STEAK & SHAKE CO
Form DEF 14A
February 08, 2008

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

SCHEDULE 14A INFORMATION
Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934

Filed by the Registrant [X]
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))
[X] Definitive Proxy Statement
[ ] Definitive Additional Materials
[ ] Soliciting Material Pursuant to §240.14a-12

THE STEAK N SHAKE COMPANY
(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):

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1) Amount Previously Paid:
2) Form, Schedule or Registration Statement No.:
3) Filing Party:
4) Date Filed:

Dear Fellow Shareholder:

It is my pleasure to invite you to attend the annual meeting of shareholders of the Steak n Shake Company to be held on Friday, March 7, 2008, at 1:30 p.m., Indianapolis time, at the Marriott Indianapolis Downtown, 350 West Maryland Street, First Floor, Florida/Illinois Room, Indianapolis, Indiana 46225. The accompanying notice explains the matters that will be submitted to a vote of shareholders at the meeting. One of those items is the proposal to elect nine directors to serve until the next annual meeting of shareholders. Your Board urges you to re-elect your Directors by voting the WHITE proxy card today. As always, your vote is very important.

The nine nominees named in the accompanying proxy statement are the current members of the Board. You may know that The Lion Fund L.P., a hedge fund and its affiliates, are attempting to install two nominees in opposition to the Board's slate of nine nominees.

As explained in the proxy statement, the results of the activities of the Board's special committee over the past six months have convinced the Board of Directors that this is not the right time to sell the company or pursue any other strategic transaction. Indeed, your Board believes that, in order to maximize shareholder value over the long-term, the company must pursue an operational turnaround and improve unit economics. We have started that process and are conducting a public, nationwide search for the best candidate to become the next Chief Executive Officer to continue the turnaround.

In order to avoid the expense and disruption of this proxy contest, the Board made an offer to the Lion nominees to join an expanded slate of eleven nominees that would have the full support of the Board. The Lion nominees rejected that offer. The Board believes that the rejection of that offer and the January 23, 2008 letter in which Lion disclosed plans to conduct another disruptive proxy contest seeking to replace a majority of the directors, reveals an intent to acquire control of the company (without the payment of any premium to shareholders) and pursue a short-term agenda that is not in the best interests of all shareholders.

YOUR BOARD URGES YOU TO NOT SIGN ANY PROXY CARDS SENT TO YOU BY LION OR ITS AFFILIATES. IF YOU HAVE PREVIOUSLY SIGNED A PROXY CARD SENT TO YOU BY LION OR ITS AFFILIATES, YOU CAN REVOKE IT BY SIGNING, DATING AND MAILING THE ENCLOSED WHITE PROXY CARD IN THE ENVELOPE PROVIDED.

Please review the accompanying proxy statement carefully and the enclosed instruction card accompanying the WHITE proxy card for specific voting instructions.

Thank you for your support.

Sincerely,

Alan B. Gilman
Chairman, Interim President and Chief Executive Officer

THE STEAK N SHAKE COMPANY

NOTICE OF ANNUAL MEETING OF SHAREHOLDERS
TO BE HELD MARCH 7, 2008

TO THE SHAREHOLDERS OF THE STEAK N SHAKE COMPANY

The annual meeting of shareholders of The Steak n Shake Company (the "Company") will be held at the Marriott Indianapolis Downtown, 350 West Maryland Street, First Floor, Florida/Illinois Room, Indianapolis, IN 46225 on Friday, March 7, 2008 at 1:30 p.m., Indianapolis time, for the following purposes:

1. To elect nine directors to serve until the next annual meeting of shareholders and until their respective successors are elected and qualified;

2. To ratify the selection by the Audit Committee of the Board of Directors of Deloitte & Touche, LLP as the independent registered public accounting firm for the fiscal year ending September 24, 2008;

3. To approve the 2008 Equity Incentive Plan; and

4. To transact such other business as may properly come before the meeting and any adjournment thereof.

The Board of Directors has fixed the close of business on January 21, 2008 as the record date for the determination of shareholders entitled to notice of and to vote at the meeting.

The company has received a notice from The Lion Fund L.P. and certain of its affiliates for the nomination of two individuals to the Board of Directors at the annual meeting. We do not believe this is in your best interest. THE BOARD URGES YOU TO NOT SIGN ANY PROXY CARDS SENT TO YOU BY LION OR ITS AFFILIATES. IF YOU HAVE PREVIOUSLY SIGNED A PROXY CARD SENT TO YOU BY LION OR ITS AFFILIATES, YOU CAN REVOKE IT BY SIGNING, DATING AND MAILING THE ENCLOSED WHITE PROXY CARD IN THE ENVELOPE PROVIDED.

By Order of the Board of Directors

David C. Milne, Secretary
February 11, 2008
Indianapolis, Indiana

PLEASE SIGN AND DATE THE ENCLOSED WHITE PROXY CARD AND RETURN
IT PROMPTLY IN THE ENCLOSED ENVELOPE OR CAST YOUR
VOTE VIA TELEPHONE OR INTERNET IN ACCORDANCE
WITH THE INSTRUCTIONS ON THE WHITE PROXY CARD

THE STEAK N SHAKE COMPANY
500 Century Building
36 South Pennsylvania Street
Indianapolis, Indiana 46204
(317) 633-4100

PROXY STATEMENT
For the Annual Meeting of Shareholders
To be held March 7, 2008

This proxy statement and the accompanying WHITE proxy card are being furnished to the shareholders of The Steak n Shake Company ("we," "us," "our" or the "company") in connection with the solicitation by our Board of Directors of proxies to be voted at the Annual Meeting of Shareholders to be held at the Marriott Indianapolis Downtown, 350 West Maryland Street, First Floor, Florida/Illinois Room, Indianapolis, IN 46225 on Friday, March 7, 2008 at 1:30 p.m., Indianapolis Time, and at any adjournment thereof. This proxy statement and the accompanying WHITE proxy card are being first mailed to shareholders on or about February 11, 2008.

VOTING RELATED INFORMATION

Voting Procedures

Each properly executed proxy returned prior to the meeting will be voted in accordance with the directions contained therein. You can vote your proxy by mailing the enclosed WHITE proxy card in the envelope provided or by voting via the telephone or internet (pursuant to the instructions contained on the WHITE proxy card).

The record date for the meeting is January 21, 2008. At the close of business on that date, we had 28,492,799 shares of common stock that were issued and outstanding and are entitled to vote at the meeting.

Actions To Be Taken At The Annual Meeting

If your WHITE proxy card is signed and returned without specifying choices, the shares represented will be voted as recommended by the Board of Directors of the company. The Board recommends a vote "FOR" the election of the nine director nominees named in this proxy statement, "FOR" the ratification of the appointment of Deloitte & Touche LLP as independent registered public accounting firm for the 2008 fiscal year, and "FOR" the approval of the 2008 Equity Incentive Plan.

Revoking Your Proxy

Shares Held in Shareholder's Name

If your shares are held in your name, whether you vote by mail, the internet or by telephone, you may later revoke your proxy by delivering a written statement to that effect to the Secretary of the company prior to the date of the annual meeting, by a later-dated electronic vote via the internet, by telephone, by submitted a properly signed proxy with a later date, or by voting in person at the annual meeting.

Shares Held in "Street Name" Through A Bank or Broker

If you hold your shares through a bank or broker, the methods available to you to revoke your proxy are determined by your bank or broker, so please see the instructions provided by your bank or broker.

## Quorum And Required Votes

The presence, in person or by proxy, of the holders of a majority of the outstanding shares of common stock is necessary to constitute a quorum at the meeting. In deciding all matters presented for approval, a holder of common stock is entitled to one vote, in person or by proxy, for each share registered in his/her/its name on the record date. Directors are elected by a plurality of the votes cast by the holders of the shares of common stock represented at the meeting. Broker non-votes and instructions to withhold authority to vote for one or more of the nominees will result in the nominee receiving fewer votes; however, it will not affect the outcome of the election. Approval of the proposal to ratify the selection of Deloitte & Touche LLP will occur if it receives more votes cast in its favor than are cast in opposition to it. Abstentions and broker non-votes with respect to this proposal will not be counted as votes for or against it. The approval of the 2008 Equity Incentive Plan will require that the number of votes cast on such proposal represent more than 50% of the votes entitled to be cast, and a majority of the votes cast must vote in favor of such proposal, in accordance with the listing standards of the New York Stock Exchange. Abstentions with respect to this proposal will be counted as votes cast and will have the same effect as a vote against this proposal. Broker non-votes will not be considered as votes cast on this proposal but could affect the requirement that the number of votes cast on such proposal represent more than 50% of the votes entitled to be cast.

## Interests Of Certain Persons In Matters To Be Acted Upon

All persons standing for election as director were nominated by the Nominating/Corporate Governance Committee of the Board of Directors. No nominee is being proposed for election pursuant to any agreement or understanding with us.

## Confidential Voting Policy

It is our policy that any proxy, ballot or other voting material that identifies the particular shareholder's vote and contains the shareholder's request for confidential treatment will be kept confidential, except in the event of a contested proxy solicitation or as may be required by law. We may be informed whether or not a particular shareholder has voted and will have access to any comment written on a proxy, ballot or other material and to the identity of the commenting shareholder. The inspectors of election at the annual meeting will be independent parties unaffiliated with the company.

OWNERSHIP OF COMMON STOCK

The following table shows, as of the most recent practicable date, the number and percentage of outstanding shares of our common stock beneficially owned by each person or entity known to be the beneficial owner of more than 5% of our common stock:

| Name & Address of Beneficial Owner | Amount and Nature of Beneficial Ownership | Percent of Class |
|---|---|---|
| MSD Capital, L.P.<br>MSD SBI, L.P.<br>645 Fifth Avenue, 21stFloor<br>New York, NY 10022-5910 | 2,782,300(1) | 9.8% |
| Neuberger Berman, Inc.<br>605 Third Avenue<br>New York, NY 10158 | 1,641,079(2) | 5.8% |
| Keeley Asset Management Corp.<br>401 South LaSalle St. Suite 1201<br>Chicago, IL 60605 | 2,095,043(3) | 6.9% |
| The Lion Fund, L.P.<br>9311 San Pedro Ave. Suite 1440<br>San Antonio, TX 78216 | 2,423,945(4) | 8.5% |
| HBK Master Fund, L.P.<br>HBK Investments L.P.<br>300 Crescent Ct. Suite 700<br>Dallas, TX 75201 | 2,703,726(5) | 9.5% |
| Barclay's Global Investors, N.A.<br>45 Fremont Street<br>San Francisco, CA 94105 | 1,448,689(6) | 5.1% |
| Dimensional Fund Advisors LP<br>1299 Ocean Avenue<br>Santa Monica, CA 90401 | 2,014,935(7) | 7.1% |

(1) This information was supplied on a Schedule 13G/A filed with the Securities and Exchange Commission on February 14, 2007. MSD Capital, L.P. and MSD SBI, L.P. share voting and investment power over the reported shares.

(2) This information was supplied on a Schedule 13G filed with the Securities and Exchange Commission on February 13, 2007. Neuberger Berman, Inc., Neuberger Berman Management, Inc. and Neuberger Berman, LLC share voting power over the shares.

(3) This information was supplied on a Schedule 13G/A filed with the Securities and Exchange Commission on February 1, 2007.

(4) This information was supplied on a Schedule 13D/A filed with the Securities and Exchange Commission on February 4, 2008. The Lion Fund, L.P., Biglari Capital Corp., Western Acquisitions, L.P., Western Investments, Inc., Sardar Biglari, Western Sizzlin Corp., and Philip Cooley share voting power over the shares.

(5) This information was supplied on a Schedule 13D/A filed with the Securities and Exchange Commission on July 3, 2007. HBK Master Fund L.P., HBK Fund L.P., HBK Investments L.P., HBK Services LLC, HBK Partners II L.P., HBK Management LLC, LSF5 Indy Investments, LLC, LSF5 Indy Holdings, LLC, LSF5 REOC VII, L.P., LSF5 GenPar VII, LLC, Lone Star Fund V (U.S.), Lone Star Partners V, L.P., Lone Star Management Co. V, Ltd., John P. Grayken, and Robert J. Stetson, share voting power over the shares.

(6) This information was obtained from a Schedule 13G filed with the Securities and Exchange Commission on February 6, 2008. Barclays Global Investors, NA, Barclays Global Fund Advisors, and Barclays Global Investors, LTD, share voting power over the shares.

(7) This information was obtained from a Schedule 13G filed with the Securities and Exchange Commission on February 6, 2008.

The following table shows the total number of shares of Common Stock beneficially owned as of the record date, January 21, 2008, and the percentage of percentage of outstanding shares so owned as of that date, for (i) each director and nominee for director, (ii) each executive officer named in the Summary Compensation Table, and (iii) all directors and executive officers, as a group:

| Name of Beneficial Owner | Amount and Nature of Beneficial Ownership(1) | Percent of Class |
|---|---|---|
| Geoffrey Ballotti | 1,000 | * |
| Jeffrey Blade | 80,625(2) | * |
| Peter M. Dunn | 79,251(3) | * |
| Duane E. Geiger | 51,547(4) | * |
| Alan B. Gilman | 528,010(5) | 1.9% |
| Wayne L. Kelley | 53,185(6) | * |
| Ruth J. Person | 17,750(7) | * |
| Gary T. Reinwald | 132,777(8) | * |
| J. Fred Risk | 95,431(9) | * |
| John W. Ryan | 25,991(10) | * |
| Steven Schiller | 38,725(11) | * |
| Steven M. Schmidt | 7,750(12) | * |
| Gary Walker | 28,392(13) | * |
| Edward Wilhelm | 5,500(14) | * |
| James Williamson, Jr. | 232,292(15) | * |
| All directors and executive officers as a group (18 persons) | 1,452,560(16) | 5.0% |

*Less than 1%.

(1) Includes shares that may be acquired pursuant to stock options exercisable within 60 days.

(2) Includes 37,325 shares that may be acquired pursuant to stock options exercisable with in 60 days.

(3) This is the last reported level of share ownership by Mr. Dunn.

(4) Includes 22,389 shares that may be acquired pursuant to stock options exercisable within 60 days.

(5) Includes 144,164 shares that may be acquired pursuant to stock options exercisable within 60 days.

(6) Includes 9,000 shares that may be acquired pursuant to stock options exercisable within 60 days.

(7) Includes 12,750 shares that may be acquired pursuant to stock options exercisable within 60 days.

(8) Includes 67,719 shares that may be acquired pursuant to stock options exercisable within 60 days.

(9) Includes 12,750 shares that may be acquired pursuant to stock options exercisable within 60 days. Also includes 723 shares owned of record and beneficially by Mr. Risk’s wife, with respect to which he disclaims beneficial ownership.

(10) Includes 12,750 shares that may be acquired pursuant to stock options exercisable within 60 days.

(11) Includes 15,425 shares that may be acquired pursuant to stock options exercisable within 60 days.

(12) Includes 6,750 shares that may be acquired pursuant to stock options exercisable within 60 days.

(13) Includes 300 shares owned by Mr. Walker's minor children.

(14) Includes 2,500 shares that may be acquired pursuant to stock options exercisable within 60 days.

(15) Includes 12,750 shares that may be acquired pursuant to stock options exercisable within 60 days. Also includes 19,011 shares owned of record and beneficially by Mr. Williamson’s wife, with respect to which he disclaims beneficial ownership.

(16) Includes 328,073 shares that may be acquired pursuant to stock options exercisable within 60 days held by all directors and executive officers as a group.

## CORPORATE GOVERNANCE

### Director Independence

The Board has determined that all of the nominees, other than Messrs. Gilman and Kelley, are "independent" within the meaning of the listing standards of The New York Stock Exchange because none of those nominees has, directly or indirectly, any material relationship with us. The Board has made these determinations after considering the following:

1) None of the independent nominees is our officer or employee or an officer or employee of our subsidiaries or affiliates, nor has been such an employee within the prior three years.

2) None of the independent nominees has received, nor has an immediate family member of such nominees received, during any twelve month period in the last three years more than $100,000 in direct compensation from us, other than director and committee fees and pension or other forms of deferred compensation for prior service.

3) None of the independent nominees or any member of their immediate family is or within the past five years has been affiliated with Deloitte & Touche LLP.

4) None of the independent nominees or any member of their immediate family have within the last three years been employed as an executive officer of another company on whose compensation committee one of our present executive officers served.

5) None of the independent nominees is a current employee or has an immediate family member who is a current executive officer of a company that in any of the last three fiscal years has done business with us in an amount in excess of $1 million or 2% of such other company's consolidated gross revenues.

6) None of the independent nominees serves as a director, trustee, executive officer or similar position of a charitable or non-profit organization to which we or our subsidiaries made charitable contributions or payments in fiscal 2007 in excess of $1 million or 2% of the organization's consolidated gross revenues.

### Committees and Meetings of the Board of Directors

The Board of Directors held 10 meetings during fiscal 2007. The Board has five standing committees—Executive Committee, Audit Committee, Compensation Committee, Nominating/Corporate Governance Committee and Personnel/Benefits Committee. It also appointed a Special Committee in July 2007 to evaluate opportunities by which we could maximize shareholder value. A description of the activities of those committees follows.

### Executive Committee

The Executive Committee may, between meetings of the Board of Directors, exercise all of the powers of the Board of Directors except as otherwise provided by law. During fiscal 2007, the Executive Committee met once. Mr. Williamson serves as Chairman; Messrs. Risk and Schmidt and Dr. Ryan serve as members of the Executive Committee.

Audit Committee

The Audit Committee, among other duties, serves in an oversight role intended to ensure the integrity and objectivity of our financial reporting process. It operates under a written charter which was approved by the Board, a copy of which is available at our web site (www.steaknshake.com) or by written request to the Corporate Secretary at the address on the first page of this proxy statement. The Committee meets with representatives of management and the independent auditors to review matters of a material nature related to auditing, financial reporting, internal accounting controls and audit results. The Audit Committee is also responsible for making determinations regarding the independence and selection of our independent registered public accounting firm. See "Report of the Audit Committee" below. In addition, as set forth in the Audit Committee charter, the Board has delegated to the Committee the responsibility to review, ratify and approve any related person transactions. During fiscal 2007, the Audit Committee met nine times. Mr. Wilhelm served as Chairman of the Committee and Messrs. Risk, Schmidt, Ballotti and Dr. Ryan served as members of the Committee. Each member of the Audit Committee is "independent" as that term is defined in Rule 10A-3 of the Exchange Act and the listing standards for the New York Stock Exchange. In addition, the Board of Directors has determined that Messrs. Wilhelm and Risk qualify as "audit committee financial experts" as that term is defined in Item 407(d)(5)(ii) of Regulation S-K.

Compensation Committee

The Compensation Committee is charged with establishing the compensation for our Chief Executive Officer and the other executive officers, as well as administering incentive and equity-based compensation plans. See "Report of the Compensation Committee" below. The Compensation Committee met six times during fiscal 2007. Mr. Ballotti is Chairman of the Compensation Committee and Drs. Person and Ryan as well as Messrs. Wilhelm and Schmidt are the current members of the committee. Each member of the Committee is "independent" as that term is defined in the listing standards of the New York Stock Exchange. The Committee operates under a written charter approved by the Board of Directors, a copy of which is available on our web site (www.steaknshake.com) or by written request to the Corporate Secretary at the address on the first page of this proxy statement.

For information on the role of the President and Chief Executive in setting the compensation of our other executive officers and the role of the third party compensation consultant retained by the Committee, see "Compensation Discussion and Analysis - Executive Compensation Philosophy."

During fiscal 2007, James Williamson, Jr. also served on the Compensation Committee. Mr. Williamson was an officer of the Company from 1985 through 1991. During fiscal 2007:

No member of the Compensation Committee served as a member of the compensation committee of another entity, one of whose executive officers served on our compensation committee;

None of our executive officers served as a director of another entity, one of whose executive officers served on our compensation committee; and

None of our executive officers served as a member of the compensation committee of another entity, one of whose executive officers served as our director.

Nominating/Corporate Governance Committee

The Nominating/Corporate Governance Committee is charged with making recommendations regarding the nomination of appropriate individuals for election to the Board of Directors, overseeing our Corporate Governance Guidelines, allocating Board resources to various committees and evaluating the performance of the Board, its Committees and its individual members. Dr. Ryan was the Chairman of the Committee and Messrs. Risk, Schmidt and Ballotti as well as Dr. Person served on the Committee during fiscal 2007. During fiscal 2007, the Committee met four times. The Committee operates under a written charter that was approved by the Board of Directors, a copy of which may be obtained on our web site (www.steaknshake.com) or by written request to the Corporate Secretary at the address on the first page of this proxy statement. Each member of the Committee is "independent" as that term is defined in the listing standards of the New York Stock Exchange.

Our Corporate Governance Guidelines are available on our web site at www.steaknshake.com. Shareholders may also obtain a copy free of charge by directing a request to the Corporate Secretary at the address on the first page of this proxy statement.

Personnel/Benefits Committee

The Personnel/Benefits Committee makes determinations and recommendations to the Board of Directors regarding personnel policies and employee benefit plans, administers our 401(k) Savings Plan and Nonqualified Deferred Compensation Plan and performs such other functions with respect to personnel and benefit matters as may be requested by the Board. The Personnel/Benefits Committee met four times during fiscal 2007. Mr. Kelley is Chairman of the Committee and Dr. Person and Mr. Ballotti are members, together with Mr. Blade, Executive Vice President and Chief Financial Officer, Mr. Reinwald, Executive Vice President and Mr. Thomas Murrill, Senior Vice President of Human Resources. Mr. Gilman serves as an ex officio member of the Committee.

Special Committee

The Board of Directors appointed the Special Committee to evaluate opportunities by which the company could maximize shareholder value. The committee is comprised of three of our independent directors, Messrs. Risk, Wilhelm and Williamson. The committee engaged Merrill Lynch & Co. to act as its financial advisor. We publicly announced the formation of the committee and the engagement of the financial advisor in August 2007.

The Special Committee met 18 times since its appointment, including several joint sessions with the full Board of Directors.

The committee analyzed the outcome of various alternative future scenarios, including executing the company's current strategic plan, modifying the strategic plan, increasing growth through more aggressive franchising, pursuing a leveraged recapitalization through a sale/leaseback of company-owned real estate and selling the company to a third party—either a strategic or private buyer.

In October 2007, the Special Committee instituted a process to determine if shareholder value could be enhanced through a sale of the company. Seventeen parties executed confidentiality agreements with the company and a number of these parties conducted various levels of due diligence investigations of the company. However, none of the offers received for the company thus far have been acceptable and do not reflect what the committee or Board believes is the full underlying value of the company. The committee believes that the process was adversely affected by unfavorable trends in the casual dining segment of the restaurant industry, our recent disappointing operating performance and volatility in the financing markets for private equity.

Therefore, the company is now focusing on its turnaround plan and the hiring of a permanent Chief Executive Officer. However, we will continue to evaluate other opportunities to enhance shareholder value, including a potential sale of the company.

Nominations for Director

The Nominating/Corporate Governance Committee identifies nominees for director from various sources, including, without limitation, its members, other directors, senior management, shareholders and third party consultants. Candidates are evaluated based on their credentials and the needs of the Board. Of particular importance are the candidate's experience, judgment, integrity, ability to make independent inquiries, understanding of our business environment and willingness and ability to devote adequate time to Board activities. The Nominating/Corporate Governance Committee will also identify nominees who meet specific objectives in terms of the composition of the Board, such as financial expertise, and may take into account such factors as geographic, occupational, gender, race and age diversity.

In fiscal 2007, the Committee used a third party search firm to identify qualified individuals to serve on our Board. Mr. Ballotti was identified by the search firm. The search firm supplied the Board with Mr. Ballotti’s resume and other background information regarding his business and other relevant experience. Messrs. Gilman and Williamson interviewed Mr. Ballotti and reviewed the information provided by the search firm, and concluded that he would bring several attributes that would strengthen the Board, including executive experience at a large public company and in the hospitality industry. The Nominating/Governance Committee recommended his candidacy and the Board of Directors appointed Mr. Ballotti on April 23, 2007.

As a result of the disappointing performance of the company, the Board of Directors concluded that it would be in the company’s best interests to invite Mr. Risk to rejoin the Board. Mr. Risk has years of executive and financial experience and had served as a director from 1971 to 2007 when he decided not to seek re-election. The Nominating/Governance Committee recommended his candidacy and the Board of Directors appointed Mr. Risk on July 11, 2007.

Shareholders who wish to recommend to the Nominating/Corporate Governance Committee a candidate for election to the Board of Directors at the annual meeting should send their suggestions to the Corporate Secretary at the address shown on the first page of this proxy statement. The Corporate Secretary will promptly forward all such letters to the members of the committee. In order for director nominations to be properly brought before an annual meeting by a shareholder, timely notice must be given by the shareholder to the Corporate Secretary. To be timely, the notice must be delivered at the above address not less than 120 days prior to the date we mailed proxy materials for the preceding year's annual meeting.

Nominations for directors must include the following information: (i) a statement of the nominee’s qualifications; (ii) all information required to be disclosed in the solicitation of proxies for elections of directors pursuant to Regulation 14A of the Securities Exchange Act of 1934; (iii) the name and address of the shareholder making the nomination; (iv) a representation that the shareholder is a holder of our common stock and intends to appear at the meeting to make the nomination; (v) a description of all arrangements or understandings among the shareholder and the nominee; and (vi) the written consent of the nominee to serve as a director if so elected. Other than the submission requirements set forth above, there are no differences in the manner in which the Nominating/Corporate Governance Committee evaluates a nominee for director recommended by a shareholder.

Miscellaneous

During fiscal 2007, no director attended less than 75% in the aggregate of: (i) the total meetings of the Board of Directors, and (ii) the total number of meetings held by all Board committees on which he or she served. Directors are expected to attend the annual meeting of shareholders, and all attended the 2007 annual meeting.

Pursuant to the listing requirements of the New York Stock Exchange, the non-management directors met in four sessions without management during fiscal 2007. Mr. Williamson, the Lead Outside Director, presides over meetings of the Outside Directors. Interested parties may communicate directly with the Mr. Williamson, the presiding director, or with the non-management directors as a group via letter directed to Mr. Williamson at the address shown on the first page of this proxy statement.

Code of Business Conduct and Ethics

We have a code of ethics which applies to our principal executive officer, principal financial officer and principal accounting officer, as well as all officers, directors and employees. A copy of the Code of Business Conduct and Ethics can be obtained without charge on our web site (www.steaknshake.com) or by written request to the Corporate Secretary at the address on the first page of this proxy statement. If we make any substantive amendment of, or grant any waiver of a provision of the code, we will disclose the nature of such amendment or waiver via our web site or in a Current Report on Form 8-K.

Shareholder Communications with the Board

The Board has implemented a process by which our shareholders and other interested parties may send communications to the Board's attention. Any shareholder or interested party desiring to communicate with the Board or any members, should communicate in a writing addressed to the Board, or specified directors, to the Corporate Secretary at the address shown on the first page of this proxy statement. The Secretary has been instructed by the Board to promptly forward all such communications to the specified addressees thereof.

Stock Ownership Guidelines

The Board of Directors has established stock ownership guidelines under which non-employee directors must achieve and maintain ownership of 1,000 shares of our common stock within three years of their appointment or election to the Board. All current directors and nominees for director positions have satisfied this requirement.

Section 16(A) Beneficial Ownership Reporting Compliance

Section 16(a) of the Securities Exchange Act of 1934 sets forth certain filing requirements relating to securities ownership by directors, executive officers and 10 percent shareholders of a publicly held company. To the Company’s knowledge, based on the representations of our directors and executive officers and copies of their respective reports filed with the Securities and Exchange Commission, all filing requirements were satisfied by each such person during fiscal 2007 except a final Form 4 for Gary Walker which was filed late as a result of an administrative oversight.

## CERTAIN RELATIONSHIPS AND RELATED PERSON TRANSACTIONS

Reinwald Franchise

As previously reported, on September 21, 2005, our wholly owned subsidiary, Steak n Shake Operations, Inc. ("SNS Operations"), entered into a Multiple Unit Franchise Agreement, a Contract for the Sale and Use of Real Estate and a Personal Property Sales Agreement with Reinwald Enterprises Emory, LLC, and Reinwald Enterprises Wild Geese, LLC. Gary T. Reinwald, who is one of our executive offices, is a member of both limited liability companies andis the majority owner of the franchisee.

Kelley Restaurants, Inc. Acquisition

As previously reported, we acquired Kelley Restaurants, Inc. ("KRI") on December 29, 2004 for $16,082,000, after adjustment for working capital and debt repayment. Ten percent of the adjusted purchase price was deposited in escrow for up to 24 months from the closing. In fiscal 2007, the remainder of the escrow, in the amount of $199,634.66, was distributed to the shareholders of KRI. Wayne Kelley, one of our directors, served as President and a director, and Mr. Williamson and Mr. Gilman served as directors, of KRI and all were shareholders of KRI.

Kelley Employment Agreement

Pursuant to an employment agreement entered into in connection with the KRI transaction, Mr. Kelley became a full-time employee of the Company for 28 months, ending on April 20, 2007. Under the agreement, Mr. Kelley received an annual salary of $205,000 per year and received a bonus of $57,000 because he met the requirement for being employed on April 20, 2007. As disclosed in the Form 8-K filed on March 30, 2006, we extended Mr. Kelley's employment through and including July 13, 2009. During the extended term, Mr. Kelley will earn an annual salary of $75,000, receive other employee benefits provided to other employees and the use of a Chrysler Pacifica mini van or similarly priced vehicle.

Policy Regarding Related Person Transactions

The policy of the Board is for it, or one of its committees, to review each related person transaction (as defined below) and determine whether it will approve or ratify that transaction. Any Board member who has any interest (actual or perceived) will not be involved in the consideration.

For purposes of the policy, a "related person transaction" is any transaction, arrangement or relationship in which we are a participant, the related person (defined below) had, has or will have a direct or indirect material interest and the aggregate amount involved is expected to exceed $120,000 in any calendar year. "Related person" includes (a) any person who is or was (at any time during the last fiscal year) an officer, director or nominee for election as a director; (b) any person or group who is a beneficial owner of more than 5% of our voting securities; (c) any immediate family member of a person described in provisions (a) or (b) of this sentence; or (d) any entity in which any of the foregoing persons is employed, is a partner or has a greater than 5% beneficial ownership interest.

In determining whether a related person transaction will be approved or ratified, the Board, or committee, may consider factors such as (a) the extent of the related person's interest in the transaction; (b) the availability of other sources of comparable products or services; (c) whether the terms are competitive with terms generally available in similar transactions with persons that are not related persons; (d) the benefit to us; and (e) the aggregate value of the transaction.

## 1. ELECTION OF DIRECTORS

Nine directors will be elected to serve until the next annual meeting of shareholders and until their respective successors shall have been duly elected and qualified. All of the nominees are currently directors. Seven of these were elected at the 2007 annual meeting of shareholders, while Messrs. Ballotti and Risk were appointed to the Board on April 23, 2007 and July 11, 2007, respectively.

If any of the nominees named below is not available to serve as a director at the time of the annual meeting (an event which the Board of Directors does not now anticipate), the proxies will be voted for the election as directors of such other person or persons as the Board of Directors may designate, unless the Board of Directors, in its discretion, acts to reduce the number of directors.

THE COMPANY HAS RECEIVED A NOTICE FROM THE LION FUND, L.P. AND CERTAIN OF ITS AFFILIATES THAT LION INTENDS TO SOLICIT PROXIES FOR AND NOMINATE AT THE ANNUAL MEETING ITS OWN SLATE OF TWO NOMINEES FOR ELECTION AS DIRECTORS. YOUR BOARD DOES NOT BELIEVE THIS IS IN YOUR BEST INTEREST. THE BOARD URGES YOU NOT TO VOTE FOR ANY INDIVIDUALS WHO MAY BE NOMINATED BY LION OR ITS AFFILIATES AND TO EXECUTE AND RETURN THE ENCLOSED WHITE PROXY CARD VOTING FOR THE NOMINEES SET FORTH BELOW.

The nominees are listed below, along with the age, tenure as director and business background for at least the last five years for each. There are no family relationships, of first cousins or closer, among our directors and executive officers, by blood, marriage or adoption.

| Name | Age | Director Since | Business Experience |
|---|---|---|---|
| Alan B. Gilman | 77 | 1992 | Chairman of the Board of Directors and Interim President and Chief Executive Officer of the Company from August 2007 to the present; Non-Executive Chairman of the Board from February 2007 through August 2007; Executive Chairman from February 2004 through February 2007; President and Chief Executive Officer from 1992 to September 30, 2002; Chief Executive Officer and Co-Chairman of the Company from September 30, 2002 through August 11, 2003; Chief Executive Officer and Chairman of the Company, from August 11, 2003 through February 11, 2004. |
| Geoffrey Ballotti | 45 | 2007 | Mr. Ballotti is a graduate of Colby College and Harvard Business School. He has served in various senior executive capacities with Starwood Hotels & Resorts Worldwide, Inc. since joining in 1989, including, the Presidency of its North American division from 2003 to the present. From 2002 to 2003, he served as Executive Vice President, Operations North America Division. |
| Wayne L. Kelley | 63 | 2003 | Director of Steak n Shake Operations, Inc., a subsidiary of the Company, from 1999 through 2006; President of Kelley Restaurants, Inc., the Company's largest franchisee, from 1988 through 2005; currently employed by the Company in a senior real estate advisory role. |
| Ruth J. Person | 62 | 2002 | Chancellor, Indiana University Kokomo and Professor of Management; President, American Association of University Administrators 2003-2004; President, Board of Directors, Workforce Development Strategies, Inc.; Member, Key Bank Advisory Board – Central Indiana. |
| J. Fred Risk | 79 | 1971 | Private investor; Chairman of the Board of Directors of Security Group, Inc. |
| John W. Ryan | 78 | 1996 | Private investor; Chancellor of the State University of New York Systems from 1996 through 1999; President of Indiana University from 1971 through 1987. |
| Steven M. Schmidt | 53 | 2005 | Currently President, Business Solutions Division - Office Depot; formerly, President & CEO, ACNielsen; EVP, VNU Marketing Information New York, NY; formerly President of Pillsbury Foods, Canada; also held senior executive posts with Pepsi-Cola and Procter & Gamble. |
| Edward W. Wilhelm | 49 | 2006 | Currently Chief Financial Officer of Borders Group, Inc.; held a number of senior financial positions at Borders Group, Inc. since 1994. |
| James Williamson, Jr. | 76 | 1985 | Private investor. |

THE BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE “FOR” THE ELECTION OF EACH OF THE NOMINEES.

## REPORT OF THE COMPENSATION COMMITTEE

The compensation of the Company's executive officers is determined by the Compensation Committee of the Board of Directors, which is comprised of the persons identified below. We have reviewed and discussed with management the Compensation Discussion and Analysis that follows this report. Based on our review and discussions with management, we recommended to the Board of Directors that the Compensation Discussion and Analysis be included in the Company's Annual Report on Form 10-K for the fiscal year ended September 26, 2007 and this proxy statement.

The foregoing report is respectfully submitted by the members of the Compensation Committee:

Geoff Ballotti, Chairman, Drs. Ruth J. Person and John W. Ryan and Messrs. Steven M. Schmidt and Edward W. Wilhelm.

## COMPENSATION DISCUSSION AND ANALYSIS

### Introduction

This Compensation Discussion and Analysis is designed to provide shareholders with a better understanding of our compensation philosophy, core principles, and decision making process. It explains the compensation-related actions taken with respect to the executive officers who are identified in the Summary Compensation Table (the "Named Executive Officers"). Detail on the compensation we paid to the Named Executive Officers for fiscal 2007 are found in the tables and narrative which follows them.

### Executive Compensation Philosophy

Our long-term success depends on our ability to operate effectively and efficiently, offer appealing products for our customers and invest wisely for present and future success. To achieve these goals, we must attract, motivate, and retain highly talented individuals at all levels of the organization. The Compensation Committee strives to provide compensation which is appropriate to attract and retain such individuals.

All decisions relating to the compensation of the Named Executive Officers are made by the Compensation Committee in executive session, without management present. In assessing the compensation of the President and Chief Executive Officer, the Compensation Committee makes a qualitative assessment of our performance, his contribution to that performance, his expected performance in the future, and other factors (including tenure and experience, retention concerns, historical compensation and the relationship of his compensation to other executives in the Company). In evaluating the performance of other executive officers, the Compensation Committee considers the evaluations provided by the President and Chief Executive Officer.

As a general matter, over 50% of targeted annual compensation to executive officers takes the form of performance-dependent, incentive cash and equity programs. We believe that putting a significant portion of compensation at risk provides an incentive to better performance and more closely align the executives' perspective with that of our shareholders.

As part of making any compensation decision, the Compensation Committee reviews market compensation levels for executive officers at other restaurant companies (for positions that are unique to our industry) or similarly-sized companies (for other positions) to determine whether the compensation components for our executive officers remain in the targeted ranges described in the following paragraph. With the assistance of our Human Resources department and a third party compensation consultant retained by the Compensation Committee, management collects and presents compensation data for our executive officers, including the Named Executive Officers. Information regarding the restaurant industry is obtained from the Chain Restaurant Compensation Association and the committee's consultant. Information regarding the compensation for executives at similarly-sized companies is obtained from the committee's consultant and from published compensation surveys. The compensation surveys provide data on pay practices for executive positions at companies with similar revenue size, although they do not provide names of the reported companies. The compensation assessment that is presented to the Compensation Committee includes an evaluation of base salary, target annual incentive opportunities, long-term incentive grant values, and benefits for each executive officers relative to similar positions in the market.

The Compensation Committee sets total targeted compensation for executives who hold positions unique to the restaurant industry (such as EVP of Development) between the 50th and 75th percentiles of a set of restaurant companies of similar size. For other executive positions where both restaurant and general industry pay levels are relevant for staffing and retention (such as Chief Financial Officer), the Compensation Committee sets targeted total compensation the 50th and 75th percentiles of comparable restaurant companies and the 50th percentile of non-restaurant companies of a similar revenue size. The committee may vary from these percentiles based on such factors as historic compensation, individual skills, experience, contribution and performance, internal equity, retention concerns and other factors relevant to the individual executive. In addition, actual compensation (e.g., amounts earned and paid each year) may be higher or lower than targeted total compensation based on our performance or the assessment of the executive's performance.

Components of Total Compensation

Base Salary

We believe base salaries should be sufficient to attract and retain the executive talent needed to run our business. The Compensation Committee sets base salaries at market median levels for positions that are unique to the restaurant industry, and between the 50th and 75th percentile in the restaurant industry for other executive positions.

In setting base salaries for fiscal 2007, the Compensation Committee considered the following factors:

- Internal analysis. This is the relative pay difference for different job levels. The Compensation Committee believes that the President and Chief Executive Officer position has the greatest opportunity to impact the Company, and so has typically set the base salary for this position at approximately two times that of the next highest executive. Similarly, the Compensation Committee has concluded that Mr. Blade, the Chief Financial Officer, is vital to our success, as he supervises not only the Finance and Accounting departments, but the Franchise and Supply Chain departments as well. Accordingly the Compensation Committee has typically set Mr. Blade's salary at approximately 20% above the next most highly compensated executive.

- Individual performance. Increases to base salaries can result from individual performance assessments as well as an evaluation of the market and the mix among various components of compensation. In setting Mr. Dunn's base salary for fiscal 2007, the committee considered that, although we had decreased employee turnover and drive-thru wait times and increased customer satisfaction as Mr. Dunn planned, improvement in these areas did not translate into improved sales or earnings. Accordingly, the Compensation Committee made no change to Mr. Dunn's base salary from fiscal 2006. This meant that his base salary was below the 50th percentile for Chief Executive Officers of similarly sized companies. When Mr. Dunn resigned in August 2007 and Mr. Gilman was appointed the Interim President and Chief Executive Officer,the Compensation Committee set Mr. Gilman's base salary at the same level as Mr. Dunn's.

  The Compensation Committee also reviewed the performance of the other Named Executive Officers, ultimately concluding that, while their individual performances had been satisfactory, our overall disappointing performance in fiscal 2006 did not warrant an increase in base salaries. Instead, the Compensation Committee chose to focus more attention on increasing the incentive-related components of compensation. A discussion of the mix between the two components is in the "Annual Incentive Bonus" section below.

- Market data. As noted above, while the Compensation Committee uses industry and general market data to test for the reasonableness and competitiveness of base salaries, committee members exercise subjective judgment within the ranges in this data in view of our compensation objectives and individual performance and circumstances.

Annual Incentive Bonus

For fiscal 2007 the Compensation Committee intentionally allocated a greater portion of targeted total compensation to the performance-dependent elements. One way in which it did this was to set what it believed to be aggressive, but reachable, targets for fiscal 2007 under our Incentive Bonus Plan.

Over 100 employees, including the Named Executive Officers, participated in the Incentive Bonus Plan in fiscal 2007. The Compensation Committee established a target incentive opportunity for each participant, expressed as a percent of base salary. Mr. Dunn's target bonus opportunity was set at 70% of his base salary, which weighted his pay mix more heavily toward performance-based compensation. The other executive officers had target bonus opportunities set at 30% - 40% of their base salaries. For the Named Executive Officers, the target annual incentives for fiscal 2007 were as follows:

| Named Executive Officer | Target Bonus Incentive as a % of Base Salary |
|---|---|
| Mr. Gilman | 70%a |
| Mr. Dunn | 70% |
| Mr. Blade | 40% |
| Mr. Schiller | 40% |
| Mr. Reinwald | 40% |
| Mr. Geiger | 30% |
| Mr. Walker | 40% |

a Mr. Gilman was not eligible for the Bonus Plan until August 2007, when he became Interim President and Chief Executive Officer. Had we met the thresholds for paying a bonus in fiscal 2007 he would have received a payment based on the 70% opportunity for the pro rata portion of the fiscal year in which he served in that role.

To arrive at a payout number under the Incentive Bonus Plan, the target bonus opportunity for each participant is multiplied by a formula based on our performance as determined by targets for objective performance and measures and individual performance goals. In fiscal 2007 the corporate performance measures were growth in earnings before interest and taxes ("EBIT") and same store sales over the prior year. Individual performance was based on the successful completion of defined projects during the fiscal year. The individual performance modifier may result in further modification of the payout, since any upward adjustment for one participant must be offset by downward adjustments for others. The formula used to compute bonus payouts is set forth below:

| | | | | |
|---|---|---|---|---|
| Target Bonus Amount | X | Corporate Performance Modifier (0% - 250%) | X | Individual Performance Modifier (75% -125%) |

After the end of the fiscal year, the Compensation Committee evaluates the Company's performance against the specific targets set at the beginning of the year and modifies the bonus payout to 0% to 250% of the target. For fiscal 2007, the targets for growth in EBIT and same store sales were as follows:

| Factors | Threshold (0%) | Target (100%) | Maximum (250%) |
|---|---|---|---|
| Same Store Sales | -1.4% | .6% | 2.6% |
| EBIT | $52.4M | $55.2M | $61M |

In fiscal 2007, we did not achieve the targets at the threshold level for either the Same Store Sales or EBIT performance measures. Consequently, we made no payments under the Incentive Bonus Plan to any participant in fiscal 2007.

Long-Term Incentives

Equity-based incentives are a significant element of total executive officer compensation, as we believe these forms of compensation align the interests of executives with those of our shareholders for periods greater than the single year focus of the Incentive Bonus Plan. They also encourage retention of employees. These equity-based incentives consist of stock options and restricted stock.

In making equity-based awards, the Compensation Committee also considers the executive's level of responsibility, prior experience, internal equity, retention concerns, individual performance, and market data for the particular position. The committee uses the value of these incentives as determined by accounting principles to provide targeted total compensation at the levels discussed above. If our shareholder returns exceed industry averages, our executives' compensation will likewise exceed industry averages. Likewise, if the shareholders do not realize competitive returns on their investments, our executives' compensation will fall below the industry average.

Stock Options

Stock options reward the recipient for the increase in our stock price during the holding period. Options represent the high-risk and potential high-return component of our total long-term incentive program, as the potential value of each option can fall to zero if the price of our stock is lower than the exercise price when the options expire.

The size of stock option grants for executive officers is based primarily on the target dollar value of the award, translated into a number of option shares based on the estimated economic value of the award, as determined using the Black-Scholes option pricing formula. As a result, the number of shares underlying stock option awards will typically vary from year to year, as it is dependent on the price of our stock. Subject to limits imposed by Section 422 of the Internal Revenue Code, options granted to all employees are incentive stock options.

In February 2007, the Compensation Committee approved annual grants of stock options to each of the Named Executive Officers. These options had an exercise price equal to the fair market value of our stock on the date of grant. They were granted under the 2006 Employee Stock Option Plan, which was approved by shareholders in February 2006. These options vest over four years, at a rate of 25% per year, beginning on the first anniversary of the grant. They expire ten years from the date of grant.

Stock options granted prior to February 2006 vest over a four year period, at a rate of 20% per year beginning on the date of grant. These options expire five years from the date of grant and contain a reload option feature. Reload options represent an option to purchase the same number of shares of our stock that were used by the grantee to pay the exercise price of any original option. We do not grant additional reload options upon the exercise of a reload option.

In the event of the death of an option recipient, then his/her estate may exercise the option in full at any time prior to its expiration. In the event of an option recipient's retirement, he/she may exercise any vested options within three months from the date of retirement. Should an option recipient's employment end as a result of a disability, then he/she would be able to exercise the options as if the recipient had remained with the Company through: (i) cessation of payments under a disability pay plan of the Company, (ii) the recipient's death, or (iii) the recipient's 65th birthday.

We do not backdate options or grant options or other equity awards retroactively. In addition, we do not purposely schedule option awards or other equity grants prior to the disclosure of favorable information or after the announcement of unfavorable information. In general, equity-based incentive awards are made during the February Board meeting, with mid-year grants limited to newly hired or promoted employees.

Restricted Stock

Restricted stock awards provide the recipient with shares of our stock, which the recipient may vote and for which he may receive dividends during the vesting period. The recipient may not transfer or assign the restricted shares for a period of three years after the date of grant, however, and if the recipient ceases to be our employee for any reason other than death, disability or retirement during that period the shares will be forfeited. If the recipient ceases being our employee during the vesting period as a result of retirement, death or disability then the recipient (or his/her estate) will receive a pro rata amount of shares reflective of the percent of the vesting period during which the recipient was employed.

Each award of restricted stock is issued in conjunction with a book unit. A book unit has a vesting schedule concurrent with the associated share of restricted stock. It provides for a cash payment at the end of the three-year vesting period equal to: (i) the aggregate of our earnings per share over the vesting period and (ii) any dividends paid over the vesting period. The cash provided by the book units is typically used by the recipient of restricted stock to pay the tax obligation that he/she incurs upon its vesting.

The plan under which the Compensation Committee made restricted stock awards expired in 2007. Shareholders are being asked to approve a new plan at the annual meeting.

Perquisites and Benefits

Perquisites provided to executive officers include: (i) reimbursement for medical expenses of up to $3,500 annually, (ii) amounts we pay to group life insurance premiums for coverage in excess of $50,000, (iii) matching contributions we make under the 401(k) Plan and Deferred Compensation Plan, which equal 50% of up to 6% of total cash compensation deferred into these plans, (iv) personal use of a company car, (v) 75% of the cost of preparing tax returns, and (vi) amounts incurred for travel for service on charitable boards. See footnote (c) to the Summary Compensation Table below for the perquisites provided to each Named Executive Officer in fiscal 2007.

Our executive officers receive the same benefits provided to all employees. They include: participation in the 401(k) and deferred compensation plan, life insurance equal to their annual salary, group medical & dental plans, short- and long-term disability insurance, and a lunch discount of 50% at Steak n Shake restaurants on work days.

Employment Agreements, Severance, and Change-in-Control Arrangements

Change in Control Agreements

In fiscal 2007, the Compensation Committee approved agreements with certain executive officers, including the Named Executive Officers, that provide for benefits in the event we experience a change in control (the “CIC Agreements”). The committee obtained benchmarking information from its compensation consultant, considered which individuals were vital to retain during any period of uncertainty, and evaluated the potential costs and benefits of the CIC Agreements. All of the Named Executive Officers except Mr. Gilman received a CIC Agreement in fiscal 2007. Mr. Reinwald received a CIC agreement that does not provide for the “stay payment” described below.

The primary terms of the CIC Agreements are provided below:

- Stay Payment. On the date of a Change in Control the CIC Agreements provide that Messrs. Blade, Schiller and Geiger will receive an immediate payment equal to 30% of their base salary.

- Termination Following Change in Control. In the event that the employment of the recipient of a CIC Agreement is terminated within one year of a change in control without “cause” by us or “good reason” by the employee, they will receive: (a) a severance payment equal to one year of their base salary, (b) coverage under the group medical plan for one year, (c) use of their Company-provided car for up to 60 days, (d) payment of a pro rata amount of the bonus to which they would have been entitled had they been employed through the applicable bonus computation period, and (e) reimbursement of up to $15,000 for outplacement services.

- Executive’s Obligations. Prior to obtaining any benefits under a CIC Agreement, the recipient must waive any claims against us. We may recover any benefits paid under the CIC Agreements if the recipient breaches any of his obligations under the CIC Agreement.

Other Severance Agreements

At the inception of their employment, we agreed to pay Mr. Blade and Mr. Schiller a specified percentage of their base salary in the event we terminate their employment for any reason that would not disqualify them from obtaining unemployment compensation benefits under Indiana law. In the event of such a termination, both Mr. Blade and Mr. Schiller would receive 10 months of base salary ($254,904 for Mr. Blade and $212,420 for Mr. Schiller at their current salaries) and reimbursement for up to ten (10) months of outplacement services. These obligations would be superseded by the CIC Agreements in the event of a termination within one year of a change in control that would trigger the CIC severance benefits. At the inception of his employment we agreed to pay Mr. Gilman nine months of his salary in the event his employment is terminated for any reason except for retirement or commission of a crime. He has indicated that the salary that should be applicable to this separation agreement is that which was last in effect while he was Chief Executive Officer, $500,000, as opposed to his current, temporary salary of $600,000.

Effect of a Change in Control, Death, Disability or Retirement on Equity Grants

A description of the impact of death, disability or retirement on vesting or exercise of options or restricted stock is under the "Long-Term Incentives" section.

All restricted stock plans and the 2006 Steak n Shake Employee Stock Option Plan contain provisions that accelerate the vesting of the awards upon a change in control. Options granted under prior stock option plans may be accelerated upon a change in control at the discretion of the Board of Directors.

The number of unvested shares that would vest on a change in control, and the value of those shares as of the end of the fiscal year, is set forth in the table below entitled "Outstanding Stock and Option Awards" under the column entitled "Shares or Units of Stock that Have Not Vested."

Deductibility Cap on Executive Compensation

Section 162(m) of the Internal Revenue Code prohibits publicly-held companies from taking a tax deduction for certain compensation paid in excess of $1 million to any of the five most highly compensated employees. Performance-based compensation remains deductible. To qualify as performance-based compensation, the program under which it is provided must be approved by shareholders and meet other requirements. Our policy is, where feasible, to attempt to qualify our compensation plans for full deductibility. Pursuant to that policy, we have taken steps to qualify compensation under the 2006 Incentive Bonus Plan and all stock option plans as "performance-based compensation."

We may make payments that are not fully deductible if, in the judgment of the Compensation Committee, such payments are otherwise necessary to achieve compensation objectives. In fiscal 2007, we did not pay compensation that was not deductible under Section 162(m).

Summary Compensation Information

The following table shows the compensation paid to the two individuals who served as Chief Executive Officer during fiscal 2007, the Chief Financial Officer, the other three most highly compensated executive officers and a former executive officer who would have been among the three most highly compensated employees had he been employed at the end of fiscal 2007 (the "Named Executive Officers") in fiscal 2007:

SUMMARY COMPENSATION TABLE

| Name and Principal Position | Fiscal Year | Salary | Stock Awardsa | Option Awardsb | All Other Compensationc | Total |
|---|---|---|---|---|---|---|
| Alan Gilman, Chairman, Interim President and Chief Executive Officer | 2007 | $ 331,731d | $ 12,903 | $ 308,078 | $ 26,547 | $ 679,259 |
| Peter Dunn, Former President and Chief Executive Officer | 2007 | $ 600,000 | $ 376,863e | $ 144,968e | $ 675,998f | $ 1,797,829 |
| Jeff Blade, EVP, Chief Financial Officer, Chief Administrative Officer | 2007 | $ 305,885 | $ 163,536 | $ 85,341 | $ 18,250 | $ 573,012 |
| Steven Schiller, SVP, Chief Marketing Officer | 2007 | $ 254,903 | $ 122,320 | $ 45,271 | $ 17,780 | $ 440,274 |
| Gary Reinwald, EVP, Development | 2007 | $ 191,490 | $ 92,099 | $ 200,328 | $ 12,034 | $ 495,951 |
| Duane Geiger, Vice President, Controller | 2007 | $ 185,596 | | | | |