice President and Chief Financial Officer
Martin Bailey	49	Chief Manufacturing Officer
Glenn A. Weinman	53	Senior Vice President, General Counsel and Secretary
Joyce Crucillo	39	Chief Litigation Counsel
Jacob Capps(1)	35	Director Nominee
Robert Greene	49	Director
Mark D. Klein	47	Director
Allan Mayer	59	Director
Keith Miller	42	Director
Neil Richardson(1)	52	Director Nominee
Mark Samson	55	Director
Mortimer Singer	32	Director
Mark A. Thornton	43	Director

(1) Messrs. Capps and Richardson are designees of Lion pursuant to the Investment Agreement and the Investment Voting Agreement (each described under Proposal 1 above) and have been nominated for election at the Annual Meeting. Messrs. Klein and Singer are not standing for reelection to the Board.

Director Nominees

The names and certain information concerning the Class B Nominees are set forth under Proposal 1 above.

Directors Continuing in Office
Class C Directors (Terms Expire at the 2010 Annual Meeting of Stockholders)

Dov Charney has served as Chairman of the Board, Chief Executive Officer, President and a director of American Apparel since the consummation of the Acquisition on December 12, 2007. Prior to the Acquisition, Mr. Charney served as founder, director, chief executive officer and president of Old American Apparel and its predecessor companies since their formation in Columbia, South Carolina, in 1989. Mr. Charney is a graduate of Choate Rosemary Hall and attended Tufts University.

Mark Samson became a director of American Apparel upon consummation of the Acquisition on December 12, 2007. Since 1999, Mr. Samson has been a managing director of Getzler Henrich and Associates LLC (Getzler Henrich), a leading corporate restructuring firm in the U.S. with a focus on middle market companies. In this capacity, he has served as interim chief executive officer, chief operating officer and/or chief restructuring officer and financial advisor for more than 60 companies. During his tenure with Getzler Henrich, Mr. Samson has provided numerous clients with guidance in operational restructuring, bankruptcy proceedings and business operation, management practices, cash flow and profitability improvements. From 1984 to 2000, Mr. Samson served as executive chairman of the board, co-president and chief executive officer of Debjon Group/Sidcor/MQM Group, a consortium of 53 vertically integrated retail businesses and convenience stores. From 1976 to 1984, Mr. Samson was marketing director for the Berden Group, the largest manufacturer of work wear and corporate uniforms in South Africa. Mr. Samson received his BBA in Economics from the University of South Africa. Mr. Samson is a member of the Turnaround Management Association and the American Bankruptcy Institute.

Mark A. Thornton became a director of American Apparel upon consummation of the Acquisition on December 12, 2007. Since January 2005, Mr. Thornton has been an independent consultant to various clients,

advising them in the areas of private equity raises and project management, and also ran courses for the Harvard Negotiation Insight Initiative at Harvard Law School, and the Leadership Development Program for Wharton Business School at the University of Pennsylvania, as well as Fortune 100 companies. From April 2002 until December 2004, Mr. Thornton researched and authored a book, entitled *Meditation in a New York Minute*, which was published by Sounds True. At various times during the period from 1997 to March 2002, Mr. Thornton worked in several capacities for JPMorgan, including serving as the chief operating officer for JPMorgan Private Bank in London from June 2001 to March 2002, specializing in operational risk management relating to the merger of JPMorgan with Robert Fleming. He oversaw core aspects of the merger and chaired numerous committees related to operational risk, new product lines and new business development. Prior to joining JPMorgan Investment Management in 1997, Mr. Thornton worked in various market risk and credit risk positions for blue chip investment banks and securities firms, including Daiwa Europe Bank plc and Australian and New Zealand Banking Group Ltd.

Class A Directors (Terms Expire at the 2011 Annual Meeting of Stockholders)

Robert Greene became a director of American Apparel upon consummation of the Acquisition on December 12, 2007. Mr. Greene is a bestselling author known for his books on business strategy. Since 2003, Mr. Greene has worked as a private consultant to several executives in businesses ranging from financial management to artists' agencies and film producers. He has written three books, all published by Penguin: *The 48 Laws of Power* (1998, over 900,000 copies sold in the U.S., and translated into 21 languages); *The Art of Seduction* (2001) and *The 33 Strategies of War* (2006). He has worked in New York City as an editor and writer for several magazines, including *Esquire*, and in Hollywood as a story developer and writer. He lived for years in London, England; Paris, France; and Barcelona, Spain; he speaks several languages and has worked as a translator. He attended the University of California, Berkeley and the University of Wisconsin-Madison, where he received a B.A. in classical studies.

Keith Miller became a director of American Apparel upon consummation of the Acquisition on December 12, 2007. Mr. Miller is a partner of Goode Partners LLC, a private equity firm, focused on the consumer marketplace. Prior to joining Goode at its formation in January 2006, Mr. Miller was a private investor and advisor to the global consumer branded marketplace. From October 2002 to March 2006, Mr. Miller served as a senior advisor to Itochu Corporation's executive management in Osaka and Tokyo, Japan. His responsibilities included the origination, structuring and the execution of brand related mergers and acquisitions, licenses, distribution and joint venture agreements in Asia. As a principal investor and while assisting Itochu, Mr. Miller targeted the acquisition of many consumer and lifestyle brands with global awareness and positioning. From 1987 to 1999, Mr. Miller was the co-founder and president of an apparel manufacturing and screen printing business which supplied some of the most notable retail and consumer brands in the world including: Gap, Adidas, Old Navy, Polo Ralph Lauren, Levi Strauss and Company, Armani Exchange, Express, and The Limited. Mr. Miller is an advisory board member and stockholder of Chrome Hearts, Inc. and a board member of Intermix LLC and SkullCandy. Additionally, Mr. Miller is an advisory board member to A Bathing Ape, LeSportsac, and Shabby Chic. Mr. Miller also sits on the Board of the Sachdev Group of New Delhi, India which operates and manages global luxury consumer brands in the country of India, which include exclusive retail operations for Marc Jacobs, Lanvin, Stella McCartney, Alexander McQueen, Diane Von Furstenberg, Moschino and others. Mr. Miller continues to advise many well known entrepreneurs, CEOs and principal stockholders in the consumer marketplace. Mr. Miller graduated from Clark University with a B.S. in Economics.

Allan Mayer became a director of American Apparel upon consummation of the Acquisition on December 12, 2007. Since October 2006, he has been a principal partner, member of the management committee, and head of the Strategic Communications Division of 42West LLC, a leading public relations firm. Previously, from 1997 until October 2006, Mr. Mayer was managing director and head of the entertainment practice at the nationally-known crisis communications firm Sitrick and Company. Mr. Mayer began his professional life as a journalist, working as a staff reporter for *The Wall Street Journal*; a writer, foreign correspondent and senior editor for *Newsweek*, and the founding editor (and later publisher) of *Buzz* magazine. He also served as editorial director of Arbor House Publishing Co. and senior editor of Simon & Schuster. Mr. Mayer has authored two books - *Madam Prime Minister: Margaret Thatcher and Her Rise to Power* (Newsweek Books, 1980) and *Gaston's War* (Presidio Press, 1987) and is co-author, with Michael S. Sitrick, of *Spin: How To Turn The Power of the Press to Your Advantage* (Regnery, 1998). In addition, he has written for a wide variety of national publications, ranging from *The New York Times Magazine* to *Vogue*. Mr. Mayer is a recipient of numerous professional honors, including

the National Magazine Award, the Overseas Press Club Citation of Excellence, and six William Allen White Awards. Mr. Mayer serves on the Board of Directors of Film Independent and lectures regularly on crisis management and communications at UCLA's Anderson School of Business and USC's Annenberg School of Communication. Mr. Mayer received his B.A. from Cornell University.

Directors Not Standing for Reelection

Mark D. Klein became a director of American Apparel upon consummation of the Acquisition on December 12, 2007. Mr. Klein has been chief executive officer, president and a director of Alternative Asset Management Acquisition Corp. (Amex: AMV), a special purpose acquisition company focused on acquiring one or more operating businesses in the alternative asset management sector or a related business, since February 2007. Mr. Klein is also presently the chief executive officer of Hanover Group US LLC, a newly formed indirect U.S. subsidiary of the Hanover Group, which is one of the largest privately held finance companies in New Zealand. Mr. Klein is also a registered representative at Ladenburg Thalmann & Co. Inc., a managing member of the LTAM Titan Fund, a fund of funds hedge fund, and is one of the principals of the Aldebaran Fund LLC, a private fund investing in special purpose acquisition companies. Prior to joining Hanover in 2007, Mr. Klein was chairman of Ladenburg Thalmann & Co., Inc., a leading underwriter of blank check companies, which is engaged in retail and institutional securities brokerage, investment banking and asset management services. From March 2005 to September 2006, he was chief executive officer and president of Ladenburg Thalmann Financial Services, Inc., the parent of Ladenburg Thalmann & Co., Inc., and chief executive officer of Ladenburg Thalmann Asset Management Inc., a subsidiary of Ladenburg Financial Services, Inc. Prior to joining Ladenburg Thalmann, from June 2000 to March 2005, Mr. Klein served as the chief executive officer and president of NBGI Asset Management, Inc. and NBGI Securities (collectively, NBGI), which were the U.S. subsidiaries of the National Bank of Greece, the largest financial institution in Greece. Prior to joining NBGI, Mr. Klein was president and founder of Newbrook Capital Management, founder and managing member of Independence Holdings Partners, LLC, a private equity fund-of-funds company and founder and general partner of Intrinsic Edge Partners, a long/short equity hedge fund. Mr. Klein is a graduate of J.L. Kellogg Graduate School of Management at Northwestern University, with a Masters of Management Degree and also received a Bachelors of Business Administration degree with high distinction from Emory University.

Mortimer Singer became a director of American Apparel upon consummation of the Acquisition on December 12, 2007. Mr. Singer has been a senior vice president of Marvin Traub Associates (MTA), a business development and strategy consulting firm focused on working with brands, retailers, developers and related businesses that operate in the retail and consumer goods sectors, since April 2003. In this capacity he oversees all aspects of MTA's business, from merger and acquisition advisory services to strategic consulting in the fashion and retail industries for clients in the U.S., as well as Russia, India, Europe and other locales. In this capacity he also co-founded and became managing director of Traub Singer Magnusdottir Capital, MTA's venture division. Prior to joining MTA, Mr. Singer launched, in August 2002, the U.S. division of Quintessentially, a UK based luxury concierge service, where he headed the sale and business development initiative, as well as U.S. brand development until April 2003. From June 2000 to June 2002, Mr. Singer worked in the technology, media and telecom division of JPMorgan Chase, where he advised domestic clients on acquisitions, divestitures, restructurings, joint ventures and financing alternatives. Mr. Singer received his B.A. from the University of Pennsylvania.

Executive Officers

In addition to our executive officers who are listed as being directors, the Company has the following executive officers:

Martin Bailey has been the Chief Manufacturing Officer of American Apparel since the consummation of the Acquisition on December 12, 2007. Prior to the Acquisition, Mr. Bailey had served as President of Manufacturing of Old American Apparel since 2002, overseeing operations of textile and apparel production and the planning, purchasing, sourcing, product development, quality-assurance and distribution departments, as well as nonrelated support departments. Having been in the apparel industry for over 24 years, Mr. Bailey brings to American Apparel a wealth of industry experience. He has managed manufacturing services and operations for companies such as Fruit of the Loom and Alstyle Apparel and has earned a reputation in the apparel industry for his ability to implement cost-effective programs and streamline and organize production growth. Mr. Bailey graduated from Campbellsville College with a B.S. in Business Administration, with an emphasis in accounting.

Glenn A. Weinman joined American Apparel as Senior Vice President, General Counsel and Secretary on February 17, 2009. As General Counsel, Mr. Weinman oversees all aspects of American Apparel's legal matters, including business transactions and securities law compliance. Mr. Weinman was previously a partner at Dongell Lawrence Finney LLP, a California-based law firm, which he joined in 2006 and where he headed up the firm's corporate and business transactions practice. From 2005 to 2006, Mr. Weinman was an independent contractor, providing legal and consulting services on various corporate and employment matters. Prior thereto, Mr. Weinman was vice president, general counsel and secretary of Inter-Con Security Systems from 2003 to 2005. In addition to his experience as an attorney in private practice with major national law firms, such as Stroock & Stroock & Lavan, Mr. Weinman has also served as general counsel for a number of companies, including Luminent, Inc., a Nasdaq-listed fiber optic component manufacturer acquired by MRV Communications, and Guess?, Inc., a NYSE-listed international apparel company. At Guess?, Mr. Weinman served as Vice President, General Counsel and Secretary from 1996 to 2000, and managed the legal, human resources, risk management, shareholder relations, and contractor compliance departments. Mr. Weinman was part of the executive team that managed the successful initial public offering of Guess? in 1996. Mr. Weinman obtained his B.A. from the University of California at Los Angeles in 1978, and his J.D. from the University of Southern California Law Center in 1981. He also received a professional designation in human resources management from the University of California at Los Angeles in 2004.

Joyce Crucillo has been the Chief Litigation Counsel of American Apparel since February 17, 2009. As Chief Litigation Counsel, Ms. Crucillo heads the Company's trial team in all aspects of American Apparel's litigation matters. In addition, Ms. Crucillo is responsible for ensuring the Company's compliance with governmental regulatory requirements, managing and enforcing the Company's intellectual property portfolio, handling employment-related claims, and advising management and the Board of Directors on various legal matters. Prior thereto, Ms. Crucillo served as the Company's general counsel since the consummation of the Acquisition on December 12, 2007, and prior to the Acquisition, Ms. Crucillo had served as general counsel of Old American Apparel since December 2006. Prior to joining American Apparel, Ms. Crucillo was a partner of Hallstrom, Crucillo and Christesen LLP, a full-service business law firm based in Orange County, California, from October 2004 to November 2006, where she headed the firm's litigation department. From March 2004 to October 2004, Ms. Crucillo was a managing partner of the full service business law firm, Stirling Law, and from October 1999 to February 2004, Ms. Crucillo was the senior litigation associate responsible for prosecuting and defending intellectual property lawsuits with Trojan Law. Ms. Crucillo earned her J.D. at Loyola Law School, Los Angeles and her B.A. in Business Management at Cal Poly, San Luis Obispo.

CORPORATE GOVERNANCE AND BOARD MATTERS

Background of American Apparel, Inc.

American Apparel, Inc., a Delaware corporation, was incorporated in Delaware on July 22, 2005 as Endeavor Acquisition Corp. (Endeavor), a blank check company formed to acquire an operating business. On December 21, 2005, Endeavor consummated its initial public offering, and on December 18, 2006 entered into an Agreement and Plan of Reorganization, amended as of November 7, 2007 (as amended, the Acquisition Agreement), with American Apparel, Inc., a California corporation (Old American Apparel), and its affiliated companies. Endeavor consummated the acquisition of Old American Apparel and its affiliated companies on December 12, 2007 (the Acquisition) and changed its name to American Apparel, Inc. Pursuant to the Acquisition, Old American Apparel merged with and into AAI Acquisition LLC, a California limited liability company and a wholly owned subsidiary of Endeavor. AAI Acquisition LLC survived the Acquisition as a wholly owned subsidiary of the Company and changed its name to American Apparel (USA), LLC.

Director Independence

The Board is currently composed of nine directors, seven of whom qualify as independent directors as defined under the applicable listing standards of the NYSE Amex (each an Independent Director). None of the Class B Nominees qualifies as an Independent Director and, as a result, following the election of the Class B Nominees, the Board will be composed of nine directors, five of whom will qualify as Independent Directors.

In establishing independence, the Board affirmatively determines that each director or nominee does not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director. In addition, the Board has determined as provided in the NYSE Amex rules that the following categories of persons would not be considered independent: (1) a director who is, or during the past three years was, employed by the Company, other than prior employment as an interim executive officer (provided the interim employment did not last longer than one year); (2) a director who accepted or has an immediate family member who accepted any compensation from the company in excess of \$120,000 during any period of twelve consecutive months within the three years preceding the determination of independence (unless such compensation falls under exceptions provided for under the NYSE Amex rules); (3) a director who is an immediate family member of an individual who is, or at any time during the past three years was, employed by the company as an executive officer; (4) a director who is an executive officer, partner or a controlling shareholder, or has an immediate family member who is an executive officer, partner or a controlling shareholder, of an organization to which the Company made, or from which the Company received, payments (other than those arising solely from investments in the Company's securities or payments under non-discretionary charitable contribution matching programs) which, in any of the past three fiscal years, exceeds or exceeded the greater of \$200,000, or 5% of the other organization's consolidated gross revenues; (5) a director who is, or has an immediate family member who is, employed as an executive officer of another entity where at any time during the most recent three fiscal years any of the Company's executive officers serve on the compensation committee of such other entity; and (6) a director who is, or has an immediate family member who is, a current partner of the Company's outside auditor, or was a partner or employee of the Company's outside auditor who worked on the Company's audit at any time during any of the past three years.

Applying these standards, the Board determined that the following directors qualify as Independent Directors: Messrs. Klein, Greene, Mayer, Miller, Samson, Singer and Thornton. Each of the members of each of the committees of the Board is an Independent Director, and, in the case of members of the Audit Committee (Messrs. Klein, Samson and Thornton, with Mr. Klein as Chairman), each also meets the additional criteria for independence of audit committee members set forth in Rule 10A-3 under the Exchange. For additional information regarding the Audit Committee, see Board Structure and Committee Composition Audit Committee below.

Following the election of the Class B Nominees, the following directors qualify as Independent Directors: Messrs. Greene, Mayer, Miller, Samson and Thornton.

Board Structure and Committee Composition

The Board of Directors presently has the following three committees: (1) an Audit Committee, (2) a Compensation Committee, and (3) a Nominating and Corporate Governance Committee. Committee membership during the last fiscal year and the functions of each of the committees are described below. Each of the committees operates under a written charter adopted by the Board. All of the Committee charters are available on the Company's website at investors.americanapparel.net.

The Board of Directors held 12 meetings during fiscal year 2008. The Audit Committee met 35 times, the Compensation Committee met 11 times, and the Nominating and Corporate Governance Committee met three times during fiscal year 2008. Each director attended, in person or telephonically, at least 75% in the aggregate of (i) the total number of meetings of the Board of Directors held during 2008 and (ii) the total number of meetings held by all committees of the Board of Directors on which he served during 2008. In addition, eight of our directors attended our 2008 Annual Meeting of Stockholders. American Apparel expects its directors to attend annual meetings of stockholders and all Board meetings and respective committee meetings and to spend the time needed and to meet as frequently as necessary to properly discharge their responsibilities.

Name of Director	Audit Committee	Compensation Committee	Nominating and Corporate Governance Committee
Independent Directors:			
Robert Greene		X	X
Mark D. Klein	X*		
Allan Mayer		X	
Keith Miller		X*	X
Mark Samson	X		
Mortimer Singer		X	X*
Mark A. Thornton	X	X	
Other Directors:			
Dov Charney, Chairman			
Adrian Kowalewski			

X = Committee Member; * = Committee Chair

Following the Annual Meeting, the Board of Directors, with recommendations from the Nominating and Corporate Governance Committee, will determine the composition of the committees for the following year.

Audit Committee

The current members of the Audit Committee are Messrs. Klein, Samson and Thornton. The Board has determined that each member of this Committee is an Independent Director, with Mr. Klein as Chairman. Mr. Klein is not standing for reelection at the Annual Meeting. Following the Annual Meeting, the Board of Directors, with recommendations from the Nominating and Corporate Governance Committee, will determine the composition of the Audit Committee for the following year.

The Audit Committee's purpose is to provide assistance to the Board in fulfilling its legal and fiduciary obligations with respect to matters involving accounting, auditing, financial reporting, internal control and legal compliance functions of the Company. The Committee oversees the audit efforts of the Company's independent accountants and internal auditors and, in that regard, takes such actions as it may deem necessary to satisfy itself that the Company's auditors are independent of management. It is the objective of the Audit Committee to maintain free and open means of communications among the Board, the independent accountants, the internal auditors and the financial and senior management of the Company.

Among other things, the Audit Committee prepares the Audit Committee report for inclusion in the annual proxy statement; annually reviews the Audit Committee Charter and the Audit Committee's performance; appoints, evaluates and determines the compensation of our independent auditors; reviews and approves the scope of the annual audit, the audit fees and the financial statements; reviews our disclosure controls and procedures, internal controls, information security policies, internal audit function, and corporate policies with respect to financial information and earnings guidance; oversees investigations into complaints concerning financial matters; and reviews other risks that may have a significant impact on the Company's financial statements. The Audit Committee has the authority to obtain advice and assistance from, and receive appropriate funding from the Company for, outside legal, accounting and other advisors as the Audit Committee deems necessary to carry out its duties.

The Audit Committee is a separately-designated standing committee, established in accordance with section 3(a)(58)(A) of the Exchange Act (15 U.S.C. 78(c)(58)(A)). The Audit Committee at all times is required to be composed exclusively of independent directors who are financially literate as defined under NYSE Amex listing standards. NYSE Amex listing standards define financially literate as being able to read and understand fundamental financial statements, including a company's balance sheet, income statement and cash flow statement. The Audit Committee is currently composed of three financially literate Independent Directors: Messrs. Klein, Samson and Thornton. In addition, Mr. Samson qualifies to serve as the financial expert according to the requirements of SEC Regulation S-K Items 407(d)(5)(ii) and 407(d)(5)(iii).

The report of the current Audit Committee is included in this Proxy Statement. A copy of the current Audit Committee Charter is available on the Company's website at investors.americanapparel.net.

Compensation Committee

The current members of the Compensation Committee are Messrs. Greene, Mayer, Miller, Mayer, Singer and Thornton. The Board has determined that each member of this Committee is an Independent Director, with Mr. Miller as Chairman. Mr. Singer is not standing for reelection at the Annual Meeting. Following the Annual Meeting, the Board of Directors, with recommendations from the Nominating and Corporate Governance Committee, will determine the composition of the Compensation Committee for the following year.

The Compensation Committee is responsible for overseeing the Company's compensation and employee benefit plans and practices, including the executive compensation plans and the incentive-compensation and equity-based plans. The Compensation Committee reviews and approves the general compensation policies of the Company, oversees the administration of all of the Company's compensation and benefit plans, reviews and approves compensation of the executive officers of the Company, prepares the Compensation Committee Report to be filed with the SEC and recommends compensation policies to the Board. For more information, see [Processes and Procedures for Determination of Executive and Director Compensation](#) below and the current copy of the Compensation Committee Charter, which is available on the Company's website at investors.americanapparel.net.

Nominating and Corporate Governance Committee

The current members of the Nominating and Corporate Governance Committee are Messrs. Greene, Miller and Singer. The Board has determined that each member of this committee is an Independent Director, with Mr. Singer as Chairman. Mr. Singer is not standing for reelection at the Annual Meeting. Following the Annual Meeting, the Board of Directors, with recommendations from the Nominating and Corporate Governance Committee, will determine the composition of the Nominating and Corporate Governance Committee for the following year.

The Nominating and Corporate Governance Committee assists the Board in identifying and recommending individuals qualified to serve as directors. Subject to Lion's right to designate up to two persons to the Board of Directors pursuant to the Investment Agreement and the agreement of Lion to vote for Mr. Charney, and the agreement of Mr. Charney to vote for the Lion designees, pursuant to the Investment Voting Agreement, consistent with criteria approved by the Board (as described below under [Consideration of Director Nominees](#)), the Nominating and Corporate Governance Committee will select, or recommend that the Board select, the director nominees required for each subsequent annual meeting of stockholders. The Nominating and Corporate Governance Committee will consider persons identified by its members, management, stockholders and others as nominees.

The guidelines for selecting nominees, which are specified in the Nominating and Corporate Governance Committee's current charter, generally provide that persons to be nominated should be evaluated with respect to their experience, skills, expertise, diversity, personal and professional integrity, character, business judgment, time availability in light of other commitments, dedication, conflicts of interest and such other relevant factors that the Committee considers appropriate in the context of the needs of the Board. Additionally, the guidelines provide that the Committee should consider whether candidates are independent pursuant to NYSE Amex requirements; accomplished in their fields and maintain a reputation, both personal and professional, consistent with the image and reputation of the Company; able to read and understand financial statements; knowledgeable as to the Company and issues affecting it; committed to enhancing stockholder value; able to understand fully the legal responsibilities of a director and the governance processes of a public company; able to develop a good working relationship with other Board members and senior management and able to suggest business opportunities to the Company. The Nominating and Corporate Governance Committee will evaluate each individual in the context of the Board as a whole, with the objective of recommending a group of persons that reflects the appropriate balance of knowledge, experience, skills, expertise and diversity and includes at least the minimum number of independent directors required by the NYSE Amex. The Committee will not distinguish among nominees recommended by stockholders and nominees recommended by other persons.

In addition to the responsibilities described above, the Nominating and Corporate Governance Committee currently develops and recommends to the Board a set of corporate governance principles for the Company; oversees the evaluation of the Company's management and the Board; and makes recommendations to the Board regarding the size and composition of committees of the Board, including identifying individuals qualified to serve as members of a committee. A copy of the current Nominating and Corporate Governance Committee Charter is available on the Company's website at investors.americanapparel.net. For more information, see "Consideration of Director Nominees" below.

Consideration of Director Nominees

Stockholder Nominees

The policy of the Nominating and Corporate Governance Committee is to consider properly submitted stockholder nominations for candidates for membership on the Board as described below under "Identifying and Evaluating Nominees for Directors." The Nominating and Corporate Governance Committee will evaluate a prospective nominee suggested by any stockholder in the same manner and against the same criteria as any other prospective nominee identified by the Nominating and Corporate Governance Committee from any other source.

However, pursuant to the Investment Agreement (described under "Proposal 1" above), Lion currently has the right to designate up to two persons to the Board of Directors and a board observer, subject to maintaining certain minimum ownership thresholds of shares issuable under the Lion Warrant. Pursuant to the Investment Voting Agreement (described under "Proposal 1" above), for so long as Lion has the right to designate any person or persons to the Board of Directors, Mr. Charney has agreed to vote his shares of Common Stock in favor of Lion's designees, subject to maintaining a certain minimum ownership threshold, and Lion has agreed to vote its shares of Common Stock in favor of Mr. Charney, subject to termination upon the occurrence of certain events. As a result of the Investment Agreement and the Investment Voting Agreement, Lion and Mr. Charney can, by voting for their Board nominees as provided in the Investment Agreement and the Investment Voting Agreement, elect the two Lion designees and Mr. Charney, subject to the conditions described above.

In evaluating nominations from stockholders, the Nominating and Corporate Governance Committee will seek to achieve a balance of knowledge, experience and capability on the Board and to address the membership criteria set forth under "Director Qualifications" below.

Any stockholder nominations proposed for consideration by the Nominating and Corporate Governance Committee should include the following information and documentation:

the nominee's name, age, business and current residence addresses, as well as residence addresses for the past 20 years, principal occupation or employment and employment history (name and address of employer and job title) for the past 10 years and educational background;

the nominee's permission for the Company to conduct a background investigation;

the number of shares of our Common Stock beneficially owned by the nominee;

the information that would be required to be disclosed about the nominee under the rules of the Exchange Act in a proxy statement (such as this Proxy Statement) soliciting proxies for the election of such nominee as a director; and

a signed consent of the nominee to serve as a director of the Company, if elected.

Such written notice of a stockholder nomination must be received by the Company's Secretary not earlier than the close of business on the ~~90~~ day prior to the 2010 Annual Meeting of Stockholders and not later than the close of business on the 60th day prior to the 2010 Annual Meeting of Stockholders. If less than 70 days notice or prior public disclosure of the date of the 2010 Annual Meeting of Stockholders is given or made to stockholders, then notice of a stockholder nomination must be received no later than the close of business on the tenth day following the date on which notice of the date of such annual meeting is mailed to the stockholders or the date on which public disclosure of the date of such annual meeting is made, whichever is first. Any stockholder nominations for candidates for membership on the Board should be addressed to:

American Apparel, Inc.

Attention: Nominating and Corporate Governance Committee

747 Warehouse Street

Los Angeles, California 90021

Director Qualifications

The Nominating and Corporate Governance Committee has the responsibility to review the background and qualifications of individuals being considered as director candidates, including developing criteria and qualifications for membership on the Board. Among the qualifications considered in the selection of candidates, the Committee shall consider each candidate's experience, skills, expertise, diversity, personal and professional integrity, character, business judgment, time availability in light of other commitments, dedication, conflicts of interest and such other relevant factors that the Committee considers appropriate in the context of the needs of the Board.

Additionally, the Committee considers whether the candidate is:

independent pursuant to NYSE Amex requirements;

accomplished in his or her field and maintained a reputation, both personal and professional, consistent with the image and reputation of the Company;

able to read and understand financial statements (the Committee will also determine if a candidate qualifies as an audit committee financial expert, as defined by the SEC);

knowledgeable as to the Company and issues affecting the Company;

committed to enhancing stockholder value;

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able to understand fully the legal responsibilities of a director and the governance processes of a public company;

able to develop a good working relationship with other Board members and senior management; and

able to suggest business opportunities to the Company.

Identifying and Evaluating Nominees for Directors

The Nominating and Corporate Governance Committee annually reviews the composition of the Board and reviews the suitability for continued service as a director of each Board member when his or her term expires and when he or she has a change in status, including but not limited to an employment change, and to recommend whether or not the director should be re-nominated. The Nominating and Corporate Governance Committee also recommends to the Board the nominees for election as directors by the stockholders or appointment by the Board, as the case may be, pursuant to the Bylaws of the Company, which recommendations will be consistent with the

criteria for selecting directors established by the Board or the Nominating and Corporate Governance Committee, as the case may be. Stockholders who wish to recommend to the Nominating and Corporate Governance Committee a candidate for election to the Board can send letters to 747 Warehouse Street, Los Angeles, California 90021, Attention: Nominating and Corporate Governance Committee. Stockholders must follow certain procedures, including those described under *Stockholder Nominees* above, to make recommendations to the Nominating and Corporate Governance Committee for election of directors and the recommendation must be received by the Company's Secretary in a timely manner as described under *Stockholder Nominees* above.

Executive Sessions

Executive sessions of non-management directors are expected to be held on a regular basis. Any non-management director can request that an additional executive session be scheduled.

Communications with the Board

You may communicate with the Board by submitting an e-mail to the Board at *bod@americanapparel.net*. All directors have access to this e-mail address.

Governance Guidelines and Committee Charters

The Company's Governance Guidelines, which satisfy NYSE Amex listing standards for corporate governance guidelines, as well as the charters for each of the committees of the Board, are available at *investors.americanapparel.net*. Stockholders may request a copy of the Company's Governance Guidelines or the charter of any of the Committees of the Board, at no cost, by writing to us at the following address: American Apparel, Inc., Attn: General Counsel, 747 Warehouse Street, Los Angeles, California 90021.

Code of Ethics

The policies comprising our code of ethics are set forth in the Company's Code of Ethics (the *Code of Ethics*) (included as Exhibit 14.1 of the Current Report on Form 8-K (File No 001-32697) filed December 18, 2007). These policies satisfy the SEC's requirements for a code of ethics, and apply to all directors, officers (including our principal executive officer, principal financial officer and principal accounting officer or controller) and employees. The Code of Ethics is also published on our website at *investors.americanapparel.net*. Stockholders may request a copy of the Code of Ethics, at no cost, by writing to us at the following address: American Apparel, Inc., Attn: General Counsel, 747 Warehouse Street, Los Angeles, California 90021.

Indemnification of Directors

The General Corporation Law of the State of Delaware provides that a company may indemnify its directors and officers as to certain liabilities. The Company's Amended and Restated Certificate of Incorporation and Bylaws provide for the indemnification of its directors and officers to the fullest extent permitted by law, and the Company has entered into separate indemnification agreements with certain directors and officers to effectuate these provisions and has purchased directors' and officers' liability insurance. The effect of such provisions is to indemnify, to the fullest extent permitted by law, the directors and officers of the Company against all costs, expenses and liabilities incurred by them in connection with any action, suit or proceeding in which they are involved by reason of their affiliation with the Company.

The Company has entered into separate indemnification agreements with its directors and certain of its officers. The indemnification agreements provide for the indemnification of and the advancing of expenses to such directors and officers to the fullest extent (whether partial or complete) permitted by law and as set forth in the indemnification agreement, and, to the extent insurance is maintained, for the continued coverage of such directors and officers under the Company's directors' and officers' liability insurance policies. The Company currently maintains directors' and officers' liability insurance.

**PROCESSES AND PROCEDURES FOR DETERMINATION OF
EXECUTIVE AND DIRECTOR COMPENSATION**

The Compensation Committee of the Board of Directors is responsible for overseeing the compensation and employee benefit plans and practices of the Company. The Compensation Committee reviews and approves, either as a committee or together with the other independent directors, the general compensation policies of the Company, oversees the administration of all of the Company's compensation and benefit plans and reviews and approves, either as a committee or together with the other independent directors, compensation of the executive officers of the Company. The Compensation Committee Charter requires that the Compensation Committee consist of no fewer than two Board members who qualify as non-employee directors within the meaning of Rule 16b-3 under the Exchange and outside directors within the meaning of Section 162(m) of the Internal Revenue Code of 1986, as amended. At all times since its formation following the Acquisition, the Compensation Committee has consisted of at least three Board members, each of whom the Board has affirmatively determined satisfied these independence requirements.

The Compensation Committee Charter sets forth the purpose of and other matters pertaining to the Compensation Committee. The form of the current Compensation Committee Charter is available on the Company's website at *investors.americanapparel.net*.

Pursuant to its Charter, the Compensation Committee's responsibilities include the following:

review and approve, either as a committee or together with the other independent directors, the corporate goals and objectives relevant to the compensation of the Chief Executive Officer and other officers of the Company;

evaluate, either as a committee or together with the other independent directors, the Chief Executive Officer's performance in light of such goals and objectives;

set, either as a committee or together with the other independent directors, officers' compensation levels, including base salary, annual incentive opportunities, long-term incentive opportunities and benefits;

review and approve, either as a committee or together with the other independent directors, any employment contracts or related agreements, such as severance or termination arrangements, to be made with any executive officer of the Company;

review and recommend to the Board appropriate director compensation programs and, either as a committee or together with the other independent directors, review and approve perquisites or other personal benefits to directors and recommend any changes to the Board;

review its own performance and assess the adequacy of its Charter;

review and approve the goals and objectives of and the plans underlying the Company's general compensation and other employee benefit programs, including incentive-compensation and equity-based programs;

retain and terminate any compensation consultant used to assist in the evaluation of officer compensation, including to approve the consultant's fees and other retention terms; and

produce a report of the Compensation Committee to be included in the Company's annual proxy statement.

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Our Chief Executive Officer and Chairman of the Board recommends to the Compensation Committee salary, annual bonus, equity-based awards and long-term compensation levels for other executives, including the other Named Officers (as defined under Compensation Discussion and Analysis below). Our other executives, including the other Named Officers, do not currently have any role in determining or recommending the form or amount of compensation paid to our Named Officers and our other executives. While the Compensation Committee reviews and makes recommendations regarding compensation paid to the non-employee directors, the compensation for these directors is determined by the Board.

Equity awards to all officers subject to Section 16 of the Exchange Act are made by the Compensation Committee. As indicated above, pursuant to its charter, the Compensation Committee is authorized to retain and terminate any compensation consultant engaged to assist in the evaluation of the compensation of our officers (including all of the Named Officers).

In March 2008, the Compensation Committee retained the firm of Pearl Meyer & Partners, LLC (PM&P) as its compensation consultant to assist in the development and evaluation of compensation policies, practices and awards. Specifically, PM&P was engaged to conduct a competitive review of executive compensation and severance policies, and to assist in developing an annual incentive plan and a long-term equity incentive program to reward and retain key executives and managers.

PM&P was engaged by and reports directly to the Compensation Committee. While conducting assignments, PM&P interacts with our management when appropriate to gather perspectives and relevant company and compensation data. In addition, PM&P may seek feedback from the Compensation Committee Chairman, other members of the Committee or Board, or the Chief Executive Officer and Chairman of the Board regarding its work prior to presenting study results or recommendations to the Committee.

PM&P has attended or participated in certain Compensation Committee meetings and provided third-party data, advice and expertise on proposed executive compensation levels, programs and plan designs. The Committee may also ask PM&P to review and provide advice related to proposals prepared by management, including evaluating the consistency of such proposals with the Committee's compensation philosophy and in comparison to programs at other companies.

COMPENSATION OF DIRECTORS

Compensation for non-employee directors will consist of annual stock grants and Board and Committee meeting fees, as described below. Employees who are also directors will receive no additional compensation for their Board service.

DIRECTOR COMPENSATION FISCAL 2008

During 2008, the sole cash compensation to our non-employee directors consisted of a total of \$228,000 in Board and Committee meeting fees paid to Messrs. Greene, Klein, Mayer, Miller, Samson, Singer and Thornton for their participation in Board meetings held during 2008.

Pursuant to the 2007 Performance Equity Plan approved by stockholders in conjunction with the Acquisition, our non-employee directors each received a stock grant (of fully vested shares) as described below for their Board service during 2007 and 2008, and automatically will receive a stock grant for each year of service thereafter, such grant to be made on December 12 of such year of service, equal to that number of shares of our Common Stock having an aggregate market value of \$75,000 at the time of grant.

The initial stock grant was approved by the Board of Directors on February 6, 2008, subject to the filing and effectiveness of a registration statement on Form S-8, which was filed on April 17, 2008. Pursuant to the Board authorization for the initial stock grant, however, the number of shares awarded to each non-employee director was to be determined using the highest closing price per share of Common Stock as of December 12, 2007, February 6, 2008 or April 17, 2008. Consequently, the Company issued to each non-employee director 4,808 shares of Common Stock, based upon the December 12, 2007 closing price per share of \$15.60, in connection with their Board service during 2007.

On January 12, 2009, the Company issued the second annual grant to each non-employee director of 35,211 shares of common stock, based upon the closing price per share of \$2.13, in connection with their Board service during 2008.

The table below summarizes the compensation provided by the Company to non-employee directors for the fiscal year ended December 31, 2008:

Name	Fees Earned or Paid in		Option Awards (\$)	Non-Equity Incentive Plan Compensation (\$)	Change in Pension Value and Nonqualified Delivered Compensation Earnings (\$)	All Other Compensation (\$)	Total (\$)
	Cash (\$)	Stock Awards (\$)					
<i>Non-Employee Directors</i>							
Robert Greene	\$ 19,000	\$ 33,079	\$	\$	\$	\$	\$ 52,079
Mark D. Klein	47,000	33,079				2,615	82,694
Allan Mayer	18,000	33,079					51,079
Keith Miller	22,000	33,079					55,079
Mark Samson	47,000	33,079				4,074	84,153
Mortimer Singer	23,000	33,079					56,079
Mark A. Thornton	52,000	33,079				2,974	88,053
<i>All Non-Employee Directors</i>	<i>\$ 228,000</i>	<i>\$ 231,553</i>	<i>\$</i>	<i>\$</i>	<i>\$</i>	<i>\$ 9,663</i>	<i>\$ 469,216</i>

- (1) Represents the amounts recognized for the fiscal year ended December 31, 2008 in the Company's results of operations pursuant to Financial Accounting Standard 123R - Stock Based Payments. Assumptions used in the calculation of these amount are further described in Note 15 to the Company's audited consolidated financial statements for the fiscal year ended December 31, 2008, included in the Annual Report. The aggregate grant date fair value for the stock award is \$432,000, computed in accordance with FAS 123R.
- (2) Relates to reimbursements for out-of-pocket travel expenses for attending Board and Committee meetings.

Annual Stock Awards and Meeting Fees

The following table sets forth the schedule of annual stock grants and meeting fees for non-employee directors in effect during 2008:

Type of Fee	Dollar Amount
Value of Annual Stock Grant	\$ 75,000
Attendance Fee per Committee Meeting Attended	\$ 1,000
Attendance Fee per Board Meeting Attended	\$ 1,000

Each non-employee director receives \$1,000 for each Board and each Committee meeting attended and are also reimbursed for out-of-pocket expenses including travel expenses that they incur serving as directors.

COMPENSATION DISCUSSION AND ANALYSIS

This section contains a discussion of the material elements of compensation awarded to, earned by or paid to the principal executive officer and principal financial officer of the Company and our three other most highly compensated individuals who were serving as executive officers as of December 31, 2008.

During 2008, Dov Charney served as the Company's Chairman of the Board, President and Chief Executive Officer. Three individuals served as our Chief Financial Officer and Treasurer during 2008: Ken Cieply from January 1, 2008 to May 21, 2008, William Gochnauer from May 22, 2008 to December 28, 2008 (serving as Interim Chief Financial Officer for such period) and Adrian Kowalewski, who previously had been serving as the Company's Director of Corporate Finance, from December 29, 2008 to December 31, 2008. Our two other most highly compensated individuals were Joyce Crucillo and Martin Bailey. These individuals are referred to as the "Named Officers" herein.

The Company's current executive compensation programs are determined and approved by the Compensation Committee of the Board. None of the Named Officers are members of the Compensation Committee. Our Chief Executive Officer and Chairman of the Board recommends to the Compensation Committee salary, cash incentive awards, equity-based awards and long-term compensation levels for executives, including the other Named Officers. Our other executives, including the other Named Officers, do not currently have any role in determining or recommending the form or amount of compensation paid to our Named Officers and our other executives.

Executive Compensation Program Objectives and Overview

It is the Company's intent that its executive compensation programs achieve three fundamental objectives: (1) attract, motivate and retain qualified executives; (2) hold executives accountable for performance; and (3) align executives' interests with the interests of our stockholders. In structuring the Company's executive compensation programs, we intend to be guided by the following basic philosophies:

Competition. The Company should provide competitive compensation opportunities so that it can attract, motivate and retain qualified executives.

Pay for Performance. A substantial portion of compensation should be tied to Company (and/or particular department or segment) and individual performance.

Alignment with Stockholder Interests. A substantial portion of compensation should be contingent on the Company's performance. As an executive officer's level of responsibility increases, a greater portion of the officer's total compensation should be dependent on the Company's performance.

As described in more detail below, the material elements of our executive compensation program will include some or a mix of the following, at the discretion of the Compensation Committee: a base salary, an annual cash incentive bonus opportunity, and a performance equity plan component. We believe that these elements of our executive compensation program will help us to achieve one or more of our compensation objectives. The executive compensation program is intended to attract, motivate and retain qualified executives. The base salary is the element of our current executive compensation program where the value of the benefit in any given year is generally not variable. We anticipate that any bonus awarded in any given year will depend on the performance of the individual and the performance of the Company. We believe that in order to attract, motivate and retain top-caliber executives, we need to provide executives with predictable benefit amounts that reward the executive's continued service. The base salaries are paid out on a short-term or current basis. Any bonuses would generally be paid out on a short-term basis, such as at year end or upon completion of significant projects. Performance equity awards would generally be made on a longer-term basis. We believe that a mix of longer-term and short-term elements will allow us to achieve our dual goals of attracting and retaining executives (with the longer-term benefits geared toward retention and the short-term awards focused on recruitment).

Our cash incentive bonus opportunity would be primarily intended to hold executives accountable for performance, although we also believe it would align our executives' interests with those of our stockholders and help us attract, motivate and retain executives. Our performance equity incentives would also be primarily intended to align our executives' interests with those of our stockholders, although we believe they would help hold executives accountable for performance and help us motivate and retain executives.

These compensation elements are intended to create a total compensation package for each executive that we believe will achieve our compensation objectives and provide competitive compensation opportunities.

The Company has employment agreements with Dov Charney, Chairman of the Board, Chief Executive Officer and President, Glenn A. Weinman, Senior Vice President, General Counsel and Secretary, and Joyce Crucillo, Chief Litigation Counsel. For a more complete description of current employment agreements with Mr. Charney, Mr. Weinman and Ms. Crucillo, see "Description of Employment Agreements" below.

Current Executive Compensation Program Elements

Base Salaries

The Compensation Committee reviews and approves base salaries for executives, including Named Officers, annually and in connection with promotions or other changes in responsibilities. The Compensation Committee generally reviews the base salaries for each executive in the first quarter of each year to set salaries, and intends to consider market data, individual compensation history, pay in relation to other executives at the Company, tax deductibility, individual job performance and future potential, as well as evaluations and recommendations by senior management in determining base salary. The weight given to each of these factors may differ from individual to individual, as the Compensation Committee deems appropriate.

Annual Bonus Awards

As discussed under "Description of Employment Agreements" below, Mr. Charney's employment agreement provides for the payment of a target bonus of 150% of his annual base salary subject to certain terms and conditions. On April 13, 2009, the Compensation Committee discussed whether to award Mr. Charney a bonus for his service for the year ended December 31, 2008, under the terms of his agreement and, if so, at what level. During this discussion, the Compensation Committee analyzed a number of factors including metrics such as the Company's 2008 net sales (Net Sales), earnings before interest, taxes, depreciation and amortization (EBITDA) and earnings per share (EPS), and whether performance on these metrics was within the targeted range communicated to shareholders. To assist the Compensation Committee in its discussion regarding Mr. Charney's bonus, the Compensation Committee consulted with PM&P, which advised the Compensation Committee that an approach of using financial indicators such as EPS, EBITDA and Net Sales is consistent with the competitive practices of the Company's peer group. The Compensation Committee agreed that in evaluating Mr. Charney's performance and bonus for 2008, this broader approach of using financial indicators provides a more consistent and complete view of his and the Company's performance and achievements.

Accordingly, in evaluating Mr. Charney's performance for 2008, the Compensation Committee focused on the Company's significant increase in net sales for 2008 (an increase of 40.8% over 2007), the achievement of the Company's targeted EBITDA and EPS for 2008, and Mr. Charney's contribution to the Company in obtaining such results. The Compensation Committee also reviewed peer group financial analysis provided by PM&P, which indicated that the Company ranked third highest (out of 20 peer companies) in terms of Net Sales growth over a one- and three-year period, second highest (out of 18 companies) in terms of Operating Income growth over a three-year period, and first (out of 17 companies) in Net Income growth over the same three-year period. The Compensation Committee also considered that the foregoing described results occurred in spite of a recessionary retail environment. Additionally, the Compensation Committee further noted that the Company opened 78 new stores in 2008. In addition, based on information provided by PM&P, the Compensation Committee noted that the Company's comparable-store sales increased 22% for 2008, substantially above the average for companies in the specialty apparel retail segment.

PM&P further advised the Compensation Committee that Mr. Charney's target bonus for 2008 is at the 63rd percentile of the Company's peer group, and his resulting total cash compensation (annual base salary and bonus) is at the 68th percentile of the Company's peer group. In addition, PM&P advised that the impact of Mr. Charney's target bonus on the Company's EPS would be approximately \$0.02 per share. Accordingly, based on the considerations discussed above and Mr. Charney's integral contribution to the Company in obtaining such financial achievements in 2008, the Compensation Committee determined that it would be appropriate to award Mr. Charney a bonus of \$1,125,000, which is equal to the targeted level of 150% of his 2008 annual base salary, for his service for the year ended December 31, 2008.

Prior to the date that the Compensation Committee approved such bonus, Mr. Charney advised the Compensation Committee that, in light of the Company's stock price performance in 2008, he would prefer that the Compensation Committee reduce his proposed 2008 bonus to \$250,000 for his service for the year ended December 31, 2008.

Other than the bonus payment that will be paid to Mr. Charney as described above and bonus payments that were paid to Ms. Crucillo pursuant to her employment agreement, as discussed below in Description of Employment Agreements, there were no annual or other bonuses awarded to Named Officers for the year ended December 31, 2008.

On April 13, 2009, subject to stockholder approval of the Incentive Plan, as discussed in Proposal 4 above, the Board of Directors approved the Incentive Plan, under which certain cash awards are intended to qualify as performance-based compensation under Section 162(m). The Board of Directors believes that adoption of the Incentive Plan will provide the Compensation Committee with the tools necessary to meet the Company's objectives of attracting, motivating and retaining qualified employees and of tying a portion of compensation to Company performance. Accordingly, subject to stockholder approval of the Incentive Plan, as discussed in Proposal 4 above, going forward, a portion of compensation for executive officers may be based on the financial performance of the Company, as determined at the discretion of the Compensation Committee.

Long-Term Equity Incentive Awards

The Compensation Committee has the authority to grant stock options, restricted stock and other awards under the Company's 2007 Performance Equity Plan to executives.

The Compensation Committee believes that the executives' long-term compensation should be directly linked to the value provided to our stockholders. Consequently, the Compensation Committee is considering the establishment of a performance-based program whereby executives' long-term compensation may be awarded in the form of stock options and/or restricted stock, at the discretion of the Compensation Committee. The number of shares of the Company's Common Stock subject to each award will be intended to create a meaningful opportunity for stock ownership in light of the executive's current position with the Company, the size of comparable awards to comparable executives at our peer group companies, the individual's personal performance, the individual's service with the Company (including years of service to the Company's predecessor, Old American Apparel) and such other factors determined to be relevant by the Compensation Committee.

Severance and Other Benefits Upon Termination of Employment

In order to support our compensation objective of attracting, retaining and motivating qualified executives, we believe that, in certain cases, we may decide to provide executives with severance protections upon certain types of termination. These severance protections would be negotiated on an individual by individual basis. American Apparel has not entered into any change in control agreements or other severance arrangements with any of its executive officers other than with Dov Charney, Glenn Weinman and Joyce Crucillo. For a more complete description of current employment agreements with Mr. Charney, Mr. Weinman and Ms. Crucillo, see Description of Employment Agreements below.

Option Grant Practices and Policies

It is intended to be the practice of the Compensation Committee to grant stock options under the 2007 Performance Equity Plan with an exercise price equal to or greater than the closing price of the Company's Common Stock on the date of grant.

Section 162(m) Policy

Section 162(m) of the Internal Revenue Code disallows a tax deduction to publicly-held companies for compensation paid to certain executive officers, to the extent that compensation exceeds \$1 million per officer in any year. The limitation applies only to compensation which is not considered to be performance-based. The Compensation Committee intends to consider the anticipated tax treatment to the Company and our executive officers when reviewing executive compensation and our compensation programs.

While the tax impact of any compensation arrangement is one factor to be considered, such impact is evaluated in light of the Compensation Committee's overall compensation philosophy. The Compensation Committee will consider ways to maximize the deductibility of executive compensation, while retaining the discretion it deems necessary to compensate officers in a manner commensurate with performance and the competitive environment for executive talent. From time to time, the Compensation Committee may award compensation to our executive officers which is not fully deductible, if it determines that such award is consistent with its philosophy and is in our and our stockholders' best interests.

COMPENSATION COMMITTEE REPORT ON EXECUTIVE COMPENSATION

The Compensation Committee has certain duties and powers as described in its Charter. The Compensation Committee is currently composed of the five non-employee directors named at the end of this Proxy Statement, each of whom is independent as defined by NYSE Amex listing standards.

The Compensation Committee of the Company has reviewed and discussed with management the Compensation Discussion and Analysis required by Item 402(b) of Regulation S-K of the Exchange and, based on such review and discussions, the Compensation Committee has recommended to our Board of Directors that the Compensation Discussion and Analysis section be included in this Proxy Statement for the 2009 Annual Meeting, as filed with the SEC.

By the Compensation Committee,

Keith Miller, Chairman
Robert Greene
Allan Mayer
Mortimer Singer
Mark A. Thornton

COMPENSATION COMMITTEE INTERLOCKS AND INSIDER PARTICIPATION

During 2008, Robert Greene, Allan Mayer, Keith Miller, Mortimer Singer and Mark A. Thornton served as members of the Compensation Committee. During 2008, no current member of the Compensation Committee was an officer or employee of the Company, formerly an officer of the Company or had any relationships requiring disclosure by the Company under the SEC's rules requiring disclosure of certain relationships and related-party transactions. None of the Company's executive officers served as a director or a member of a compensation committee (or other committee serving an equivalent function) of any other entity whose executive officers served as a director or member of the Company's Compensation Committee during the year ended December 31, 2008.

SUMMARY COMPENSATION TABLE

The following table presents information regarding compensation of our Named Officers for services rendered during 2008, 2007 and 2006.

Name and Principal Position (a)	Year (b)	Salary (\$) (c)	Bonus (\$)(1) (d)	Change in Pension Value Non-Equity and Non-Incentive Qualified				All Other Compensation (i)	Total (j)
				Stock Awards (\$) (e)	Option Awards (\$) (f)	Plan Earnings (g)	Deferred Compensation Earnings (h)		
Dov Charney, Chairman of the Board, President and Chief Executive Officer	2008	\$ 750,000	\$ 250,000(2)	\$	\$	\$	\$	\$	\$ 1,000,000
	2007	\$ 8,304,388(3)	\$	\$	\$	\$	\$	\$ 7,874,557(4)(5)	\$ 16,178,945
	2006	\$ 2,394,379(3)	\$	\$	\$	\$	\$	\$ 17,118(4)	\$ 2,411,497
Adrian	2008	\$ 197,308	\$	\$	\$	\$	\$	(18)	\$ 197,308
	2007	\$ 167,692	\$ 40,000	\$	\$	\$	\$	(18)	\$ 207,692
Kowalewski, Executive Vice President and Chief Financial Officer (6)	2006	\$ 47,138(7)	\$	\$	\$	\$	\$	\$	\$ 47,138
William	2008	\$ 245,022	\$	\$	\$	\$	\$	\$ 44,462(9)	\$ 289,484
	2007	\$	\$	\$	\$	\$	\$	\$	\$
Gochnauer, Former Interim Chief Financial Officer and Treasurer (8)	2006	\$	\$	\$	\$	\$	\$	\$	\$
Ken Cieply, Former Chief Financial Officer and Treasurer (10)	2008	\$ 102,462	\$	\$	\$	\$	\$	\$ 148,804(12)(13)	\$ 251,266
	2007	\$ 218,462	\$	\$	\$	\$	\$	\$ 64,635(12)	\$ 283,097
	2006	\$ 103,846(11)	\$ 10,000	\$	\$	\$	\$	\$ 22,572(12)	\$ 136,418
Joyce Crucillo, Chief Litigation Counsel (14)	2008	\$ 225,000(15)	\$	\$	\$	\$	\$	(18)	\$ 225,000
	2007	\$ 225,000(15)	\$	\$	\$	\$	\$	(18)	\$ 225,000
	2006	\$ 18,750(16)	\$	\$	\$	\$	\$	(18)	\$ 18,750
Martin Bailey, Chief Manufacturing Officer	2008	\$ 278,846	\$	\$	\$	\$	\$	\$ 63,509(17)	\$ 342,355
	2007	\$ 235,585	\$	\$	\$	\$	\$	\$ 41,692(17)	\$ 277,277
	2006	\$ 200,000	\$ 15,000	\$	\$	\$	\$	\$ 44,281(17)	\$ 259,281

- (1) Includes bonuses earned in the year indicated, regardless of when paid. Other than the bonus payment that will be paid to Mr. Charney as described below and bonus payments that were paid to Ms. Crucillo as part of her annual salary as reported in column (c) of this Summary Compensation Table pursuant to her employment agreement, as discussed below in Description of Employment Agreements, there were no annual or other bonuses awarded to Named Officers for the year ended December 31, 2008.
- (2) As described in more detail under Compensation Discussion and Analysis above, the Compensation Committee approved a bonus for Mr. Charney for his service for the year ended December 31, 2008, in an amount equal to \$250,000.
- (3) Mr. Charney did not receive any salary or bonus from American Apparel prior to the Acquisition. As a stockholder of Old American Apparel, and as a result of the S Corporation status of the company, Mr. Charney was allocated income based on the net profits of Old American Apparel and, from time to time, received distributions of the profits, which are included in the Salary amounts here. During 2007 and

2006, Mr. Charney received distributions from Old American Apparel on his allocable income amounting to \$2,963,021 and \$348,000, respectively. For Mr. Charney, amounts presented also include salary of \$39,041 for the period from December 12, 2007, the date of the consummation of the Acquisition, through December 31, 2007 pursuant to his employment agreement with the Company, described in more detail under *Description of Employment Agreements* below, and management fees earned under an arrangement with Old American Apparel's Canadian subsidiaries amounting to \$5,302,326 for 2007 and \$2,046,379 for 2006. Such fees ceased as of December 12, 2007, the date of consummation of the Acquisition.

- (4) All other compensation includes payments of \$7,857,318 in 2007 for reimbursement of personal tax liabilities provided for in the Acquisition Agreement.
- (5) All other compensation also includes personal benefits provided by Old American Apparel and the Company, including payment of the executive officer's share of the company's health insurance premium and \$15,000 in life insurance premiums paid on policies held jointly by the Company and Mr. Charney. The face value of these policies is \$1.5 million.
- (6) In December 2008, Mr. Kowalewski was appointed Executive Vice President and Chief Financial Officer.
- (7) Mr. Kowalewski joined Old American Apparel in June 2006.
- (8) Mr. Gochnauer served as Interim Chief Financial Officer from May 22, 2008 to December 28, 2008.
- (9) Personal benefits include housing, automobile rental and commuting expense reimbursements related to Mr. Gochnauer's commute between Oakland, California and Los Angeles, California amounting to \$44,462 for 2008.
- (10) On May 21, 2008, Mr. Cieply stepped down from his position as Chief Financial Officer.
- (11) Mr. Cieply joined Old American Apparel on June 12, 2006.
- (12) Personal benefits include housing, automobile rental and commuting expense reimbursements related to Mr. Cieply's commute between Montreal, Canada and Los Angeles, California amounting to \$28,804, \$64,635 and \$22,572, respectively, for 2008, 2007 and 2006.
- (13) In connection with Mr. Cieply's resignation as Chief Financial Officer, Mr. Cieply received a \$120,000 immediate cash payment and continued health coverage and other personal benefits, including housing and automobile rental until July 31, 2008. For additional information, see *Certain Relationships and Related Transactions - Severance Agreement and Release of Ken Cieply* below.
- (14) Ms. Crucillo has been the Chief Litigation Counsel of the Company since February 17, 2009. Prior thereto, Ms. Crucillo had served as the Company's general counsel since the consummation of the Acquisition on December 12, 2007, and prior to the Acquisition, Ms. Crucillo had served as general counsel of Old American Apparel since December 2006.
- (15) Ms. Crucillo joined Old American Apparel in December 2006.
- (16) As discussed under *Description of Employment Agreements* below, Ms. Crucillo's annual salary of \$225,000 includes a guaranteed bonus of \$75,000 that is payable semi-annually in two equal installments and accrues and vests for each day that Ms. Crucillo remains employed

with the Company.

- (17) Personal benefits include payment of the executive officer's share of the Company's health insurance premium, a vehicle allowance and \$24,000 in life insurance premiums paid on policies held by Mr. Bailey. The face value of these policies is \$2.0 million.
- (18) Amount is less than \$10,000 and accordingly is omitted.

COMPENSATION OF NAMED OFFICERS

The Summary Compensation Table above quantifies the value of the different forms of compensation earned by or awarded to our Named Officers in 2008, 2007 and 2006. The primary elements of each Named Officer's total compensation reported in the table are base salary, bonuses, and the other benefits listed in Column (i) of the Summary Compensation Table, as further described in the footnotes to the table identified therein.

The Summary Compensation Table should be read in conjunction with the narrative descriptions that follow. A description of the material terms of the employment agreements currently in force with respect to Named Officers is provided immediately following this paragraph.

DESCRIPTION OF EMPLOYMENT AGREEMENTS

The following are descriptions of the terms of the employment agreements with Dov Charney and Joyce Crucillo, our only Named Officers with employment agreements, and Glenn A. Weinman.

Dov Charney, Chairman of the Board, Chief Executive Officer, and President

The Company and Dov Charney are parties to an employment agreement dated December 12, 2007, pursuant to which Mr. Charney will serve as the Company's Chief Executive Officer and President for an initial three-year term, commencing on December 12, 2007, which term will automatically extend for successive one-year periods unless either party provides written notice of non-renewal at least 90 days prior to such renewal date. His employment agreement provides that Mr. Charney will receive a base salary of \$750,000 per year, subject to increase based on the annual review of the Board of Directors, and also will be entitled to receive, subject to certain conditions, a target annual bonus of 150% of his base salary and a long-term bonus over the initial three-year term of the employment agreement of up to 300% of his base salary upon the Company's attainment of performance objectives to be determined by the Board or the Compensation Committee. His employment agreement also provides that Mr. Charney will be eligible to participate in the Company's employee benefit plans as they may exist from time to time (including, without limitation, those plans covering pension and profit sharing, executive bonuses, stock purchases, stock options, life, health and dental insurance, vacation benefits and reimbursement of reasonable and necessary business expenses). See Potential for Payments Upon Termination or Change of Control for additional information regarding Mr. Charney's employment agreement.

Glenn A. Weinman, Senior Vice President, General Counsel and Secretary

In February 2009, Glenn A. Weinman joined the Company as Senior Vice President, General Counsel and Secretary. In connection with Mr. Weinman's appointment as Senior Vice President, General Counsel and Secretary, the Company and Mr. Weinman entered into an employment agreement, pursuant to which Mr. Weinman will serve as the Company's General Counsel and Secretary for an initial two-year term, commencing on February 17, 2009, which term will automatically extend for successive one-year periods unless terminated by the Company on at least 90 days written notice prior to the expiration of the then-current term. His employment agreement provides that Mr. Weinman will receive a minimum base salary of \$300,000 per year, subject to increase based on the annual review of the Compensation Committee, and an opportunity to earn performance bonuses as may be determined by the Board of Directors. His employment agreement also provides that Mr. Weinman will be eligible for stock and stock option grants under the Company's 2007 Performance Equity Plan, as may be determined by the Compensation Committee, and will participate in the benefit plans that the Company maintains for its executives and receive certain other standard benefits (including, without limitation, vacation benefits and reimbursement of travel and business-related expenses, dues and fees). See Potential for Payments Upon Termination or Change of Control for additional information regarding Mr. Weinman's employment agreement.

Joyce Crucillo, Chief Litigation Counsel

The Company and Joyce Crucillo are parties to an employment agreement, dated October 26, 2006, as amended as of March 11, 2009, pursuant to which Ms. Crucillo will serve as the Company's Chief Litigation Counsel. The initial term of her agreement ended on November 30, 2007, but renewed automatically for successive one-year terms, and will renew automatically unless either party provides written notice of non-renewal at least 90 days prior to such renewal date. Her employment agreement provides that Ms. Crucillo will receive a base salary of \$225,000 per year, of which \$75,000 is a guaranteed bonus that is payable semi-annually in two equal installments and accrues and vests for each day that Ms. Crucillo remains employed with the Company. Her employment

agreement also provides that Ms. Crucillo will be eligible for benefits including, without limitation, health, accident, disability, medical, pension, bonus, stock, profit-sharing, savings plans and similar benefits generally available to the Company's employees. See Potential for Payments Upon Termination or Change of Control for additional information regarding Ms. Crucillo's employment agreement.

Potential Payments Upon Termination or Change of Control

The following are descriptions of potential payments upon termination or change of control with respect to the employment agreements with Dov Charney and Joyce Crucillo, our only Named Officers with employment agreements, and Glenn A. Weinman.

Dov Charney, Chairman of the Board, Chief Executive Officer, and President

Mr. Charney's employment agreement provides that in the event that his employment is terminated (i) by the Company without cause or (ii) by Mr. Charney for good reason, Mr. Charney will be entitled to the following: (1) a pro rata portion of his annual and long term performance bonuses for the year in which he is terminated as if 100% of the performance targets were met, (2) a payment equal to the greater of (x) annual base salary for the remainder of his employment contract or (y) two times the sum of his annual base salary and maximum annual performance bonus, (3) immediate vesting of all equity awards granted to him by the Company and (4) all lock-up restrictions on all of Mr. Charney's stock in the Company will immediately lapse.

In the event of a change in control, if any payments or benefits due to Mr. Charney in connection with the change in control, including payments as a result of termination of his employment, will be subject to excise taxes as defined in his employment agreement, Mr. Charney will be entitled to a tax gross-up for all effects of the excise taxes. If a change in control had occurred as of December 31, 2008, and Mr. Charney had received the termination lump sum payments described above, he would have been entitled to a tax gross-up payment of \$1.9 million.

Upon termination of Mr. Charney's employment by the Company with cause or due to Mr. Charney's permanent incapacity or death, the Company will pay Mr. Charney any unreimbursed expenses then owed by the Company to Dov Charney and all accrued but unpaid wages. Mr. Charney will not be entitled to any other consideration or compensation. As of December 31, 2008, Mr. Charney's accrued wages amounted to \$20,548.

Had Mr. Charney separated from the Company as of December 31, 2008, as a result of termination without cause or for good reason, he would have been entitled to a payment amounting to \$3.4 million (of which \$1.9 million is attributable to bonuses and \$1.5 million is attributable to salary), in addition to the \$20,548 of accrued wages noted above.

Glenn A. Weinman, Senior Vice President, General Counsel and Secretary

Mr. Weinman's employment agreement provides that if Mr. Weinman is terminated without cause or if he resigns for good reason, the Company will pay Mr. Weinman the following: (a) his base salary accrued through the date of such resignation or termination and continuing for a period of one year after the date of such resignation or termination (the Continuation Period); (b) any bonus earned but not yet paid in respect of any calendar year preceding the year in which such termination or resignation occurs; (c) a bonus for the calendar year in which such termination or resignation occurs equal to his target annual performance bonus, if any, for such year and each subsequent calendar year included in whole or in part within the Continuation Period (prorated in the case of any partial calendar year based on the number of days included in such Continuation Period); and (d) any unreimbursed expenses and all stock and stock option grants awarded to Mr. Weinman by the Company also will become vested and exercisable. In addition, in such case, Mr. Weinman will be entitled to receive, until the earlier of the last day of the Continuation Period and the date Mr. Weinman is entitled to comparable benefits by a subsequent employer, continued participation in the Company's medical, dental and insurance plans and arrangements.

If Mr. Weinman's employment terminates by reason of his death or disability, or if he is terminated for cause or if he resigns without good reason, the Company will pay him (a) his base salary accrued through the date of such resignation or termination; (b) any bonus earned but not yet paid in respect of any calendar year preceding the year in which such termination of employment occurs; (c) only in the case of a termination because of his death or disability, a prorated amount of his target annual performance bonus for the calendar year in which such termination of employment occurs; and (d) any unreimbursed expenses. If Mr. Weinman's employment terminates by reason of his death, in lieu of the payment schedule described above, his beneficiary or estate may elect to receive a single lump sum payment equal to the present value of all such payments.

Joyce Crucillo, Chief Litigation Counsel

Ms. Crucillo's employment agreement provides that, effective February 17, 2009, if Ms. Crucillo is laid off, terminated (irrespective of whether such termination is with or without cause) or otherwise dismissed by the Company, then the Company will pay to her, as a severance payment, six months of her then current total annual compensation, which includes her annual base salary and annual guaranteed bonuses (regardless of whether any portion thereof has accrued or vested), plus continued health insurance benefits identical to what she was receiving at the time of separation for a period of six months after she leaves the Company.

Had the amendment to Ms. Crucillo's employment agreement been effective during 2008 and had Ms. Crucillo been laid off, terminated (irrespective of whether such termination is with or without cause) or otherwise dismissed by the Company as of December 31, 2008, she would have been entitled to receive total payments of \$116,230 (of which \$112,500 is attributable to salary and \$3,730 is attributable to health insurance benefits).

Stock Options and Other Equity Awards

The Company's Named Officers did not participate in, or otherwise receive, any stock options or other equity-based awards in 2008 and no Named Officer had any outstanding stock options or other equity-based awards as of the year ended December 31, 2008.

Non-Equity Incentive Plan Awards

The Company's Named Officers did not earn any nonqualified or other non-equity incentive plan compensation benefits during 2008.

Pension Benefits and Nonqualified Defined Contribution Plans

The Company's Named Officers did not participate in, or otherwise receive any benefits under, any pension or non-qualified defined contribution plans sponsored by the Company during 2008 or any other prior years.

BENEFICIAL OWNERSHIP OF SHARES

The following table sets forth certain information available to the Company as of April 13, 2009, with respect to shares of Common Stock held by (i) each director, including the three Class B Nominees, (ii) each stockholder who is known to the Company to be the beneficial owner of more than 5% of our issued and outstanding Common Stock based on statements filed with the SEC pursuant to Section 13(d) or 13(g) of the Exchange Act, (iii) our Named Officers (as defined under Compensation Discussion and Analysis above) and (iv) all of our current directors and executive officers as a group.

Name of Beneficial Owner (1)	Beneficial Ownership of Common Stock	
	Number	Percent of Class
Dov Charney (2)	38,113,065	52.6%
Lion/Hollywood L.L.C. (3) c/o Lion Capital (Americas) Inc. 888 Seventh Avenue New York, New York 10019.	16,000,000	18.1%
FMR LLC (4) 82 Devonshire Street Boston, Massachusetts 02109	10,614,792	14.6%
Martin Bailey		*
Jacob Capps		*
Joyce Crucillo		*
Robert Greene (5)	42,019	*
Mark D. Klein (5)	40,019	*
Adrian Kowalewski		*
Allan Mayer (5)(6)	41,019	*
Keith Miller (5)	40,019	*
Neil Richardson (7)	16,000,000	18.1%
Mark Samson (5)	40,019	*
Mortimer Singer (5)	40,019	*
Mark A. Thornton (5)	40,019	*
Glenn Weinman		*
Ken Cieply (8)		*
William Gochnauer (9)		*
All directors and executive officers as a group (12 persons)	38,396,198	53.0%

* Less than 1.0%

- (1) This table is based upon 72,467,167 shares of Common Stock as of April 13, 2009 and upon information supplied by officers, directors, principal stockholders and the Company's transfer agent, and contained in schedules filed with the SEC pursuant to Section 13(d) or 13(g) of the Exchange Act. Except as described in the footnotes below and subject to applicable community property laws and similar laws, the Company believes that each person listed above has sole voting and investment power with respect to such shares. Unless otherwise indicated, the business address of each of the directors and executive officers in this table is c/o American Apparel, Inc., 747 Warehouse Street, Los Angeles, California 90021.
- (2) A total of 37,258,065 of these shares are subject to a lock-up agreement and cannot be sold, subject to certain exceptions, without the Company's consent, until the expiration of the restricted period under the lock-up agreement (as extended by a separate agreement entered into in March 2009) in December 2013 (which period may be shortened to December 2010 upon the occurrence of certain events). See Certain Relationships and Related Transactions below for further description of the lock-up agreement.
- (3) Pursuant to Rule 13d-3 under the Exchange Act, Lion may be deemed to beneficially own 16,000,000 shares of Common Stock, which are subject to issuance upon exercise of the Lion Warrant (which is exercisable by Lion at any time during its term). See Proposal 3 above for further description of the Lion Warrant. The information provided is based on a Schedule 13D filed by Lion with the SEC on March 23, 2009.

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- (4) FMR, LLC (FMR) has beneficial ownership of these shares as of February 13, 2009. The information provided is based on Schedule 13G/A filed by FMR with the SEC on February 17, 2009.
 - (5) Includes 4,808 shares granted to each non-employee director on April 17, 2008 and 35,211 shares granted to each non-employee director on January 12, 2009, as described under Director Compensation Fiscal 2008 above.
 - (6) 40,019 shares are held by a trust established for the benefit of Mr. Mayer and his family, of which Mr. Mayer is Trustee.
 - (7) As a founder and designated member of Lion Capital, Mr. Richardson may be deemed to be the indirect beneficial owner of any securities beneficially owned or deemed to be beneficially owned by Lion Capital, which, as the manager of the sole members of Lion and of their general partner, may be deemed to be the indirect beneficial owner of any securities beneficially owned or deemed to be beneficially owned by Lion. Pursuant to Rule 13d-3 under the Exchange Act, Lion may be deemed to beneficially own 16,000,000 shares of Common Stock, which are subject to issuance upon exercise of the Lion Warrant (which is exercisable by Lion at any time during its term). See Proposal 3 above for further description of the Lion Warrant. Neither the filing of this Schedule 14A nor any of its contents shall be deemed to constitute an admission that Mr. Richardson is the beneficial owner of the Common Stock referred to herein for purposes of Section 13(d) of the Exchange Act or for any other purpose, and Mr. Richardson expressly disclaims such beneficial ownership, except to the extent of Mr. Richardson's pecuniary interest therein. The information provided is based on the Schedule 13D filed by Mr. Richardson with the SEC on March 23, 2009.
 - (8) Served as the Company's Chief Financial Officer and Treasurer until May 21, 2008.
 - (9) Served as the Company's Interim Chief Financial Officer and Treasurer from May 22, 2008 to December 29, 2008.

CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

Under its charter, the Audit Committee is charged with reviewing the Company's policies relating to the avoidance of conflicts of interest and reviewing past or proposed transactions between the Company and members of management. Additionally, the Audit Committee is responsible for reviewing the Company's program to monitor compliance with the Company's Code of Ethics. All dollar amounts in this section are in United States dollars unless stated otherwise.

Lion Transaction

Messrs. Capps and Richardson are the designees of Lion under the Investment Agreement and the Investment Voting Agreement. For a description of each of the agreements, see Proposal 1 above.

In connection with the financing transaction described under Proposal 3 above, on March 13, 2009, the Company borrowed \$75 million under the Lion Credit Agreement and issued to Lion a seven-year warrant. In addition, under the Lion Credit Agreement, an additional \$5,000,000 of loans made to the Company thereunder constituted a fee paid by the Company to Lion Capital. Lion Capital subsequently assigned such loans and its rights and obligations under the Lion Credit Agreement to Lion Capital (Americas) Inc. Mr. Capps is a member of Lion Capital and Mr. Richardson is a founder and designated member of Lion Capital. Lion Capital is the sole stockholder of Lion Capital (Americas) Inc. and Mr. Capps is President of Lion Capital (Americas) Inc. For additional information, see Proposal 3 above.

Agreements Between Mr. Charney and Lion

In connection with the Lion Credit Agreement and the Investment Agreement, Dov Charney entered into the Investment Voting Agreement with Lion (see Proposal 1 above for additional information).

In connection with the Lion Credit Agreement and the Investment Agreement, Mr. Charney also agreed to extend the lock-up agreement, dated as of December 12, 2007, pursuant to which Mr. Charney agreed not to make certain transfers of the 37,258,065 shares of Common Stock that he received pursuant to the Acquisition Agreement, from December 12, 2010 to December 31, 2013 (the Extension Period). However, the Extension Period will terminate upon the earliest to occur of the following events (the Trigger Events): (i) (A) Lion and its affiliates beneficially own less than 4 million shares of Common Stock issued or issuable upon exercise of the Lion Warrant and (B) the loans made pursuant to the Lion Credit Agreement have been repaid in full, (ii) Mr. Charney's employment is terminated by the Company without cause or (iii) Mr. Charney terminates his employment with the Company for good reason (the terms without cause and good reason having the respective meanings set forth in his employment agreement, dated as of December 12, 2007, as it may be hereafter amended, supplemented or modified from time to time, between Mr. Charney and the Company). Notwithstanding the foregoing, during the Extension Period, in addition to any other transfers permitted prior to the Extension Period, Mr. Charney will have the right to transfer, in a single transaction or in multiple transactions from time to time, a number of shares of Common Stock otherwise subject to the lock-up agreement not to exceed 25% of the total number of shares of Common Stock in which Mr. Charney has a legal or beneficial interest as of December 12, 2010.

In connection with the Lion Credit Agreement and the Investment Agreement, Mr. Charney also entered into a letter agreement, dated March 13, 2009, with the Company and Lion to extend, with respect to Mr. Charney only, the time period applicable to the non-competition and non-solicitation covenants contained in Section 5.27(a) of the Acquisition Agreement from December 12, 2011 to December 31, 2013, provided that such extension period will terminate upon the earliest to occur of the Trigger Events described above.

Loans from Mr. Charney to the Company

At the closing of the Acquisition, the Company converted \$6.0 million owed to Mr. Charney into two loans payable, which loans mature in December 2012 and bear interest at 6% from December 12, 2007. During the first quarter of 2008, Mr. Charney subordinated the loans to Toronto Dominion Bank in connection with the Company's Canadian-dollar denominated line of credit. As of December 31, 2008, the outstanding loan balance was approximately \$792,000. The largest aggregate amount of principal outstanding during fiscal year 2008 was \$6.0 million. The amount of principal paid during fiscal year 2008 was approximately \$5.2 million, and \$346,000 of interest was paid during 2008.

On December 19, 2008, Mr. Charney loaned the Company \$2.5 million in exchange for a promissory note (the December Note). On February 10, 2009, Mr. Charney loaned the Company an additional \$4.0 million in exchange for a promissory note (the February Note and together with the December Note, the Promissory Notes). The Promissory Notes mature in January 2013 and provide for interest at an annual rate of 6%, payable in kind. The Promissory Notes were repaid in part in an aggregate amount equal to \$3.25 million with a portion of the proceeds of the loans under the Lion Credit Agreement (described more fully under Proposal 3 herein). A total of \$5,000 of interest was paid during 2008 with respect to the December Note.

Personal Guarantees by Mr. Charney

Dov Charney has personally guaranteed the obligations of American Apparel under various property leases, including:

New York store at 712 Broadway, New York, NY for up to approximately \$820,000 in aggregate obligations;

New York store at 183 E. Houston St. New York, NY for up to approximately \$420,270 in aggregate obligations;

New York store at 1090 Third Ave., New York, NY for up to approximately \$202,729 in aggregate obligations;

Chicago store at 1563 N. Milwaukee Ave., Chicago, IL for up to approximately \$16,100 in aggregate obligations; and

Los Angeles store at 6922 Hollywood Blvd., Los Angeles, CA for up to approximately \$1.8 million in aggregate obligations (equally and jointly guaranteed by the Company and Dov Charney).

Lease Agreement Between the Company and an Affiliate of Mr. Charney and Mr. Bailey

In December 2005, Old American Apparel entered into an operating lease, which commenced on November 15, 2006, for its knitting facility with American Central Plaza, LLC. As of the date of this Proxy Statement, Dov Charney holds an 18.75% ownership interest in American Central Plaza, LLC, while Martin Bailey, the Company's Chief Manufacturing Officer, holds a 6.25% interest. The remaining members of American Central Plaza, LLC are not affiliated with the Company. The monthly lease payments are \$48,000 and the lease expires in November 2011, with a five year extension available at Old American Apparel's option.

Payments to Morris Charney

Morris Charney, Dov Charney's father (M. Charney), serves as Sole Director, President, Secretary and Treasurer of American Apparel Canada Wholesale Inc. and Sole Director, President and Secretary of American Apparel Canada Retail Inc. Mr. M. Charney also provides architectural consulting services to the Company. During 2008 and the first quarter of 2009, Mr. M. Charney was paid consulting fees amounting to C\$198,612 and C\$52,825, respectively, for his services in all capacities. Additionally, in February 2008, Mr. M. Charney was paid a C\$1.0 million bonus for his contributions to the Company.

Severance Agreement and Release of Ken Cieply

Ken Cieply stepped down from his position as the Company's Chief Financial Officer and Treasurer in May 2008 to pursue other opportunities. In connection with Mr. Cieply's resignation as Chief Financial Officer and Treasurer, the Company and Mr. Cieply entered into a Severance Agreement and Release pursuant to which Mr. Cieply was entitled to certain severance benefits, including a \$120,000 immediate cash payment and continued health insurance coverage and use of a Company apartment and automobile until July 31, 2008. The Severance Agreement and Release also contains undertakings by Mr. Cieply relating to the protection of the Company's confidential information, as well as mutual releases and other standard provisions.

OTHER MATTERS

Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Exchange Act requires the Company's executive officers and directors, and any beneficial owner of more than ten percent of a registered class of the Company's equity securities, to file reports (Forms 3, 4 and 5) of stock ownership and changes in ownership with the SEC and the NYSE Amex. Officers, directors and beneficial owners of more than ten percent of the Common Stock are required by SEC regulations to furnish the Company with copies of all such forms that they file.

Based solely on the Company's review of the copies of Forms 3, 4 and 5 and the amendments thereto received by it for the year ended December 31, 2008, or written representations from certain reporting persons that no Forms 5 were required to be filed by those persons, the Company believes that during the year ended December 31, 2008, all filing requirements were complied with by its executive officers, directors and beneficial owners of more than ten percent of the Common Stock, except each of Robert Greene, Mark D. Klein, Allan Mayer, Keith Miller, Mark Samson, Mortimer Singer and Mark A. Thornton had one late filing of one Form 4 transaction related to the April 17, 2008 grant of Common Stock which was subsequently reported on a Form 5 by each individual (see "Directors Compensation Fiscal 2008" herein for additional information).

OTHER BUSINESS

The Board of Directors knows of no other matters to be brought before the stockholders at the Annual Meeting. If other matters are properly presented for a vote at the Annual Meeting, the proxy holders will vote shares represented by properly executed proxies as recommended by the Board of Directors or, if no recommendation is given, in their discretion in accordance with their judgment on such matters.

INFORMATION CONCERNING STOCKHOLDER PROPOSALS

Proposals of stockholders that are intended to be presented at our 2010 Annual Meeting of Stockholders must be received by us no later than , 2010 in order to be included in the proxy statement and form of proxy relating to that annual meeting. A stockholder must have continuously held at least \$2,000 in market value, or 1%, of the Company's outstanding Common Stock for at least one year by the date of submission of the proposal, and the stockholder must continue to own such stock through the date of the meeting.

In addition, for a stockholder proposal that is not intended to be included in the Company's proxy statement for the 2010 Annual Meeting of Stockholders under the Exchange Act, written notice of the proposal, which notice must include the information required by the Company's bylaws (the Bylaws), must be received by the Company's Secretary not earlier than the close of business on the 60th day prior to the 2010 Annual Meeting of Stockholders and not later than the close of business on the 60th day prior to the 2010 Annual Meeting of Stockholders. If less than 70 days notice or prior public disclosure of the date of next year's annual meeting is given or made to stockholders, then notice of a stockholder proposal that is not intended to be included in the Company's proxy statement under Rule 14a-8 under the Exchange Act must be received no later than the close of business on the tenth day following the date on which notice of the date of such annual meeting is mailed to the stockholders or the date on which public disclosure of the date of such annual meeting is made, whichever is first. Furthermore, receipt by the Company of any such proposal from a qualified stockholder in a timely manner will not guarantee its inclusion in the proxy materials or its presentation at the 2010 Annual Meeting of Stockholders, because there are other relevant requirements in the SEC's proxy rules.

For proposals that are timely filed, the Company retains discretion to vote proxies it receives provided that (1) the Company includes in its proxy statement advice on the nature of the proposal and how it intends to exercise its voting discretion and (2) the proponent does not issue a proxy statement.

April , 2009

BY ORDER OF THE BOARD OF DIRECTORS,

Dov Charney

Chairman of the Board

AMERICAN APPAREL, INC.

INCENTIVE COMPENSATION PLAN

Section 1. Purpose of this Plan.

The purpose of this American Apparel, Inc. Incentive Compensation Plan (this Plan) is to attract, motivate and retain qualified employees and to tie a substantial portion of employees' compensation to the performance of American Apparel, Inc. (the Company) by providing certain of its executives and other employees with cash incentive compensation awards (each, an Award).

Section 2. Administration of this Plan.

This Plan shall be administered by the Compensation Committee of the Board of Directors of the Company (the Board), or such other committee of the Board that shall succeed to the functions and responsibilities of such committee in relation to this Plan (the Committee). All members of the Committee shall qualify as outside directors (as the term is defined in Section 162(m) (Section 162(m)) of the Internal Revenue Code of 1986, as amended (the Code)).

The Committee shall have the authority in its sole discretion, subject to and not inconsistent with the express provisions of this Plan, to administer this Plan and to exercise all the powers and authorities either specifically granted to it under this Plan or necessary or advisable in the administration of this Plan, including, without limitation, the authority to grant Awards; to determine the persons to whom and the time or times at which Awards shall be granted; to determine the length of the Performance Period (as defined below) designated for each Award; to determine the terms, conditions, restrictions and performance criteria, including the Performance Goals (as defined below), relating to any Award; to determine whether, to what extent, and under what circumstances an Award may be settled, cancelled, forfeited, or surrendered; subject to Sections 4 and 5, below, to make adjustments to the Performance Goals in recognition of unusual or non-recurring events affecting any Company or the financial statements of any Company, in response to changes in applicable laws, regulations, or accounting principles or as otherwise provided in this Plan; to construe and interpret this Plan and any Award; to prescribe, amend and rescind rules and regulations relating to this Plan; to determine the terms and provisions of Awards; and to make all other determinations deemed necessary or advisable for the administration of this Plan.

Except (i) with respect to the executive officers of the Company or (ii) as required to comply with Section 162(m), or other applicable law (and only if such laws apply), or any listing requirement of the NYSE Amex, New York Stock Exchange, the NASDAQ Global Market System or any other exchange on which the Company's securities may be listed, the Committee may delegate all or any part of its authority, duties or responsibilities under this Plan to such other appropriate officer of the Company, or in the case of ministerial duties, to any employee or committee comprised of employees of the Company.

Section 3. Eligibility.

Awards may be granted to officers and other employees of the Company (the Participants) designated by and in the sole discretion of the Committee with respect to the executive officers of the Company, and designated by and in the sole discretion of the Chief Executive Officer of the Company or other executive officer designated by the Committee with respect to the other Participants. Unless otherwise determined by the Committee or its designee, as applicable, in its/his sole discretion, a Participant, who commences participation in this Plan following the commencement of a Performance Period, may participate with respect to all outstanding Performance Periods; provided that the Awards payable with respect to each such Performance Period shall be prorated based on the number of days elapsed in such Performance Period.

Section 4. Terms of Awards.

Awards granted pursuant to this Plan, including the terms and conditions thereof, shall be communicated to Participants from time to time.

(a) *General.* Not later than 90 days after the commencement of each Performance Period, but in no case after 25% of the Performance Period has elapsed (such period, the Designation Period), the Committee shall specify in writing, by resolution of the Committee or other appropriate action with respect to Participants who are executive officers of the Company, and its designee shall specify in writing for each non-executive officer Participant, as applicable, in each case with respect to a Performance Period, the Performance Goals applicable to each Award. Performance Goals may include a threshold level of performance below which no payment shall be made, levels of performance at which specified percentages of the Award shall be paid and a maximum level of performance above which no additional payment shall be made; provided that the Committee shall have the authority to make appropriate adjustments in the achievement of Performance Goals under an Award to reflect the impact of extraordinary items not reflected in such goals, as described in Section 5, below. Unless otherwise provided by the Committee (or its designee) in connection with specified terminations of employment, payment in respect of Awards shall be made only if and to the extent the Performance Goals applicable to such Performance Period are attained.

(b) *Special Provisions Regarding Maximum Payout of Awards.* Notwithstanding anything to the contrary contained herein, in no event shall payment in respect of Awards granted for any Performance Period of one year or less in length be made to a Participant in an amount that exceeds \$4,000,000, and for any Performance Period in excess of one year, \$4,000,000, multiplied by a fraction, the numerator of which is the number of months in the Performance Period and the denominator of which is twelve.

(c) *Discretionary Awards.* Notwithstanding anything to the contrary herein, but subject to Section 4(b) above, an Award granted under this Plan, as determined by the Committee in its sole discretion, will not be required to be subject to the achievement of any Performance Goal or any other requirement otherwise applicable to Awards under this Plan.

Section 5. Performance Goals.

Performance Goals shall mean the criteria and objectives, determined by the Committee (or its designee, as applicable), that must be met during the applicable Performance Period as a condition of the Participant's receipt of payment with respect to an Award. Performance Goals may include any or all (or a specified increase in any or all) of the following: earnings (including, without limitation, gross margin, earnings before taxes (EBT), earnings before interest and taxes (EBIT), earnings before interest, taxes, depreciation and amortization (EBITDA), net earnings, earnings per share, net sales or return on sales, total shareholder return, net revenue per employee, revenue growth, net income (before or after taxes), operating income, return on operating revenue, operating profit, return on capital, return on equity, return on assets or net assets, return on investment, cash flow, working capital, number of stores, comparable-store sales growth, earnings growth, gross revenue or revenue by pre-defined business segment, stock price (absolute or peer-group comparative), ratio of operating expenses to operating revenues, market share, overhead or other expense reduction, growth in stockholder value relative to various indices, including, without limitation, the S&P 500 Index or the Russell 2000 Index, implementation of Company policy, development of long-term business goals or strategic plans for the Company, cost targets, customer satisfaction or employee satisfaction goals, goals relating to merger synergies, management of employment practices and employee benefits, or supervision of litigation and information technology, and goals relating to acquisitions or divestitures, affiliates or joint ventures or the exercise of specific areas of management responsibility.⁶

Such Performance Goals may relate to the performance of a Company, a business unit, product line, or any combination thereof. Performance Goals may also include such objective or subjective personal Performance Goals as the Committee may, from time to time, establish; provided, however, that with respect to any Awards intended to qualify as performance-based compensation for purposes of Section 162(m), the Performance Goals applicable to such Awards shall be objective and objectively determinable within the meaning of Section 162(m) and shall be

designed to satisfy all other applicable requirements of Section 162(m). The Committee (or its designee, as applicable) shall have the sole discretion to determine whether, or to what extent, Performance Goals are achieved. Each of the Performance Goals will be determined in accordance with generally accepted accounting principles, as applicable; provided that the Committee will have the authority to make equitable adjustments to the Performance Goals in recognition of unusual or non-recurring events affecting the Company, in response to changes in applicable laws or regulations, to account for items of gain, loss or expense determined to be extraordinary or unusual in nature or infrequent in occurrence or related to the disposal of a segment of a business or related to a change in accounting principles, or to take into account other extraordinary items and events, except to the extent that doing so would cause an Award intended to be exempt from Section 162(m) to fail to be exempt.

Section 6. Performance Period.

The term Performance Period means a period established by the Committee during which performance will be measured for purposes of determining the extent to which one or more Participants will receive Awards under this Plan.

Section 7. Committee Certification of Performance Goal Attainment.

Following the completion of each Performance Period, the Committee with respect to the executive officers of the Company, or the Committee's designee solely with respect to non-executive officer employees of the Company, as applicable, will certify in writing whether the applicable Performance Goals have been achieved in the applicable Performance Period. With respect to Awards that are intended to satisfy Section 162(m), the Committee will have the right to reduce or eliminate (but not to increase) the amount payable at a given level of performance to take into account additional factors that the Committee may deem relevant to the assessment of performance for the applicable Performance Period.

Section 8. Payment of Awards.

Unless otherwise determined by the Committee, an Award will be paid in cash within 60 days after the end of the applicable Performance Period, but in no event later than two and a half months following the end of the year in which the Awards are no longer subject to a substantial risk of forfeiture. Except as otherwise determined by the Committee pursuant to Section 9, below, an Award will be paid only if the Participant is employed by the Company at the conclusion of the Performance Period in respect of which it is paid.

Section 9. Separation from the Company and Its Subsidiaries: Change in Control.

- (a) Except as otherwise determined by the Committee, if a Participant's employment with the Company and its subsidiaries terminates prior to the end of a Performance Period for any reason, no Award will be payable to the Participant with respect to any Performance Period in effect at the time the termination occurs.
- (b) The Committee may determine, on a case by case basis, the treatment of an Award upon the occurrence of a change in control of the Company (as may be defined from time to time by the Committee) or in the event of certain terminations of employment following a change in control.
- (c) Any Participant may designate in writing the beneficiary of the unpaid amount of an Award in case of death and if no designation has been made, or if any such designation shall become ineffective, any such unpaid amount will be paid to the Participant's estate. Such designation shall be effective upon receipt thereof by the Company. Any such designation may be revoked in writing by a Participant at any time without the consent of any such beneficiary.

Section 10. Amendments.

The Committee may amend this Plan at any time, provided that such changes may be made consistent with the provisions of Section 162(m) without adversely affecting the ability of the Company to deduct the compensation that may be paid pursuant to this Plan for federal income tax purposes. The Committee may also amend this Plan as it deems necessary or appropriate to comply with any applicable provisions of the Code or regulations or other

applicable guidance thereunder (the Regulations), including, without limitation, Section 409A of the Code. If the Code or the Regulations would require stockholder approval of such amendment in order for payments under this Plan to be deductible, then no such amendment shall be effective without such approval.

Section 11. Termination.

The Board may terminate this Plan at any time. No termination of this Plan shall adversely affect the right of any person to receive any Award for a Performance Period or Periods for which such person had been designated under Section 3 of this Plan. This Plan shall remain in effect until terminated by the Board.

Section 12. Miscellaneous.

(a) Nothing contained in this Plan shall be construed as giving any employee of the Company the right to participate in this Plan or to continued employment or any interest in any asset of the Company or any of its subsidiaries, nor to prevent the Company or any of its subsidiaries or affiliates from taking any action that it deems to be appropriate or in its best interests, whether or not such action would have an adverse effect on this Plan or the amounts payable hereunder.

(b) To the extent a Participant is entitled to a cash bonus award (including a long-term bonus award) under the terms of an employment or other agreement or arrangement between the Participant and the Company (or any affiliate thereof), Awards granted to such Participant under this Plan are intended to satisfy the obligations of the Company (or, to the extent applicable, the Company's affiliate) under such agreement or arrangement and are not intended to establish an additional right to such compensation.

(c) This Plan shall be unfunded and the Company shall not be required to establish any segregation of assets to assure payment of any Awards made hereunder.

(d) A Participant may not sell, transfer or assign any right or interest in this Plan except as provided in Section 8(c) hereof and any attempted sale, transfer or assignment shall be null and void.

(e) This Plan shall be governed by and construed in accordance with the laws of the State of California and the applicable provisions of the Code and Regulations.

Section 13. Withholding Taxes.

The Company shall have the right to withhold from any payment otherwise due by reason of any Award to a Participant the amount of any taxes or other applicable legal withholdings that the Company may be required to withhold.

Section 14. Effective Date.

This Plan shall be effective as of April 13, 2009 (the Effective Date), subject to stockholder approval at the 2009 Annual Meeting of Stockholders and, if so approved, shall remain in effect until terminated in accordance with Section 11 hereof.

