

OVERSTOCK.COM, INC
Form 10-K
February 21, 2013

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

FORM 10-K

(Mark
One)

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

For the fiscal year ended December 31, 2012

OR

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

**For the transition period from _____ to _____
Commission file number 000-49799**

OVERSTOCK.COM, INC.

(Exact name of Registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

87-0634302
(I.R.S. Employer
Identification Number)

**6350 South 3000 East
Salt Lake City, Utah 84121**
(Address of principal executive offices including zip code)

(801) 947-3100
(Registrant's telephone number, including area code)

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

Title of Each Class	Name of Each Exchange on Which Registered
Common Stock, \$0.0001 par value	Nasdaq Global Market

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

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes No

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See the definitions of "large accelerated filer", "accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

(Do not check if a
smaller reporting company)

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

The aggregate market value of voting and non-voting common equity held by non-affiliates of the registrant as of the last business day of the registrant's most recently completed second quarter (June 30, 2012), was approximately \$59.6 million based upon the last sales price reported by Nasdaq. For purposes of this disclosure, shares of Common Stock held by persons who hold more than 5% of the outstanding shares of Common Stock and shares held by officers and directors of the registrant have been excluded in that such persons may be deemed to be affiliates. This determination is not necessarily conclusive.

As of February 18, 2013 there were 23,648,271 shares of the registrant's Common Stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Certain information required by Part III of Form 10-K is incorporated by reference to the Registrant's proxy statement for the 2013 Annual Stockholders Meeting, which will be filed with the Securities and Exchange Commission within 120 days after the end of the fiscal year to which this Report relates.

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ANNUAL REPORT ON FORM 10-K
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SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Annual Report on Form 10-K and the documents incorporated herein by reference contain forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. These forward-looking statements relate to future events or our future financial or operating performance, and involve risks and uncertainties. All statements made herein, other than statements of historical fact, including, without limitation, all statements regarding the matters described below, are forward-looking statements:

the anticipated benefits and risks of our business and plans;

our ability to attract and retain customers in a cost-efficient manner;

the effectiveness of our marketing;

our future operating and financial results;

the competition we face and will face in our business;

the effects of government regulation;

our future capital requirements and our ability to satisfy our capital needs;

our expectations regarding the adequacy of our liquidity;

our ability to retire or refinance any debt we may have;

our plans for international markets, our expectations for our international sales efforts and the anticipated results of international operations;

our plans for changes to our business;

our beliefs regarding current or future litigation or regulatory actions;

our beliefs and expectations regarding existing and future tax laws and related laws and the application of those laws to our business;

our beliefs regarding the adequacy of our insurance coverage;

the adequacy of our infrastructure, including our backup facilities, cyber-security and our disaster planning;

our belief that we can meet our published product shipping standards even during periods of relatively high sales activity;

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our belief that we can maintain or improve upon customer service levels that we and our customers consider acceptable;

our beliefs regarding the adequacy of our order processing systems and our fulfillment and distribution capabilities;

our beliefs and expectations regarding the adequacy of our office and warehouse facilities;

our expectations regarding our car listing service and our community site, and the anticipated functionality and results of operations of them;

our belief that we and our fulfillment partners will be able to maintain inventory levels at appropriate levels despite the seasonal nature of our business;

our belief that our sales through other ecommerce marketplace channels will be successful and become an important part of our business; and

our belief that we can successfully offer and sell a constantly changing mix of products and services.

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Further, in some cases, you can identify forward-looking statements by terminology such as may, will, could, should, expect, plan, intend, anticipate, believe, estimate, predict, potential or continue, the negative of such terms or other comparable terminology. These statements are only predictions. Actual events or results may differ materially from those contemplated by forward-looking statements for a variety of reasons, including among others, the matters discussed herein under Item 1A Risk Factors, as well as the following:

changes in U.S. and global economic conditions and consumer spending;

world events;

the rate of growth of the Internet and online commerce, and the occurrence of any event that would discourage or prevent consumers from shopping online;

any failure to maintain our existing relationships or build new relationships with fulfillment partners on acceptable terms;

any difficulties we may encounter maintaining optimal levels of product quality and selection or in attracting sufficient consumer interest in our product offerings;

modifications we may make to our business model from time to time, including aspects relating to our product mix and the mix of direct/fulfillment partner sourcing of the products we offer;

the mix of products purchased by our customers;

problems with cyber security or data breaches or the costs of preventing or responding to any such problems;

problems with or affecting our credit card processors, including cyber-attacks, Internet or other infrastructure or communications impairment or other events that could interrupt the normal operation of the credit card processors;

problems with the facility where substantially all of our computer and communications hardware is located or other problems that result in the unavailability of our Website or reduced performance of our transaction systems;

difficulties we may have in responding to technological changes;

problems with fraudulent purchases;

problems we may encounter as a result of the listing or sale of pirated, counterfeit or illegal items by third parties;

difficulties we may have financing our operations or expansion with either internally generated funds or external sources of financing;

the extent to which we owe income taxes or are required to collect sales taxes or to modify our business model in order to avoid being required to collect sales taxes;

competition;

management of growth;

fluctuations in our operating results;

our efforts to expand internationally;

the outcomes of legal proceedings, investigations and claims;

optimization of our warehouse operations;

risks of inventory management and seasonality.

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In evaluating all forward-looking statements, you should specifically consider the risks outlined above and those described in Item 1A under the caption "Risk Factors." These factors may cause our actual results to differ materially from those contemplated by any forward-looking statement. Except as otherwise required by law, we expressly disclaim any obligation to release publicly any update or revisions to any forward-looking statements to reflect any changes in our expectations or any change in events, conditions or circumstances on which any of our forward-looking statements are based. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance, achievements or other events.

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PART I

ITEM 1. BUSINESS

The following description of our business contains forward-looking statements relating to future events or our future financial or operating performance that involve risks and uncertainties, as set forth above under "Special Note Regarding Forward-Looking Statements." Our actual results could differ materially from those anticipated in these forward-looking statements as a result of certain factors described in this 10-K, including those set forth in the Special Note Regarding Forward-Looking Statements or in Section 1A under the heading "Risk Factors" or elsewhere in this Form 10-K.

Introduction

We are an online retailer offering discount brand name, non-brand name and closeout merchandise, including furniture, home décor, bedding and bath, housewares, jewelry and watches, apparel and designer accessories, electronics and computers, and sporting goods, among other products. We also sell hundreds of thousands of best seller and current run books, magazines, CDs, DVDs and video games ("BMMG"). We sell these products through our Internet websites located at www.overstock.com, www.o.co and www.o.biz ("Website"). Although our three websites are located at different domain addresses, the technology and equipment and processes supporting the Website and the process of order fulfillment described herein are the same for all three websites.

Our company, based in Salt Lake City, Utah, was founded in 1997. We launched our initial website in March 1999. Our Website offers our customers an opportunity to shop for bargains conveniently, while offering our suppliers an alternative inventory liquidation or sales channel. We continually add new, and sometimes limited, inventory to our Website in order to create an atmosphere that encourages customers to visit frequently and purchase products before our inventory sells out. We sell products primarily in the United States, with a small amount of products (less than 1% of our total net revenue) sold internationally.

As used herein, "Overstock," "Overstock.com," "O.co," "we," "our" and similar terms include Overstock.com, Inc. and its subsidiaries, unless the context indicates otherwise.

Our Business

We deal primarily in discount, replenishable and closeout merchandise and use the Internet to aggregate both supply and demand to create an efficient marketplace for selling these products. We provide manufacturers with a one-stop liquidation channel to sell both large and small quantities of excess, closeout and replenishable inventory without disrupting sales through traditional channels. The merchandise offered on our Website is from a variety of sources including well-known, brand-name manufacturers. We have organized our shopping business (sales of product offered through the Shopping Section of our Website) into two principal segments a "direct" business and a "fulfillment partner" business. We currently offer approximately 344,000 non-BMMG products and approximately 641,000 BMMG products. Consumers and businesses are able to access and purchase our products 24 hours a day from the convenience of a computer, Internet-enabled mobile telephone or other Internet-enabled devices. Our team of customer service representatives assists customers by telephone, instant online chat and e-mail. We also derive revenue from other businesses advertising products or services on our Website. Nearly all of our sales are to customers located in the United States. During the years ended December 31, 2012 and 2011 no single customer accounted for more than 1% of our total net revenue.

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Direct business

Our direct business includes sales made to individual consumers and businesses, which are fulfilled from our warehouse in Salt Lake City, Utah. During the year ended December 31, 2012, we fulfilled approximately 14% of our order volume through our warehouse. Our warehouse generally ships between 4,000 and 7,000 orders per day and up to approximately 10,000 orders per day during peak periods, using overlapping daily shifts.

Fulfillment partner business

For our fulfillment partner business, we sell merchandise of other retailers, cataloguers or manufacturers ("fulfillment partners") through our Website. We are considered to be the primary obligor for the majority of these sales transactions and we record revenue from the majority of these sales transactions on a gross basis. Our use of the term "partner" or "fulfillment partner" does not mean that we have formed any legal partnerships with any of our fulfillment partners. We currently have relationships with approximately 2,100 third parties who supply approximately 338,000 non-BMMG products, as well as most of the BMMG products, on our Website. These third-party fulfillment partners perform essentially the same fulfillment operations as our warehouses, such as order picking and shipping; however, we handle returns and customer service related to substantially all orders placed through our Website. Revenue generated from sales on our Shopping site from both the direct and fulfillment partner businesses is recorded net of returns, coupons and other discounts.

Both direct and fulfillment partner revenues are seasonal, with revenues historically being the highest in the fourth quarter, which ends December 31, reflecting higher consumer holiday spending. We anticipate this will continue in the foreseeable future.

Generally, we require verification of receipt of payment, or authorization from credit card or other payment vendors whose services we offer to our customers (such as PayPal and BillMeLater), before we ship products to consumers or business purchasers. From time to time we grant credit to our business purchasers with normal credit terms (typically 30 days). For sales in our fulfillment partner business, we generally receive payments from our customers before our payments to our suppliers are due.

Consignment

In September 2009, we began offering a consignment service to suppliers where the suppliers' merchandise is stored in and shipped from our warehouses. We pay the consignment supplier upon sale of the consigned merchandise to our customer. Revenue from our consignment service business in 2012, 2011 and 2010 were less than 1% of total net revenues and are included in the fulfillment partner segment.

International business

As of December 31, 2012, we were offering products to customers in over 100 countries and non-U.S. territories. We do not have sales operations outside the United States, and are using a U.S.-based third party to provide logistics and fulfillment for all international orders. Revenue generated from our international business is included in either direct or fulfillment partner revenue, depending on whether the product is shipped from our warehouses or from a fulfillment partner. Less than 1% of our 2012, 2011 and 2010 revenues were from international customers.

Ecommerce marketplace channels

During 2012, we began offering some of our products for sale in on-line marketplaces of other Internet retailers' websites, which allows us to reach a broader potential customer base. Under the

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terms of our agreements with these ecommerce marketplace retailers, the retailers typically earn a fee that is a percentage of the selling price of the orders they send us. Revenue generated from these ecommerce marketplace channels is included in either direct or fulfillment partner revenue, depending on whether the product is shipped from our warehouses or from a fulfillment partner. Ecommerce marketplace channels were approximately 1% of our 2012 total net revenues.

Other businesses

We operate an online car listing service as part of our Website. The car listing service allows sellers to list vehicles for sale and allows buyers to review vehicle descriptions and post offers to purchase, and provides the means for prospective purchasers to contact sellers for further information and negotiations on the purchase of an advertised vehicle. We also earn advertisement revenue derived from our cars business. Revenue from the cars businesses is included in the fulfillment partner segment on a net basis. Revenue from our other businesses is less than 1% of total net revenues.

Manufacturer, Supplier and Distribution Relationships

To date, we have not entered into contracts with manufacturers or other suppliers that guarantee the availability of merchandise for a set duration. Our manufacturer and supplier relationships are based on historical experience with manufacturers and other suppliers and do not obligate or entitle us to receive merchandise on a long-term or short-term basis. In our direct business, we purchase the products from manufacturers or other suppliers using standard purchase orders. Generally, suppliers do not control the terms under which products are sold through our Website.

Products

Our Website Shopping section is organized into 21 main product lines: For the Home, Furniture, Bedding & Bath, Clothing & Shoes, Electronics, Jewelry, Watches, Sports and Outdoors, Books Media Music & Games, Luggage, Worldstock Fair Trade, Health & Beauty, Baby, Crafts & Sewing, Office, Gifts & Flowers, Toys & Hobbies, Pets, Main Street Revolution, Emergency Preparedness, and As Seen on TV. Worldstock Fair Trade is our socially-responsible, online marketplace through which artisans in the United States and around the world can sell their products and gain access to a broader market. We have specialty departments, such as Main Street Revolution, which is a marketplace that enables small businesses to offer their products to a mass audience by selling on our websites. From time to time, as the number of products and product categories change, we may reorganize our departments and/or categories to better reflect our current product offerings.

For the years ended December 31, 2012, 2011 and 2010, the percentages of gross revenues contributed by similar classes of products were as follows:

Product Lines	2012	2011	2010
Home and garden(1)	66%	58%	55%
Jewelry, watches, clothing and accessories	16%	20%	23%
BMMG, electronics and computers	6%	10%	11%
Other	12%	12%	11%
Total	100%	100%	100%

(1) Home and garden includes home décor, bedding, bath, furniture, housewares, garden, patio and other related products.

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Sales and Marketing

We use a variety of methods to target our consumer audience, including online campaigns, such as advertising through portals, keywords, search engines, affiliate marketing programs, social coupon websites, banners, e-mail, direct mail and viral and social media campaigns. We also do brand advertising through television, radio, and print ads. We generally hire third parties to develop our campaigns and advertising.

Customer Service

We are committed to providing superior customer service. We staff our customer service department with dedicated in-house and outsourced professionals who respond to phone, instant online chat and e-mail inquiries on products, ordering, shipping status, returns and other areas of customer inquiry.

Technology

We use our internally developed Websites and a combination of proprietary technologies and commercially available licensed technologies and solutions to support our operations. We use the services of multiple telecommunications companies to obtain connectivity to the Internet. Currently, our primary computer infrastructure is located in a co-location facility in Salt Lake City. We also have a second data center near our corporate headquarters which we use primarily for backups, redundancy, development, testing, and our corporate systems infrastructure.

Competition

Internet retail is intensely competitive and has relatively low barriers to entry. We believe that competition in this industry is based predominantly on:

price;

product quality and selection;

shopping convenience;

website organization and load speed;

order processing and fulfillment;

order delivery time;

customer service; and

brand recognition.

We compete with other online retailers, traditional retailers and liquidation "brokers," some of which may specifically adopt our methods and target our customers. We currently or potentially compete with a variety of companies that can be divided into several broad categories:

liquidation e-tailers;

online general retailers with discount;

private sale sites;

online specialty retailers; and

traditional general merchandise and specialty retailers and liquidators which also have an online presence.

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Many of our current and potential competitors have greater brand recognition, longer operating histories, larger customer bases and significantly greater financial, marketing and other resources than we do. Further, any of them may enter into strategic or commercial relationships with larger, more established and well-financed companies, including exclusive distribution arrangements with our vendors or service suppliers that could deny us access to key products or needed services, or acquisitions of our suppliers or service providers, having the same effect. Many of them do or could devote greater resources to marketing and promotional campaigns and devote substantially more resources to their website and systems development than we do. Many have supply chain operations that decrease product shipping times to their customers, or have options for in-store product pick-up options or allow in-store returns and offer other delivery and returns options that we do not have. New technologies and the continued enhancement of existing technologies and developments in related areas, such as same-day product deliveries, also may increase competitive pressures on us. We cannot ensure that we will be able to compete successfully against current or future competitors or address increased competitive pressures (see Item 1A "Risk Factors").

Seasonality

Our business is affected by seasonality because of the holiday retail season, which historically has resulted in higher sales volume during our fourth quarter, which ends December 31. We recognized 31.1%, 29.8% and 32.0% of our annual revenue during the fourth quarter of 2012, 2011, and 2010, respectively.

Financial Information about Business Segments and Geographic Areas

See Item 15 of Part IV, "Financial Statements" Note 22 "Business Segments" for information regarding our business segments and geographical areas.

Intellectual Property and Trade Secrets

We regard our domain names and similar intellectual property as critical to our success. We rely on a combination of laws and contractual restrictions with our employees, customers, suppliers, affiliates and others to establish and protect our proprietary rights, including the law pertaining to trade secrets. Despite these precautions, it may be possible for a third party to copy or otherwise obtain and use our intellectual property or trade secrets without authorization. In addition, we cannot ensure that others will not independently develop similar intellectual property. Although we have registered and are pursuing the registration of our key trademarks in the United States and some other countries, some of our trade names may not be eligible to receive registered trademark protection. In addition, effective trademark protection may not be available or we may not seek protection in every country in which we market or sell our products and services, including in the United States. Additionally our efforts to protect our trade secrets may not succeed.

Third parties have in the past recruited and may in the future recruit our employees who have had access to our proprietary technologies, processes and operations. These recruiting efforts expose us to the risk that such employees and those hiring them will misappropriate and exploit our intellectual property and trade secrets.

Legal and Regulatory Matters

From time to time, we receive claims and become subject to regulatory investigations or actions, consumer protection, employment, intellectual property and other commercial litigation related to the conduct of our business. We also prosecute lawsuits to enforce our legal rights. Such litigation is costly and time consuming and can divert our management and key personnel from our business operations. The uncertainty of litigation increases these risks. In connection with such litigation, we may be subject

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to significant damages, associated costs, or equitable remedies relating to the operation of our business and the sale of products on our Website. Any such litigation may materially harm our business, prospects, results of operations, financial condition or cash flows.

These and other types of claims could result in increased costs of doing business through legal expenses, adverse judgments or settlements or require us to change our business practices in expensive and significant ways. In addition, litigation could result in interpretations of the law that require us to change our business practices or otherwise increase our costs.

Additional litigation may be necessary in the future to enforce our intellectual property rights, to protect our trade secrets or to determine the validity and scope of the proprietary rights of others. Any litigation, regardless of outcome or merit, could result in substantial costs and diversion of management and technical resources, any of which could materially harm our business (see Item 1A "Risk Factors").

For further information, see the information set forth under Item 15 of Part IV, "Financial Statements Note 13 Commitments and Contingencies, subheading Legal Proceedings," contained in the "Notes to Consolidated Financial Statements" of this Annual Report on Form 10-K.

Government Regulation

Our services are subject to federal and state consumer protection laws including laws protecting the privacy of consumer information and regulations prohibiting unfair and deceptive trade practices. In particular, under federal and state financial privacy laws and regulations, we must provide notice to consumers of our policies on sharing non-public information with third parties, advance notice of any changes to our policies and, with limited exceptions, we must give consumers the right to prevent sharing of their non-public personal information with unaffiliated third parties. Further, the growth and demand for online commerce could result in more stringent consumer protection laws that impose additional compliance burdens on online companies. These consumer protection laws could result in substantial compliance costs.

New disclosure and reporting requirements, established under existing or new state or federal laws, such as rules regarding requirements to identify the origin and existence of certain "conflict minerals" or regarding the disclosure of abusive labor practices in portions of our supply chain, could increase the cost of doing business, adversely affecting our results of operations.

In many states, there is currently great uncertainty whether or how existing laws governing issues such as property ownership, sales and other taxes, libel and personal privacy apply to the Internet and commercial online services. In addition, new state tax regulations in states where we do not now collect state and local taxes may subject us to the obligation to collect and remit state and local taxes, or subject us to additional state and local sales and income taxes, or to requirements intended to assist states with their tax collection efforts. New legislation or regulation, the application of laws and regulations from jurisdictions whose laws do not currently apply to our business or the application of existing laws and regulations to the Internet and commercial online services could result in significant additional taxes on our business. These taxes or tax collection obligations could have an adverse effect on our cash flows and results of operations. Further, there is a possibility that we may be subject to significant fines or other payments for any past failures to comply with these requirements.

Employees

At December 31, 2012, we had approximately 1,300 full-time employees. We seasonally augment our workforce with temporary employees during our fourth quarter to handle increased workload in both our warehouse and customer service operations. We have never had a work stoppage, and none of our employees are represented by a labor union. We consider our employee relationships to be good.

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Competition for qualified personnel in our industry has historically been intense, particularly for software engineers, computer scientists, and other technical staff.

Executive Officers of the Registrant

The following persons were executive officers of Overstock.com as of February 18, 2013:

Executive Officers	Age	Position
Patrick M. Byrne	50	Chairman of the Board of Directors President, Acting Chief Executive Officer and Corporate Secretary
Jonathan E. Johnson III	46	Secretary
Stephen J. Chesnut	53	Senior Vice President, Finance and Risk Management
Timothy D. Dilworth	37	Senior Vice President, Marketing
David J. Nielsen	43	Senior Vice President, Merchandising and Supply Chain
Bhargav J. Shah	37	Senior Vice President, Technology
Stormy D. Simon	44	Senior Vice President, Customer and Partner Care and Director
Stephen P. Tryon	51	Senior Vice President, Human Capital Management and International

On February 12, 2013 we announced that our Chief Executive Officer and Chairman of the Board, Dr. Patrick M. Byrne, will be taking a personal leave of absence for medical reasons. Our President, Jonathan E. Johnson III, will serve as Acting Chief Executive Officer during Dr. Byrne's leave of absence. Dr. Byrne will remain Chairman of the Board.

Dr. Patrick M. Byrne has served as our Chief Executive Officer (principal executive officer) and as a Director since October 1999, as Chairman of the board of directors from February 2001 through October 2005, and since July 2006. From September 1997 to May 1999, Dr. Byrne served as President and Chief Executive Officer of Fechheimer Brothers, Inc., a manufacturer and distributor of uniforms. From 1995 until its sale in September 1999, Dr. Byrne was Chairman, President and Chief Executive Officer of Centricut, LLC, a manufacturer and distributor of industrial torch parts. From 1994 to the present, Dr. Byrne has served as a Manager of the Haverford Group, an investment company and an affiliate of Overstock. Dr. Byrne has a Bachelor of Arts Degree in Chinese studies from Dartmouth College, a Master's Degree from Cambridge University as a Marshall Scholar, and a Ph.D. in philosophy from Stanford University.

Mr. Jonathan E. Johnson III joined Overstock.com in September 2002 and has served as our President and Corporate Secretary since July 2008 and is Acting Chief Executive Officer since February 12, 2013. He has also served as our General Counsel and as our Vice President, Strategic Projects and Legal, and Senior Vice President, Corporate Affairs and Legal. From May 1999 to September 2002, Mr. Johnson held various positions with TenFold Corporation, a software company, including General Counsel, Executive Vice President and Chief Financial Officer. From October 1997 to April 1999, Mr. Johnson practiced law with Milbank, Tweed, Hadley & McCloy and from September 1994 to September 1997, he practiced law with Graham & James. From February 1994 to August 1994, Mr. Johnson served as a judicial clerk at the Utah Supreme Court for Justice Leonard H. Russon, and prior to that, from August 1993 to January 1994, Mr. Johnson served as a judicial clerk at the Utah Court of Appeals for Judge Leonard H. Russon. Mr. Johnson holds a Bachelor's Degree in Japanese from Brigham Young University, studied for a year at Osaka University of Foreign Studies in Japan, and received his law degree from the J. Reuben Clark, Jr. Law School at Brigham Young University.

Mr. Stephen J. Chesnut (principal financial and accounting officer) currently serves as our Senior Vice President, Finance and Risk Management. He previously served as our Senior Vice President, Finance from January 2009 to February 2010. From August 2007 to August 2008, Mr. Chesnut served as Vice President, Strategy/Market Development/Sales for HD Supply, Inc., a privately-held wholesale distribution company based in Atlanta, Georgia. From December 1998 to August 2007, Mr. Chesnut served in a variety of capacities for The Home Depot or its subsidiaries, including Director, Business

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Development for HD Supply (prior to its sale by Home Depot); Director, Finance and Chief Financial Officer for Home Depot Supply; Director, New Concept Development; and Director, Strategic Planning. Prior to joining The Home Depot from 1986 to 1998, Mr. Chesnut served in a variety of operational, planning and financial positions for Target Stores Inc. Mr. Chesnut holds a Bachelor's of Science Degree in Accounting and Business Management from Southern Utah University and a Master of Business Administration Degree, Finance and Strategic Planning, from Brigham Young University.

Mr. Timothy D. Dilworth joined Overstock.com in March 2012, and serves as Senior Vice President, Marketing. Prior to joining Overstock.com, Mr. Dilworth worked for Coldwater Creek, a specialty retailer of women's apparel, accessories, jewelry and gift items, since 2000 in various positions within the company's marketing group and last held the position of Coldwater Creek's Senior Vice President of Marketing. He holds Bachelor's Degree in Business and Information Technology from Montana Tech of the University of Montana and a Masters of Business Administration Degree from the University of Idaho.

Mr. David J. Nielsen currently serves as our Senior Vice President, Merchandising & Supply Chain. Mr. Nielsen previously served as the Vice President, Merchandising from August 2009. Prior to joining Overstock.com in 2009, Mr. Nielsen was with Payless ShoeSource, Inc., a shoe retailer from 2005 through 2009. At Payless he held a variety of positions, most recently serving as the Vice President of Merchandise Distribution. Additionally, Mr. Nielsen worked at Old Town Imports, LLC, a retail company, where he served as President and CEO. Mr. Nielsen holds a Bachelor's Degree in Business Management with an emphasis in Marketing from Brigham Young University.

Mr. Bhargav J. Shah currently serves as our Senior Vice President, Technology. Prior to joining Overstock.com, Mr. Shah served as a director in KPMG LLP's IT advisory group since 2009. Prior to that, Mr. Shah held various positions with Bearing Point (formerly KPMG Consulting) including consulting senior manager. Mr. Shah holds a Chemical Engineering Degree from K.E.S Engineering College in Mumbai, India and a Master's of Business Administration Degree in Finance from Bentley University.

Ms. Stormy D. Simon currently serves as our Senior Vice President, Customer and Partner Care. Ms. Simon has also served as a member of our board of directors since May 2011. Ms. Simon previously served as our Senior Vice President, Marketing; Vice President, BMMG; Travel and Off-Line Advertising; Chief of Staff and as our Director of B2B. Prior to joining Overstock.com in 2001, Ms. Simon worked in the media and travel industries.

Mr. Stephen P. Tryon joined Overstock.com in August 2004, and serves as Senior Vice President, Human Capital Management and International. Prior to joining Overstock.com, Mr. Tryon was the Legislative Assistant to the Chief of Staff of the United States Army. During his 21 years with the Army, his assignments included director of plans for the 10th Mountain Division, Congressional Fellow for United States Senator Max Cleland, Assistant Professor of Philosophy at the United States Military Academy, and commander of a company of paratroopers. Mr. Tryon received a Bachelor's of Science Degree in Applied Sciences from the U.S. Military Academy and a Master's Degree of Arts in Philosophy from Stanford University.

Available Information

Our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and other reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 are available free of charge through our the Investor Relations sections of our main website www.overstock.com as soon as reasonably practicable after we electronically file such material with, or furnish it to, the Securities and Exchange Commission. Our Internet Website and the information contained therein or connected thereto are not a part of or incorporated into this Annual Report on Form 10-K.

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ITEM 1A. RISK FACTORS

Please consider the following risk factors carefully. If any of the following risks were to occur, it could have a material adverse effect on our business, prospects, financial condition and results of operations, and the market price of our securities could decrease significantly. Statements below to the effect that an event could harm our business (or similar statements) mean that the event could have a material adverse effect on our business, prospects, financial condition and results of operations. These are not the only risks we face.

We have a history of significant losses. If we do not maintain profitability, our financial condition and our stock price could suffer.

We have a history of losses and we may incur operating and net losses in the foreseeable future. At December 31, 2012, our accumulated deficit was \$247 million. We need to generate significant revenues to maintain profitability, and we may not be able to do so. Although we had net income of \$14.7 million in 2012, we incurred a net loss of \$19.4 million in 2011. We may be unable to maintain profitability in the future. If our revenues grow more slowly than we anticipate or decline, or if our expenses exceed our expectations, our financial results would be harmed and our business, prospects, financial condition and results of operations could fall below the expectations of public market analysts and investors.

We are an e-commerce business and we depend on the continued use of the Internet and the adequacy of the Internet infrastructure.

Our business depends upon the widespread use of the Internet and e-commerce. Factors which could reduce the widespread use of the Internet for e-commerce include:

actual or perceived lack of security of information or privacy protection;

cyber attacks or other disruptions or damage to the Internet or to users' computers;

significant increases in the costs of transportation of goods; and

taxation and governmental regulation.

We depend on our relationships with independent fulfillment partners for a large portion of the products that we offer for sale on our Website. If we fail to maintain these relationships, our business will suffer.

At December 31, 2012, we had relationships with approximately 2,100 independent fulfillment partners whose products we offer for sale on our Website. Products provided by our fulfillment partners accounted for 86% of our net revenues for the year ended December 31, 2012. If we do not maintain our existing relationships or build new relationships with fulfillment partners on acceptable commercial terms, we may not be able to maintain a broad selection of merchandise, and our business and prospects would suffer severely. Our agreements with fulfillment partners are generally terminable at will by either party upon short notice.

We depend on our fulfillment partners to perform certain services regarding the products that we offer.

In general, we agree to offer the fulfillment partners' products on our Website and these fulfillment partners agree to conduct a number of other traditional retail operations with respect to their respective products, including maintaining inventory, preparing merchandise for shipment to individual customers and delivering purchased merchandise on a timely basis. We may be unable to ensure that these third parties will continue to perform these services to our satisfaction or on commercially reasonable terms. In addition, because we do not take possession of these fulfillment parties' products (other than on the return of such products), we are generally unable to fulfill these

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traditional retail operations ourselves. If our customers become dissatisfied with the services provided by these third parties, our business and reputation and the Overstock.com brand could suffer.

Risks associated with the suppliers from whom our products are sourced and the safety of those products could adversely affect our financial performance.

Global sourcing of many of the products we sell is an important aspect of our business. We depend on our ability to access products from qualified suppliers in a timely and efficient manner. Political and economic instability, the financial stability of suppliers, suppliers' ability to meet our standards, labor problems experienced by our suppliers, the availability of raw materials, merchandise quality issues, currency exchange rates, transport availability and cost, transport security, inflation, and other factors relating to the suppliers and the countries in which they are located are beyond our control. Further, our customers count on us to provide them with safe products. Concerns regarding the safety of products that we source from our suppliers and then sell could cause shoppers to avoid purchasing certain products from us, or to seek alternative sources of supply for all of their needs, even if the basis for the concern is outside of our control. Any lost confidence on the part of our customers would be difficult and costly to reestablish. As such, any issue regarding the safety of any items we sell, regardless of the cause, could adversely affect our financial performance. Further, we sell products manufactured for us by third parties, some of which may be defective. If any product that we sell were to cause physical injury or injury to property, the injured party or parties might bring claims against us as the manufacturer and/or retailer of the product. Our insurance coverage may not be adequate to cover claims that could be asserted. Even unsuccessful claims could result in the expenditure of funds and management time and could have a negative impact on our business.

Manufacturers may refuse to sell to us or through our site.

We rely upon our fulfillment partners and other suppliers for the product offerings sold on our website and other products and services we use to run our business. Our ability to retain or attract new fulfillment partners and other suppliers may depend in part on our financial performance. Poor financial performance could result in suppliers choosing to limit or suspend doing business with us or require us to prepay for our purchases. Further, some manufacturers are unwilling to offer products for sale on the Internet or on sites like ours. Our inability to source and offer popular products could be a significant problem for us.

Our business depends on our Website, network infrastructure and transaction-processing systems.

As an e-commerce company, we are completely dependent on our infrastructure. Any system interruption that results in the unavailability of our Website or reduced performance of our transaction systems could reduce our ability to conduct our business. We use internally and externally developed systems for our Website and our transaction processing systems, including personalization databases used for internal analytics, recommendations and order verifications. We have experienced periodic systems interruptions due to server failure and power failure in the past, which we expect will continue to occur from time to time. We have also experienced and may continue to experience temporary capacity constraints due to sharply increased traffic during sales or other promotions and during the holiday shopping season. Capacity constraints can cause system disruptions, slower response times, delayed page presentation, degradation in levels of customer service and other problems. In the past we have also experienced difficulties with our infrastructure upgrades. Any future difficulties with our transaction processing systems or difficulties upgrading, expanding or integrating aspects of our systems may cause system disruptions, slower response times, and degradation in levels of customer service, additional expense, impaired quality and speed of order fulfillment or other problems.

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If the facility where substantially all of our computer and communications hardware is located fails, our business, prospects, financial condition and results of operations could be harmed.

If the facility where substantially all of our computer and communications hardware is located fails, or if we suffer an interruption or degradation of services at the facility for any reason, our business could be harmed. Our success, and in particular, our ability to successfully receive and fulfill orders and provide high-quality customer service, largely depends on the efficient and uninterrupted operation of our computer and communications systems. Substantially all of our computer and communications hardware is located at a single co-location facility in Salt Lake City, Utah, with a partially redundant back-up system located less than six miles from the co-location facility. In the event of an earthquake or major local disaster, or any other cause of interruption of service, both our primary and back-up sites could be adversely affected. Although we have designed our back-up system in an effort to minimize service interruptions in the event of a failure of our main facility, our systems and operations are vulnerable to damage or interruption from fire, flood, power loss, telecommunications failure, terrorist attacks, cyber-attacks, acts of war, break-ins, earthquake and similar events. In the event of a failure of our primary facility, the failover to our back-up facility would take at least several hours, during which time our Website would be completely shut down. Our back-up facility is designed to support sales at a level slightly above our average daily sales, but is not adequate to support sales at a high level. The back-up facility may not process effectively during time of higher traffic to our Website and may process transactions more slowly and may not support all of the functionality of our primary site. These limitations could have an adverse effect on our conversion rate and sales. Our disaster recovery plan may be inadequate, and we do not carry business interruption insurance sufficient to compensate us for the losses that could occur. Despite our implementation of network security measures, our servers are vulnerable to computer viruses, physical or electronic break-ins and similar disruptions, the occurrence of any of which could lead to interruptions, delays, loss of critical data or the inability to accept and fulfill customer orders. The occurrence of any of the foregoing risks could harm our business.

We depend upon third-party delivery services to deliver products to our customers on a timely and consistent basis. Deterioration in our relationship with any one of these third parties could decrease our ability to track shipments, cause shipment delays, and increase our shipping costs and the number of damaged products.

We rely upon third party delivery providers for the shipment of products to customers. We cannot be sure that these relationships will continue on terms we find acceptable, or at all. Increases in shipping costs or delivery times, particularly during the holiday season, could harm our business. If our relationships with these third parties are terminated or impaired or if these third parties are unable to deliver products for us, whether as a result of labor shortage, slow down or stoppage, deteriorating financial or business condition, terrorist attacks, cyber-attacks, Internet or other infrastructure or communications impairment, natural disasters, or for any other reason, we would be required to use alternative carriers for the shipment of products to our customers. In addition, conditions such as adverse weather or natural disasters can prevent any carrier from performing its delivery services, which can have an adverse effect on our customers' satisfaction with us. In any of these circumstances, we may be unable to engage alternative carriers on a

Donna Mays⁽⁶⁾

Manager, Administrative Services

Year ended

December 31, 2011

78,846

25,000(5)

103,846

(1)

Mr. Nano left the Company in September 2010. Mr. Nano's salary did not include any additional compensation for serving as Chairman of the Board.

(2)

Includes \$104,346.17 deferred salary, \$12,115.39 unused vacation and \$6,343.15 car allowance; beginning in January 2009, Mr. Nano began deferring one half his salary until the company was in a stronger cash flow position. All deferred wages for Mr. Nano were paid upon his termination from the Company in September 2010.

(3)

Mr. Despo left the Company in January 2012.

(4)

Represents \$38,461 of deferred salary; beginning in January 2009, Mr. Despo began deferring a portion of his salary until the company was in a stronger cash flow position.

(5)

Represents retention bonuses paid to certain employees during restructuring.

(6)

Ms. Mays did not earn more than \$100,000 in 2012.

Grants of Plan Based Awards

There were no grants of plan-based awards during fiscal 2012 or 2011.

Outstanding Equity Awards at Fiscal Year-End

Name	Number of Securities		Option Price	Option Expiration Date
	Number of Securities Underlying Unexercised Options Exercisable ⁽¹⁾	Number of Securities Underlying Unexercised Options Unexercisable ⁽¹⁾		
Laurie Murphy	10,000	-	2.25	9/28/17
	5,000	-	2.33	8/18/16
	2,500	-	5.34	10/17/15
	3,000	-	3.72	8/12/14
	1,500	-	1.95	10/31/13
Donna Mays	10,000	-	2.25	9/28/17

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5,000	-	2.33	8/18/16
2,500	-	5.34	10/17/15
3,000	-	3.72	8/12/14
3,000	-	1.95	10/31/13

(1)

Option awards under our 1997 Employees Stock Option Plan.

Option Exercises During Fiscal Year 2012

There were no options exercised by employees during the year ended December 31, 2012.

Employment, Severance and Change of Control Arrangements

None

Other Arrangements

401(k) Retirement Savings Plan

We have an employee defined contribution plan qualified under section 401(k) of the Internal Revenue Code for all our employees who have attained the age of 21 and meet certain service requirements. The Plan has been in effect since January 1, 1997. Participation in the Plan is voluntary. Employees may defer compensation up to a specific dollar amount determined by the Internal Revenue Service for each calendar year. We do not make matching contributions, and employees are not allowed to invest in our stock under the Plan.

Our directors may authorize a discretionary contribution to the Plan, allocated according to the provisions of the Plan, and payable in shares of our common stock valued as of the date the shares are contributed. No contributions were authorized in the year ended December 31, 2012.

Annual Incentive Plan

The Competitive Technologies, Inc. Annual Incentive Plan was approved by our Board on November 22, 2005, replacing a prior plan. The Compensation Committee administers the Incentive Plan. The Compensation Committee may suspend or amend the Incentive Plan at any time from time to time, and the Board may terminate the Incentive

Plan.

The Incentive Plan provides for eligible employees to earn an annual bonus incentive in cash. The targeted annual bonus incentive award is a percentage of the participant's salary earned during the plan year, as defined in the Incentive Plan, and is comprised of two parts, 50% of which is dependent upon attainment of financial performance metrics that serve as our company wide goals and objectives and are set at the beginning of the year, the Company Component; and 50% of which is dependent upon the individual's performance compared to each individual's pre-established goals and objectives, the Individual Component. If our financial performance is less than 70% of its goal, there will be no award for the Company Component. If our financial performance is more than 120% of its goal, then the Company Component award will increase to 125% of the award, and may, under certain conditions, as defined, increase up to a maximum of 200% of the award. If a participant meets his or her individual goals, we may pay the Individual Component regardless of whether the Company Component is met.

No payments were authorized or made under this plan for fiscal year 2012. Because CTTC did not meet its financial goals for the fiscal year 2010 and because of other concerns, the Compensation Committee of the Board of Directors determined not to award cash bonuses to any executive officers or to any employees for the fiscal year ended December 31, 2011, with the exception of \$29,600 awarded to the former Executive Vice President, Business Development.

1997 Employees Stock Option Plan

The 1997 Employees Stock Option Plan provided for the granting of stock options to purchase our Common Stock. Stock options granted under the Stock Option Plan may have been incentive stock options pursuant to Section 422 of the Internal Revenue Code or non-statutory stock options. Stock options granted

under the Stock Option Plan must have been granted at not less than 100% of the fair market value on the date of grant. The Compensation Committee determines the vesting period for the stock options. Stock options expire upon termination of the grantee's employment, or ten years after the grant date. In certain instances stock options which are vested or become vested upon the occurrence of an event or events specified by the Compensation Committee, may continue to be exercisable through up to ten years after the grant date, irrespective of the termination of the optionee's employment with us. No options were allowed to be granted pursuant to this plan after September 30, 2007.

At December 31, 2012, this table provides details of the remaining options awarded under this plan:

Plan Category	Number of securities to be issued upon exercise of outstanding options	Weighted-average exercise price of outstanding options	Number of securities remaining available for future issuance (excluding options outstanding)
Equity compensation plans approved by security holders	57,000	\$ 1.85	-

At April 26, 2013 the number of securities to be issued upon exercise of outstanding options was 57,000.

2. ELECTION OF INDEPENDENT PUBLIC ACCOUNTANTS

Mayer Hoffman McCann CPAs ("Mayer Hoffman McCann") have been the independent registered public accountants for the company. Pursuant to an asset purchase agreement, our former independent public accounting firm, Mahoney Cohen & Company, CPA, P.C. was acquired by the New York practice of Mayer Hoffman McCann P.C. ("MHM"), and the shareholders of Mahoney Cohen became shareholders of MHM. Following its acquisition of Mahoney Cohen, MHM changed its name to MHM Mahoney Cohen CPAs ("MHM Mahoney Cohen"), effective December 31, 2008. On June 8, 2010, MHM Mahoney Cohen changed their name to Mayer Hoffman McCann CPAs (The New York Practice of Mayer Hoffman McCann P.C.).

Fees Billed by Principal Accountants The following table presents fees for professional services billed by Mayer Hoffman McCann for the years ended December 31, 2012, December 31, 2011, and the five months ended December 31, 2010:

	Year ended December 31, 2012	Year ended December 31, 2011	Five months ended December 31, 2010
	Mayer Hoffman McCann	Mayer Hoffman McCann	Mayer Hoffman McCann
Audit fees	\$ 126,500	\$ 143,635	\$ 57,500
Tax fees	-	1,215	-
Audit related fees ⁽¹⁾	2,575	12,899	-
Total	\$ 129,075	\$ 157,749	\$ 57,500

(1)

Fees for S-1 and S-8 review.

Audit Committee Pre-Approval of Services of Principal Accountants

The Audit Committee has the sole authority and responsibility to select, evaluate, determine the compensation of, and, where appropriate, replace the independent auditor. After determining that providing the non-audit services is compatible with maintaining the auditor's independence, the Audit Committee pre-approves all audits and permitted non-audit services to be performed by the independent auditor, except for de minimus amounts. If it is not practical for the Audit Committee to meet to approve fees for permitted non-audit services, the Audit Committee has authorized its chairman, currently Mr. Yarbrow, to approve them and to review such pre-approvals with the Audit Committee at its next meeting.

Ratification of Selection of Independent Public Accountants

The persons named in the enclosed proxy will vote to ratify the selection of Mayer Hoffman McCann as independent public accountants for the year ending December 31, 2013, unless otherwise directed by the shareholders.

Shareholder ratification of Mayer Hoffman McCann as the Company's independent public accountants is not required by the Company's bylaw or otherwise. However, the Company is submitting selection of Mayer Hoffman McCann to the shareholders for ratification as a matter of good corporate practice. If the shareholders do not ratify the selection of Mayer Hoffman McCann as the Company's independent public accountants, the Audit Committee will reconsider the selection of such independent public accountants. If the selection is ratified, the Audit Committee may, in its discretion, direct the appointment of different independent public accountants at any time during the year if it determines that such a change would be in the best interest of the Company and its shareholders.

Vote Required

The affirmative vote of a majority of the shares of Common Stock present or represented by proxy at the Annual Meeting is necessary for the ratification of Mayer Hoffman McCann CPAs as independent public accountants for the fiscal year ended December 31, 2013.

Recommendation

Our Board of Directors recommends that shareholders vote **FOR** the ratification of Mayer Hoffman McCann CPAs as independent public accountants for the fiscal year ended December 31, 2013.

3: ADVISORY VOTE ON APPROVAL OF EXECUTIVE COMPENSATION

The Dodd-Frank Wall Street Reform and Consumer Protection of 2010 (or the Dodd-Frank Act), now applicable to our Company, enables our shareholders to vote to approve, on an advisory and non-binding basis, the compensation of our named executive officer(s) as described in the Executive Compensation section of this proxy statement, the compensation tables and related material contained in this proxy statement. This say-on-pay proposal gives our shareholders the opportunity to express their views on our overall compensation decisions and policies. The Dodd-Frank Act also requires an advisory vote on executive compensation at least once every three years.

While this resolution is non-binding and will not be construed as overruling any decision by the Board or create or imply any fiduciary duty by the Board, the Board and the Compensation Committee value the opinions of the Company's stockholders and will take into account the outcome of the vote when considering future executive compensation arrangements.

As discussed, the Compensation Committee's compensation objectives are to attract and retain highly qualified individuals with a demonstrated record of achievement; reward past performance; provide incentives for future performance; and align the interests of the Named Executive Officer(s) with the interests of the shareholders. To do this, the Company must offer a competitive total compensation package. The Compensation Committee and the Board of Directors believe that these policies and procedures are effective in implementing our compensation philosophy and in achieving its goals.

Vote Required

The affirmative vote of a majority of the shares of Common Stock present or represented by proxy at the Annual Meeting is requested to approve the executive compensation proposed by the Board of Directors.

Recommendation

Our Board of Directors recommends that shareholders vote **FOR** the advisory resolution to approve the company's compensation for its named executive officer(s).

4: ADVISORY VOTE ON APPROVAL OF THE FREQUENCY OF HOLDING AN ADVISORY VOTE ON THE COMPENSATION OF OUR NAMED EXECUTIVE OFFICER(S)

This proposal seeks shareholder input with regard to the frequency of holding future shareholder advisory votes on the compensation of our named executive officer(s.) In particular, we are asking whether the advisory vote on the compensation of our named executive officer(s) should occur every year, every two years, or every three years. The Dodd-Frank Act requires the Company to hold the advisory vote on the frequency of the say-on-pay vote at least once every six years.

In voting on this resolution, you are asked to mark your proxy for one, two, or three years based on your preference as to the frequency with which an advisory vote on executive compensation should be held. If you have no preference you can abstain. Because your vote is advisory, it will not be binding on our Compensation Committee or our Board of Directors. However, the Compensation Committee and the Board will review the voting results and take them into consideration when making future decisions regarding how frequently it should present the advisory vote on the compensation of our named executive officer(s) to our shareholders.

The Board believes that an advisory vote every three years would be most appropriate for the Company. This would give shareholders sufficient opportunity to react promptly to emerging trends in compensation, and the Board and the Compensation Committee the opportunity to evaluate and implement compensation decisions in light of such feedback from shareholders.

Vote Required

Shareholders are being asked to provide an advisory vote as to whether such vote should be held every one, two or three years. Because the vote on the frequency of holding future advisory votes on the compensation of our named executive officer(s) is not binding, if none of the frequency options receives a majority vote the frequency option receiving the greatest number of votes will be considered the frequency preferred by our shareholders. Proxies received by the Company and not revoked prior to or at the Annual Meeting will be voted for every 3 Years unless otherwise instructed by the stockholder. Abstentions, and shares not voted by shareholders of record present or represented at the Annual Meeting and entitled to vote, and shares not voted by brokers, will have no effect on the outcome of this proposal.

Recommendation

Our Board of Directors recommends that shareholders vote **FOR** holding an advisory vote for the approval of the compensation of the named executive officer(s) every 3 years.

PROPOSALS OF SHAREHOLDERS

Shareholders who wish to present proposals under SEC Rule 14a-8 to be included in our Proxy Statement and form of proxy in connection with the June 2014 Annual Meeting of Shareholders, must submit those proposals so that we receive them no later than 120 days before the proxy availability date of our Proxy Statement in connection with that meeting. If we meet this year's proxy availability date of May 10, 2013, we must receive such proposals for next year's Annual Meeting no later than January 10, 2014.

Shareholders who wish to present matters outside the processes of SEC Rule 14a-8 to be included in our Proxy Statement and form of proxy in connection with the June 2014 Annual Meeting of Shareholders, must submit notice of those matters so that we receive them no later than 45 days before the proxy availability date of our Proxy Statement in connection that meeting. If we meet this year's expected availability date of May 10, 2013, we must receive notice of such matters for next year's Annual Meeting no later than March 26, 2014. Notice received after March 26, 2014 will be untimely and subject to the discretionary authority described in the last sentence of this Proxy Statement.

GENERAL

We will pay the cost of soliciting proxies, including preparation, assembly, printing and mailing of the Notice of Internet Availability of Proxy Materials, and any additional information furnished to shareholders. Arrangements will be made to furnish solicitation materials to brokerage houses, custodians, nominees and other fiduciaries, holding in their names shares of common stock beneficially owned by others to forward to such beneficial owners. We will reimburse these third-parties for reasonable out-of-pocket expenses. Solicitation of proxies by mail may be supplemented by telephone, telegram, electronic transmission or personal solicitation by our directors, officers or other regular employees of the Company. No additional compensation will be paid to directors, officers or other regular employees for such services. We have retained Morrow & Co., LLC, located at 470 West Avenue, Stamford, CT 06902, for an estimated fee of \$5,500, plus out of pocket expenses, to assist in distributing proxy materials and soliciting proxies.

Copies of our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, any amendments to those reports and any other reports filed with or furnished to the SEC also are available on or through our website at www.competitivetech.net as soon as reasonably practicable after they are filed with or furnished to the SEC.

Upon written request, we will provide without charge (except for exhibits) to any shareholder of record or beneficial owner of our securities, a copy of our Annual Report on Form 10-K filed with the SEC for the year ended December 31, 2012, including the financial statements and schedules thereto. Exhibits to said report will be provided upon payment of fees limited to our reasonable expenses in furnishing such exhibits. Written requests should be addressed to: Secretary, Competitive Technologies, Inc., 1375 Kings Highway East, Suite 400, Fairfield, Connecticut, 06824.

Some brokers and other nominee record holders may be participating in the practice of householding corporate communications to shareholders, such as proxy statements and annual reports. This means that only one copy of this Proxy Statement, including the Notice of Internet Availability of Proxy Materials, may have been sent to multiple shareholders in your household. We promptly will deliver a separate copy of this Proxy Statement to you if you call or write us at the following address or phone number: Secretary, Competitive Technologies, Inc., 1375 Kings Highway East, Suite 400, Fairfield, Connecticut, 06824, telephone: (203) 368-6044. If in the future you want to receive separate copies of our corporate communications to shareholders, such as the Notice of Internet Availability of Proxy Materials, proxy statements and annual reports, or if you are receiving multiple copies and would like to receive only one copy for your household, you should contact your broker or other nominee record holders, or you may contact us at the above address and phone number.

The Board of Directors is not aware of any matter that is to be presented for action at the meeting other than the matters set forth herein. Should any other matters requiring a vote of the shareholders arise, the proxies in the

enclosed form confer upon the person or persons entitled to vote the shares represented by such proxies discretionary authority to vote the same in respect of any such other matters in accordance with their best judgment in the interest of CTTC.

By Order of the Board of Directors,

Carl O Connell

President and Chief Executive Officer

Dated: May 10, 2013

