

INFORMATION ANALYSIS INC
Form 10-Q
May 15, 2015

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

Form 10-Q

(Mark One)

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

For the quarterly period ended March 31, 2015

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 000-22405

Information Analysis Incorporated
(Exact Name of Registrant as Specified in Its Charter)

Virginia
(State or other jurisdiction of incorporation or organization)

54-1167364
(I.R.S. Employer Identification No.)

11240 Waples Mill Road
Suite 201
Fairfax, Virginia 22030
(703) 383-3000
(Registrant's telephone number, including area code)

Not applicable
(Former name, former address and former fiscal year, if changed since last report)

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 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

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

Large accelerated filer Accelerated filer
Non-accelerated filer Smaller reporting company
(Do not check if a smaller reporting company)

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

As of May 8, 2015, 11,201,760 shares of common stock, par value \$0.01 per share, of the registrant were outstanding.

INFORMATION ANALYSIS INCORPORATED
FORM 10-Q

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PART I - FINANCIAL INFORMATION

Item 1. Financial Statements

INFORMATION ANALYSIS INCORPORATED
BALANCE SHEETS

	March 31, 2015 (Unaudited)	December 31, 2014 (see Note 1)
ASSETS		
Current assets:		
Cash and cash equivalents	\$2,122,914	\$2,450,006
Accounts receivable, net	1,110,325	970,621
Prepaid expenses and other current assets	486,810	759,982
Notes receivable, current	4,092	3,896
Total current assets	3,724,141	4,184,505
Property and equipment, net	48,254	53,675
Notes receivable, long-term	4,250	5,102
Other assets	6,281	6,281
Total assets	\$3,782,926	\$4,249,563
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$62,531	\$32,327
Commissions payable	1,004,079	1,017,047
Deferred revenue	451,109	737,994
Accrued payroll and related liabilities	228,345	255,703
Other accrued liabilities	28,427	116,097
Total liabilities	1,774,491	2,159,168
Stockholders' equity:		
Common stock, par value \$0.01, 30,000,000 shares authorized; 12,844,376 shares issued, 11,201,760 shares outstanding as of March 31, 2015 and December 31, 2014	128,443	128,443
Additional paid-in capital	14,616,758	14,613,887
Accumulated deficit	(11,806,555)	(11,721,724)
Treasury stock, 1,642,616 shares at cost	(930,211)	(930,211)
Total stockholders' equity	2,008,435	2,090,395
Total liabilities and stockholders' equity	\$3,782,926	\$4,249,563

The accompanying notes are an integral part of the financial statements

INFORMATION ANALYSIS INCORPORATED
STATEMENTS OF OPERATIONS AND
COMPREHENSIVE LOSS

(Unaudited)

	For the three months ended March 31,	
	2015	2014
Revenues:		
Professional fees	\$1,115,096	\$875,260
Software sales	361,027	304,550
Total revenues	1,476,123	1,179,810
Cost of revenues:		
Cost of professional fees	643,284	497,827
Cost of software sales	348,584	227,705
Total cost of revenues	991,868	725,532
Gross profit	484,255	454,278
Selling, general and administrative expenses	432,094	445,819
Commission expense	139,471	108,677
Loss from operations	(87,310)	(100,218)
Other income	2,479	2,699
Loss before provision for income taxes	(84,831)	(97,519)
Provision for income taxes	--	For 2004, actual aggregate bonuses paid to current executive officers, including the CEO, represented approximately 28% of the salaries and bonuses paid to these officers, compared to 35% for 2003. Actual aggregate

bonuses paid to all current executive officers who received bonuses for 2004 represented approximately 60% of the total bonuses targets for these executive officers and approximately 13% of the total bonus amounts paid to all employees for 2004, compared to 85% and 13%, respectively, in 2003.

For 2005, the Company will continue its stretch bonus program.

Long Term Incentive Compensation: Long-term incentive compensation is provided in the form of grants of either stock options or restricted stock. These equity awards are designed to align the executive's compensation more directly with stockholder value by linking a substantial portion of the executive's compensation to the performance of the Company's stock. Long-term compensation also is designed to encourage executives to make career commitments to the Company.

Long-term compensation is granted under the Company's 2000 Long-Term Incentive Plan (the 2000 LTIP), which was approved by stockholders in May 2001.

Each executive officer receives an option grant upon employment with the Company (or upon promotion to senior executive status), and typically receives an annual grant of additional stock options thereafter. In 2003 each executive officer also received a grant of restricted stock. The restrictions prohibit sale or transfer of the restricted stock for a period of five years for one-half of the shares and ten years for the remainder. These restrictions would lapse sooner, however, based on the Company meeting certain financial targets for the years 2003, 2004 and 2005. The restricted stock grants made in 2003 were in amounts intended to approximate the number of shares of restricted stock that would be awarded over a period of three years under a hypothetical annual restricted stock grant program that would be supplemental to the Company's annual option grant program. Financial targets for accelerated vesting of the restricted stock were achieved for 2003 and 2004, and, accordingly, two-thirds of the 2003 restricted stock grant has now vested. Several of the Company's senior executives have also received special grants of stock options and/or restricted stock in connection with their entering into employment agreements with the Company. See Executive Compensation Employment Agreements beginning on page 19 for additional information.

The size of an executive's equity compensation awards are based upon the CEO's and the Committee's evaluation of the contribution that the executive officer is expected to make to overall growth and profitability of the Company during the vesting period of the options. The Committee also considers long-term incentive compensation levels at the Comparable Companies. The actual number of options granted is determined utilizing the modified Black-Scholes methodology for valuing options.

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Stock options are granted with an exercise price equal to not less than the market value of the underlying shares on the date of grant and constitute compensation only if the Company's stock price increases thereafter. The Committee has discretion to determine the vesting schedule for each option grant and generally makes grants that become exercisable in equal amounts over three years. Except in the cases of retirement, disability or death, in general, executives must be employed by the Company at the time of vesting in order to exercise their options. Reference is made to the text of the 2000 LTIP for detailed information on the terms of the plan.

Certain executives have also received stock option and/or restricted stock grants with performance based vesting provisions as part of their compensation packages under employment agreements with the Company. These grants generally have long-term vesting schedules of between five and ten years, with the opportunity of accelerated vesting if certain financial targets are achieved. See Executive Compensation Employment Agreements beginning on page 19 for additional information.

The Company does not currently expense the compensation element associated with its employee stock options, but will begin to reflect the expense associated with stock options in 2006 in accordance with statement FAS 123R issued by the Financial Accounting Standards Board. In the footnotes to the Company's financial statements included in the Company's annual report on Form 10-k, the Company has disclosed the effect that fully expensing stock options would have on the Company's financial statements. The Company expenses the compensation represented by restricted stock awards.

Deferred Compensation Plan: The Company has adopted the Express Scripts, Inc. Executive Deferred Compensation Plan (the EDCP), which also serves as a supplemental retirement plan for senior executives. The EDCP provides eligible senior and vice-president-level executive employees of the Company and its subsidiaries the opportunity to (i) defer the receipt and taxation of up to 50% of the employee's annual base salary and 100% of his or her annual bonus, and (ii) receive certain contributions from the Company. Amounts deferred by participants and Company contributions are assumed to have been invested in one or more of a number of publicly available mutual funds and a Company Common Stock fund, and the returns that the Company will pay on the participants' accounts are equal to the gain or loss on such hypothetical market investments. The Committee believes, therefore, that the Company has not promised to pay an above-market return on any participant's account. Other than the EDCP and the Company's 401(k) Plan, the Company does not make available a pension or other retirement plan to its executive officers.

The Company's annual contribution to the EDCP for senior executives for 2004 was equal to six percent (6%) of each participating executive's cash compensation during the year. The purpose of the EDCP is to provide key executives with competitive retirement and capital accumulation benefits, to retain and provide incentive to the Company's key executives, and to increase the Company's ability to attract mid-career executives to senior executive positions with the Company. Any compensation deferred under the EDCP would not be included in the \$1,000,000 limit provided for under Section 162(m) of the Internal Revenue Code until the year in which distributions from the EDCP are actually made to the participants.

Executive Officer Employment Agreements

The Company has entered into long-term employment agreements with certain key executives of the Company. See Executive Compensation Employment Agreements Employment Agreements with Other Executive Officers beginning on page 21 for additional information.

The Chief Executive Officer's Compensation

The Committee evaluates the performance of the CEO for purposes of recommending to the Board his annual base pay adjustment and annual bonus award. The Committee also determines his annual long-term incentive award. The factors considered in evaluating the CEO's salary in 2004 related to the overall performance of the Company, particularly the increase in revenues, net income and earnings per share, which were evaluated by the Committee.

Under his employment agreement with the Company, during 2004 the CEO could earn an annual bonus of up to 100% of his base salary for 2004 based upon achievement of performance objectives set by the Board upon recommendation of the Committee, plus up to an additional 100% based upon the achievement of stretch goals. Mr. Toan's bonus award for 2004 performance, which was equal to 50% of his base salary, was recommended by the Committee based upon the Company's attainment of its profitability goals and for the overall performance of the 2004

non-financial corporate work plan objectives.

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Mr. Toan retired from the Company effective March 31, 2005 and was succeeded as CEO by George Paz. The Company and Mr. Paz have entered into an Employment Agreement for a term ending March 31, 2008.

See Executive Compensation Employment Agreements Employment Agreement with Mr. Toan and Executive Compensation Employment Agreements Employment Agreements with Mr. Paz beginning on page 19 for additional information regarding the CEOs' respective employment agreements.
March 31, 2005

COMPENSATION AND DEVELOPMENT COMMITTEE

Gary Benanav, Chairman
Thomas P. Mac Mahon
Howard Waltman

The Report of the Audit Committee, the Report of the Compensation and Development Committee on Executive Compensation and the performance graph below will not be deemed incorporated by reference by any general statement incorporating by reference this proxy statement or portions thereof into any filing under the Securities Act of 1933 or the Securities Exchange Act of 1934, except to the extent that the Company specifically incorporates this information by reference, and will not otherwise be deemed filed under such Acts.

COMPENSATION COMMITTEE INTERLOCKS AND INSIDER PARTICIPATION

The Compensation and Development Committee is comprised of Gary Benanav (Chair), Thomas Mac Mahon and Howard Waltman, none of whom are employees or current or former officers of the Company, nor had any relationship with the Company required to be disclosed under Certain Relationships and Related Transactions.

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The following performance graph compares the cumulative total stockholder return of the Company's Common Stock, commencing December 31, 1999, with the cumulative total return on the Standard & Poor's Health Care 500 Index and the Standard & Poor's 500 Index, to the end of 2004. These indices are included only for comparative purposes as required by Securities and Exchange Commission rules and do not necessarily reflect management's opinion that such indices are an appropriate measure of the relative performance of the Common Stock. They are not intended to forecast possible future performance of the Common Stock.

**Total Return to Shareholders
(Dividends reinvested monthly)
INDEXED RETURNS
Years Ending**

Company/Index	Base Period Dec 99	Dec 00	Dec 01	Dec 02	Dec 03	Dec 04
EXPRESS SCRIPTS, INC	100	159.75	146.13	150.13	207.59	238.88
S & P 500 INDEX	100	89.86	78.14	59.88	75.68	82.49
S & P 500 - HEALTH CARE	100	135.54	118.00	94.33	107.00	107.25

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The following table sets forth information concerning the annual and long-term compensation for all services rendered in all capacities to the Company for the fiscal years ended December 31, 2004, 2003 and 2002, by the Named Officers:

Summary Compensation Table

Name and Principal Position	Year	Annual Compensation		Long-Term Compensation		
		Salary\$(2)	Bonus\$(2)	Restricted Stock Awards\$(3)	Securities Underlying Options(#)	All Other Compensation\$(4)
Barrett A. Toan <i>Chairman, Chief Executive Officer and Director(1)</i>	2004	778,846	375,000		29,500	96,902
	2003	750,000	637,500	1,287,200		131,210
	2002	750,000	1,303,500		42,800	138,800
George Paz <i>President, and Director(1)</i>	2004	571,154	270,000	1,341,495	38,791	218,200(5)
	2003	372,307	230,225	450,520		203,019(6)
	2002	340,000	368,320		11,100	201,332(7)
David A. Lowenberg <i>Chief Operating Officer</i>	2004	464,810	189,000	913,303	26,671	354,100(8)
	2003	400,000	205,000	514,880		60,278
	2002	400,000	471,308		13,750	60,080
Thomas M. Boudreau <i>Senior Vice President and General Counsel</i>	2004	361,462	135,000	462,536	16,285	292,700(9)
	2003	310,000	153,450	450,520		44,400
	2002	310,000	296,670		9,000	43,971
Edward Tenholder <i>Senior Vice President and Chief Administrative Officer</i>	2004	311,538	89,100		6,630	34,553
	2003	300,000	140,250	450,520		43,297
	2002	300,000	288,296	443,700	26,000	544,849(10)

- (1) Mr. Toan retired as Chief Executive Officer of the Company on March 31, 2005, and Mr. Paz assumed the office of Chief Executive Officer on April 1, 2005
- (2) The amounts in this column represent compensation awarded pursuant to an employment agreement between Named Officer and the Company (see Executive Compensation Employment Agreements beginning on page 19) and the Company's annual bonus plan.
- (3) The amounts in this column represent the dollar value of the grant of restricted stock based on the value of the Company's common stock on the grant date. All grants of restricted stock were made under the 2000 LTIP. Dividends are paid on restricted stock awards at the same rate as paid to all shareholders. Each of the Named Officers received a grant of restricted stock on May 21, 2003 (the May 2003 Grant), one-half of which were scheduled to vest on May 21, 2008, with the other one-half scheduled to vest on May 21, 2013; provided, that the lapse of restrictions could be accelerated based on the achievement by the Company of certain financial performance targets for 2003, 2004 and 2005, with one-third of the total grant tied to the targets for each year.

Based on the achievement of such targets for 2003 and 2004, vesting on two-thirds of the restricted stock granted in the May 2003 Grant was accelerated in March 2005, with the accelerated shares divided evenly from those originally scheduled to vest in 2008 and those scheduled for vesting in 2013. All shares granted under the May 2003 grant have been valued at \$64.36 per share, the closing price on May 21, 2003.

Mr. Toan was awarded 20,000 shares of restricted stock as part of the May 2003 Grant. As mentioned above, vesting on two-thirds of these shares was accelerated in March 2005. In addition, vesting on the remaining one-third of these shares was accelerated upon Mr. Toan's retirement on March 31, 2005 pursuant to the terms of his employment agreement (see Employment Agreements Employment Agreement with Mr. Toan beginning on page 19). As of December 31, 2004, Mr. Toan held an aggregate amount of 120,000 shares of restricted stock with a value of \$9,172,800, based on a per share value of \$76.44, the closing price on December 31, 2004.

Mr. Paz was awarded 19,355 shares of restricted stock February 10, 2004, valued at \$69.31 per share, the closing price on February 10, 2004. Shares vest on December 31, 2006, or as otherwise provided in Mr. Paz's employment agreement. Mr. Paz was also awarded 7,000 shares as part of the May 2003 Grant, and, as mentioned above, vesting on two-thirds of these shares was accelerated in March 2005. As of December 31, 2004, Mr. Paz held an aggregate amount of 26,355 shares of restricted stock with a value of \$2,014,576, based on a per share value of \$76.44, the closing price on December 31, 2004.

Mr. Lowenberg was awarded 14,451 shares of restricted stock on August 31, 2004, valued at \$63.20 per share, the closing price on August 31, 2004. The shares are scheduled to vest on August 31, 2011, provided, that the lapse of restrictions may be accelerated based on the achievement by the Company of certain financial performance targets for 2004 and 2005, or as otherwise provided in Mr. Lowenberg's employment agreement. Mr. Lowenberg was also awarded 8,000 shares as part of the May 2003 Grant, and, as mentioned above, vesting on two-thirds of these shares was accelerated in March 2005. As of December 31, 2004, Mr. Lowenberg held an aggregate amount of 22,451 shares of restricted stock with a value of \$1,716,154, based on a per share value of \$76.44, the closing price on December 31, 2004.

Mr. Boudreau was awarded 7,226 shares of restricted stock awarded on October 29, 2004, valued at \$64.01 per share, the closing price on October 29, 2004. The shares are scheduled to vest on October 29, 2011, provided, that the lapse of restrictions may be accelerated based on the achievement by the Company of certain financial performance targets for 2004 and 2005, or as otherwise provided in Mr. Boudreau's employment agreement. Mr. Boudreau was also awarded 7,000 shares as part of the May 2003 Grant, and, as mentioned above, vesting on two-thirds of these shares was accelerated in March 2005. As of December 31, 2004, Mr. Boudreau held an aggregate amount of 14,226 shares of restricted stock with a value of \$1,087,435, based on a per share value of \$76.44, the closing price on December 31, 2004.

Mr. Tenholder was awarded 7,000 shares as part of the May 2003 Grant, and, as mentioned above, vesting on two-thirds of these shares was accelerated in March 2005. Mr. Tenholder's restricted stock award for 2002 consists of 9,000 shares of restricted stock awarded on October 7, 2002

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and valued at \$49.30 per share, the closing price on October 7, 2002. Shares are scheduled to vest on December 31, 2006, or as otherwise provided in his employment agreement. As of December 31, 2004, Mr. Tenholder held an aggregate amount of 16,000 shares of restricted stock with a value of \$1,223,040, based on a per share value of \$76.44, the closing price on December 31, 2004.

- (4) The amounts shown in this column consist of basic Company credit contributions under the EDCP, and matching contribution in connection with the Company's 401(k) Plan.
- (5) The amount also includes a special deferred bonus in the amount of \$150,000 credited to Mr. Paz's account in the EDCP which generally vests on December 31, 2006, subject to earlier vesting under the provisions of Mr. Paz's employment agreement with the Company.
- (6) The amount also includes a special deferred bonus in the amount of \$150,000 credited to Mr. Paz's account in the EDCP which generally vests on December 31, 2005, subject to earlier vesting under the provisions of Mr. Paz's employment agreement with the Company.
- (7) The amount also includes a special deferred bonus in the amount of \$150,000 credited to Mr. Paz's account in the EDCP which vested on December 31, 2004.
- (8) The amount also includes a special deferred bonus in the amount of \$300,000 credited to Mr. Lowenberg's account in the EDCP which generally vests on March 31, 2006, subject to earlier vesting under the provisions of Mr. Lowenberg's employment agreement with the Company.
- (9) The amount also includes a special deferred bonus in the amount of \$200,000 credited to Mr. Boudreau's account in the EDCP which generally vests on March 31, 2006, subject to earlier vesting under the provisions of Mr. Boudreau's employment agreement with the Company, and a signing bonus in the amount of \$50,000 paid pursuant to the employment agreement.
- (10) This amount includes a special deferred bonus in the amount of \$500,000 credited to Mr. Tenholder's account in the EDCP which generally vests December 31, 2006, subject to the provisions of Mr. Tenholder's employment agreement with the Company.

See Report of the Compensation and Development Committee on Executive Compensation Components of Executive Compensation Deferred Compensation Plan on page 14 for a description of the vesting provisions of that plan.

Stock Options

The table below sets forth certain information on the grants of stock options to the Named Officers pursuant to the 2000 LTIP during 2004.

OPTION GRANTS IN FISCAL YEAR 2004

Name	Number of Securities Underlying Options Granted (#)	Percent of Total Options Granted to Employees in Fiscal Year(1)	Exercise Price (\$/Sh)(5)	Expiration Date	Potential Realizable Value at Assumed Annual Rates of Stock Price Appreciation for Options Term(2)	
					5% (\$)	10% (\$)
Barrett A. Toan	29,500(3)(4)	4.03%	\$ 75.16	3/5/11	\$ 902,641	\$ 2,103,527
George Paz	18,002(4)(6)	2.46%	\$ 69.31	2/10/11	\$ 507,944	\$ 1,183,740
	20,789(3)(4)	2.84%	\$ 75.16	3/5/11	\$ 636,102	\$ 1,482,380

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David A. Lowenberg	9,117(3)(4) 17,554(4)(7)	1.24% 2.40%	\$ 75.16 \$ 63.20	3/5/11 8/31/11	\$ 278,962 \$ 451,647	\$ 650,097 \$ 1,052,520
Thomas M. Boudreau	6,630(3)(4) 9,655(4)(8)	0.9% 1.32%	\$ 75.16 \$ 64.01	3/5/11 10/29/11	\$ 202,865 \$ 251,590	\$ 472,759 \$ 586,319
Edward Tenholder	6,630(3)(4)	0.9%	\$ 75.16	3/5/11	\$ 202,865	\$ 472,759

- (1) Total options granted to employees in fiscal year 2004 includes all options granted to employees in 2004.
- (2) The values in these columns are based upon calculations assuming the 5% and 10% annual stock price appreciation rate specified by the Securities and Exchange Commission. These assumed rates are not intended to forecast future price appreciation of the common stock. Actual gains, if any, on stock option exercises are dependent upon the future market performance of the common stock and the date on which the options are exercised.
- (3) Consists of options awarded on March 5, 2004 and vesting at 33¹/₃% per year on each of the first three anniversaries of the date of grant.
- (4) In the event of a change in control of the Company (as defined in the 2000 LTIP), the options will become fully vested and exercisable. Afterwards, if there is no public market for the Company's stock, or the common stock for which the Company's common stock is exchanged, then any unexercised options will be repurchased by the Company based on the change in control price (as defined) for the underlying shares. The options become fully exercisable for one year upon termination of employment if the employee dies, becomes disabled, or retires. The options expire if the employee is terminated for cause, and if the employee is terminated for any other reason, the options are exercisable, to the extent that they were exercisable before termination, for one month. The foregoing terms are subject to the terms of the employment agreements of the Named Officers. See Employment Agreements below.
- (5) Represents the closing price per share as reported on Nasdaq on the date of grant, which represent the fair market value on the date of the grant as defined in the applicable stock option plan.

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- (6) Consists of options awarded on February 10, 2004, pursuant to Mr. Paz's employment agreement with the Company, and vesting at 33¹/₃% per year on December 31, 2004, 2005 and 2006.
- (7) Consists of options awarded on August 31, 2004, pursuant to Mr. Lowenberg's employment agreement with the Company, and vesting on December 31, 2010, provided that vesting may be accelerated if certain performance targets are achieved for fiscal 2004 and 2005.
- (8) Consists of options awarded on October 29, 2004, pursuant to Mr. Boudreau's employment agreement with the Company, and vesting on December 31, 2010, provided that vesting may be accelerated if certain performance targets are achieved for fiscal 2004 and 2005.

The Company did not grant any stock appreciation rights in 2004.

The table set forth below provides certain information with respect to the 2004 fiscal year-end value of options to purchase the Company's Common Stock granted to the Named Officers and options exercised during such period.

**AGGREGATED OPTION EXERCISES IN FISCAL 2004
AND FISCAL YEAR-END OPTION VALUES**

Name	Shares Acquired on Exercise (#)	Value Realized \$(1)	Number of Securities Underlying Unexercised Options at Fiscal Year End(#)	Value of Unexercised In-the-Money Options at Fiscal Year End (\$)
			Exercisable/ Unexercisable	Exercisable/ Unexercisable(2)
Barrett A. Toan	0	N/A	646,534/43,766	\$49,421,059/\$3,345,473
George Paz	0	N/A	143,434/36,457	\$10,964,095/\$2,786,773
David A. Lowenberg	0	N/A	90,587/31,254	\$6,924,470/\$2,389,056
Thomas M. Boudreau	0	N/A	86,800/19,285	\$6,634,992/\$1,474,145
Edward Tenholder	45,667	\$1,446,615	12,333/17,963	\$942,735/\$1,373,092

- (1) Based on the difference between the sale price and the exercise price.
- (2) Based on \$76.44, the closing price of the Common Stock as reported on Nasdaq on December 31, 2004. On March 31, 2005, the closing price of the Common Stock was \$87.19.

Employment Agreements*Employment Agreement with Mr. Toan*

Effective as of April 1, 1999, the Company entered into an employment agreement (the "Toan Employment Agreement") with Mr. Toan for an initial term extending through March 31, 2002, with optional one-year renewal periods thereafter, pursuant to which Mr. Toan served as the Company's Chief Executive Officer and a member of the Board of Directors. In November 2000, the Company entered into an amendment (the "2000 Amendment") to the Toan Employment Agreement, which extended the term of the Agreement from March 31, 2002 until March 31, 2005, at which time the agreement expired. See "Consulting Agreement with Mr. Toan" for a description of the current arrangement with Mr. Toan.

The Toan Employment Agreement provided for an initial annual base salary of \$650,000, subject to increase in the discretion of the Board of Directors and which could not be reduced after any increase. Mr. Toan's base salary was \$778,846 for 2004. Pursuant to the Toan Employment Agreement, Mr. Toan was also eligible to participate in the Company's Annual Bonus Plan for senior executives with target bonuses thereunder of a minimum of 100% of his annual base salary, payment of which depended upon the Company meeting certain targeted financial objectives determined each year by the Board of Directors in its discretion.

Pursuant to the 2000 Amendment, Mr. Toan received a special \$3,500,000 Company contribution to his account in the EDCP which vested on March 31, 2005.

As part of the Toan Employment Agreement, on May 26, 1999, Mr. Toan received a one-time grant of nonqualified options to purchase 140,000 shares of Common Stock at an exercise price equal to the fair market value of Common Stock on the date of grant, with such options vesting in five equal annual installments on each of the first five anniversaries of the date of grant. Pursuant to the 2000 Amendment, on November 7, 2000, Mr. Toan received an additional grant of

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nonqualified stock options to purchase 180,000 shares of Common Stock at an exercise price equal to the fair market value of Common Stock on the date of grant, with the underlying stock relating to such options vesting in three equal increments on March 31 of 2003, 2004 and 2005, respectively. In addition, pursuant to the 2000 Amendment, Mr. Toan received a grant of 100,000 shares of restricted stock which vested on March 31, 2005.

Under the terms of the 2000 Amendment all of Mr. Toan's stock options and restricted stock (including grants made pursuant to the express terms of the Toan Employment Agreement and all grants prior to or after the 2000 Amendment) became fully vested on March 31, 2005, to the extent they had not already vested pursuant to their terms. Further, pursuant to the 2000 Amendment, all of Mr. Toan's vested options will remain exercisable until their respective expiration date.

Mr. Toan is also subject to certain post-employment non-solicitation, non-competition and non-disclosure restrictions.

Employment Agreements with Mr. Paz

On April 15, 2004, the Company entered into an employment agreement with Mr. Paz. The 2004 agreement was effective as of January 1, 2004 with an initial term through December 31, 2006. Effective April 1, 2005, the Company entered into a new agreement with Mr. Paz, as described below. The 2004 agreement provided for (i) an initial base salary of \$550,000; (ii) a guaranteed minimum annual bonus target under the Company's bonus plan of 82% of Mr. Paz's annual base salary, with a bonus opportunity for each calendar year during the employment period of up to 200% of the executive's guaranteed minimum annual bonus in the event the Company achieves certain stretch financial and work plan goals; (iii) a grant under the 2000 LTIP of an option to purchase 18,002 shares of the Common Stock, vesting in three equal increments on December 31, 2004, 2005 and 2006; and (vi) an award of 19,355 shares of restricted stock under the 2000 LTIP, vesting no later than December 31, 2006.

On April 1, 2005 the Company and Mr. Paz entered into a new employment agreement in connection with his promotion to the office of Chief Executive Officer (the Paz Employment Agreement). Pursuant to the Paz Employment Agreement, the 2004 agreement with Mr. Paz was terminated other than those terms addressing the stock option and restricted stock grants under the 2004 agreement, which terms were incorporated by reference into the Paz Employment Agreement.

The Paz Employment Agreement was effective as of April 1, 2005 with an initial term through March 31, 2008. The agreement provides for (i) an initial base salary of \$650,000 (which may not be reduced after any increase); (ii) a guaranteed minimum annual bonus target under the Company's bonus plan of 100% of Mr. Paz's annual base salary, with a bonus opportunity for each calendar year during the employment period of up to 200% of the executive's guaranteed minimum annual bonus in the event the Company achieves certain stretch financial and work plan goals; (iii) participation in the Company's benefit and incentive plans and other arrangements in accordance with their terms; (iv) the crediting of a deferred bonus in the amount of \$200,000 to the executive's retirement account in the EDCP, subject to the terms and conditions of the EDCP, which bonus generally vests at the end of the initial employment period except as described below; (v) a grant under the 2000 LTIP of an option to purchase 40,000 shares of the Common Stock, vesting in three equal increments on March 31, 2006, 2007 and 2008; and (vi) such perquisites and fringe benefits to which similarly situated Company executives are entitled and which are suitable for Mr. Paz's position.

If Mr. Paz's employment is terminated prior to expiration of the employment period, he is not entitled to receive any further payments or benefits that have not already been paid or provided (including any unvested portion of the option grant or restricted stock award) except as follows:

Mr. Paz will be entitled to all previously earned and accrued, but unpaid, annual base salary.

If Mr. Paz's employment is terminated by the Company other than for Cause or Disability, or by Mr. Paz for Good Reason (as those terms are defined in the agreement), Mr. Paz is entitled to receive: (i) a pro rata portion of the restricted stock award under the 2004 agreement based on the number of days worked during the employment period under the 2004 agreement; (ii) a severance benefit equal to 18 months of his base salary plus a specified portion of his bonus potential for the year based on the average percentage of the potential

earned for the three prior years; (iii) reimbursement for the cost of continuing medical insurance for Mr. Paz, his spouse and any eligible dependents for 36 months after termination of employment; and (iv) a pro rata portion of the deferred bonus based on the number of days worked during the initial employment period.

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If Mr. Paz's employment terminates on account of Disability or retirement (i.e., voluntary retirement on or after age 59^{1/2} but not within 90 days after a change in control (as defined in the employment agreement) of the Company) prior to the end of his employment period under the agreement, Mr. Paz generally is entitled to receive (i) a certain percentage of the restricted stock award calculated pursuant to the terms of the agreement, (ii) a pro rata portion of the deferred bonus, and (iii) reimbursement for the cost of continuing medical insurance for Mr. Paz, his spouse and any eligible dependents for 36 months after termination of employment.

If Mr. Paz's employment terminates on account of death prior to the end of his employment period under the agreement, Mr. Paz's estate generally is entitled to receive (i) 100% of the restricted stock award calculated pursuant to the terms of the agreement, (ii) 100% of the deferred bonus, and (iii) reimbursement for the cost of continuing medical insurance for Mr. Paz's spouse and any eligible dependents for 36 months after termination of employment.

If Mr. Paz's employment is terminated prior to expiration of the employment period (including any renewal period in effect) for any reason, then he is prohibited from competing against the Company for 18 months after such termination. If termination of employment occurs solely as a result of expiration of the employment agreement, Mr. Paz is prohibited from competing for one year after such termination. Mr. Paz is also subject to certain non-solicitation and non-disclosure limitations. Entitlement to the severance benefit described above (including any prorated portion) is contingent upon compliance with these restrictive covenants. The parties also agreed that in the event any severance or similar payments to be made to Mr. Paz following termination (other than payments under the EDCP) should be subject to the restrictions of Section 409A of the Internal Revenue Code of 1986, as amended, then the parties would negotiate in good faith to amend the Paz Employment Agreement to the extent necessary to create payment terms with respect to such post-termination payments which are as close as possible to those originally set forth in the Paz Employment Agreement while not violating the terms of Section 409A.

In the event that any amount or benefit paid or distributed to Mr. Paz pursuant to the Paz Employment Agreement, taken together with any amounts or benefits otherwise paid or distributed to the executive by the Company pursuant to any other arrangement or plan (collectively, the Covered Payments), would result in the executive's liability for the payment of an excise tax under Section 4999 of the Internal Revenue Code (or any similar state or local tax) (collectively, the Excise Tax), the Company will make a gross-up payment to the executive to fully offset the Excise Tax provided the aggregate present value of the Covered Payments is equal to or exceeds 125% of the maximum total payment which could be made to the executive without triggering the Excise Tax. If the aggregate present value of the Covered Payments, however, exceeds such maximum amount, but is less than 125% of such maximum amount, then the Company may, in its discretion, reduce the Covered Payments so that no portion of the Covered Payments is subject to the Excise Tax, and no gross-up payment will be made.

Employment Agreements with Other Executive Officers

In an effort to facilitate the retention of key management, the Company has also entered into long-term employment agreements with several key executives, including each of the Named Officers other than Mr. Toan and Mr. Paz. The terms of the agreements are as follows:

Agreement with Mr. Lowenberg. On August 31, 2004, the Company entered into a long-term employment agreement with Mr. Lowenberg, replacing a previous agreement which was entered into in March 2001. The initial employment period under the agreement runs from the effective date through March 31, 2006, and the employment period is automatically extended for successive one-year renewal periods unless either party gives timely notice of non-renewal.

Mr. Lowenberg's employment agreement generally provides for: (i) the payment of an annual base salary of \$450,000 (which may not be reduced after any increase); (ii) a guaranteed minimum annual bonus target of 70% of Mr. Lowenberg's base salary pursuant to the terms of the Company's bonus plan, with a bonus opportunity for each calendar year during the initial employment period of up to 200% of the Mr. Lowenberg's guaranteed minimum annual bonus in the event the Company achieves certain stretch financial and work plan goals; (iii) a grant under the 2000 LTIP of an option to purchase 17,554 shares of the Common Stock, scheduled to vest in full on December 31, 2010, but subject to accelerated vesting upon the achievement of certain financial goals;

- (iv) an award of 14,451 shares of restricted stock award under the 2000 LTIP, scheduled to vest in full on August 31, 2011, but subject to accelerated vesting upon the achievement of certain financial goals;
- (v) participation in Company employee benefit plans (other than bonus and incentive plans) on the same basis as such plans are

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generally made available to similarly situated senior executives of the Company; (vi) such perquisites and fringe benefits to which similarly situated executives of the Company are entitled and which are suitable for Mr. Lowenberg's position; (vii) the crediting of a deferred bonus of \$600,000 (to be credited in two annual installments of \$300,000 each) to Mr. Lowenberg's retirement account in the EDCP, subject to the terms and conditions of the EDCP, which bonus generally vests at the end of the Mr. Lowenberg's initial employment period under the employment agreement, subject to certain exceptions; and (viii) a one time bonus in the amount necessary to make his annual salary effective as of January 1, 2004.

If Mr. Lowenberg's employment is terminated prior to the expiration of the employment period (including any renewal period in effect) he is not entitled to receive any further payments or benefits that have not already been paid or provided (including any unvested portion of the option grant or restricted stock award) except as follows:

Mr. Lowenberg will be entitled to all previously earned and accrued, but unpaid, annual base salary.

If Mr. Lowenberg's employment is terminated by the Company other than for Cause or Disability, or by Mr. Lowenberg for Good Reason (as those terms are defined in the agreement), Mr. Lowenberg is entitled to receive: (i) a severance benefit equal to 18 months of his base salary plus a specified portion of Mr. Lowenberg's bonus potential for the year based on the average percentage of the potential earned for the three prior years; (ii) reimbursement for the cost of continuing medical insurance under COBRA for 18 months after termination of employment; (iii) if termination of employment occurs prior to the end of Mr. Lowenberg's initial employment period under the agreement, a pro rata portion of 83% of the restricted stock award based on the number of days worked during the initial employment period; (iv) if termination of employment occurs prior to the end of Mr. Lowenberg's initial employment period under the agreement, a pro rata portion of the previously credited installment(s) of the deferred bonus based on the number of days worked during the initial employment period.

If Mr. Lowenberg's employment terminates on account of Disability or retirement (i.e., voluntary retirement on or after age 59^{1/2} but not within 90 days after a change in control (as defined in the employment agreement) of the Company) prior to the end of Mr. Lowenberg's initial employment period under the agreement, Mr. Lowenberg generally is entitled to receive a pro rata portion of the previously credited installment(s) of the deferred bonus.

If Mr. Lowenberg's employment terminates on account of death prior to the end of his initial employment period under the agreement, he generally is entitled to receive: (i) 83% of the restricted stock award, and (ii) a pro rata portion of the previously credited installment(s) of the deferred bonus.

Mr. Lowenberg's rights with respect to the stock options granted under the employment agreement are generally governed by the terms and provisions of the 2000 LTIP. However, the employment agreement provides that stock options granted thereunder shall not vest or otherwise become exercisable solely as a result of Mr. Lowenberg's retirement.

If a change in control (as defined in the agreement) of the Company occurs prior to the end of the initial employment period under the agreement, Mr. Lowenberg, in certain instances, is afforded different rights with respect to the deferred bonus as follows: (i) if Mr. Lowenberg remains employed for 90 days following the change in control, he obtains a vested right to receive 50% of the deferred bonus, with the remaining 50% otherwise eligible for vesting pursuant to the terms of the employment agreement; and (ii) if, within 90 days before or at any time after a change in control, Mr. Lowenberg is terminated by the Company other than for Cause or Disability, or by Mr. Lowenberg for Good Reason, or the agreement expires during the 90 days following the change in control, Mr. Lowenberg would generally obtain a vested right to receive 100%

of the deferred bonus.

If Mr. Lowenberg's employment is terminated prior to expiration of the employment period (including any renewal period in effect) for any reason, Mr. Lowenberg is prohibited from competing against the Company for 18 months after such termination. If termination of employment occurs solely as a result of expiration of the employment agreement, Mr. Lowenberg is prohibited from competing for one year after such termination. Mr. Lowenberg is also subject to certain non-solicitation and non-disclosure limitations. Entitlement to the severance benefit and the deferred bonus described above (including any prorated portion) is contingent upon compliance with these restrictive covenants.

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In the event that any amount or benefit paid or distributed to Mr. Lowenberg pursuant to the employment agreement, taken together with any amounts or benefits otherwise paid or distributed to Mr. Lowenberg by the Company pursuant to any other arrangement or plan (collectively, the Covered Payments), would result in Mr. Lowenberg's liability for the payment of an Excise Tax, the Company will make a gross-up payment to Mr. Lowenberg to fully offset the Excise Tax provided the aggregate present value of the Covered Payments is equal to or exceeds 125% of the maximum total payment which could be made to Mr. Lowenberg without triggering the Excise Tax. If the aggregate present value of the Covered Payments, however, exceeds such maximum amount, but is less than 125% of such maximum amount, then the Company may, in its discretion, reduce the Covered Payments so that no portion of the Covered Payments is subject to the Excise Tax, and no gross-up payment would be made.

Agreement with Mr. Boudreau. On October 29, 2004, the Company entered into a long-term employment agreement with Mr. Boudreau, replacing a previous agreement which was entered into in March 2001. The initial employment period under the agreement runs from the effective date through March 31, 2006, and the employment period is automatically extended for successive one-year renewal periods unless either party gives timely notice of non-renewal.

Mr. Boudreau's employment agreement generally provides for: (i) the payment of an annual base salary of \$350,000 (which may not be reduced after any increase); (ii) a guaranteed minimum annual bonus target of 64% of Mr. Boudreau's base salary pursuant to the terms of the Company's bonus plan, with a bonus opportunity for each calendar year during the initial employment period of up to 200% of the Mr. Boudreau's guaranteed minimum annual bonus in the event the Company achieves certain stretch financial and work plan goals; (iii) a grant under the 2000 LTIP of an option to purchase 9,655 shares of the Common Stock, scheduled to vest in full on December 31, 2010, but subject to accelerated vesting upon the achievement of certain financial goals; (iv) an award of 7,226 shares of restricted stock award under the 2000 LTIP, scheduled to vest in full on August 31, 2011, but subject to accelerated vesting upon the achievement of certain financial goals; (v) participation in Company employee benefit plans (other than bonus and incentive plans) on the same basis as such plans are generally made available to similarly situated senior executives of the Company; (vi) such perquisites and fringe benefits to which similarly situated executives of the Company are entitled and which are suitable for Mr. Boudreau's position; (vii) the crediting of a deferred bonus of \$400,000 (to be credited in two annual installments of \$200,000 each) to Mr. Boudreau's retirement account in the EDCP, subject to the terms and conditions of the EDCP, which bonus generally vests at the end of the Mr. Boudreau's initial employment period under the employment agreement, subject to certain exceptions; (viii) a one time bonus in the amount necessary to make his annual salary effective as of January 1, 2004; and (ix) a one time signing bonus in the amount of \$100,000 (to be paid in two equal installments of \$50,000 each).

If Mr. Boudreau's employment is terminated prior to the expiration of the employment period (including any renewal period in effect) he is not entitled to receive any further payments or benefits that have not already been paid or provided (including any unvested portion of the option grant or restricted stock award) except as follows:

Mr. Boudreau will be entitled to all previously earned and accrued, but unpaid, annual base salary.

If Mr. Boudreau's employment is terminated by the Company other than for Cause or Disability, or by Mr. Boudreau for Good Reason (as those terms are defined in the agreement), Mr. Boudreau is entitled to receive: (i) a severance benefit equal to 18 months of his base salary plus a specified portion of Mr. Boudreau's bonus potential for the year based on the average percentage of the potential earned for the three prior years; (ii) reimbursement for the cost of continuing medical insurance under COBRA for 18 months after termination of employment; (iii) if termination of employment occurs prior to the end of Mr. Boudreau's initial employment period under the agreement, a pro rata portion of 83% of the restricted stock award based on the number of days worked during the initial employment period; (iv) if termination of employment occurs prior to the end of Mr. Boudreau's initial employment period under the agreement, a

pro rata portion of the previously credited installment(s) of the deferred bonus based on the number of days worked during the initial employment period.

If Mr. Boudreau's employment terminates on account of disability or retirement (i.e., voluntary retirement on or after age 59^{1/2} but not within 90 days after a change in control (as defined in the employment agreement) of the Company) prior to the end of Mr. Boudreau's initial employment period under the agreement,

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Mr. Boudreau generally is entitled to receive a pro rata portion of the previously credited installment(s) of the deferred bonus.

If Mr. Boudreau's employment terminates on account of death prior to the end of his initial employment period under the agreement, he generally is entitled to receive: (i) 83% of the restricted stock award, and (ii) a pro rata portion of the previously credited installment(s) of the deferred bonus.

Mr. Boudreau's rights with respect to the stock option granted under the employment agreement are generally governed by the terms and provisions of the 2000 LTIP. However, the employment agreement provides that stock options granted thereunder shall not vest or otherwise become exercisable solely as a result of Mr. Boudreau's retirement.

If a change in control (as defined in the agreement) of the Company occurs prior to the end of the initial employment period under the agreement, Mr. Boudreau, in certain instances, is afforded different rights with respect to the deferred bonus as follows: (i) if Mr. Boudreau remains employed for 90 days following the change in control, he obtains a vested right to receive 50% of the deferred bonus, with the remaining 50% otherwise eligible for vesting pursuant to the terms of the employment agreement; and (ii) if, within 90 days before or at any time after a change in control, Mr. Boudreau is terminated by the Company other than for Cause or Disability, or by Mr. Boudreau for Good Reason, or the agreement expires during the 90 days following the change in control, Mr. Boudreau would generally obtain a vested right to receive 100% of the deferred bonus.

If Mr. Boudreau's employment is terminated prior to expiration of the employment period (including any renewal period in effect) for any reason, Mr. Boudreau is prohibited from competing against the Company for 18 months after such termination. If termination of employment occurs solely as a result of expiration of the employment agreement, Mr. Boudreau is prohibited from competing for one year after such termination. Mr. Boudreau is also subject to certain non-solicitation and non-disclosure limitations. Entitlement to the severance benefit and the deferred bonus described above (including any prorated portion) is contingent upon compliance with these restrictive covenants.

In the event that any amount or benefit paid or distributed to Mr. Boudreau pursuant to the employment agreement, taken together with any amounts or benefits otherwise paid or distributed to Mr. Boudreau by the Company pursuant to any other arrangement or plan (collectively, the Covered Payments), would result in Mr. Boudreau's liability for the payment of an Excise Tax, the Company will make a gross-up payment to Mr. Boudreau to fully offset the Excise Tax provided the aggregate present value of the Covered Payments is equal to or exceeds 125% of the maximum total payment which could be made to Mr. Boudreau without triggering the Excise Tax. If the aggregate present value of the Covered Payments, however, exceeds such maximum amount, but is less than 125% of such maximum amount, then the Company may, in its discretion, reduce the Covered Payments so that no portion of the Covered Payments is subject to the Excise Tax, and no gross-up payment would be made.

Agreement with Mr. Tenholder. On October 7, 2002, the Company entered into a long-term employment agreement with Mr. Tenholder. The initial employment period under the agreement runs from the effective date through December 31, 2006, and the employment period is automatically extended for successive one-year renewal periods unless either party gives timely notice of non-renewal.

Mr. Tenholder's employment agreement generally provides for: (i) the payment of an annual base salary of \$300,000 (which may not be reduced after any increase); (ii) a guaranteed minimum annual bonus target of 55% of Mr. Tenholder's base salary pursuant to the terms of the Company's bonus plan, with a bonus opportunity for each calendar year during the initial employment period of up to 200% of the Mr. Tenholder's guaranteed minimum annual bonus in the event the Company achieves certain stretch financial and work plan goals; (iii) a grant under the 2000 LTIP of an option to purchase 16,000 shares of the Common Stock, vesting in three equal

increments on December 31, 2004, 2005 and 2006; (iv) an award of 9,000 shares of restricted stock award under the 2000 LTIP, scheduled to vest in full on December 31, 2006, (v) participation in Company employee benefit plans (other than bonus and incentive plans) on the same basis as such plans are generally made available to similarly situated senior executives of the Company; (vi) such perquisites and fringe benefits to which similarly situated executives of the Company are entitled and which are suitable for Mr. Tenholder's position; and (vii) the crediting of a deferred bonus of \$500,000 to Mr. Tenholder's retirement account in the EDCP, subject to the terms

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and conditions of the EDCP, which bonus generally vests at the end of the Mr. Tenholder's initial employment period under the employment agreement, subject to certain exceptions.

If Mr. Tenholder's employment is terminated prior to the expiration of the employment period (including any renewal period in effect) he is not entitled to receive any further payments or benefits that have not already been paid or provided (including any unvested portion of the option grant or restricted stock award) except as follows:

Mr. Tenholder will be entitled to all previously earned and accrued, but unpaid, annual base salary.

If Mr. Tenholder's employment is terminated by the Company other than for Cause or Disability, or by Mr. Tenholder for Good Reason (as those terms are defined in the agreement), Mr. Tenholder is entitled to receive: (i) a severance benefit equal to 18 months of his base salary plus a specified portion of Mr. Tenholder's bonus potential for the year based on the average percentage of the potential earned for the three prior years; (ii) reimbursement for the cost of continuing medical insurance under COBRA for 18 months after termination of employment; (iii) if termination of employment occurs prior to the end of Mr. Tenholder's initial employment period under the agreement, a pro rata portion of the restricted stock award based on the number of days worked during the initial employment period; (iv) if termination of employment occurs prior to the end of Mr. Tenholder's initial employment period under the agreement, a pro rata portion of the deferred bonus based on the number of days worked during the initial employment period.

If Mr. Tenholder's employment terminates on account of death, Disability or retirement (i.e., voluntary retirement on or after age 59^{1/2} but not within 90 days after a change in control (as defined in the employment agreement) of the Company) prior to the end of Mr. Tenholder's initial employment period under the agreement, Mr. Tenholder generally is entitled to receive (i) if termination of employment occurs prior to the end of Mr. Tenholder's initial employment period under the agreement, a pro rata portion of the restricted stock award based on the number of days worked during the initial employment period; and (ii) if termination of employment occurs prior to the end of Mr. Tenholder's initial employment period under the agreement, a pro rata portion of the deferred bonus based on the number of days worked during the initial employment.

Mr. Tenholder's rights with respect to the stock option granted under the employment agreement are generally governed by the terms and provisions of the 2000 LTIP. However, the employment agreement provides that stock options granted on or after the effective date of the employment agreement (including stock options granted under the employment agreement) which have vested as of the effective date of termination of employment will be exercisable until (i) expiration of the relevant option term if termination is on account of retirement, or (ii) 12 months after termination of employment if termination is solely on account of the Company's decision not to renew the employment agreement.

If a change in control (as defined in the agreement) of the Company occurs prior to the end of the initial employment period under the agreement, Mr. Tenholder, in certain instances, is afforded different rights with respect to the deferred bonus as follows: (i) if Mr. Tenholder remains employed for 90 days following the change in control, he obtains a vested right to receive 50% of the deferred bonus, with the remaining 50% otherwise eligible for vesting pursuant to the terms of the employment agreement; and (ii) if, within 90 days before or at any time after a change in control, Mr. Tenholder is terminated by the Company other than for Cause or Disability, or by Mr. Tenholder for Good Reason, or the agreement expires during the 90 days following the change in control, Mr. Tenholder would generally obtain a vested right to receive 100% of the deferred bonus.

If Mr. Tenholder's employment is terminated prior to expiration of the employment period (including any renewal period in effect) for any reason, Mr. Tenholder is prohibited from competing against the Company for 18 months after such termination. If termination of employment occurs solely as a result of expiration of the employment agreement, Mr. Tenholder is prohibited from competing for one year after such termination. Mr. Tenholder is also subject to certain non-solicitation and non-disclosure limitations. Entitlement to the severance benefit and the deferred bonus described above (including any prorated portion) is contingent upon compliance with these restrictive covenants.

In the event that any amount or benefit paid or distributed to Mr. Tenholder pursuant to the employment agreement, taken together with any amounts or benefits otherwise paid or distributed to Mr. Tenholder by the Company pursuant to any other arrangement or plan (collectively, the Covered Payments), would result in Mr. Tenholder's liability for the payment of an Excise Tax, the Company will make a gross-up payment to

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Mr. Tenholder to fully offset the Excise Tax provided the aggregate present value of the Covered Payments is equal to or exceeds 125% of the maximum total payment which could be made to Mr. Tenholder without triggering the Excise Tax. If the aggregate present value of the Covered Payments, however, exceeds such maximum amount, but is less than 125% of such maximum amount, then the Company may, in its discretion, reduce the Covered Payments so that no portion of the Covered Payments is subject to the Excise Tax, and no gross-up payment would be made.

Consulting Agreement with Mr. Toan

On March 24, 2005, the Company entered into a consulting agreement with Mr. Toan. Under the consulting agreement, Mr. Toan will serve as non-executive Chairman of the Board, and shall have duties and responsibilities commensurate with such position. He will also render consulting services to the Company on such matters as the Company may request. Annual compensation for services performed as non-executive Chairman of the Board will be in accordance with annual compensation at such times and in such amount as the Company pays under the policy generally in effect for non-employee directors on the Board from time to time. Compensation for up to thirty-five hours per month of consulting services will be in the amount of \$30,000 per month; additional consulting services may be provided upon agreement by the parties, for additional compensation. Mr. Toan shall also be entitled to be reimbursed for all out-of-pocket expenses paid in connection with the services provided under the consulting agreement. The consulting agreement ends on the date of the Company's 2006 Annual Meeting, unless earlier terminated.

SECTION 16(a) BENEFICIAL OWNERSHIP REPORTING COMPLIANCE

Section 16(a) of the Securities Exchange Act of 1934 requires the Company's directors and executive officers, persons who beneficially own more than ten percent of a registered class of the Company's equity securities, and certain other persons to file reports of ownership and changes in ownership on Forms 3, 4 and 5 with the Securities and Exchange Commission (SEC) and Nasdaq, and to furnish the Company with copies of the forms. Based solely on its review of the forms it received, or written representations from reporting persons, the Company believes that all of its directors, executive officers and greater than ten percent beneficial owners complied with all such filing requirements during 2004; provided, however that Edward Stiften did not timely file a report with respect to an aggregate grant of 43,126 stock options and an aggregate grant of 19,100 shares of restricted stock in April 2004, and Darryl Weinrich did not timely file a report with respect to the receipt of 10.64 phantom stock units under the EDCP in March 2004. In addition, pursuant to a review of previous filings it was discovered that Mr. Paz did not timely file a report with respect to the receipt of 673.2617 phantom stock units under the EDCP in March 2003; Agnes Rey-Giraud did not timely report her surrender of 1644 shares, and her spouse's surrender of 341 shares, to the Company to cover withholding obligations related to the vesting of restricted stock in August 2003; Ms. Rey-Giraud did not timely report her spouse's surrender of 507 shares of unvested restricted stock upon termination of his employment with the Company in September 2003; and Mr. Lowenberg did not timely report a disposition of 972.786 phantom stock units resulting from a reallocation of investments in the EDCP in December 2003.

CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS**Relationship with New York Life***Stock Ownership*

New York Life is currently the beneficial owner of 12,000,230 shares (or approximately 16.21%) of the outstanding Common Stock.

In August 2001, New York Life and its subsidiary NYLIFE, LLC (NYLife) entered into a ten-year forward sale contract with an affiliate of Credit Suisse First Boston Corporation (CSFB) with respect to 4,500,000 of its shares of the Common Stock, and, in April 2003, New York Life entered into a five-year forward sale contract with CSFB and one of CSFB's affiliates with respect to 5,500,000 of its shares of the Common Stock (together, the Forward Sale Contracts). New York Life has reported that, absent the occurrence of certain accelerating events, it retains the right to vote the shares under the Forward Sale Contracts (the Forward Sale Shares) during the term of each Forward Sale Contract.

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New York Life and the Company are parties to a Stockholder and Registration Rights Agreement dated as of October 6, 2000, amended August 17, 2001 and further amended April 25, 2003 (the "Rights Agreement"). The Rights Agreement was originally entered into in connection with the November 2000 secondary offering of a portion of the shares of Common Stock then held by New York Life (the "November 2000 Offering"). The principal terms of this agreement are described below.

Rights Regarding the Board of Directors. New York Life has the right to designate for nomination one director to the Company's Board of Directors as long as the aggregate number of shares of the Common Stock held by New York Life and its non-investment subsidiaries is either (i) equal to or greater than 3,000,000 shares (excluding the Forward Sale Shares), or (ii) equal to or greater than both (a) 2,000,000 shares (excluding the Forward Sale Shares), and (b) a number of shares (including the Forward Sale Shares) representing at least 14.9% of the Company's outstanding Common Stock as of either April 25, 2003 or the date of determination (whichever is less). New York Life originally had the right to designate two directors for nomination to the Company's Board of Directors. However, as a result of a series of transactions involving Common Stock held by New York Life and its affiliates completed during 2003, which transactions temporarily reduced New York Life's holdings to below the minimum threshold for two director nominations, New York Life's nomination right was reduced to one. Under the terms of the Rights Agreement, New York Life's nomination right cannot be increased.

The Company is required to use the same efforts to cause the election of New York Life's designee to the Board of Directors as it uses with its other nominees for director. If a vacancy occurs with respect to the director which New York Life had the right to designate, and New York Life has the right at such time to designate a director for nomination, New York Life is entitled to designate a nominee to fill the vacancy. If the Company nominates for election the person designated by New York Life, New York Life and its non-investment subsidiaries that hold shares are required to vote their shares of voting stock in favor of all directors nominated for such election.

Registration Rights. So long as New York Life and its non-investment subsidiaries, in the aggregate, beneficially hold more than 3,000,000 shares of the Common Stock, New York Life may request that the Company effect up to three registrations of all or part of such shares under the Securities Act of 1933. One of these registrations may be requested to be effected as a shelf registration pursuant to Rule 415 under the Securities Act, and two of these registrations may be requested to be effected as firm commitment underwritten offerings under the Securities Act of 1933. The Company is not obligated to file a registration statement at the request of New York Life: (1) within a period of 90 days after the effective date of any other registration statement of the Company (other than a registration statement on Form S-8 or its equivalent); or (2) while a registration statement relating to a shelf registration filed at the request of New York Life is effective under the Securities Act. In addition, so long as New York Life and its non-investment subsidiaries, in the aggregate, beneficially hold in excess of 3,000,000 shares of Common Stock, if the Company proposes to register shares of Common Stock for the Company's account under the Securities Act (other than a registration on Form S-8 or its equivalent), New York Life shall have piggy-back rights with respect to such registration. The underwriters of any such offering have the right to limit the number of shares included by New York Life in any such registration if the managing underwriter indicates that, in its opinion, the number of shares to be included by New York Life would adversely affect the offering. The Company will bear the expenses of any registration described in this paragraph.

Voting of Common Stock. New York Life and its subsidiaries have agreed to vote any shares of Common Stock held by them in favor of the slate of nominees for the Company's Board of Directors recommended by the Company. However, this voting requirement does not apply to any of the Forward Sale Shares held by third parties pursuant to the Forward Sale Contract and which New York Life would have to recall in order to vote, provided that (i) New York Life gives proper notice to the Company indicating that such shares are being held by third parties, and (ii) the Company does not require New York Life to nonetheless recall such shares. The Company does not presently intend to call for the recall of such shares to be voted at the meeting.

Term. The Stockholder and Registration Rights Agreement will terminate on the earlier of: (1) November 7, 2008 or (2) at such time as New York Life and its non-investment subsidiaries, in the aggregate, beneficially hold less than 3,000,000 shares of Common Stock.

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Pursuant to agreements with New York Life, the Company provides pharmacy benefit management services to employees and retirees of New York Life and certain New York Life health insurance policyholders. During 2004, the total revenues that the Company derived from all services provided to New York Life were approximately \$27,600,000, or 0.2% of the Company's total revenues for 2004.

New York Life Benefit Services, Inc., a subsidiary of New York Life, administers the Company's 401(k) and deferred compensation plans. The Company paid New York Life Benefit Services approximately \$65,000 for such services during 2004.

Relationship with Putnam Investments

Putnam Investment Management LLC and The Putnam Advisory Company LLC, each a wholly-owned subsidiary of Putnam, LLC (Putnam Investments), beneficially own an aggregate amount of 4,715,765 (or approximately 6.37%) of the Common Stock. From time to time, the Company has obtained insurance brokerage and compensation related services from Putnam Investments' parent, Marsh & McLennan Companies, Inc. (M&MC) or certain other subsidiaries of M&MC. The total payments made to M&MC and its subsidiaries during 2004, was approximately \$7,665,000, or 0.05% of the Company's total revenues for 2004. However, the preponderance of these payments represented insurance premiums which were paid to Marsh but forwarded to the individual carriers themselves, less a standard commission.

Pursuant to agreements with M&MC, a subsidiary of the Company provides pharmacy benefit management services to employees of M&MC and for a third party administrator owned by M&MC. During 2002, the total revenues that the Company derived from these services were approximately \$6,657,000, or 0.03% of the Company's total revenues for 2004.

II. RATIFICATION OF APPOINTMENT OF INDEPENDENT ACCOUNTANTS

The firm of PricewaterhouseCoopers LLP served as the Company's independent accountants for the year ended December 31, 2004. The Audit Committee of the Board of Directors has appointed PricewaterhouseCoopers LLP to act in that capacity for the year ending December 31, 2005. A representative of PricewaterhouseCoopers LLP is expected to be present at the annual meeting with the opportunity to make a statement if he or she desires to do so and to be available to respond to appropriate questions from stockholders.

Although the Company is not required to submit this appointment to a vote of the stockholders, the Audit Committee of the Board of Directors continues to believe it appropriate as a matter of policy to request that the stockholders ratify the appointment of PricewaterhouseCoopers LLP as principal independent auditors. If the stockholders do not ratify the appointment, the Audit Committee will investigate the reasons for stockholder rejection and consider whether to retain PricewaterhouseCoopers LLP or appoint another auditor. Even if the appointment is ratified, the Audit Committee in its discretion may direct the appointment of a different independent auditor at any time during the year if it determines that such a change would be in the best interests of the Company and its stockholders.

Principal Accountant Fees

The following table presents fees for professional services rendered by PricewaterhouseCoopers LLP for the audit of the Company's annual financial statements for the years ended December 31, 2003 and December 31, 2004, as well as fees billed for other services rendered by PricewaterhouseCoopers LLP during those periods:

	2004	2003
Audit fees(1)	\$ 1,615,659	\$ 820,208
Audit-related fees(2)	184,775	163,094
Tax fees(3)	146,605	427,601
All other fees(4)	1,500	1,400
Total Fees	\$ 1,948,539	\$ 1,412,303

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- (1) Audit fees are fees paid for professional services rendered for the audit of the Company's annual consolidated financial statements, for reviews of the Company's interim consolidated financial statements, and for the audit of internal controls over financial reporting. Audit fees also include fees for work generally only the independent auditor can be expected to provide such as services associated with documents filed with the SEC and with assistance in responding to SEC comment letters, as well as reports on internal control reviews required by regulators.
- (2) Audit-related fees are fees paid for assurance and related services performed by the Company's independent auditors including due diligence services related to contemplated mergers and acquisitions, internal control reviews not required by regulators, and employee benefit plan audits. The 2003 fees included approximately \$60,000 related to preliminary attestation services which are expected to benefit the 2004 attestation of the Company's internal controls over financial reporting, as mandated by the Sarbanes-Oxley Act of 2002.
- (3) Tax fees are fees paid for tax compliance, tax planning and tax advice. During 2003, the Company implemented a policy regarding pre-approval of services provided by the independent auditors. In conjunction with the policy, PricewaterhouseCoopers LLP is prohibited from performing tax services with the exception of the completion of previously approved tax projects. The tax fees paid in 2003 and 2004 were for projects that began in 2002.
- (4) All other fees includes any fees earned for services rendered by PricewaterhouseCoopers LLP during 2003 and 2004 which are not included in any of the above categories. The other fees for 2004 and 2003 consist of licensing fees paid by the Company with respect to certain accounting research software.

Policy Regarding Pre-Approval of Services Provided by the Independent Auditors

The Audit Committee Charter requires the Committee's pre-approval of all services, both audit and permitted non-audit, to be performed for the Company by the independent auditors. In determining whether proposed services are permissible, the Committee considers whether the provision of such services is compatible with maintaining auditor independence. As part of its consideration of proposed services, the Committee may (i) consult with management as part of the decision-making process, but may not delegate this authority to management, and (ii) delegate, from time to time, its authority to pre-approve such services to one or more Committee members, provided that any such approvals are presented to the full Committee at the next scheduled Audit Committee meeting.

The Board of Directors unanimously recommends a vote FOR the ratification of PricewaterhouseCoopers LLP as the Company's independent accountants for the year ending December 31, 2005.

STOCKHOLDER PROPOSALS

In accordance with the amended Bylaws of the Company, a stockholder who, at any annual meeting of stockholders of the Company, intends to nominate a person for election as director or present a proposal must so notify the Secretary of the Company, in writing, describing such nominee(s) or proposal and providing information concerning such stockholder and the reasons for and interest of such stockholder in the proposal. Generally, to be timely, such notice must be received by the Secretary not less than 90 days nor more than 120 days in advance of the first anniversary of the preceding year's annual meeting, provided that in the event that no annual meeting was held the previous year or the date of the annual meeting has been changed by more than 30 days from the date of the previous year's meeting, or in the event of a special meeting of stockholders called to elect directors, not later than the close of business on the tenth day following the day on which notice of the date of the meeting was mailed or public disclosure of the date of the meeting was made, whichever occurs first. For the Company's annual meeting to be held in 2006, any such notice must be received by the Company at its principal executive offices between January 25, 2006 and February 24, 2006 to be considered timely for purposes of the 2006 annual meeting. Any person interested in offering such a nomination or proposal should request a copy of the relevant Bylaw provisions from the Secretary of the Company. These time periods also apply in determining whether notice is timely for purposes of rules adopted by the Securities and Exchange Commission relating to the exercise of discretionary voting authority, and are separate from

and in addition to the Securities and Exchange Commission's requirements that a stockholder must meet to have a proposal included in the Company's proxy statement.

Stockholder proposals intended to be presented at the 2006 annual meeting must be received by the Company at its principal executive office no later than December 23, 2005, in order to be eligible for inclusion in the Company's proxy statement and proxy relating to that meeting. Upon receipt of any proposal, the Company will determine whether to include such proposal in accordance with regulations governing the solicitation of proxies.

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CODE OF ETHICS

The Company has adopted a Code of Ethics which applies to all of its directors, officers, and employees including the Company's senior financial officers. A copy of the Code of Ethics is available in the Investor Information section of the Company's website at www.express-scripts.com. The Company will post any amendments to the Code of Ethics, or any waivers of the Code of Ethics for a director, executive officer or senior financial officer of the Company, in the same section of the Company's website.

OTHER MATTERS

Management does not intend to bring before the meeting any matters other than those specifically described above and knows of no matters other than the foregoing to come before the meeting. If any other matters or motions properly come before the meeting, it is the intention of the persons named in the accompanying proxy to vote such proxy in accordance with the recommendation of management on such matters or motions, including any matters dealing with the conduct of the meeting.

ONLINE DELIVERY OF DOCUMENTS

If you would like to receive next year's proxy statement, Annual Report and all other stockholder information electronically, visit the Investor Relations section of the Company's website, which can be accessed from the Investor Information section of our homepage at www.express-scripts.com. By electing to receive these materials electronically, you can save the Company the cost of producing and mailing these documents.

HOUSEHOLDING OF PROXY MATERIALS

The Securities and Exchange Commission has adopted rules that permit companies and intermediaries such as brokers to satisfy delivery requirements for proxy statements with respect to two or more shareholders sharing the same address by delivering a single proxy statement addressed to those stockholders. This process, which is commonly referred to as householding, potentially provides extra convenience for stockholders and cost savings for companies. The Company and some brokers household proxy materials, delivering a single proxy statement to multiple stockholders sharing an address unless contrary instructions have been received from the affected stockholders. Once you have received notice from your broker or the Company that they or we will be householding materials to your address, householding will continue until you are notified otherwise or until you revoke your consent. If, at any time, you no longer wish to participate in householding and would prefer to receive a separate proxy statement, or if you currently receive multiple proxy statements and would prefer to participate in householding, please notify your broker if your shares are held in a brokerage account or the Company if you hold registered shares. You can notify the Company by sending a written request to Express Scripts, Inc., Attention: Investor Relations, 13900 Riverport Drive, Maryland Heights, MO 63043.

SOLICITATION OF PROXIES

The Company will bear the cost of the solicitation of proxies for the meeting. Brokerage houses, banks, custodians, nominees and fiduciaries are being requested to forward the proxy material to beneficial owners and their reasonable expenses therefor will be reimbursed by the Company. Solicitation will be made by mail and also may be made personally or by telephone, facsimile or other means by the Company's officers, directors and employees, without special compensation for such activities. We have also hired MacKenzie Partners, Inc. (MacKenzie) to assist in the solicitation of proxies. MacKenzie will receive a fee for such services of no more than \$5,000, plus reasonable out-of-pocket expenses, which will be paid by the Company.

By Order of the Board of Directors

Thomas M. Boudreau
Senior Vice President, General Counsel and Secretary

April 22, 2005

April 22, 2005

Dear Stockholder:

The Annual Meeting of Stockholders of Express Scripts, Inc. will be held at the offices of the Company, 13900 Riverport Drive, Maryland Heights, Missouri 63043, at 9:30 a.m. on Wednesday, May 25, 2005.

It is important that your shares be represented at this meeting. Whether or not you plan to attend the meeting, please review the enclosed proxy materials, vote by telephone or the Internet or execute the attached proxy form below, and return it promptly in the envelope provided.

PROXY VOTING INSTRUCTIONS

TO VOTE BY MAIL

Please date, sign and mail your proxy card in the envelope provided as soon as possible.

TO VOTE BY TELEPHONE (TOUCH-TONE PHONE ONLY)

Please call toll-free 1-800-PROXIES and follow the instructions. Have your control number and the proxy card available when you call.

TO VOTE BY INTERNET

Please access the web page at www.voteproxy.com and follow the on-screen instructions. Have your control number available when you access the web page.

YOUR CONTROL NUMBER IS `

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⌋ Please Detach and Mail in the Envelope Provided ⌋

X Please mark your votes
as in this example.

FOR ALL THE NOMINEES LISTED
BELOW
(except as marked to the contrary below)

WITHHOLD AUTHORITY TO VOTE FOR
ALL NOMINEES LISTED BELOW

NOMINEES:

GARY G. BENANAV
FRANK J. BORELLI
MAURA C. BREEN
NICHOLAS J. LaHOWCHIC
THOMAS P. Mac MAHON
JOHN O. PARKER, JR.

GEORGE PAZ
SAMUEL K. SKINNER
SEYMOUR STERNBERG
BARRETT A. TOAN
HOWARD L. WALTMAN

INSTRUCTION: To withhold authority to vote for any individual nominee, print that nominee s name below.

	For	Against	Abstain
(2) Ratification of the appointment of PricewaterhouseCoopers LLP as the Company s independent accountants for 2005.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

This Proxy will be voted FOR items 1 and 2 if no instruction to the contrary is indicated. If any other business is properly presented at the meeting, the Proxy will be voted in accordance with the recommendation of management.

(YOU ARE REQUESTED TO COMPLETE, SIGN AND RETURN THIS PROXY PROMPTLY)

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EXPRESS SCRIPTS, INC.

PROXY FOR ANNUAL MEETING OF STOCKHOLDERS MAY 25, 2005

THIS PROXY IS SOLICITED ON BEHALF OF THE BOARD OF DIRECTORS

The undersigned hereby appoints George Paz and David Lowenberg, or either one of them, as attorneys-in-fact, agents and proxies for the undersigned with full power of substitution, to vote all shares of the Common Stock of the undersigned in Express Scripts, Inc. (the Company) at the Annual Meeting of Stockholders of the Company to be held on May 25, 2005 at 9:30 A.M., at the offices of the Company, 13900 Riverport Drive, Maryland Heights, Missouri 63043, or at any adjournment or postponement thereof, upon the matters described in the Notice of such meeting and accompanying Proxy Statement, receipt of which is acknowledged, and upon such other business as may properly come before the meeting or any adjournments or postponements thereof, hereby revoking any proxies heretofore given. Please sign exactly as the name(s) appear on this proxy card. When shares are held by joint tenants, both should sign. When signing as attorney-in-fact, executor, administrator, personal representative, trustee or guardian, please give full title as such. If a corporation, please sign in full corporate name by President or other authorized officers. If a partnership, please sign in partnership name by authorized persons.

Dated: _____

(Signature)

(Signature if held jointly)