

ATOSSA GENETICS INC
Form PRE 14A
March 08, 2018

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

SCHEDULE 14A

**PROXY STATEMENT PURSUANT TO SECTION 14(a) OF THE
SECURITIES EXCHANGE ACT OF 1934**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement
Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
Definitive Proxy Statement
Definitive Additional Materials
Soliciting Material Pursuant to sec. 240.14a-11(c) or sec. 240.14a-12

ATOSSA GENETICS INC.
(Name of Registrant as Specified In Its Charter)

N/A
(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

Fee not required.

Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies.

(2) Aggregate number of securities to which transaction applies.

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction.

(5) Total fee paid.

Fee paid previously with preliminary materials.

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(1) Amount Previously Paid.

(2) Form, Schedule or Registration State No.:

(3) Filing Party:

(4) Date Filed:

107 Spring Street

Seattle, Washington 98104

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS

To Be Held on April 12, 2018

Dear Stockholder:

You are cordially invited to attend the Annual Meeting of Stockholders of Atossa Genetics Inc., a Delaware corporation (the “*Company*”), which will be held on April 12, 2018, at 1:00 p.m. Eastern time, at the offices of Pryor Cashman LLP, 7 Times Square (42nd and Broadway, SW corner), 40th Floor, Room A, New York, New York 10036-6569. Only stockholders of record who held common stock at the close of business on the record date, March 12, 2018 (the “*Record Date*”), may attend and vote at the Annual Meeting, including any adjournment or postponement thereof.

At the Annual Meeting, you will be asked to consider and vote upon: (1) the election of two Class III directors named in the Proxy Statement; (2) the ratification of the selection of BDO USA LLP (“*BDO*”) as our independent registered public accounting firm for the fiscal year ending December 31, 2018; (3) the approval to increase authorized shares under the Atossa Genetics 2010 Stock Option and Incentive Plan (the “*Plan*”) by 6,000,000 shares; (4) approval of an amendment (in the event it is deemed by the Board of Directors to be advisable) to the certificate of incorporation to effect a reverse stock split of the issued and outstanding shares of common stock at a ratio within the range of 3:1 up to a split of 15:1, as determined by the Board of Directors; (5) approval of an amendment to the certificate of incorporation to increase the number of shares of authorized common stock by 100 million; (6) an advisory (non-binding) vote on the Company’s executive compensation; (7) an advisory (non-binding) vote on the frequency of future advisory votes on executive compensation; and (8) the transaction of any other business that may properly come before the meeting or any adjournment thereof.

No other items of business are expected to be considered at the meeting and no other director nominees will be entertained, pursuant to the Company’s Bylaws. The enclosed Proxy Statement more fully describes the details of the business to be conducted at the Annual Meeting. After careful consideration, our Board of Directors has unanimously approved the proposals and recommends that you vote FOR each nominee and FOR each other proposal. After

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reading the Proxy Statement, please mark, date, and sign and return the enclosed proxy card in the accompanying reply envelope to ensure receipt by our tabulator. **YOUR SHARES CANNOT BE VOTED UNLESS YOU SIGN, DATE AND RETURN THE ENCLOSED PROXY OR ATTEND THE ANNUAL MEETING IN PERSON.** Stockholders of record on the record date may also vote on-line or by phone by following the instructions contained in the accompanying Proxy Statement.

A copy of the Atossa Genetics Inc. 2017 Annual Report has been mailed with this Proxy Statement to all stockholders entitled to notice of and to vote at the Annual Meeting.

We look forward to seeing you at the Annual Meeting.

Sincerely,

Steven C. Quay, M.D., Ph.D.

Chairman of the Board, President and

Chief Executive Officer

March 18, 2018

WHETHER OR NOT YOU EXPECT TO ATTEND THE MEETING, PLEASE MARK, DATE AND SIGN THE ENCLOSED PROXY AND RETURN IT AT YOUR EARLIEST CONVENIENCE IN THE ENCLOSED POSTAGE-PREPAID RETURN ENVELOPE. EVEN IF YOU HAVE VOTED BY PROXY, YOU MAY STILL VOTE IN PERSON IF YOU ATTEND THE MEETING AND IF YOU ARE A STOCKHOLDER OF RECORD ON THE RECORD DATE YOU MAY VOTE ON-LINE OR VIA THE PHONE. PLEASE NOTE, HOWEVER, THAT IF YOUR SHARES ARE HELD OF RECORD BY A BROKER, BANK OR OTHER NOMINEE AND YOU WISH TO VOTE AT THE MEETING, YOU MUST OBTAIN A PROXY CARD ISSUED IN YOUR NAME FROM THAT INTERMEDIARY.

**107 Spring Street
Seattle, Washington 98104**

**PROXY STATEMENT FOR
2018 ANNUAL MEETING OF STOCKHOLDERS
TO BE HELD ON APRIL 12, 2018**

GENERAL INFORMATION

This Proxy Statement is furnished in connection with the solicitation of proxies by the Board of Directors (the “*Board*”) of Atossa Genetics Inc. (“*Atossa*” or the “*Company*”) for use at the Company’s 2018 Annual Meeting of Stockholders, to be held at the offices of Pryor Cashman LLP, 7 Times Square (42nd and Broadway, SW corner), 40th Floor, Room A, New York, New York 10036-6569, on April 12, 2018, at 1:00 p.m. Eastern time. This Proxy Statement and the accompanying form of proxy will be mailed to our stockholders on or about March 18, 2018. Unless otherwise indicated herein, this Proxy Statement speaks as of the close of business on March 12, 2018, which is the record date for the annual meeting (the “*Record Date*”).

For a proxy to be effective, it must be properly executed and received prior to the annual meeting. Each proxy properly tendered will, unless otherwise directed by the stockholder, be voted for the proposals and nominees described in this Proxy Statement and at the discretion of the proxy holder(s) with regard to all other matters that may properly come before the meeting.

The Company will pay all of the costs of soliciting proxies. We will provide copies of this Proxy Statement, notice of annual meeting and accompanying materials to brokerage firms, fiduciaries and custodians for forwarding to beneficial owners and will reimburse these persons for their costs of forwarding these materials. Our directors, officers and employees may also solicit proxies by telephone, facsimile, or personal solicitation; however, we will not pay them additional compensation for any of these services.

Only holders of record of our common stock ("***common stock***") at the close of business on the Record Date are entitled to notice of and to vote at the annual meeting. On the Record Date, there were a total of 31,822,741 shares of common stock issued and outstanding. Each share of common stock is entitled to one vote on all matters to be voted upon at the annual meeting. Holders of common stock do not have the right to cumulative voting in the election of directors. The presence, in person or by proxy, of the holders of a majority of the outstanding shares of common stock on the Record Date will constitute a quorum for the transaction of business at the annual meeting and any adjournment thereof.

Persons who hold shares of Atossa common stock directly on the Record Date and not through a broker, bank or other financial institution (“**record holders**”) may vote by the following methods:

Vote by proxy - You may complete, sign and return a proxy card;

Vote by attendance - You may attend the annual meeting in person and vote at the meeting.

Proxy Vote by Internet - You may use the Internet to transmit your voting instructions up until 11:59 p.m. Eastern Daylight Time on April 11, 2018 by going to the website <http://www.AALvote.com/ATOS>. Please have your proxy card in hand when you access the website and follow the instructions to obtain your records and to create an electronic voting instruction form.

Proxy Vote by Phone - You may use any touch-tone telephone to transmit your voting instructions up until 11:59 p.m. Eastern Daylight Time on April 11, 2018 by calling the toll-free number 1-866-804-9616. Have your proxy card in hand when you call and then follow the instructions.

Persons who hold shares of Atossa common stock indirectly on the Record Date through a brokerage firm, bank or other financial institution (“**beneficial holders**”) must return a voting instruction form to have their shares voted on their behalf. Brokerage firms, banks or other financial institutions that do not receive voting instructions from beneficial holders may either vote these shares on behalf of the beneficial holders or return a proxy leaving these shares un-voted (a “**broker non-vote**”).

Abstentions and broker non-votes will be counted for the purpose of determining the presence or absence of a quorum, but will not be counted for the purpose of determining the number of votes cast on a given proposal. The required vote for each of the proposals expected to be acted upon at the annual meeting is described below:

Proposal No. 1 — Election of directors. Directors are elected by a plurality, with the nominees obtaining the most votes being elected. Because there is no minimum vote required, abstentions and broker non-votes will be entirely excluded from the vote and will have no effect on its outcome.

Proposal No. 2 — Ratification of selection of independent registered public accounting firm. This proposal must be approved by a majority of the shares present in person or represented by proxy and entitled to vote on the proposal. As a result, abstentions will have the same effect as voting against the proposal and broker non-votes will have no effect on the vote outcome.

Proposal No. 3 — Approval to increase the authorized shares under the 2010 Stock Option and Incentive plan by 6,000,000 shares. This proposal must be approved by a majority of the shares present in person or represented by proxy and entitled to vote on the proposal. As a result, abstentions will have the same effect as voting against the proposal and broker non-votes will have no effect on the vote outcome.

Proposal No. 4 — Approval of an amendment to Atossa's certificate of incorporation to effect a reverse stock split. This proposal must be approved by the affirmative vote of the holders of a majority of the shares of common stock outstanding and entitled to vote on the Record Date. As a result, abstentions and broker non-votes will have the same effect as voting against this proposal.

Proposal No. 5 — Approval of an amendment to Atossa's certificate of incorporation to increase the number of authorized shares of common stock by 100,000,000 shares. This proposal must be approved by the affirmative vote of the holders of a majority of the common stock outstanding and entitled to vote on the Record Date. As a result, abstentions and broker non-votes will have the same effect as voting against this proposal.

Proposal No. 6 — Advisory (non-binding) vote on executive compensation. This advisory proposal will be approved if a majority of the shares present in person or represented by proxy and entitled to vote on the proposal are voted in favor of the resolution. As a result, abstentions will have the same effect as voting against the proposal and broker non-votes will have no effect on the vote outcome.

Proposal No. 7 — Advisory (non-binding) vote on frequency of say-on-pay votes. This advisory vote provides a choice among three frequency periods for future advisory votes on executive compensation (so-called, "say-on-pay" votes). The frequency period that receives the most votes (every one, two or three years) will be deemed to be the recommendation of the stockholders. As a result, any shares that are not voted, whether by abstention, broker non-votes or otherwise, will not affect the outcome of this proposal, except to the extent that the failure to vote for a particular frequency period may result in another frequency period receiving a larger proportion of the votes cast.

We encourage you to vote by returning your proxy or voting instruction form or if you are a record holder by voting on-line or via phone. By voting in advance of the meeting, this ensures that your shares will be voted and reduces the likelihood that the Company will be forced to incur additional expenses soliciting proxies for the annual meeting. Any record holder of our common stock may attend the annual meeting in person and may revoke the enclosed form of proxy at any time by:

executing and delivering to the corporate Secretary a later-dated proxy (not by internet or phone);

delivering a written revocation to the corporate Secretary before the meeting; or

voting in person at the annual meeting.

Beneficial holders of our common stock who wish to change or revoke their voting instructions should contact their brokerage firm, bank or other financial institution for information on how to do so. Beneficial holders who wish to attend the annual meeting and vote in person should contact their brokerage firm, bank or other financial institution holding shares of Atossa on their behalf in order to obtain a “legal proxy,” which will allow them to both attend the meeting and vote in person. Without a legal proxy, beneficial holders cannot vote at the annual meeting because their brokerage firm, bank or other financial institution may have already voted or returned a broker non-vote on their behalf.

PROPOSAL NO. 1

ELECTION OF DIRECTORS

The Certificate of Incorporation of the Company provides that the Board is to be divided into three classes as nearly equal in number as reasonably possible, with directors in each class serving three-year terms. The total Board size is currently fixed at six directors. Currently, the Class I directors (whose terms expire at the 2019 annual meeting of stockholders) are Steven C. Quay, M.D., Ph.D., and Gregory L. Weaver. The Class II directors (whose terms expire at the 2020 annual meeting of stockholders) are Stephen J. Galli, M.D., and Richard I. Steinhart. The Class III directors (whose terms expire at the 2018 annual meeting of stockholders) are Shu-Chih Chen, Ph.D., and H. Lawrence Remmel, Esq. Class III directors elected at the annual meeting will hold office until the 2021 annual meeting of stockholders and until their successors are elected and qualified, unless they resign or their seats become vacant due to death, removal, or other cause in accordance with the Bylaws of the Company.

As described below, the Board has nominated Shu-Chih Chen, Ph.D., and H. Lawrence Rimmel, Esq. for reelection as Class III directors at the annual meeting. Both nominees have indicated their willingness to serve if elected. Should either of the nominees become unavailable for election at the annual meeting, the persons named on the enclosed proxy as proxy holders may vote all proxies given in response to this solicitation for the election of a substitute nominee chosen by the Board.

Nomination of Directors

The Nominating and Governance Committee, which acts as the Company's nominating committee, reviews and recommends to the Board potential nominees for election to the Board. In reviewing potential nominees, the Nominating and Governance Committee considers the qualifications of each potential nominee in light of the Board's existing and desired mix of experience and expertise. Specifically, the Nominating and Governance Committee considers each potential nominee's personal and professional ethics, integrity and values, business acumen, interest in the Company and commitment to representing the long-term interests of the stockholders. The Nominating and Governance Committee also seeks to have a Board that encompasses a range of talents, ages, skills, diversity, and expertise sufficient to provide sound and prudent oversight with respect to the operations and interests of the business. These criteria are set forth in our Corporate Governance Guidelines, a copy of which is available on our website at www.atossagenetics.com/governance-documents.

After reviewing the qualifications of potential Board candidates, the Nominating and Governance Committee presents its recommendations to the Board, which selects the final director nominees. Upon the recommendation of the Nominating and Governance Committee, the Board nominated Shu-Chih Chen, Ph.D., and H. Lawrence Rimmel, Esq. for reelection as Class III directors. The Company did not pay any fees to any third parties to identify or assist in identifying or evaluating nominees for the annual meeting.

The Nominating and Governance Committee considers stockholder nominees using the same criteria set forth above. Stockholders who wish to present a potential nominee to the Nominating and Governance Committee for consideration for election at a future annual meeting of stockholders must provide the Nominating and Governance Committee with notice of the nomination and certain information regarding the candidate within the time periods set forth below under the caption "Stockholder Proposals."

Although the Nominating and Governance Committee may consider whether nominees assist in achieving a mix of Board members that represents a diversity of background and experience, which is not only limited to race, gender or national origin, we have no formal policy regarding board diversity.

Nominees and Incumbent Directors

The Nominating and Governance Committee has recommended, and the Board has nominated, Shu-Chih Chen, Ph.D., and H. Lawrence Rimmel, Esq. to be reelected Class III directors at the annual meeting. The following table sets forth the following information for these nominees and the Company's continuing directors: the year each was first elected a director of the Company; their respective ages as of the date of filing of this Proxy Statement; the positions currently held with the Company; the year their current term will expire; and their current class.

Nominee/Director Name and Year First Became a Director	Age	Position(s) with the Company	Year Current Term Expires	Current Director Class
<i>Nominees for Class III Directors:</i>				
Shu-Chih Chen, Ph.D. (2009)	56	Director	2018	III
H. Lawrence Rimmel, Esq. (2012)	66	Director	2018	III
<i>Continuing Directors:</i>				
Stephen J. Galli, M.D. (2011)	71	Director	2020	II
Richard I. Steinhart (2014)	60	Director	2020	II
Steven C. Quay, M.D., Ph.D. (2009)	67	Chairman of the Board of Directors, President and Chief Executive Officer	2019	I
Gregory L. Weaver (2013)	61	Director	2019	I

Class III Directors Nominated for Election

The following persons have been nominated by the Board to be elected as Class III directors at the 2018 annual meeting.

Shu-Chih Chen, Ph.D. Dr. Chen has served as a director since April 2009. She was a founder of the Company and served as Chief Scientific Officer of the Company since it was incorporated in April 2009 through August 2014. She was an Associate Professor at National Yang Ming University, Taipei, Taiwan, and served as the principal investigator of an NIH RO1 grant studying tumor suppression by gap junction protein connexin 43 at the Department of Molecular Medicine at Northwest Hospital, Seattle, WA. She has two issued U.S. patents and 20 pending U.S. patent applications related to cancer therapeutics. Dr. Chen received her Ph.D. degree in microbiology and public health from Michigan State University in 1992 and has published extensively on molecular oncology. She received her B.S. degree in medical technology from National Yang Ming University, Taipei, Taiwan in 1984. Dr. Chen was selected to serve on the Company's Board of Directors because of her role as a founder of the Company and her qualifications in medical technology and as a professor and researcher in the field of cancer therapeutics.

H. Lawrence Rimmel, Esq. Mr. Rimmel has served as a director of the Company since February 2012. He is currently a partner of the law firm Pryor Cashman LLP, located in New York City, where he chairs the Banking and Finance practice group. Mr. Rimmel joined Pryor Cashman in 1988. His practice includes corporate and banking financings, issues relating to the Investment Company Act of 1940, and intellectual property and licensing issues, in particular in the biotechnology and biocosmeceutical areas. Mr. Rimmel served on the Board of Advisors of CytoDel, LLC, an early stage bio-pharmaceutical company developing products for bio-defense, neuronal drug delivery, and musculoskeletal and aesthetic medicine. In February 2018, he became a director of CytoDel, Inc., the successor to CytoDel LLC. He was an associate of the law firm Reboul, MacMurray, Hewitt, Maynard & Kristol from 1984 to 1988, and began his legal career at Carter, Ledyard & Milburn, where he was an associate from 1979 to 1984. He was admitted to the New York bar in 1980 and is a member of the New York State Bar Association. He received his J.D. from the Washington & Lee University School of Law in 1979 and his B.A. from Princeton University in 1975. He currently is a doctoral candidate in the Graduate School of Life Sciences of the University of Utrecht, in the Department of Clinical and Translational Oncology, with a thesis project in hyperplasia and early stage breast cancer. Mr. Rimmel has been selected to serve on the Company's Board of Directors because of his substantial experience as a corporate attorney advising biotechnology companies and his familiarity with the fiduciary duties and the regulatory requirements affecting publicly traded companies.

Class I Directors Continuing in Office Until 2019

Steven C. Quay, M.D., Ph.D. Dr. Quay has served as Chief Executive Officer, President and Chairman of the Board of Directors of the Company since the Company was incorporated in April 2009. Dr. Quay is certified in Anatomic Pathology with the American Board of Pathology, completed both an internship and residency in anatomic pathology at Massachusetts General Hospital, a Harvard Medical School teaching hospital, and is a former faculty member of the Department of Pathology, Stanford University School of Medicine. Dr. Quay is a named inventor on 87 U.S. patents, 130 pending U.S. patent applications, and is named inventor on patents covering five pharmaceutical products that have been approved by the U.S. Food and Drug Administration. Dr. Quay received an M.D. in 1977 and a Ph.D. in 1975 from the University of Michigan. He received his B.A. degree in biology, chemistry and mathematics from Western Michigan University in 1971. He was selected to serve on the Company's Board of Directors because of his role as a founder of the Company, as well as his qualifications as a physician and the principal researcher overseeing the clinical and regulatory development of the Company's pharmaceutical programs.

Gregory L. Weaver. Mr. Weaver has served as a director of the Company since October 2013. Mr. Weaver currently serves as Chief Financial Officer of Eloxx Pharmaceuticals, Inc., a publicly traded biotech company. From October 2015 to August 2017 he served as Chief Financial officer of ProMetic Life Science, a publicly traded pharmaceutical company. From January to October 2015 he served as Global Chief Financial Officer of Oryzon Genomics, a public biotech company. From August 2013 to October 2014, Mr. Weaver served as Chief Financial Officer, Senior Vice President, Treasurer and Corporate Secretary of Fibrocell Science, Inc., a public biotech company. From June 2011 to July 2013, Mr. Weaver served as Chief Financial Officer and Senior Vice President of Celsion Corp., Mr. Weaver received his B.S. degree from Trinity University and his M.B.A. degree from Boston College. Mr. Weaver has been selected to serve on the Company's Board of Directors because of his qualifications as a business executive and audit committee financial expert, and his current and prior experience as a Chief Financial Officer, director and committee member of public companies. Mr. Weaver serves on the board of directors of Egalet Corp., a public biotech company.

Class II Directors Continuing in Office Until 2020

Stephen J. Galli, M.D. Dr. Galli has served as a director of the Company since July 2011. Dr. Galli has been a Professor of Pathology and of Microbiology & Immunology and the Mary Hewitt Loveless, M.D., Professor, Stanford University School of Medicine, Stanford, California since February 1999. He served as Chair of the Department of Pathology at Stanford University School of Medicine from 1999 to 2016. Before joining Stanford, he was on the faculty of Harvard Medical School. He holds 14 U.S. patents and has over 400 publications. He is past president of the American Society for Investigative Pathology and past president of the Collegium Internationale Allergologicum. In addition to receiving several awards for his research, he was recognized with the 2010 Stanford University President's Award for Excellence through Diversity for his recruitment and support of women and underrepresented minorities at Stanford University. He received his B.A. degree in biology, magna cum laude, from Harvard College in 1968 and his M.D. degree from Harvard Medical School in 1973 and completed a residency in anatomic pathology at the Massachusetts General Hospital in 1977. Dr. Galli has been selected to serve on the Company's Board of Directors

because of his qualifications as a professor and physician, and his specialized expertise as a pathologist.

Richard I. Steinhart. Mr. Steinhart has served as a director of the Company since March 2014. Mr. Steinhart is currently the Vice President and Chief Financial Officer of BioXcel Therapeutics, Inc. From October 2015 to June 2017, he was Vice President and Chief Financial Officer of Remedy Pharmaceuticals, Inc. a privately held pharmaceuticals company. From January 2014 until he joined Remedy Pharmaceuticals, Mr. Steinhart acted as an independent financial consultant to the Biotechnology and Medical Device Industries. From April 2006 to December 2013, Mr. Steinhart was an executive at MELA Sciences, Inc., most recently serving as its Senior Vice President, Chief Financial Officer, Treasurer and Secretary. From 1992 to 2006, Mr. Steinhart was Managing Director at Forest St. Capital/SAE Ventures. Earlier, he served as Vice President and Chief Financial Officer at Emisphere Technologies from 1991 to 1992 and as General Partner and Chief Financial Officer of CW Group Inc. Mr. Steinhart is a Member of the Board of Directors of Actinium Pharmaceuticals where he is Chairman of the Audit Committee and a member of the Compensation Committee. From 2004 to 2012, Mr. Steinhart was a Member of the Board of Directors of Manhattan Pharmaceuticals and was Chairman of the Audit Committee. Mr. Steinhart received his B.B.A. and M.B.A. degrees from Pace University. Mr. Steinhart has been selected to serve on the Company's Board of Directors because of his qualifications as a business executive and audit committee financial expert, and his prior experience as a Chief Financial Officer, director and committee member of public companies.

Vote Required

The two nominees who receive the greatest number of affirmative votes of the shares present in person or by proxy will be elected as Class III directors. Any shares that are not voted, whether by abstention, broker non-votes or otherwise, will not affect the election of directors.

Holders of proxies solicited by this Proxy Statement will vote the proxies received by them as directed on the proxy card or, if no direction is made, then FOR the election of all nominees named in this Proxy Statement.

**THE BOARD OF DIRECTORS RECOMMENDS A VOTE “FOR”
THE NOMINEES IDENTIFIED ABOVE.**

PROPOSAL NO. 2

**RATIFICATION OF SELECTION OF INDEPENDENT REGISTERED PUBLIC
ACCOUNTING FIRM**

Our Audit Committee has selected BDO USA LLP (“**BDO**”) as our independent registered public accounting firm for the fiscal year ending December 31, 2018, and has further directed that we submit the selection of BDO for ratification by our stockholders at the annual meeting.

The Company is not required to submit the selection of our independent registered public accounting firm for stockholder approval. However, if the stockholders do not ratify this selection, the Audit Committee will reconsider its selection of BDO. Even if the selection is ratified, our Audit Committee may direct the appointment of a different independent registered public accounting firm at any time during the year if the Audit Committee determines that the change would be in the best interests of the Company.

The Audit Committee reviews and pre-approves all audit and non-audit services performed by its independent registered public accounting firm, as well as the fees charged for such services. All fees incurred in fiscal 2017 for services rendered by BDO were approved in accordance with these policies. In its review of non-audit service fees, the Audit Committee considers, among other things, the possible impact of the performance of such services on the auditor’s independence. The Audit Committee has determined that the non-audit services performed by BDO in the fiscal year ended December 31, 2017 were compatible with maintaining the auditor’s independence. Additional information concerning the Audit Committee and its activities can be found in the following sections of this Proxy Statement: “Board Committees” and “Report of the Audit Committee.”

BDO has audited our annual financial statements as of December 31, 2017 and 2016. Representatives of BDO are expected to be present at the annual meeting in person or by telephone, will have the opportunity to make a statement if they desire to do so and will be available to respond to appropriate stockholder questions.

Fees for Independent Registered Public Accounting Firm

The following is a summary of the fees billed to the Company by BDO for professional independent audit services rendered for the fiscal years ended December 31, 2017 and 2016. These fees are for work invoiced in the fiscal years indicated.

	2017	2016
Audit Fees:		
Consists of fees billed for audit of our annual financial statements and the review of the financial statements included in our quarterly reports on Form 10-Q, and services that are normally provided by BDO in connection with statutory and regulatory filings or engagements for that fiscal year including comfort letters, consents and expenses.	\$234,040	\$170,405
Total All Fees	\$234,040	\$170,405

Vote Required

Ratification of the selection of the independent registered public accounting firm requires the affirmative vote of a majority of the shares present in person or represented by proxy and entitled to vote on the proposal. Abstentions will have the same effect as voting against the proposal. Because broker non-votes are not counted as votes for or against this proposal, they will have no effect on the outcome of the vote.

THE BOARD OF DIRECTORS RECOMMENDS A VOTE “FOR” PROPOSAL NO. 2.

PROPOSAL NO. 3

TO INCREASE THE NUMBER OF SHARES AUTHORIZED FOR ISSUANCE UNDER THE

**ATOSSA GENETICS 2010 STOCK OPTION AND INCENTIVE PLAN
BY 6,000,000**

At the Annual Meeting, you are being asked to approve an amendment to increase the number of shares authorized for issuance under the 2010 Stock Option and Incentive Plan (the “*2010 Plan*”) by 6,000,000 shares to a total of 7,353,366

shares authorized for issuance under the Plan.

Initially, the total number of shares of common stock available for issuance under the 2010 Plan was 66,667 shares (or 1,000,000 shares prior to the reverse stock-split in August 2016). As of January 1, 2012 and each January 1 thereafter, the number of shares of common stock reserved and available for issuance under the 2010 Plan has been cumulatively increased by 4% of the number of shares of common stock issued and outstanding on the immediately preceding December 31.

On March 8, 2018, the Board approved an amendment of the Plan, subject to shareholder approval, to increase the number of shares of common stock authorized for issuance under the Plan by 6,000,000 shares, to a total of 7,353,366 shares. The Board adopted this amendment because it believes that:

additional shares are necessary to attract new employees and executives;

additional shares are needed to further the goal of retaining and motivating existing personnel; and

the issuance of options to employees is an integral component of the Company's compensation policy.

As of March 8, 2018, options covering 2,032,665 shares of common stock with a weighted average exercise price of \$4.10 and a weighted average remaining term of 9.0 years were outstanding under the 2010 Plan. There remained available for future grant 1,353,366 shares of common stock under the 2010 Plan as of March 8, 2018. Assuming adoption of this Proposal No. 3, there will be a total of approximately 7,353,366 million shares available for issuance under the 2010 Plan, which equals approximately 17.3% of the common stock outstanding on March 8, 2018 including common stock issuable upon exercise of warrants that are in-the-money and that are exercisable in 2018.

Shares subject to outstanding awards may be returned to the 2010 Plan as a result of cancellations or expiration of awards.

Summary of the 2010 Plan

General. The purpose of the 2010 Plan is to enhance the long-term stockholders' value of the Company by offering opportunities to eligible individuals to participate in the growth in value of the equity of the Company. The 2010 Plan provides for the grant of equity-based awards to employees, officers, non-employee directors and other key persons providing services to the Company. Awards of incentive options may be granted under the 2010 Plan until September 2020. No other awards may be granted under the 2010 Plan after the date that is 10 years from the date of stockholder approval.

Plan Administration. The 2010 Plan may be administered by the full Board or the Compensation Committee. It is the current intention of the Company that the 2010 Plan be administered by the Compensation Committee. The Compensation Committee has full power to select, from among the individuals eligible for awards, the individuals to whom awards will be granted, to make any combination of awards to participants, and to determine the specific terms and conditions of each award, subject to the provisions of the 2010 Plan. The Compensation Committee may delegate to our Chief Executive Officer the authority to grant stock options to employees who are not subject to the reporting and other provisions of Section 16 of the Securities Exchange Act of 1934, as amended (the "*Exchange Act*") and not subject to Section 162(m) of the Code, subject to certain limitations and guidelines.

Eligibility. Persons eligible to participate in the 2010 Plan will be those full or part-time officers, employees, non-employee directors and other key persons (including consultants and prospective officers) of the Company and its subsidiaries as selected from time to time by the Compensation Committee in its discretion.

Plan Limits. Initially, the total number of shares of common stock available for issuance under the 2010 Plan is 66,667 shares (or 1,000,000 shares prior to the reverse stock-split in August 2016). As of January 1, 2012 and each January 1 thereafter, the number of shares of common stock reserved and available for issuance under the 2010 Plan will be cumulatively increased by 4% of the number of shares of common stock issued and outstanding on the immediately preceding December 31.

Stock Options. The 2010 Plan permits the granting of (i) options to purchase common stock intended to qualify as incentive stock options under Section 422 of the Code, and (ii) options that do not so qualify. Options granted under the 2010 Plan will be non-qualified options if they fail to qualify as incentive options or exceed the annual limit on incentive stock options. Incentive stock options may only be granted to employees of the Company and its subsidiaries. Non-qualified options may be granted to any persons eligible to receive incentive options and to non-employee directors and key persons. The option exercise price of each option will be determined by the Compensation Committee but may not be less than 100% of the fair market value of the common stock on the date of grant. Fair market value for this purpose will be the last reported sale price of the shares of common stock on the NASDAQ Capital Market on the date of grant. The exercise price of an option may not be reduced after the date of the option grant, other than to appropriately reflect changes in our capital structure.

The term of each option will be fixed by the Compensation Committee and may not exceed 10 years from the date of grant. The Compensation Committee will determine at what time or times each option may be exercised. Options may be made exercisable in installments and the exercisability of options may be accelerated by the Compensation Committee. In general, unless otherwise permitted by the Compensation Committee, no option granted under the 2010 Plan is transferable by the optionee other than by will or by the laws of descent and distribution, and options may be exercised during the optionee's lifetime only by the optionee, or by the optionee's legal representative or guardian in the case of the optionee's incapacity.

Upon exercise of options, the option exercise price must be paid in full either in cash, by certified or bank check or other instrument acceptable to the Compensation Committee or by delivery (or attestation to the ownership) of shares of common stock that are beneficially owned by the optionee for at least six months or were purchased in the open market. Subject to applicable law, the exercise price may also be delivered to the Company by a broker pursuant to irrevocable instructions to the broker from the optionee. In addition, the Compensation Committee may permit non-qualified options to be exercised using a net exercise feature which reduces the number of shares issued to the optionee by the number of shares with a fair market value equal to the exercise price.

To qualify as incentive options, options must meet additional federal tax requirements, including a \$100,000 limit on the value of shares subject to incentive options that first become exercisable by a participant in any one calendar year.

Stock Appreciation Rights. The Compensation Committee may award stock appreciation rights subject to such conditions and restrictions as the Compensation Committee may determine. Stock appreciation rights entitle the recipient to shares of common stock equal to the value of the appreciation in the stock price over the exercise price. The exercise price is the fair market value of the common stock on the date of grant. The term of a stock appreciation right will be fixed by the Compensation Committee and may not exceed 10 years.

Restricted Stock. The Compensation Committee may award shares of common stock to participants subject to such conditions and restrictions as the Compensation Committee may determine. These conditions and restrictions may include the achievement of certain performance goals and/or continued employment with us through a specified restricted period.

Restricted Stock Shares. The Compensation Committee may award restricted stock shares to any participants. Restricted stock shares are generally payable in the form of shares of common stock, although restricted stock shares granted to the Chief Executive Officer may be settled in cash. These shares may be subject to such conditions and restrictions as the Compensation Committee may determine. These conditions and restrictions may include the achievement of certain performance goals (as summarized above) and/or continued employment with the Company through a specified vesting period. In the Compensation Committee's sole discretion, it may permit a participant to make an advance election to receive a portion of his or her future cash compensation otherwise due in the form of a restricted stock unit award, subject to the participant's compliance with the procedures established by the Compensation Committee and requirements of Section 409A of the Code. During the deferral period, the deferred stock awards may be credited with dividend equivalent rights.

Adjustments for Stock Dividends, Stock Splits, Etc. The 2010 Plan requires the Compensation Committee to make appropriate adjustments to the number of shares of common stock that are subject to the 2010 Plan, to certain limits in the 2010 Plan, and to any outstanding awards to reflect stock dividends, stock splits, extraordinary cash dividends and similar events.

Tax Withholding. Participants in the 2010 Plan are responsible for the payment of any federal, state or local taxes that the Company is required by law to withhold upon the exercise of options or stock appreciation rights or vesting of other awards. Subject to approval by the Compensation Committee, participants may elect to have the minimum tax withholding obligations satisfied by authorizing the Company to withhold shares of common stock to be issued pursuant to the exercise or vesting.

Amendments and Termination. The Board of Directors of the Company may at any time amend or discontinue the 2010 Plan and the Compensation Committee may at any time amend or cancel any outstanding award for the purpose of satisfying changes in the law or for any other lawful purpose. However, no such action may adversely affect any rights under any outstanding award without the holder's consent. To the extent required under the NASDAQ Capital Market rules, any amendments that materially change the terms of the 2010 Plan will be subject to approval by our stockholders. Amendments shall also be subject to approval by our stockholders if and to the extent determined by the Compensation Committee to be required by the Code to preserve the qualified status of incentive options or to ensure that compensation earned under the 2010 Plan qualifies as performance-based compensation under Section 162(m) of the Code.

Federal Income Tax Consequences of Options and Stock Awards under the Plan

THE FOLLOWING IS A GENERAL SUMMARY OF THE TYPICAL FEDERAL INCOME TAX CONSEQUENCES UNDER CURRENT LAW OF THE ISSUANCE AND EXERCISE OF OPTIONS OR AWARDS OF RESTRICTED STOCK UNDER THE PLAN. IT DOES NOT DESCRIBE STATE OR OTHER TAX CONSEQUENCES OF THE ISSUANCE AND EXERCISE OF OPTIONS, GRANT OF RESTRICTED STOCK OR GRANT OF RESTRICTED STOCK UNITS.

Options. The grant of an incentive stock option has no federal income tax effect on the optionee. Upon exercise, the optionee does not recognize income for “regular” tax purposes. However, the excess of the fair market value of the stock subject to an option over the exercise price of such option (the “option spread”) is includible in the optionee’s “alternative minimum taxable income” for purposes of the alternative minimum tax. If the optionee does not dispose of the stock acquired upon exercise of an incentive stock option until more than two years after the option grant date and more than one year after exercise of the option, any gain upon sale of the shares will be a long-term capital gain. If shares are sold or otherwise disposed of before both of these periods have expired (a “disqualifying disposition”), the option spread at the time of exercise of the option (but not more than the amount of the gain on the sale or other disposition) is ordinary income in the year of such sale or other disposition. If gain on a disqualifying disposition exceeds the amount treated as ordinary income, the excess is taxable as capital gain (which will be long-term capital gain if the shares have been held more than one year after the date of exercise of the option). The Company is not entitled to a federal income tax deduction in connection with incentive stock options, except to the extent that the optionee has taxable ordinary income on a disqualifying disposition (unless limited by Section 162(m) of the Internal Revenue Code).

The grant of a nonstatutory option has no federal income tax effect on the optionee. Upon the exercise of a nonstatutory option, the optionee has taxable ordinary income (and the Company is entitled to a corresponding deduction unless limited by Section 162(m) of the Internal Revenue Code) equal to the option spread on the date of exercise. Upon the disposition of stock acquired upon exercise of a nonstatutory option, the optionee recognizes either long-term or short-term capital gain or loss, depending on how long such stock was held, on any difference between the sale price and the exercise price, to the extent not recognized as taxable income on the date of exercise. The Company may allow nonstatutory options to be transferred subject to conditions and restrictions imposed by the Administrator; special tax rules may apply on such a transfer.

In the case of both incentive stock options and nonstatutory options, special federal income tax rules apply if the Company’s common stock is used to pay all or part of the option price.

Stock Awards. Upon receipt of a stock award, a recipient generally has taxable income in the amount of the excess of the then fair market value of the common stock over any consideration paid for the common stock (the “spread”). However, if the common stock is subject to a “substantial risk of forfeiture” (such as a requirement that the recipient continue in the employ of the Company) and the recipient does not make an election under section 83(b) of the Internal Revenue Code, the recipient will have taxable income upon the lapse of the risk of forfeiture, rather than at receipt, in an amount equal to the spread on the date of lapse. If the recipient is an employee of the Company, the taxable income constitutes supplemental wages subject to income and employment tax withholding, and the Company receives a corresponding income tax deduction, unless limited by Section 162(m) of the Internal Revenue Code. If the recipient makes an election under section 83(b) of the Internal Revenue Code, the stock received by the recipient is valued as of the date of receipt (without taking the restrictions into account) and the recipient has taxable income equal to any excess of that value over the amount he or she paid for the stock. The Company would again have a deduction equal to the income to the recipient, unless limited by Section 162(m) of the Internal Revenue Code. If the recipient makes an election under section 83(b) of the Internal Revenue Code, the consequences upon sale or disposition (other than through forfeiture) of the shares awarded or sold generally are the same as for common stock

acquired under a nonstatutory option as described above.

Restricted Stock Units. Upon receipt of a restricted stock unit, a recipient will not recognize any taxable income. However, upon vesting of a restricted stock unit and the delivery to the recipient of the restricted stock units, the recipient generally has taxable income in the amount of the excess of the then fair market value of the common stock issued over any consideration paid for the common stock (the “spread”).

If the recipient is subject to U.S. tax law and if allowed by the Administrator, an eligible recipient may be allowed to elect to defer the distribution of some or all of the restricted stock units, thereby deferring the recipient’s recognition of taxable income until the restricted stock units are delivered to the recipient.

If the recipient is an employee of the Company, the taxable income constitutes supplemental wages subject to income and employment tax withholding, and the Company receives a corresponding income tax deduction, unless limited by Section 162(m) of the Internal Revenue Code. The Administrator, in its sole discretion and pursuant to such procedures as it may specify from time to time, may permit Awardee to satisfy such tax withholding obligation, in whole or in part (without limitation) by (a) paying cash, (b) electing to have the Company withhold otherwise deliverable shares of common stock having a fair market value equal to the minimum amount required to be withheld, (c) delivering to the Company already vested and owned shares of common stock having a fair market value equal to the amount required to be withheld, or (d) selling a sufficient number of such shares of common stock otherwise deliverable to recipient through such means as the Company may determine in its sole discretion (whether through a broker or otherwise) equal to the amount required to be withheld. To the extent determined appropriate by the Company in its discretion, it will have the right (but not the obligation) to satisfy any tax withholding obligations by reducing the number of shares otherwise deliverable to recipient.

The American Jobs Creation Act of 2004 added Section 409A to the Internal Revenue Code, generally effective January 1, 2005. Section 409A covers most programs that defer the receipt of compensation to a succeeding year. There are significant penalties placed on the individual awardee for failure to comply with Section 409A. However, it does not impact the Company's ability to deduct deferred compensation.

Section 409A does not apply to incentive stock options, nonstatutory stock options that have an exercise price that is at least equal to the grant date fair market value and restricted stock provided there is no deferral of income beyond the vesting date.

Limitation on Deduction of Certain Compensation. A publicly-held corporation may not deduct compensation in excess of a certain amount that is paid in any year to its Chief Executive Officer or other four most highly compensated officers unless the compensation constitutes "qualified performance-based" compensation under Section 162(m) of the Internal Revenue Code. The Company generally attempts to ensure that any awards under the Plan meet these standards, but may not do so in every instance.

Accounting Treatment

The Company recognizes compensation expense based on the grant-date fair value of awards granted under the Plan. The Company uses the Black-Scholes option valuation model to determine the fair value of the award, which is affected by the Company's stock price and the number of shares granted, as well as assumptions which include the Company's expected term of the award, the expected stock price volatility, risk-free interest rate and expected dividends over the expected term of the award. The expense associated with each award will generally be recognized over the award's vesting period.

New Plan Benefits

As of the date hereof, no options or other stock awards have been granted on the basis of the share increase for which shareholder approval is sought under this Proposal No. 3. Accordingly, future benefits or amounts received are not determinable. The following table presents information with respect to stock awards and options granted under the Plan to the named executive officers and named groups during the year ended December 31, 2017.

Name	Grant Date	Number of Shares
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		Granted(1)
Steven Quay, President and Chief Executive Officer	5/24/2017	575,893
Kyle Guse, Chief Financial Officer, General Counsel and Secretary	5/24/2017	495,333

(1) All options were granted with exercise prices equal to the closing price of the Company's common stock on the date of grant.

Vote Required

Approval of the amendment to the 2010 Plan requires the affirmative vote of a majority of the shares present in person or represented by proxy and entitled to vote on the proposal. Abstentions will have the same effect as voting against the proposal. Because broker non-votes are not counted as votes for or against this proposal, they will have no effect on the outcome of the vote.

THE BOARD OF DIRECTORS RECOMMENDS A VOTE "FOR" PROPOSAL NO. 3

PROPOSAL NO. 4

**THE APPROVAL OF AN AMENDMENT
(IN THE EVENT IT IS DEEMED BY THE ATOSSA'S BOARD OF DIRECTORS TO BE ADVISABLE) TO
ATOSSA'S CERTIFICATE OF INCORPORATION TO EFFECT
A REVERSE STOCK SPLIT OF ATOSSA COMMON STOCK.**

At the annual meeting, you are being asked to approve an amendment (in the event it is deemed by the Atossa's Board of Directors to be advisable) to Atossa's certificate of incorporation to effect a reverse stock split of Atossa common stock at a ratio within the range of 1:3 and 1:15, as determined by the Atossa's Board of Directors. In March of 2018, the Board adopted resolutions (1) declaring that, in the future, it may be in the best interest of the Company to effect a share consolidation or reverse stock split (the "***Future Reverse Stock Split***"), as described below, and (2) directing that a proposal to approve the Future Reverse Stock Split be submitted to our stockholders for their approval.

If approved by our stockholders, the Future Reverse Stock Split would permit (but not require) the Board to approve a consolidation of the issued and outstanding common stock at any time on or before June 30, 2019 at a ratio within a range of 1 for 3 and 1 for 15, as determined by the Board in its sole discretion (the "Reverse Stock Split Ratio"). We believe that leaving the ratio to the discretion of the Board will provide the flexibility to implement the Future Reverse Stock Split in a manner designed to maximize the desired results and anticipated benefits for our shareholders. In determining a ratio, if any, following the receipt of shareholder approval, the Board may consider, among other things, factors such as:

historical trading price and trading volume of the common stock;

the number of shares of common stock issued and outstanding;

the then-prevailing trading price and trading volume of the common stock and the anticipated impact of the Future Reverse Stock Split on the trading market for the common stock;

the listing standards of The NASDAQ Capital Market;

the anticipated impact of a particular ratio on our ability to reduce administrative and transactional costs;

prevailing general market and economic conditions; and

limitations of some stockholders on holding shares in companies with a share price below a threshold amount per share.

Depending on the Reverse Stock Split Ratio ultimately determined by the Board, a number of shares of common stock between 3 and 15, as determined by the Board, would be combined into one shares of common stock, the par value of each share would be increased accordingly and the number of shares of common stock issued and outstanding would therefore be reduced. If effecting the Future Reverse Stock Split is approved by the Board, we will not reduce the

number of authorized shares of common stock, as described below in “Authorized Shares.”

The Future Reverse Stock Split, if approved by our stockholders, will be implemented upon approval by the Board, based on its evaluation as to whether or when such action will be the most advantageous to the Company and our stockholders. In addition, the Board shall have the right, without further action by the stockholders, to elect not to proceed with the Future Reverse Stock Split if, in its sole discretion, it determines that it is no longer in the Company’s best interest to proceed with the Future Reverse Stock Split. If the Future Reverse Stock Split is not approved by the Board and effected by the close of business on June 30, 2019, the Board will not proceed with the Future Reverse Stock Split.

Reasons for the Potential Future Reverse Stock Split

The common stock is currently listed on The NASDAQ Capital Market. On May 11, 2017, NASDAQ notified the Company of its failure to continue to satisfy the continued listing requirements because the price of the common stock had dropped below the minimum \$1.00 per share required for continued listing. We had until November 7, 2017 to either regain compliance, or request additional time to regain compliance. We had not regained compliance as of November 7, 2017 so we requested an extension of the deadline to regain compliance and notified NASDAQ of our intention to cure the deficiency during the extended compliance period, including by effecting a reverse stock split, if necessary. In response to our request, on November 8, 2017, NASDAQ granted us a 180 day extension, until May 7, 2018, to regain compliance with the \$1.00 minimum bid price requirement.

The Board's primary objective in proposing a Future Reverse Stock Split is to raise the per share trading price of the common stock in the event it becomes necessary in order to maintain and/or regain compliance with the NASDAQ \$1.00 bid price listing standard. If a delisting from NASDAQ were to occur, the Company believes the common stock would be eligible to be quoted on the inter-dealer electronic quotation and trading system operated by Pink OTC Markets Inc, commonly referred to as the Pink Sheets and now known as the OTCQB market. The common stock may also be quoted on the Over-the-Counter Bulletin Board (the "*OTCBB*"), an electronic quotation service maintained by the Financial Industry Regulatory Authority ("*FINRA*"), provided that a market maker in the common stock files the appropriate application with, and such application is cleared by, FINRA. These markets are generally considered to be less efficient than, and not as broad as, The NASDAQ Capital Market. If the common stock were to trade on the OTCQB or the OTCBB, selling such shares could be more difficult because smaller quantities of shares would likely be bought and sold, transactions could be delayed, and security analysts' coverage of the Company may be reduced. In addition, in the event the common stock is delisted, broker-dealers have certain regulatory burdens imposed upon them, which may discourage broker-dealers from effecting transactions in such shares, further limiting the liquidity thereof. These factors could result in lower prices and larger spreads in the bid and ask prices for the common stock.

Such delisting from The NASDAQ Capital Market could also greatly impair the Company's ability to raise additional necessary capital through equity or debt financing, and could significantly increase the ownership dilution to shareholders caused by the Company's issuing equity in financing or other transactions. The Board has considered the potential harm to the Company of a delisting from The NASDAQ Capital Market and believes that, if compliance were not otherwise regained, the Future Reverse Stock Split would help the Company regain compliance with NASDAQ's minimum bid price listing standard.

The Board is also submitting the Future Reverse Stock Split to shareholders for approval based on its belief that increasing the price of the common stock may make the common stock more attractive to a broader range of institutional and other investors. We have been advised that the current market price of the common stock may affect their acceptability to certain institutional investors, professional investors and other members of the investing public. If the Future Reverse Stock Split is approved by our shareholders, the Board may determine to approve the Future Stock Split in an effort to make the common stock a more attractive and cost effective investment for many investors. Accordingly, for these and other reasons discussed in this proxy statement, we believe that shareholder approval of the Future Reverse Stock Split will provide the Board with flexibility to implement the Future Reverse Stock Split in a manner designed to maximize the desired results and anticipated benefits and is consequently in the Company's best interest. As such, assuming the Future Reverse Stock Split is approved by our stockholders as proposed, the Board may determine to implement the Future Reverse Stock Split even if doing so is not necessary in order to maintain and/or regain compliance with the NASDAQ \$1.00 bid price listing standard.

Reducing the number of issued and outstanding shares of the common stock through the Future Reverse Stock Split would be intended, absent other factors, to increase the per share market price of the common stock. However, other factors, such as our financial results, market conditions and the market perception of our business may adversely affect the market price of the common stock. As a result, there can be no assurance that the Future Reverse Stock Split, if completed, will result in the intended benefits described above, that the market price of the common stock will increase following the Future Reverse Stock Split or that the market price of the common stock will not decrease in

the future. Under applicable NASDAQ rules, in order to regain compliance with the \$1.00 minimum bid price requirement and maintain our listing on NASDAQ, a consolidated closing bid price of \$1.00 per share must be maintained for a minimum of 10 consecutive business days, and NASDAQ may, in its discretion, require us to maintain a consolidated closing bid price of at least \$1.00 per share for a longer period, not to exceed 20 consecutive business days, before determining that we have regained compliance with this requirement. Accordingly, we cannot assure you that we will be able to maintain our NASDAQ listing after the Future Reverse Stock Split is effected or that the market price of the common stock will exceed or remain in excess of \$1.00 per share for any period of time. Additionally, we cannot assure you that the market price per share of the common stock after the Future Reverse Stock Split will increase in proportion to the reduction in the number of the shares of common stock issued and outstanding before the Future Reverse Stock Split or that the Board will effect the Future Reverse Stock Split. Accordingly, the total market capitalization of the common stock after the Future Reverse Stock Split may be lower than the total market capitalization before the Future Reverse Stock Split. We also cannot assure you that the common stock will not be delisted from NASDAQ due to failure to meet other continued listing standards.

In addition to increasing the price of the common stock, we believe that the Future Reverse Stock Split would provide the Company and our stockholders with other benefits. Currently, the fees that we pay to list our shares on NASDAQ are based on the number of shares we have issued and outstanding. Also, the fees that we pay for custody and clearing services, the fees that we pay to the Securities Exchange Commission (the “*SEC*”) to register securities for issuance and the costs of our proxy solicitations are all based on or related to the number of shares being held, cleared or registered as applicable. Reducing the number of shares that are issued and outstanding and that will be issued in the future may reduce the amount of fees and tax that we pay to these organizations and agencies, as well as other organizations and agencies that levy charges based on the number of shares rather than the value of the shares.