

LUBYS INC  
Form DEF 14A  
December 03, 2008

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UNITED STATES  
SECURITIES & 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 Under Rule 14a -12

Luby's Inc.

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(Name of Registrant as Specified in Its Charter)

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

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(1) Amount Previously Paid:

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

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(3) Filing Party:

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(4) Date Filed:

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Luby's, Inc.  
13111 Northwest Freeway  
Suite 600  
Houston, Texas 77040  
713-329-6800  
www.lubys.com

December 3, 2008

Dear Fellow Shareholder:

It is my pleasure to invite you to attend the Annual Meeting of Shareholders of Luby's, Inc. to be held on Friday, January 23, 2009, at 10:00 a.m., Houston time, at the Crowne Plaza Houston Brookhollow, 12801 Northwest Freeway, Houston, Texas 77040. All record holders of Luby's outstanding common shares at the close of business on December 1, 2008 are eligible to vote on matters brought before this meeting.

Matters on which action will be taken at the meeting are explained in detail in the attached Notice and Proxy Statement. Please review the following Proxy Statement carefully. Your vote is important, so be sure to vote your shares as soon as possible. Please review the enclosed Proxy for specific voting instructions.

Thank you for your support.

Sincerely,

/s/ CHRISTOPHER J. PAPPAS  
Christopher J. Pappas  
President and Chief Executive  
Officer

LUBY'S, INC.  
13111 Northwest Freeway, Suite 600  
Houston, Texas 77040

NOTICE OF ANNUAL MEETING OF SHAREHOLDERS TO BE HELD  
JANUARY 23, 2009

NOTICE IS HEREBY GIVEN that the 2009 Annual Meeting of Shareholders of Luby's, Inc., a Delaware corporation, will be held at the Crowne Plaza Houston Brookhollow, 12801 Northwest Freeway, Houston, Texas 77040, on Friday, January 23, 2009, at 10:00 a.m., Houston time, for the following purposes:

- (1) To elect three directors to serve until the 2012 Annual Meeting of Shareholders;
- (2) To ratify the appointment of Grant Thornton LLP as independent registered public accounting firm for the 2009 fiscal year;
- (3) To amend the Certificate of Incorporation to eliminate the classified structure of the Board of Directors; and
- (4) To act upon such other matters as may properly come before the meeting or any adjournment or postponement thereof.

The Board of Directors has determined that shareholders of record at the close of business on December 1, 2008, will be entitled to vote at the meeting.

A complete list of shareholders entitled to vote at the meeting will be on file at Luby's corporate office at 13111 Northwest Freeway, Suite 600, Houston, Texas, for a period of ten days prior to the meeting. During such time, the list will be open to the examination of any shareholder during ordinary business hours for any purpose germane to the meeting.

Shareholders who do not expect to attend the meeting in person are urged to review the enclosed proxy for specific voting instructions and to choose the method they prefer for casting their votes.

By Order of the Board of Directors,

/s/ Peter Tropoli  
Senior Vice President, Administration, General Counsel and Secretary

Dated: December 3, 2008

LUBY'S, INC.  
13111 Northwest Freeway, Suite 600  
Houston, Texas 77040

PROXY STATEMENT

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This Proxy Statement and the accompanying proxy card are being provided to shareholders in connection with the solicitation of proxies by the Board of Directors of Luby's, Inc. (the "Company") for use at the Annual Meeting of Shareholders of the Company to be held on Friday, January 23, 2009, or at any adjournment or postponement thereof (the "Annual Meeting"). This Proxy Statement and the accompanying proxy card are first being mailed to shareholders on or about December 15, 2008.

VOTING PROCEDURES

Your Vote is Very Important

Whether or not you plan to attend the meeting, please take the time to vote your shares as soon as possible.

Shares Outstanding, Voting Rights, and Quorum

Only holders of record of common stock of the Company at the close of business on December 1, 2008, will be entitled to vote at the meeting or at adjournments or postponements thereof. There were 27,946,443 shares of common stock outstanding as of December 1, 2008. Each share of common stock outstanding is entitled to one vote. The presence in person or by proxy of the holders of a majority of the shares of common stock outstanding on the record date will constitute a quorum at the meeting.

Methods of Voting

**Shares Held in Shareholder's Name.** If your shares are held in your name, you may vote by mail, via the Internet, or by telephone. You may also vote in person by attending the meeting.

**Shares Held in "Street Name" Through a Bank or Broker.** If your shares are held through a bank or broker, you can vote via the Internet or by telephone if your bank or broker offers these options. Please see the voting instructions provided by your bank or broker for use in instructing your bank or broker how to vote. Your bank or broker cannot vote your shares without instructions from you. You will not be able to vote in person at the meeting unless you obtain a signed proxy from the record holder giving you the right to vote the shares.

If your proxy card is signed and returned without specifying choices, the shares represented will be voted as recommended by the Board of Directors (the "Board") of the Company.

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 submitting a properly signed proxy with a later date, or by voting in person at the Annual Meeting.

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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.

Vote Required

A majority of the votes cast by the shares present in person or represented by proxy at the meeting and entitled to vote in the election of directors at the Annual Meeting is required for the election of a director nominee. Ratification of the appointment of the independent registered public accounting firm requires the affirmative vote of a majority of the shares present in person or represented by proxy at the meeting. Approval of the amendment to the Certificate of Incorporation requires the affirmative vote of at least 80% of the shares of common stock issued and outstanding as of the record date. Approval of all other matters requires the affirmative vote of a majority of the shares present in person or represented by proxy at the meeting. Abstentions and broker nonvotes will be included in determining the presence of a quorum at the meeting. However, abstentions and broker nonvotes will not be included in determining the number of votes cast on any matter.

Other Business

The Board knows of no other matters that may be presented for shareholder action at the meeting. If other matters are properly brought before the meeting, the persons named as proxies on the accompanying proxy card intend to vote the shares represented by them in accordance with their best judgment.

Confidential Voting Policy

It is the Company's 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. The Company 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. Under the policy, the inspectors of election at any shareholder meeting will be independent parties unaffiliated with the Company.

OWNERSHIP OF EQUITY SECURITIES IN THE COMPANY

The following table sets forth information concerning the beneficial ownership of the Company's common stock, as of November 14, 2008, for (a) each director currently serving on the Board, (b) each nominee for election as a director at the Annual Meeting named in this Proxy Statement, (c) each of the officers named in the Summary Compensation Table not listed as a director, and (d) all directors and executive officers as a group. In general, "beneficial ownership" includes those shares a director or executive officer has the power to vote or transfer and shares that the director or executive officer has the right to acquire within 60 days after November 14, 2008.

Name(1)	Shares Beneficially Owned	Percent of Common Stock
J u d i t h   B .   C r a v e n   ( 2 )	36,060	*
.....		
A r t h u r   R .   E m e r s o n   ( 3 )	38,154	*
.....		
K .   S c o t t   G r a y   ( 4 )	22,729	*
.....		
	20,668	*

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J i l l G r i f f i n ( 5 )		
.....		
J . S . B . J e n k i n s ( 6 )	24,260	*
.....		
F r a n k M a r k a n t o n i s ( 7 )	28,358*	
.....		
J o e C . M c K i n n e y ( 8 )	28,167	*
.....		
G a s p e r M i r , I I I ( 9 )	24,694	*
.....		
C h r i s t o p h e r J . P a p p a s ( 1 0 )	3,875,073	13.87%
.....		
H a r r i s J . P a p p a s ( 1 1 )	3,936,673	14.09%
.....		
P e t e r T r o p o l i ( 1 2 )	34,584	*
.....		
J i m W . W o l i v e r ( 1 3 )	37,692	*
.....		
All directors and executive officers of the Company, as a	8,107,112	29.01%
g r o u p ( 1 2 p e r s o n s ) ( 1 4 )		
.....		

\* Represents beneficial ownership of less than one percent of the shares of the Company's common stock issued and outstanding on November 14, 2008.

- (1) Except as indicated in these notes and subject to applicable community property laws, each person named in the table owns directly the number of shares indicated and has the sole power to vote and to dispose of such shares. Shares of phantom stock held by a nonemployee director convert into an equivalent number of shares of the Company's common stock when the nonemployee director ceases to be a director of the Company due to resignation, retirement, death, disability, removal, or any other circumstance. The shares of common stock payable upon conversion of the phantom stock are included in this table because it is possible for the holder to acquire the common stock within 60 days if his or her directorship terminated. Under the Company's Nonemployee Director Stock Plan, restricted stock awards may become unrestricted when a nonemployee director ceases to be a director of the Company. Unless otherwise specified, the mailing address of each person named in the table is 13111 Northwest Freeway, Suite 600, Houston, Texas 77040.
- (2) The shares shown for Dr. Craven include 2,222 shares held for her benefit in a custodial account, 17,000 shares which she has the right to acquire within 60 days under the Nonemployee Director Stock Plan, 11,469 shares of phantom stock held under the Nonemployee Director Phantom Stock Plan, and 5,369 shares of restricted stock.
- (3) The shares shown for Mr. Emerson include 3,959 shares held jointly with his wife in a custodial account, 17,000 shares which he has the right to acquire within 60 days under the Nonemployee Director Stock Plan, 11,826 shares of phantom stock held under the Nonemployee Director Phantom Stock Plan, and 5,369 shares of restricted stock.
- (4) The shares shown for Mr. Gray include 5,020 shares held for his benefit in a custodial account, 16,209 shares which he has the right to acquire within 60 days under Luby's Incentive Stock Plan and 1,500 shares of restricted stock.
- (5)



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The shares shown for Ms. Griffin include 2,022 shares held for her benefit in a custodial account, 8,000 shares which she has the right to acquire within 60 days under the Nonemployee Director Stock Plan, and 10,646 shares of restricted stock.

- (6) The shares shown for Mr. Jenkins include 2,324 shares held for his benefit in a custodial account, 8,000 shares which he has the right to acquire within 60 days under the Nonemployee Director Stock Plan, and 13,936 shares of restricted stock.
- (7) The shares shown for Mr. Markantonis include 2,122 shares held for his benefit in a custodial account, 10,000 shares which he has the right to acquire within 60 days under the Nonemployee Director Stock Plan, 3,878 shares of phantom stock held under the Nonemployee Director Phantom Stock Plan, and 12,358 shares of restricted stock.
- (8) The shares shown for Mr. McKinney include 8,628 shares held for his benefit in a custodial account, 2,000 shares which he has the right to acquire within 60 days under the Nonemployee Director Stock Plan, and 17,539 shares of restricted stock.
- (9) The shares shown for Mr. Mir include 5,299 shares held for his benefit in a custodial account, 6,000 shares which he has the right to acquire within 60 days under the Nonemployee Director Stock Plan, 2,452 shares of phantom stock held under the Nonemployee Director Phantom Stock Plan, and 10,943 shares of restricted stock.
- (10) The shares shown for Christopher J. Pappas include 3,404,803 shares held for his benefit in a custodial account, 92,170 shares which he has the right to acquire within 60 days under Luby's Incentive Stock Plan, and 378,100 shares owned by Pappas Restaurants, Inc., as each of Christopher J. Pappas and Harris J. Pappas owns a 50% interest in Pappas Restaurants, Inc. and therefore owns a corresponding beneficial interest in the 756,200 shares owned by Pappas Restaurants, Inc.
- (11) The shares shown for Harris J. Pappas include 3,466,403 shares held for his benefit in a custodial account, 92,170 shares which he has the right to acquire within 60 days under Luby's Incentive Stock Plan, and 378,100 shares owned by Pappas Restaurants, Inc., as each of Christopher J. Pappas and Harris J. Pappas owns a 50% interest in Pappas Restaurants, Inc. and therefore owns a corresponding beneficial interest in the 756,200 shares owned by Pappas Restaurants, Inc.
- (12) The shares shown for Mr. Tropoli include 3,300 shares held for his benefit in a custodial account, 28,884 shares which he has the right to acquire within 60 days under Luby's Incentive Stock Plan, and 2,400 shares of restricted stock.
- (13) The shares shown for Mr. Woliver include 20,323 shares held in a custodial account for the benefit of Mr. Woliver and his wife, 12,000 shares which he has the right to acquire within 60 days under the Nonemployee Director Stock Option Plan, and 5,369 shares of restricted stock.
- (14) The shares shown for all directors and executive officers as a group include 6,926,425 shares held in custodial accounts, 309,433 shares which they have the right to acquire within 60 days under the Company's various benefit plans, 85,429 shares of restricted stock, and 29,625 shares of phantom stock held by nonemployee directors under the Nonemployee Director Phantom Stock Plan.

### PRINCIPAL SHAREHOLDERS

The following table sets forth information as to the beneficial ownership of the Company's common stock by each person or group known by the Company to own beneficially more than 5% of the outstanding shares of the Company's common stock as of December 1, 2008 and, unless otherwise indicated, is based on disclosures made by the beneficial

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owners in SEC filings under Section 13 of the Exchange Act:

Name and Address of Beneficial Owner (1)	Shares Beneficially Owned	Percent of Common Stock
Christopher J. Pappas (2) ..... 13939 Northwest Freeway Houston, Texas 77040	3,875,073	13.87%
Harris J. Pappas (3) ..... 13939 Northwest Freeway Houston, Texas 77040	3,936,673	14.09%
Dimensional Fund Advisors, LP (4) ..... 1299 Ocean Avenue Santa Monica, California 90401	1,794,798	6.42%

(1) Except as indicated in these notes and subject to applicable community property laws, each person named in the table owns directly the number of shares indicated and has the sole power to vote and to dispose of such shares.

(2) The shares shown for Christopher J. Pappas include 3,404,803 shares held for his benefit in a custodial account, 92,170 shares which he has the right to acquire within 60 days under Luby's Incentive Stock Plan, and 378,100 shares owned by Pappas Restaurants, Inc., as each of Christopher J. Pappas and Harris J. Pappas owns a 50% interest in Pappas Restaurants, Inc. and therefore owns a corresponding beneficial interest in the 756,200 shares owned by Pappas Restaurants, Inc.

(3) The shares shown for Harris J. Pappas include 3,466,403 shares held for his benefit in a custodial account, 92,170 shares which he has the right to acquire within 60 days under Luby's Incentive Stock Plan, and 378,100 shares owned by Pappas Restaurants, Inc., as each of Christopher J. Pappas and Harris J. Pappas owns a 50% interest in Pappas Restaurants, Inc. and therefore owns a corresponding beneficial interest in the 756,200 shares owned by Pappas Restaurants, Inc.

(4) Information based solely on Report for the Calendar Year or Quarter Ended September 30, 2008 on Form 13F-HR dated October 27, 2008 and filed on October 30, 2008 with the Securities and Exchange Commission by Dimensional Fund Advisors LP.

ELECTION OF DIRECTORS (Item 1)

The shareholders elect approximately one-third of the members of the Board of Directors annually. The Board is divided into three classes, as nearly equal in number as possible, with the members of each class serving three-year terms. Currently, the Board consists of ten members, three whose terms expire at the 2009 annual meeting of shareholders, three whose terms expire at the 2010 annual meeting of shareholders, and four whose terms expire at the 2011 annual meeting of shareholders.

The terms of J.S.B. Jenkins, Joe C. McKinney, and Harris J. Pappas will expire at the Annual Meeting. The Board nominates J.S.B. Jenkins, Joe C. McKinney, and Harris J. Pappas for election as directors to serve until the 2012 annual meeting of shareholders or until their successors are elected and qualified. The Board recommends a vote "FOR" all such nominees.

All such nominees named above have indicated a willingness to serve as directors, but should any of them decline or be unable to serve, proxies may be voted for another person nominated as a substitute by the Board.

There are no family relationships, of first cousins or closer, among the Company's directors and executive officers, by blood, marriage or adoption, except that Christopher J. Pappas and Harris J. Pappas are brothers and Frank Markantonis is the stepfather of Peter Tropoli, the Company's Senior Vice President, Administration, General Counsel and Secretary.

The following information is furnished with respect to each of the nominees of the Board and for each of the directors whose terms will continue after the Annual Meeting.

Nominees for Election to Terms Expiring in 2012

J.S.B. JENKINS, 65, has been chairman of the Board of Tandy Brands Accessories, Inc. (NYSE:TBAC), a designer, manufacturer and marketer of fashion accessories, since February 2008. Previously, he served in several executive capacities within that company, including President and Chief Executive Officer of Tandy Brands Accessories, Inc. from November 1990 through September 2008 and President of Tex Tan Welhausen Co., a division of Tandy Brands, Inc. He has also served as the Executive Vice President of the Bombay Company, Inc., a designer and marketer of home accessories and furniture. Mr. Jenkins has been an independent director of the Company since January 2003 and is Chairman of the Executive Compensation Committee, Vice-Chairman of the Finance and Audit Committee, a member of the Nominating and Corporate Governance Committee, and a member of the Executive Committee. He also currently serves on the Board of Directors for Hardware Resources and for the Southwest (Northern) Advisory Board of Liberty Mutual Insurance Company. He is a member of the Texas A&M University College of Business Administration/Graduate School of Business Development Council, the Texas A&M University President's Council, and the Advisory Board of Directors for the Texas A&M University 12th Man Foundation.

JOE C. MCKINNEY, 62, has been Vice-Chairman of Broadway National Bank, a locally owned and operated San Antonio-based bank, since October 2002. He formerly served as Chairman of the Board and Chief Executive Officer of JPMorgan Chase Bank-San Antonio from November 1987 until his retirement in March 2002. Mr. McKinney graduated from Harvard University in 1969 with a Bachelor of Arts in Economics, and he graduated from the Wharton School of the University of Pennsylvania in 1973 with a Master of Business Administration in Finance. Mr. McKinney has been an independent director of the Company since January 2003 and is Chairman

of the Finance and Audit Committee, a member of the Nominating and Corporate Governance Committee, and a member of the Executive Committee. He is a director of Broadway National Bank; Broadway Bancshares, Inc.; USAA Real Estate Company; and U.S. Global Investors Funds. He was a director of Prodigy Communications Corporation from January 2001 to November 2001, when the company was sold to SBC Communications, Inc., and served on its Special Shareholder Committee and Audit and Compensation Committee.

HARRIS J. PAPPAS, 64, has been Chief Operating Officer and a director of the Company since March 2001. He is a member of the Executive Committee and the Personnel and Administrative Policy Committee. Mr. Pappas graduated from Texas A&M University with a Bachelor of Business Administration in Finance and Accounting. Mr. Pappas also has been President of Pappas Restaurants, Inc. since 1980. He is a director of Oceaneering International, Inc. (NYSE: OII). Mr. Pappas is also an advisory trustee of Schreiner University and an advisory board member of Frost National Bank-Houston. He served as an advisory director of Memorial Hermann Affiliated Services from 2002 to 2004, and as a Corporate Member of Memorial Healthcare System from October 2004 to October 2006. He will serve as a director of TIRR Hospital in the Memorial Hermann System beginning in January 2009.

#### Incumbents Whose Terms Expire in 2010

JILL GRIFFIN, 54, advises corporations, both domestically and abroad, on customer loyalty strategies. Her business best seller, *Customer Loyalty: How to Earn It, How to Keep It*, has been published in six languages and was named to Harvard Business School's "Working Knowledge" list. Since 1988, she has led Austin-based consulting firm, Griffin Group. Ms. Griffin has been an independent director of the Company since January 2003 and is Vice-Chair of the Personnel and Administrative Policy Committee and a member of the Executive Compensation Committee. Ms. Griffin began her career at RJR/Nabisco where she served as Senior Brand Manager for the corporation's largest brand. Ms. Griffin is a magna cum laude graduate, Distinguished Alumna recipient and advisory board member of the University of South Carolina Moore School of Business from which she holds her Master of Business Administration. She has served on the marketing faculty at the University of Texas (UT). Her books have been adopted as textbooks for undergraduate and MBA courses at UT and other universities. Ms. Griffin is a member of the board of the National Association of Corporate Board Directors' Texas Tri-Cities Chapter and the Austin Convention and Visitors Bureau.

CHRISTOPHER J. PAPPAS, 61, has been President and Chief Executive Officer and a director of the Company since March 2001. Mr. Pappas is a member of the Executive Committee. He also has been Chief Executive Officer of Pappas Restaurants, Inc. since 1980. Mr. Pappas graduated from the University of Texas with a Bachelor of Science in Mechanical Engineering. He sits on the advisory board of Amegy Bank N.A. (formerly Southwest Bank of Texas N.A.), and he previously served as a director on its board. Mr. Pappas is also a director of the National Restaurant Association; the University of Houston Conrad Hilton School of Hotel and Restaurant Management Dean's Advisory Board; the Greater Houston Partnership Board; and the Sam Houston Council of Boy Scouts of America Board.

JIM W. WOLIVER, 71, spent his career in cafeteria and foodservice management. Mr. Woliver worked alongside the founders of the Company, including Robert Luby, and gained a vast knowledge of the Company's operations. Mr. Woliver started with the Company as a management trainee in 1964. He served as restaurant General Manager from 1973 to 1983, Area Vice President from 1983 to 1988, Vice President of Operations from 1988 to 1994, and Senior Vice President of Operations from 1994 until his retirement in 1997. Mr. Woliver is an independent director, has

served on the Board since January 2001 and is a member of the Personnel and Administrative Policy Committee and the Executive Compensation Committee.

#### Incumbents Whose Terms Expire in 2011

JUDITH B. CRAVEN, M.D., M.P.H., 63, is the retired President of the United Way of the Texas Gulf Coast, where she served from 1992 until 1998. She is licensed to practice medicine and has a distinguished career in public health. She served as Dean of the School of Allied Health Sciences of the University of Texas Health Science Center at Houston from 1983 until 1992 and Vice President of Multicultural Affairs for the University of Texas Health Science Center from 1987 until 1992. She also served as Director of Public Health for the City of Houston from 1980 until 1983, which included responsibility for the regulation of all foodservice establishments in the City. Dr. Craven has been an independent director of the Company since January 1998 and is Vice Chair of the Board of Directors, Chair of the Personnel and Administrative Policy Committee, Vice-Chair of the Executive Compensation Committee and the Executive Committee, and a member of the Nominating and Corporate Governance Committee. She is also a director of Belo Corp. (NYSE:BLC); SYSCO Corporation (NYSE:SYY); Sun America Fund; Valic Corp.; and the Houston Convention Center Hotel Board of Directors. She is a former member of the Board of Regents of the University of Texas at Austin.

ARTHUR ROJAS EMERSON, 63, has been Chairman and Chief Executive Officer of GRE Creative Communications, a full-service, bilingual marketing and public relations firm, which includes Hispanic-targeted marketing, since June 2000. Mr. Emerson's experience includes conducting foodservice television marketing campaigns. From 1994 until 2000, he was Vice President and General Manager of the Texas stations of the Telemundo television network. He served as Chairman of the San Antonio Hispanic Chamber of Commerce in 1994. In 1995, he served as Chairman of CPS Energy. He served as Chairman of the San Antonio Port Authority from 2001 to 2007. He served on the Board of the San Antonio Branch of the Dallas Federal Reserve Board from 1998 to 2004. He served as Chairman of the Greater San Antonio Chamber of Commerce in 1999. Mr. Emerson has been an independent director of the Company since January 1998 and is a member of the Finance and Audit Committee. He is currently Chairman of the Texas Aerospace Committee. Mr. Emerson is also currently a director of USAA Federal Savings Bank, Chairman of its Credit Committee, a member of its Finance and Audit Committee, and is former Chairman of its Trust Committee.

FRANK MARKANTONIS, 60, is an attorney with over thirty years of legal experience representing clients in the restaurant industry, with a concentration in real estate development, litigation defense, insurance procurement and coverage, immigration and employment law. For over fifteen years, he has served as General Counsel of Pappas Restaurants, Inc. He is a graduate of the University of Texas at Austin (1970) and the University of Houston Law Center (1973). Mr. Markantonis is admitted to practice in the following jurisdictions and before the following courts: The United States Supreme Court, District of Columbia Court of Appeals, United States Court of Appeals for the Fifth Circuit, The United States District Court for the Southern District of Texas, and the State of Texas. Mr. Markantonis is a member of the State Bar of Texas, District of Columbia Bar, and is a Fellow in the Houston Bar Association. He has been a director of the Company since January 2002 and is a member of the Personnel and Administrative Policy Committee.

GASPER MIR, III, 62, is a Certified Public Accountant and a principal owner of the public accounting and professional services firm MFR (formerly known as Mir•Fox & Rodriguez, P.C.), which he founded in 1988. He is currently MFR's Chief Administrative Officer, and previously his

work included financial audit and accounting services for clients in the retail industry. From January 2003 through January 2008, Mr. Mir took a leave of absence from MFR and served as Executive General Manager of Strategic Partnerships for the Houston Independent School District. From 1969 until 1987, he worked at KPMG, an international accounting and professional services firm, serving as a partner of the firm from 1978 until 1987. Mr. Mir has been a director of the Company since January 2002 and is Chairman of the Board of Directors, Chairman of the Executive Committee and the Nominating and Corporate Governance Committee, and a member of the Finance and Audit Committee. As Chairman, he presides over all Board meetings, as well as executive sessions and meetings of the independent directors, and he acts as an intermediary between the Board and Luby's Management. Mr. Mir is also a director of the Memorial Hermann Hospital System; the Greater Houston Community Foundation; the Houston Technology Center; the Houston A+ Challenge; the Advisory Board of the University of Houston-Downtown School of Business; and the Houston Region Advisory Board of JPMorgan Chase Bank of Texas.

THE BOARD OF DIRECTORS RECOMMENDS A VOTE "FOR" EACH OF THE DIRECTOR NOMINEES.

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RATIFICATION OF THE APPOINTMENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM  
(Item 2)

The Board of Directors of the Company has appointed the firm of Grant Thornton LLP to audit the accounts of the Company for the 2009 fiscal year. Representatives of Grant Thornton LLP are expected to be present at the Annual Meeting with the opportunity to make a statement if they desire to do so and are expected to be available to respond to appropriate questions. Ratification of the appointment of the independent registered public accounting firm is not a matter which is required to be submitted to a vote of shareholders, but the Board considers it appropriate for the shareholders to express or withhold their approval of the appointment. If shareholder ratification should be withheld, the Board would consider an alternative appointment for the succeeding fiscal year. The affirmative vote of a majority of the shares present in person or represented by proxy at the meeting is required for approval.

Change in Independent Registered Public Accounting Firm

On November 17, 2006, the Finance and Audit Committee dismissed Ernst & Young LLP, the Company's current independent registered public accounting firm, and appointed Grant Thornton LLP as the Company's independent registered public accounting firm for the fiscal year ended August 29, 2007.

Ernst & Young LLP reported on the Company's financial statements for the years ended August 30, 2006 and August 31, 2005 did not contain an adverse opinion or a disclaimer of opinion and were not qualified or modified as to uncertainty, audit scope or accounting principle.

During the fiscal years ended August 30, 2006 and August 31, 2005, and the subsequent interim periods through the date of dismissal, there were no disagreements with Ernst & Young LLP on any matters of accounting principles or practices, financial statement disclosure, or auditing scope or procedure which, if not resolved to Ernst & Young LLP's satisfaction, would have caused Ernst & Young LLP to make reference in its reports on the Company's financial statements for such years. During the fiscal years ended August 30, 2006 and August 31, 2005, there were no "reportable events," as such term is defined in Item 304(a)(1)(v) of Regulation S-K, except for the material weaknesses identified as of November 17, 2004 and February 9, 2005, reported by management in Item 4 of its quarterly reports on Form 10-Q/A and 10-Q both filed on March 29, 2005. The reports indicate that the Company did not maintain effective internal control over financial reporting as of November 17, 2004 and February 9, 2005 due to the Company's determination, like many other retail and restaurant companies, that its historical methods of accounting for scheduled rent increases, and of determining lives used in the calculation of depreciation of leasehold improvements for certain leased properties, were not in accordance with U.S. Generally Accepted Accounting Principles. As a result, the Company restated its previously issued fiscal year 2005 first quarter Form 10-Q and previously issued audited consolidated financial statements for fiscal years 2004, 2003 and 2002.

Ernst & Young LLP was asked to furnish the Finance and Audit Committee a letter, addressed to the Securities and Exchange Commission, stating whether it agrees with the above statements. A copy of that letter, dated November 22, 2006, is filed as Exhibit 16.1 to the Company's Current Report on Form 8-K dated November 17, 2006.

Fees Paid to the Independent Registered Public Accounting Firm

The table below shows aggregate fees for professional services rendered for the Company by the Company's independent registered public accounting firm, Grant Thornton LLP, for the fiscal years ended August 27, 2008 and August 29, 2007:

2008	2007
(in thousands)	

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Audit Fees	\$ 467	\$ 480
Audit-Related Fees	-	-
Tax Fees	-	8
All Other Fees	-	-
Total	\$ 467	\$ 488

Audit Fees for the fiscal years ended August 27, 2008 and August 29, 2007 consisted of fees associated with the audit of the Company's consolidated financial statements and internal control over financial reporting included in the Company's Annual Report on Form 10-K and reviews of its interim financial statements included in the Company's quarterly reports on Form 10-Q.

Audit-Related Fees. The Company did not incur any Audit-Related Fees for the fiscal years ended August 27, 2008 and August 29, 2007.

Tax Fees for the fiscal year ended August 29, 2007 were for services related to the review of the Company's federal income tax returns.

All Other Fees. The Company did not incur any other fees for the fiscal years ended August 27, 2008 and August 29, 2007.

The Finance and Audit Committee has considered whether the provision of the above services other than audit services is compatible with maintaining Grant Thornton LLP's independence.

#### Preapproval Policies and Procedures

All auditing services and nonaudit services provided by Grant Thornton LLP must be preapproved by the Finance and Audit Committee. Generally, this approval occurs each year at the August meeting of the Finance and Audit Committee for the subsequent fiscal year and as necessary during the year for unforeseen requests. The nonaudit services specified in Section 10A(g) of the Securities Exchange Act of 1934 may not be, and are not, provided by Grant Thornton LLP. Grant Thornton LLP provides a report to the Chair of the Finance and Audit Committee prior to each regularly scheduled Finance and Audit Committee meeting detailing all fees, by project, incurred by Grant Thornton LLP year-to-date and an estimate for the fiscal year. The Chair of the Finance and Audit Committee reviews the Grant Thornton LLP fees at each Finance and Audit Committee meeting. The Finance and Audit Committee periodically reviews such fees with the full Board of Directors. During fiscal years 2007 and 2008, no preapproval requirements were waived for services included in the Audit-related fees, Tax fees and All other fees captions of the fee table above pursuant to the limited waiver provisions in applicable rules of the Securities and Exchange Commission.

**THE BOARD OF DIRECTORS RECOMMENDS A VOTE "FOR" THE RATIFICATION OF THE APPOINTMENT OF GRANT THORNTON LLP.**



AMENDMENT OF THE CERTIFICATE OF INCORPORATION TO ELIMINATE CLASSIFIED STRUCTURE  
OF THE BOARD OF DIRECTORS (Item 3)

The Board of Directors is currently divided into three classes with the members of each class serving three-year terms. Currently, the shareholders elect approximately one-third of the members of the Board of Directors annually. The Board currently consists of ten members, three whose terms expire at the 2009 annual meeting of shareholders, three whose terms expire at the 2010 annual meeting of shareholders, and four whose terms expire at the 2011 annual meeting of shareholders.

The Board of Directors has approved, and is proposing to the shareholders, an amendment to the Company's Certificate of Incorporation to eliminate this classified board structure. If the shareholders approve this proposal, each director will serve the remainder of his or her current term and thereafter be elected to one-year terms at each Annual Meeting. Accordingly, from and after the 2012 annual meeting, the directors will no longer be divided into classes and each director will be elected to a one-year term expiring and the next succeeding annual meeting. The full text of the proposed amendment to the Certificate of Incorporation is set forth in Article Sixth, Paragraphs (a) and (d), of Exhibit I to the Amended and Restated Certificate of Incorporation attached as Appendix A.

Approval of the amendments to the Certificate of Incorporation to eliminate the classified Board of Directors requires the affirmative vote of at least 80% of the shares of common stock issued and outstanding as of the record date, or approximately 22,357,154 shares.

After sponsoring non-binding proposals to declassify Luby's Board for the past six years, culminating with last year's 59.60% affirmative rate of votes cast, shareholder, Harold J. Mathis, Jr. again submitted such proposal for 2009, but has withdrawn it as a result of this proposal being sponsored by the Company's Board of Directors.

If the stockholders vote to approve this proposal, it will become effective upon the filing of the Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware. The Company intends to file the Amended and Restated Certificate of Incorporation promptly after the requisite vote is obtained.

THE BOARD OF DIRECTORS RECOMMENDS A VOTE "FOR" THE AMENDMENT OF THE ARTICLES OF INCORPORATION TO ELIMINATE THE CLASSIFIED STRUCTURE OF THE BOARD OF DIRECTORS.

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## CORPORATE GOVERNANCE

### Committees of the Board of Directors

The Board currently maintains the following standing committees: Finance and Audit, Nominating and Corporate Governance, Personnel and Administrative Policy, Executive Compensation, and Executive. All committees meet as necessary to fulfill their responsibilities. The Board has directed each committee to consider matters within its areas of responsibility and to make recommendations to the full Board for action on these matters. Only the Executive Committee is empowered to act on behalf of the Board, and the specific powers of that committee may be exercised only in extraordinary circumstances. The Board of Directors held five regular meetings and six special meetings during the fiscal year ended August 27, 2008. Each director attended more than 90% of the aggregate of all meetings of the Board and the committees of the Board on which he or she served during the last fiscal year.

### Finance and Audit Committee

The Finance and Audit Committee is a standing audit committee established to oversee the Company's accounting and financial reporting processes and the audit of the Company's financial statements. Its primary functions are to monitor and evaluate corporate financial plans and performance and to assist the Board in monitoring (1) the integrity of the financial statements of the Company; (2) the Company's compliance with legal and regulatory requirements; (3) the independent registered public accounting firm's qualifications and independence; (4) the performance of the Company's internal audit function and its independent registered public accounting firm; and (5) the Company's major risk exposures and the steps management has taken to monitor and control such exposures. Management is responsible for preparing the financial statements, and the independent registered public accounting firm is responsible for auditing those financial statements. The Finance and Audit Committee is also directly responsible for the appointment, compensation, retention, and oversight of the work of the Company's independent registered public accounting firm and the preparation of the Finance and Audit Committee Report below. A copy of the current Finance and Audit Committee Charter adopted by the Board is available in print to any shareholder upon request and on the Company's website at [www.lubys.com](http://www.lubys.com). All members of the Finance and Audit Committee are independent directors as described below. The Finance and Audit Committee met nine times during the last fiscal year.

The Board determined that Gasper Mir, III and Joe C. McKinney are "audit committee financial experts" as defined in rules of the Securities and Exchange Commission adopted pursuant to the Sarbanes-Oxley Act of 2002.

At least quarterly, Committee members have the opportunity to meet privately with representatives of the Company's independent registered public accounting firm and with the Company's Director of Internal Audit.

The members of the Finance and Audit Committee are: Joe C. McKinney (Chair); J.S.B. Jenkins (Vice-Chair); Arthur R. Emerson; and Gasper Mir, III.

### Nominating and Corporate Governance Committee

The primary functions of the Nominating and Corporate Governance Committee are (1) to maintain oversight of the development, structure, performance, and evaluation of the Board; (2) to seek and recommend candidates to fill vacancies on the Board; (3) to recommend appropriate Board action on renewal terms of service for incumbent members as their terms near completion; (4) to review compensation paid to non-management directors; and (5) to develop and periodically review the Company's Corporate Governance Guidelines and recommend such changes as may be determined appropriate to the Board so as to reflect the responsibilities of the Board and the manner in which the enterprise should be governed in compliance with best practices. A copy of the current Nominating and Corporate Governance Committee Charter is available in print to any shareholder upon request and on the Company's website at

www.lubys.com. All members of the Nominating and Corporate Governance Committee are independent directors as described below. The Nominating and Corporate Governance Committee met one time during the last fiscal year.

The members of the Nominating and Corporate Governance Committee are: Gasper Mir, III (Chair); Judith B. Craven (Vice-Chair); J.S.B. Jenkins; and Joe C. McKinney.

#### Personnel and Administrative Policy Committee

The primary functions of the Personnel and Administrative Policy Committee are to monitor and evaluate the policies and practices of (1) human resource management and administration; (2) management development; (3) non-executive officer compensation and benefits; (4) savings and investment plan administration; (5) marketing and public relations strategies; (6) risk management, loss prevention, quality assurance, and food safety policies and procedures; and (7) investor relations and communications on matters other than financial reporting. The Personnel and Administrative Policy Committee met four times during the last fiscal year.

The members of the Personnel and Administrative Policy Committee are: Judith B. Craven (Chair); Jill Griffin (Vice-Chair); Frank Markantonis; Harris J. Pappas; and Jim W. Woliver.

None of the members of the Committee is an officer or employee, or a former officer or employee of the Company, except Messrs. Woliver and Pappas. Mr. Woliver retired as an officer and employee of the Company in 1997 and Mr. Pappas is currently Chief Operating Officer of the Company.

#### Executive Compensation Committee

The primary functions of the Executive Compensation Committee are (1) to discharge the Board's responsibilities relating to compensation of the Company's Named Executive Officers (as defined in "Compensation Discussion and Analysis—Summary Compensation Table") and (2) to communicate to shareholders the Company's executive compensation policies and the reasoning behind such policies. The Executive Compensation Committee may delegate its responsibilities to a subcommittee consisting of one or more of its members. The Executive Compensation Committee Charter is available in print to any shareholder upon request and on the Company's website at www.lubys.com. All members of the Executive Compensation Committee are independent directors as described below. The Executive Compensation Committee met two times during the last fiscal year.

For information concerning policies and procedures relating to the consideration and determination of executive compensation, including the role of the Executive Compensation Committee, see "Compensation Discussion and Analysis" beginning on page 22 and for the report of the Executive Compensation Committee concerning the Compensation Discussion and Analysis, see "Executive Compensation Committee Report" on page 25.

The members of the Executive Compensation Committee are: J.S.B. Jenkins (Chair); Judith B. Craven (Vice-Chair); Jill Griffin; and Jim W. Woliver.

Compensation Committee Interlocks. During the fiscal year ended August 27, 2008, none of the Company's executive officers served on the board of directors of any entities whose directors or officers served on the Company's Executive Compensation Committee. With the exception of Mr. Woliver, who was an officer of the Company from 1984 to 1997, no current or past officer serves on the Company's Executive Compensation Committee.

#### Executive Committee

The primary functions of this Committee are (1) to facilitate action by the Board between meetings of the Board; and (2) to develop and periodically review the Company's standing committee charters. The Executive Committee met one time during the last fiscal year.

The members of the Executive Committee are: Gasper Mir, III (Chair); Judith B. Craven (Vice-Chair); Joe C. McKinney; J.S.B. Jenkins; Christopher J. Pappas; and Harris J. Pappas.

#### Nominations for Director

The Nominating and Corporate Governance Committee considers candidates for Board membership suggested by its members and other Board members, as well as management and shareholders. The Committee may retain a third-party search firm to assist it in identifying candidates.

Once the Nominating and Corporate Governance Committee has identified a prospective nominee, the Committee makes an initial determination as to whether to conduct a full evaluation of the candidate. The initial determination is based on the information provided to the Committee with the recommendation of the prospective candidate, as well as the Committee's own knowledge of the prospective candidate, which may be supplemented by inquiries of the person making the recommendation or others. The preliminary determination is based primarily on the need for additional Board members to fill vacancies or expand the size of the Board and the likelihood that the prospective nominee can satisfy the evaluation factors described below.

If the Committee determines, in consultation with the Board, as appropriate, that additional consideration is warranted, it may request a third-party search firm to gather additional information about the prospective nominee's background and experience and report its findings to the Committee. The Committee then evaluates the prospective nominee against the standards and qualifications set out in the Company's Corporate Governance Guidelines and the charter of the Nominating and Corporate Governance Committee, including:

- a candidate's expertise and experience;
- independence (as defined by applicable New York Stock Exchange and Securities and Exchange Commission rules);
- financial literacy and understanding of business strategy, business environment, corporate governance, and board operation knowledge;
- commitment to the Company's core values;
- skills, expertise, independence of mind, and integrity;
- relationships with the Company;
- service on the boards of directors of other companies;
- openness, ability to work as part of a team and willingness to commit the required time; and
- familiarity with the Company and its industry.

The Nominating and Corporate Governance Committee also considers the diversity of, and the optimal enhancement of the current mix of talent and experience on, the Board and other factors as it deems relevant, including the current composition of the Board, the balance of management and independent directors, and the need for Finance and Audit Committee expertise.

In connection with its evaluation, the Committee determines whether to interview the prospective nominee; in addition, if warranted, one or more members of the Committee, and others as appropriate, may interview prospective nominees in person. After completing this evaluation and interview, the Committee makes a recommendation to the full Board as to the persons who should be nominated by the Board, and the Board determines the nominees after considering the recommendation and report of the Committee.

The Company did not pay any third party a fee to assist in the process of identifying or evaluating nominees for election at the Annual Meeting.



## CORPORATE GOVERNANCE GUIDELINES

The Company maintains Corporate Governance Guidelines evidencing the views of the Company on such matters as the role and responsibilities of the Board, composition of the Board, Board leadership, functioning of the Board, functioning of committees of the Board, and other matters. These guidelines are reviewed annually and modified when deemed appropriate by the Board. The current version of the Company's Corporate Governance Guidelines are available in print to any shareholder upon request and can be found on the Company's website at <http://www.lubys.com/06aboutusGovernance.asp>.

### Director Independence

The Board has evaluated the independence of the members of the Board under the Luby's Director Independence Test. In conducting this evaluation, the Board considered transactions and relationships between each director or his or her immediate family and the Company to determine whether any such transactions or relationships were material and, therefore, inconsistent with a determination that each such director is independent. Based upon that evaluation, the Board determined that the following directors have no material relationship with us and, thus, are independent:

Judith B. Craven  
Arthur R. Emerson  
Jill Griffin  
J.S.B. Jenkins  
Joe C. McKinney  
Gasper Mir, III  
Jim W. Woliver

The Board also has determined that each member of the Finance and Audit Committee, the Nominating and Corporate Governance Committee, and the Executive Compensation Committee meets the independence requirements applicable to those committees prescribed by the New York Stock Exchange, the Securities and Exchange Commission and the Internal Revenue Service. The Luby's Director Independence Test is available in print to any shareholder upon request and on the Company's website at [www.lubys.com](http://www.lubys.com).

### Executive Session Meetings of Non-Management Directors

Non-management directors regularly meet in executive sessions, without the presence of management directors or executive officers of Luby's.

### Presiding Director

The Chairman of the Board of Directors currently presides over the executive sessions of non-management directors. If the offices of Chief Executive Officer and Chairman are not separate or, for any other reason, the Chairman is not independent, the independent directors will elect one of the independent directors to preside over the executive sessions of non-management directors.

### Board Member Meeting Attendance

Directors are expected to attend Board meetings and meetings of the Committees on which they serve, to spend the time needed, and to meet as frequently as necessary to properly discharge their responsibilities. During the fiscal year ended August 27, 2008, the Board of Directors held eleven meetings. Each Director attended more than 90% of the aggregate total of meetings of the Board of Directors and Committees on which he or she served. All of the

Company's ten Directors attended the 2008 Annual Meeting of Shareholders, and the Company expects that all continuing members of the Board will be present at the Annual Meeting.

#### Code of Conduct and Ethics for All Directors, Officers, and Employees

The Board has adopted a Policy Guide on Standards of Conduct and Ethics, which is applicable to all directors, officers, and employees. The intent of the Policy Guide on Standards of Conduct and Ethics is to promote observance of fundamental principles of honesty, loyalty, fairness, and forthrightness and adherence to the letter and spirit of the law. Waivers of any part of the Policy Guide on Standards of Conduct and Ethics for any director or executive officer are permitted only by a vote of the Board or a designated Board committee that will ascertain whether a waiver is appropriate under all the circumstances. The Company intends to disclose any waivers of the Policy Guide on Standards of Conduct and Ethics granted to directors and executive officers in print to any shareholder upon request and on the Company's website at [www.lubys.com](http://www.lubys.com).

Copies of the Policy Guide on Standards of Conduct and Ethics are available in print to shareholders upon request or on the Company's website at [www.lubys.com](http://www.lubys.com).

#### Code of Ethics for the Chief Executive Officer and Senior Financial Officers

The Board has adopted a Supplemental Standards of Conduct and Ethics that apply to the Company's Chief Executive Officer, Chief Financial Officer, Controller, and all senior financial officers ("Senior Officers' Code"). The Senior Officers' Code is designed to deter wrongdoing and to promote:

- honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;
- full, fair, accurate, timely, and understandable disclosure in reports and documents that the Company files with, or submits to, the Securities and Exchange Commission and in other public communications made by the Company;
  - compliance with governmental laws, rules, and regulations;
- the prompt internal reporting to an appropriate person or persons identified in the Senior Officers' Code of violations of the Senior Officers' Code; and
  - accountability for adherence to the Senior Officers' Code.

Waivers of the Senior Officers' Code for the Chief Executive Officer, Chief Financial Officer, and the Controller are permitted only by a vote of the Board or a designated Board committee that will ascertain whether a waiver is appropriate under all the circumstances. The Company intends to disclose any waivers of the Senior Officers' Code granted to the Chief Executive Officer, Chief Financial Officer, or the Controller on the Company's website at [www.lubys.com](http://www.lubys.com) and in print to any shareholder upon request.

Copies of the Senior Officers' Code are available in print to shareholders upon request or on the Company's website at [www.lubys.com](http://www.lubys.com).

#### Receipt and Retention of Complaints Regarding Accounting and Auditing Matters

To facilitate the reporting of questionable accounting, internal accounting controls or auditing matters, the Company has established an anonymous reporting hotline through which employees can submit complaints on a confidential and anonymous basis. Any concerns regarding accounting, internal accounting controls, auditing, or other disclosure matters reported on the hotline are reported to the Chairman of the Finance and Audit Committee. These reports are confidential and anonymous. Procedures are in place to investigate all reports received by the hotline relating to questionable accounting, internal accounting controls, or auditing matters and to take any corrective action, if necessary. The Finance and Audit Committee is notified of these reports at every quarterly Committee meeting, or sooner if necessary.

Any person who has concerns regarding accounting, internal accounting controls, or auditing matters may address them to the attention of Chairman, Finance and Audit Committee, Luby's, Inc., 13111 Northwest Freeway, Suite 600, Houston, Texas 77040.

#### Nonretaliation for Reporting

The Company's policies prohibit retaliation against any director, officer, or employee for any report made in good faith. However, if the reporting individual was involved in improper activity, the individual may be appropriately disciplined even if he or she was the one who disclosed the matter to the Company. In these circumstances, the Company may consider the conduct of the reporting individual in promptly reporting the information as a mitigating factor in any disciplinary decision.

#### Shareholder Communications to the Board of Directors

Shareholders and other parties interested in communicating directly with the Chairman of the Board, the non-management directors as a group or the Board itself regarding the Company may do so by writing to the Chairman of the Board, in care of the Corporate Secretary at Luby's, Inc., 13111 Northwest Freeway, Suite 600, Houston, Texas 77040.

The Board has approved a process for handling letters received by the Company and addressed to non-management members of the Board. Under that process, the Company's Corporate Secretary reviews all such correspondence that, in the opinion of the Corporate Secretary, deals with the function of the Board or committees thereof or that the Corporate Secretary otherwise determines requires the Board's attention. Directors may at any time request copies of all correspondence received by the Company that is addressed to members of the Board. Concerns relating to accounting, internal controls or auditing matters are immediately brought to the attention of the Company's internal audit department and handled in accordance with procedures that the Finance and Audit Committee has established with respect to such matters.

#### SECTION 16(a) BENEFICIAL OWNERSHIP REPORTING COMPLIANCE

Section 16(a) of the Securities Exchange Act of 1934 requires the Company's directors, executive officers, and any persons beneficially owning more than ten percent of the Company's common stock to report their initial ownership of the Company's common stock and any subsequent changes in that ownership to the Securities and Exchange Commission and the New York Stock Exchange, and to provide copies of such reports to the Company. Based upon the Company's review of copies of such reports received by the Company and written representations of its directors and executive officers, the Company believes that during the fiscal year ended August 27, 2008, all Section 16(a) filing requirements were satisfied on a timely basis.

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## CERTAIN RELATIONSHIPS AND RELATED PERSON TRANSACTIONS

### Related Person Transactions

On July 23, 2002, the Company entered into an Indemnification Agreement with each member of the Board under which the Company obligated itself to indemnify each director to the fullest extent permitted by applicable law so that he or she will continue to serve the Company free from undue concern regarding liabilities. The Company has also entered into an Indemnification Agreement with each person becoming a member of the Board of Directors since July 23, 2002. The Board has determined that uncertainties relating to liability insurance and indemnification have made it advisable to provide directors with assurance that liability protection will be available in the future.

The Company obtains certain goods and/or services from entities owned or controlled by Christopher J. Pappas, President and Chief Executive Officer of the Company, and Harris J. Pappas, Chief Operating Officer of the Company (the "Pappas Entities"), pursuant to the terms of a Master Sales Agreement dated December 9, 2005. Under the terms of the Master Sales Agreement, the Pappas Entities may provide specialized (customized) equipment fabrication and basic equipment maintenance, including stainless steel stoves, shelving, rolling carts, and chef tables. During the 2008 fiscal year, the Pappas Entities provided goods to the Company under the Master Sales Agreement in the amount of approximately \$521,000. Consistent with past practices, the Finance and Audit Committee, consisting entirely of independent directors, reviewed on a quarterly basis all applicable amounts related to the Master Sales Agreement.

The Company anticipates that payments to the Pappas Entities under the Master Sales Agreement during the current fiscal year will be primarily for goods purchased pursuant to the terms of the Master Sales Agreement. In the opinion of the Finance and Audit Committee, the fees paid by the Company for such goods and/or services are primarily at or below what the Company would pay for comparable goods and/or services (if available) from a party unaffiliated with the Company.

The Company previously leased property from the Pappas Entities to accommodate the Company's in-house repair and fabrication center, referred to as the Houston Service Center. The Company terminated this lease in August 2008, and it paid approximately \$74,800 in fiscal year 2008 pursuant to the terms of the lease. The Company also previously leased approximately 27,000 square feet of warehouse space from the Pappas Entities to complement the Houston Service Center, at a monthly rate of approximately \$0.21 per square foot. The Company terminated this lease on February 29, 2008, and it paid approximately \$27,800 in fiscal year 2008 pursuant to the terms of the lease. The Company now leases, from an unrelated third party, a new property consisting of approximately 60,000 square feet, which combines both the offices of the Facility Services and Warehouse Operations.

In the third quarter of fiscal year 2004, Messrs. Pappas became partners in a limited partnership which purchased a retail strip center in Houston, Texas. Messrs. Pappas collectively own a 50% limited partner interest and a 50% general partner interest in the limited partnership. An independent third party company manages the center. One of the Company's restaurants has rented approximately 7% of the space in that center since July 1969. No changes were made to the Company's lease terms as a result of the transfer of ownership of the center to the new partnership. On November 22, 2006, the Company executed a new lease agreement with respect to this property, which provides, effective upon the Company's relocation and occupancy into the new space in spring 2008, for a primary term of approximately 12 years with two subsequent five-year options. The new lease also gives the landlord an option to buy out the tenant on or after the calendar year 2015 by paying the then unamortized cost of improvements to the tenant. The Company will owe, under the lease, \$16.65 per square foot plus maintenance, taxes, and insurance for the calendar year 2008. Thereafter, the lease provides for reasonable increases in rent at set intervals which is accounted for on a straight line basis. The new lease agreement was approved by the Finance and Audit Committee. The Company made payments of \$276,000 during the fiscal year 2008, and \$46,315 from August 27, 2008 to November 14, 2008 under the current and prior lease agreements.

## Policies and Procedures Regarding Related Person Transactions

The Board has adopted a written Related Person Transaction Approval Policy, which requires the Finance and Audit Committee to review each related person transaction (as defined below) and determine whether it will approve or ratify that transaction.

For purposes of the policy, a "related person transaction" is any transaction, arrangement or relationship where the Company is 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 executive officer, director or nominee for election as a director; (b) any person or group who is a beneficial owner of more than 5% of the Company's 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. Certain specified transactions are deemed preapproved by Finance and Audit Committee.

In determining whether a related person transaction will be approved or ratified, the Finance and Audit 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 the Company; and (e) the aggregate value of the transaction.

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EXECUTIVE OFFICERS

Certain information is set forth below concerning the executive officers of the Company, each of whom has been elected to serve until his successor is duly elected and qualified:

Name	Served as Officer Since	Positions with Company and Principal Occupation Last Five Years	Age
Christopher J. Pappas .....	2001	President and CEO (since March 2001), CEO of Pappas Restaurants, Inc.	61
Harris J. Pappas .....	2001	Chief Operating Officer (since March 2001), President of Pappas Restaurants, Inc.	64
K. Scott Gray .....	2007	Senior Vice President and CFO (since April 2007), Vice President of Finance (October 2005 to April 2007), Director of Planning (May 2002 to October 2005) and Director of Internal Audit (July 2001 to May 2002), Pappas Restaurants (July 1996 to October 2005).	39
Peter Tropoli .....	2001	Senior Vice President-Administration, General Counsel (since March 2001), Secretary (since January 2006).	36

## COMPENSATION DISCUSSION AND ANALYSIS

### EXECUTIVE COMPENSATION

#### Compensation Objectives

The Company's executive compensation program is designed to enable the Company to execute its business objectives by attracting, retaining, and motivating the highest quality of management talent. The program serves to incent and reward executive performance, with the objective of enhancing shareholder value over the long term and encouraging long-term retention of executives. As such, each element of compensation is an integral part of achieving this purpose. In addition, the Company strives to remain competitive by balancing all elements of compensation. The Executive Compensation Committee ("the Committee") annually evaluates the effectiveness of the Company's executive compensation program in meeting its objectives. The Committee annually advises the Board on the compensation to be paid to the Company's executive officers and approves the compensation for executive officers. The Committee evaluates compensation with reference to the Company's performance for the prior fiscal year, competitive compensation data, evaluation of each executive's contribution to the Company's performance, each executive's experience, responsibilities, and management abilities. The Company's executive compensation program currently consists of the elements summarized below.

The Company's executive compensation program does not include any pension benefits. None of the Named Executive Officers participates in any retirement or defined benefit plan maintained by the Company.

The Company currently has no salary continuation agreement, or change in control agreements having similar effect, in place with any employee of the Company other than employment agreements with Messrs. Pappas as described under "—Employment Agreements" below.

#### Base Salaries

The Company seeks to compensate executives for their performance throughout the year with annual base salaries that are fair and competitive while being consistent with the Company's position in the foodservice industry. Base salaries are reviewed annually or biannually by the Committee to ensure continuing consistency with the industry and the Company's level of performance during the previous fiscal year. A third-party consultant provided benchmark information, through the use of peer and general industry data, which was used as a reference to assist the Committee. See "—Benchmarking and Use of Third-Party Compensation Consultant" beginning on page 23. Future adjustments to base salaries and salary ranges will reflect average movement in the competitive market and peers as well as individual performance. Any base salary increase awarded to an executive reflects the Company's financial performance, individual performance, and/or potential changes in the officer's duties and responsibilities.

Salaries of the Chief Executive Officer and Chief Operating Officer are fixed according to each officer's employment agreement, leaving only the incentive and equity compensation for these officers within the discretion of the Committee. See "—Employment Agreements" and "—Compensation of Chief Executive Officer and Chief Operating Officer" beginning on page 24. Members of the Committee, along with members of the Finance and Audit Committee, were involved in advising the Board on the appropriateness and reasonableness of the compensation packages for these executive officers.

#### Non-Equity Incentive Compensation and Bonus

The Company's annual incentive compensation is designed to be a balanced set of measures which blend Company-wide financial measures, process-improvement measures, and Company and individual business

objectives. Corporate and individual performance objectives are established near the beginning of each fiscal year and monitored throughout the fiscal year. If earned, the annual incentive compensation paid to each executive in the form of a cash payment will vary according to the Company's overall performance. A third-party consultant provided benchmark information through the use of peer and general industry data, which was used as a reference to assist the Committee. See "—Benchmarking and Use of Third-Party Compensation Consultant" beginning on page 23. The Executive Compensation Committee has the ultimate discretion with regard to annual incentive compensation. The Executive Compensation Committee retains full discretion to grant an additional cash bonus at fiscal year-end and may decide to award or withhold an incentive compensation award for an individual based upon overall Company performance or upon each participant's personal performance during the year. The Executive Compensation Committee believes that same-store sales and earnings before interest, taxes, depreciation and amortization are important financial measures of executive performance. Accordingly, annual incentive compensation for the Chief Executive Officer and the Chief Operating Officer is determined by the Company's performance relative to pre-determined goals that are based on same-store sales (50%) and earnings before interest, taxes, depreciation and amortization (50%), and the annual incentive compensation for all other Named Executive Officers is determined by the Company's performance relative to pre-determined goals that are based on same-store sales (25%), earnings before interest, taxes, depreciation and amortization (25%) and by the executive's performance relative to the attainment of individual business objectives for the fiscal year (50%).

#### Long-Term Incentive Compensation

Long-term incentive compensation in the form of equity grants of the Company's common stock, such as incentive stock option grants and grants of restricted stock, are used to (1) incent performance that leads to enhanced shareholder value, (2) encourage retention, and (3) closely align the executive's interests with shareholders' long term interests. The expected present value of these incentives is calculated using the binomial pricing method. The size of stock option and restricted stock grants is determined relative to the Company's size and its market, scope and responsibility of the individual, individual performance, share usage under the plan, employee qualifications and position, as well as peer and general industry data. A third-party consultant provided benchmark information through the use of peer and general industry data, which was used as a reference to assist the Committee. See "—Benchmarking and Use of Third-Party Compensation Consultant" beginning on page 23.

The Committee administers the Company's stock option, ownership, and any other equity-based compensation plans to the Named Executive Officers (as defined in "Summary Compensation Table" beginning on page 26). The Executive Compensation Committee typically considers the grants of incentive stock options to eligible executive officers and other officers on an annual basis. The options, which typically vest in installments over six to ten years, typically have an exercise price equal to the market price of the Company's stock on the date of grant and provide compensation to the optionee only to the extent the market price of the stock increases between the date of grant and the date the option is exercised. Options are intended to provide long-term compensation tied specifically to increases in the price of the Company's common stock. The number of option shares granted each year is typically determined by a formula using a dollar amount divided by the option's exercise price.

All grants require Board approval and are typically presented at the first regularly scheduled Board meeting following the disclosure of year-end results. Neither the Company nor the Committee has a program, plan, or practice to time option grants to its executives in coordination with the release of material nonpublic information. Any stock options grants made to non-executive employees typically will occur concurrently with grants to Named Executive Officers.

#### Benchmarking and Use of Third-Party Compensation Consultant

In fiscal year 2008, as in prior years, the Company engaged a third-party compensation consultant, Towers Perrin, to provide an assessment of the Company's compensation structure for all of its officer positions and to evaluate their compensation relative to the marketplace.

Towers Perrin relied on its own annual incentive plan design surveys, its experience with general industry companies with annual revenues similar to that of the Company, and research from the proxy statements of companies considered peers of the Company. Towers Perrin also developed marketplace base salary, target annual incentive opportunity, target total annual compensation, actual total annual compensation, long term incentive award level, target total direct compensation, and actual total direct compensation rates at the 25th, 50th, and 75th percentiles which were used as a reference to assist the Committee.

Role of Executive Officers

Of the Named Executive Officers, only the Chief Executive Officer has a role in determining executive compensation policies and programs. Within the parameters of the compensation policies established by the Executive Compensation Committee, the Chief Executive Officer makes preliminary recommendations for base salary adjustments and short term and long term incentive levels for the other Named Executive Officers. The Chief Executive Officer may base his recommendation on a variety of factors such as his appraisal of the officer’s performance and contribution to the Company and on market data. The Chief Executive Officer does not make any recommendations regarding his own compensation or that of the Chief Operating Officer.

Stock Ownership Guidelines

The Board of Directors has adopted guidelines for ownership of the Company's common stock by executives and directors to help demonstrate the alignment of the interests of the Company's executives and directors with the interests of its shareholders. The amount of stock in which a particular executive is required to hold is determined relative to the executive’s position with the Company. The guidelines provide that executives and directors are expected to attain the following levels of stock ownership within five years of their election to the specified director or officer position:

Position	Share Ownership
Chief Executive Officer, President and Chief Operating Officer .....	4 times annual base salary
Senior Vice President .....	2 times annual base salary
Vice President .....	Equal to annual base salary
Nonemployee Director .....	Shares with a market value of at least \$100,000

Phantom stock and stock equivalents in the nonemployee director deferred compensation plan are considered common stock for purposes of the guidelines, as they are essentially awarded in lieu of cash compensation for Board services.

Employment Agreements

The Company is a party to employment agreements with Christopher J. Pappas, the Company's President and Chief Executive Officer, and Harris J. Pappas, the Company's Chief Operating Officer. These agreements have been filed with the Securities and Exchange Commission as exhibits to the Company's Annual Report on Form 10-K filed November 14, 2005. Each agreement, which expires in August 2010, provides for a fixed base annual salary of \$400,000, plus bonus compensation at the discretion of the Board or appropriate Board Committee. Please read “—Compensation of Chief Executive Officer and Chief Operating Officer” on page 24 for more information regarding Messrs. Pappas’ employment agreements.

Each employment agreement, as amended, provides that the employee will be entitled to receive all of his compensation and benefits under the contract until August 31, 2010, if either (1) the Company terminates his employment without cause, as defined in the agreements, or (2) he terminates his employment for good reason, as defined in the agreements. For more information regarding potential payments under these employment agreements, please read “—Potential Payments upon Termination or Change in Control” beginning on page 28. The Company does not have any agreements with any other of its officers, directors or employees containing provisions governing the compensation and benefits that may be paid to any such person upon termination of employment or a change in control of the Company.

#### Compensation of Chief Executive Officer and Chief Operating Officer

Christopher J. Pappas and Harris J. Pappas have base salaries fixed according to their respective employment agreements with the Company. Under their current employment agreements, which expire in August 2010, the annual base salaries in each of fiscal years 2009 and 2010 for Messrs. Pappas are \$400,000. Messrs. Pappas are eligible to receive annual cash bonuses under their employment agreements at the discretion of the Executive Compensation Committee. Messrs. Pappas did not receive a cash bonus in fiscal year 2008. Each of their previous employment agreements, which were replaced by their current employment agreements in November 2005, had fixed each of their base salaries for fiscal 2006 at \$300,000, with potential cash bonuses of up to \$200,000. In connection with entering into the current employment agreements, on November 8, 2005 the Company granted Messrs. Pappas each options to purchase 65,500 shares of the Company's common stock at an exercise price of \$12.92 per share. In determining the size of the stock option grant, the Committee considered the Company's size and its market, Messrs. Pappas' respective individual performance and experience, peer group data and the size of grants previously made to Messrs. Pappas.

#### Section 162(m) of the Internal Revenue Code

Section 162(m) of the Internal Revenue Code generally disallows a public company's tax deduction for compensation to the chief executive officer and the four other most highly compensated executive officers in excess of \$1 million in any calendar year. Compensation that qualifies as “performance based compensation” (as defined for purposes of Section 162(m)) is excluded from the \$1 million limitation, and therefore remains fully deductible by the company that pays it. Options granted under the Company's long-term incentive plan have been structured to qualify as performance-based and thus would not be subject to this deduction limitation. While the Executive Compensation Committee will seek to utilize deductible forms of compensation to the extent practicable, it does not believe that compensation decisions should be made solely to maintain the deductibility of compensation for federal income tax purposes. Although none of the Named Executive Officers reached the deduction limitation in fiscal year 2008, the Executive Compensation Committee plans to continue to evaluate the Company's salary, bonus and stock option programs to determine the advisability of future compliance with Section 162(m).

#### EXECUTIVE COMPENSATION COMMITTEE REPORT

The Executive Compensation Committee reviewed and discussed the Company's Compensation Discussion and Analysis with the Company's management. Based on this review and discussion, the Executive Compensation Committee recommended to the Board of Directors that the Compensation Discussion and Analysis be included in this Proxy Statement and the Company's Annual Report on Form 10-K for the fiscal year ended August 27, 2008.

Executive Compensation Committee  
J.S.B. Jenkins (Chair)  
Judith B. Craven (Vice-Chair)  
Jill Griffin  
Jim W. Woliver





## Summary Compensation Table

The table below contains information concerning annual and long-term compensation of the current Chief Executive Officer, all persons who served as Chief Executive Officer of the Company during the last fiscal year, the current Chief Financial Officer, all persons who served as Chief Financial Officer of the Company during the last fiscal year, and the next three most highly compensated individuals, as specified in Item 402 of regulation S-K, who made in excess of \$100,000 in total compensation and who served as executive officers during the last fiscal year (the "Named Executive Officers"), for services rendered in all capacities for the fiscal year ended August 27, 2008.

Name and Principal Position	Fiscal Year	Salary	Bonus	Stock Awards	Option Awards	Non-Equity Incentive Compensation	All Other Compensation (1)	Total
Christopher J. Pappas	2008	400,000	\$ 0	\$ 0	\$ 0	0	\$ 0	\$ 400,000
President and Chief Executive Officer	2007	400,000	0	0	215,859	0	0	615,859
Harris J. Pappas	2008	400,000	0	0	0	0	0	400,000
Chief Operating Officer	2007	400,000	0	0	215,859	0	0	615,859
K. Scott Gray (2)	2008	235,000	43,200	46,298	47,707	9,400	0	381,605
Senior Vice President and Chief Financial Officer	2007	170,577	0	29,459	17,796	9,400	0	227,252
Peter Tropoli	2008	250,000	45,000	70,607	72,749	10,000	0	448,356
Senior Vice President, Administration, General Counsel and Secretary	2007	236,000	0	32,108	60,568	10,000	0	338,676

(1) Perquisites and other personal benefits that did not exceed \$10,000 in the aggregate for any Named Executive Officer have been excluded.

(2) Mr. Gray became the Company's Senior Vice President and Chief Financial Officer on April 20, 2007. From the beginning of fiscal year 2007 until April 2007, he had served as the Company's Vice President of Finance.

The following table summarizes grants of plan-based awards made to each of the Named Executive Officers during the Company's last fiscal year.

## Grants of Plan-Based Awards

Name	Grant Date	Estimated Future Payouts Under Non-Equity Incentive Plan Awards (1)			Estimated Future Payouts Under Equity Incentive Plan Awards (1)			All Other Awards: Stock or Units (#)	All Other Securities Underlying Options (#)	Exercise Price of Awards (\$/Sh)	Grant date fair value of stock and awards (\$)
		Threshold (\$)	Target (\$)	Maximum (\$)	Threshold (#)	Target (#)	Maximum (#)				
Christopher J. Pappas ..		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Harris J. Pappas ..		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
.....											
K. Scott											
Gr a y	11/14/07	N/A	N/A	N/A	N/A	N/A	N/A	N/A	9,217	11.10	47,707
.....											
	11/14/07	N/A	N/A	N/A	N/A	N/A	N/A	4,171	N/A	11.10	46,298
Peter Tropoli	11/14/07	N/A	N/A	N/A	N/A	N/A	N/A	N/A	14,055	11.10	72,749
.....											
	11/14/07	N/A	N/A	N/A	N/A	N/A	N/A	6,361	N/A	11.10	70,607

(1)The Plan does not contemplate Threshold, Target or Maximum Payouts. Please see Long-Term Incentive Compensation, above, for further discussion.

The following table provides information regarding outstanding equity awards at fiscal year-end for each of the Named Executive Officers.

Outstanding Equity Awards at Fiscal Year End

Name	Number of Securities Underlying Unexercised Options (#)	Option Awards(1)			Option Exercise Price (\$)	Option Expiration Date	Stock Awards			
		Number of Securities Underlying Unexercisable Options (#)	Equity Incentive Plan Awards: Number of Securities Underlying Unexercised Options (#)	Equity Incentive Plan Awards: Number of Securities Underlying Unexercised Options (#)			Number of Shares or Units That Have Not Vested (#)	Market Value of Shares or Units (\$)	Equity Incentive Plan Awards: Number of Shares, Units or Rights That Have Not	Equity Incentive Plan Awards: Market or Payout Value of Unearned Shares, Units or Rights That Have Not

								Vested (#)	Vested (\$)
Christopher J. Pappas .....	32,750	32,750	N/A	12.92	11/7/2011	N/A	N/A	N/A	N/A
	21,523	64,566	N/A	10.18	10/18/2012	N/A	N/A	N/A	N/A
Harris J. Pappas .....	32,750	32,750	N/A	12.92	11/7/2011	N/A	N/A	N/A	N/A
	21,523	64,566	N/A	10.18	10/18/2012	N/A	N/A	N/A	N/A
K. Scott Gray .....	4,200	4,200	N/A	12.30	11/14/2011	N/A	N/A	N/A	N/A
	2,760	8,280	N/A	10.18	10/18/2012	N/A	N/A	N/A	N/A
	2,084	6,249	N/A	10.20	4/19/2013	N/A	N/A	N/A	N/A
	0	9,217	N/A	11.10	11/13/2013	N/A	N/A	N/A	N/A
	N/A	N/A	N/A	N/A	N/A	1,500	10,800	N/A	N/A
	N/A	N/A	N/A	N/A	N/A	1,972	14,198	N/A	N/A
	N/A	N/A	N/A	N/A	N/A	920	6,624	N/A	N/A
	N/A	N/A	N/A	N/A	N/A	4,171	30,031	N/A	N/A
Peter Tropoli .....	9,000	9,000	N/A	13.45	10/9/2011	N/A	N/A	N/A	N/A
	5,915	17,743	N/A	10.18	10/18/2012	N/A	N/A	N/A	N/A
	0	14,055	N/A	11.10	11/13/2013	N/A	N/A	N/A	N/A
	N/A	N/A	N/A	N/A	N/A	2,400	17,280	N/A	N/A
	N/A	N/A	N/A	N/A	N/A	3,154	22,709	N/A	N/A
	N/A	N/A	N/A	N/A	N/A	6,361	45,799	N/A	N/A

(1) Except for the stock options granted to Messrs. Pappas, which were granted pursuant to their employment agreements with the Company, the stock options were granted under the Company's Incentive Stock Plans.

The following table summarizes options exercised and stock awards that vested during the Company's last fiscal year.

Option Exercises and Stock Vested

Name	Option Awards		Stock Awards	
	Number of Shares Acquired on Exercise (#)	Value Realized on Exercise (\$)	Number of Shares Acquired on Vesting (#)	Value Realized on Vesting (\$)
Christopher J. Pappas .....	1,120,000	\$ 5,745,600	—	—
Harris J. Pappas .....	1,120,000	\$ 5,745,600	—	—
K. Scott Gray .....	—	—	—	—
Peter Tropoli .....	—	—	—	—

Potential Payments upon Termination or Change in Control

Trigger Events

The employment agreements between the Company and Christopher J. Pappas and Harris J. Pappas (each, an “Executive”) will terminate upon the Executive's death or upon the Executive's disability, which is defined as his becoming incapacitated by accident, sickness or other circumstance that renders him physically or mentally unable to carry out the duties and services required of him under the employment agreement on a full-time basis for more than 120 days in any 180-day period. If a dispute arises between the Executive and the Company concerning the Executive's physical or mental ability to continue or return to the performance of his duties as described above, the Executive is required to submit to an examination by a competent physician mutually agreeable to both parties or, if the parties are unable to agree, by a physician appointed by the president of the Harris County Medical Association, and that physician's opinion will be final and binding.

The Company may terminate at any time an employment agreement with an Executive for cause, which means that the Executive has (1) been convicted of a crime constituting a felony or a misdemeanor involving moral turpitude, (2) committed, or participated in, an illegal act or acts that were intended to defraud the Company, (3) willfully refused to fulfill his duties and responsibilities as required under the employment agreement, (4) breached material provisions of the employment agreement, a Company policy, or the Company's code of conduct, in each case after notice from the Board and an opportunity to correct the breach, (5) engaged in gross negligence or willful misconduct in the performance of his duties and obligations to the Company, or (6) willfully engaged in conduct known, or which should have been known, to be materially injurious to the Company. The Company also may terminate at any time an employment agreement for any other reason, in the sole discretion of the Board.

The Executive may terminate his employment agreement for “good reason,” which means (1) a material reduction in the nature, scope or duties of the Executive or assignment of duties inconsistent with those of his position as specified in the employment agreement, or a change in the location of the Company's business office in which his services are to be carried out, to a location outside Texas, (2) any breach of a material provision of the employment agreement by the Company after notice from the Executive and an opportunity to correct the breach, (3) within two years after the Company's sale of all or substantially all of its assets or the merger, share exchange or other reorganization of the Company into or with another corporation or entity, with respect to which the Company does not survive, or (4) certain reductions in the employee benefits and perquisites applicable to the Executive. Finally, the Executive may terminate his employment agreement for any other reason, in his sole discretion.

**Termination due to Death or Disability.** If the Executive's employment is terminated due to his death or disability, all compensation and benefits to the Executive under his employment agreement (other than any equity-based compensation awards granted to the Executive by the Company, which are governed by the terms of the applicable award agreement), will terminate immediately upon the termination of employment and without further obligation to the Executive or his legal representatives under his employment agreement, other than the payment of his base salary for the period through the date of termination. Under the Executives' existing incentive stock option agreements, upon the death of the Executive the stock option may be exercised within one year after his death, by the person or persons to whom his rights under the option have passed by will or the laws of descent and distribution, until the expiration of the option in November 2011. If the Executive is terminated due to disability, the option may be exercised, to the extent the option was exercisable on the date of termination, until the earlier of the first anniversary of the date of termination or the expiration of the option.

**Termination for Cause or other than for Good Reason.** If the Executive terminates his employment without good reason, or if the Company terminates the Executive's employment for cause, all compensation and benefits to the Executive under his employment agreement (other than any equity-based compensation awards granted to the



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Without Cause or For Good Reason	\$800,000	\$ 390,766
.....		
For Cause or other than for Good Reason—		390,766
.....		
D e a t h—		390,766
.....		
D i s a b i l i t y—		390,766
.....		
Non-renewal of Agreement—		390,766
.....		

DIRECTOR COMPENSATION

Name	Fees Earned or Paid in		All Other Compensation	Total
	Cash (\$)	Stock Awards (\$)	(\$) (1)	
Judith B. Craven .....	\$ 36,250	\$ 36,029	0	\$ 72,279
Arthur R. Emerson .....	32,000	36,029	0	68,522
Jill Griffin .....	21,500	45,022	0	66,522
J.S.B. Jenkins .....	20,250	58,232	0	78,482
Frank Markantonis .....	14,750	54,024	0	68,774
Joe C. McKinney .....	19,250	70,835	0	90,085
Gasper Mir, III .....	41,750	57,033	0	98,783
Jim W. Woliver .....	30,500	36,029	0	66,529

(1) Perquisites and other personal benefits that did not exceed \$10,000 in the aggregate for any director have been excluded.

Each nonemployee director other than the Chairman of the Board is paid an annual retainer of \$30,000. The Chairman of the Board is paid an annual retainer of \$55,000. In addition to the base annual retainer of \$30,000, the Chairman of the Finance and Audit Committee is paid an additional annual retainer of \$14,000, and the Chair of each other Board Committee is paid an additional annual retainer of \$3,500. All nonemployee directors are also paid the following meeting fees for each meeting he or she attends: (1) \$1,500 per day for each meeting of the Board, including Committee meetings attended on the same day as a meeting of the Board, so long as the total duration of the meeting(s) attended on that day exceeds four hours; (2) \$750 per day for each meeting of the Board, including Committee meetings attended on the same day as a meeting of the Board, if the meeting is conducted by telephone or its total duration is less than four hours; (3) \$1,000 per day for each meeting of any Board committee held on a day other than a Board meeting day; and (4) \$500 per day for each meeting of any Board committee conducted by telephone on a day other than a Board meeting day.

Pursuant the Company's Amended and Restated Nonemployee Director Stock Plan (the "Plan"), each nonemployee director is required to receive the dollar value equivalent of at least \$15,000 of the annual \$30,000 retainer in restricted stock. In addition, each nonemployee director, prior to the end of any calendar year, may elect to receive an Elective Retainer Award, whereupon on the first day of each January, April, July, and October during the term of the plan, the director elects to receive shares, the value of which is equal to any portion of the director's meeting and annual retainer fees in restricted stock. Directors receiving an Elective Retainer Award will also receive an additional number of whole shares of restricted stock equal to 20% of the number of whole shares of restricted stock issued in payment of the Elective Retainer Award for the quarterly period beginning on that date. The Plan allows the Board, in its discretion, to select nonemployee directors to receive an additional award of up to 5,000 shares of restricted stock in any 12-month period.

Further, under the Plan, nonemployee directors may be periodically granted nonqualified options to purchase shares of the Company's common stock at an option price equal to 100% of their fair market value on the date of grant. Each option terminates on the earlier of the tenth anniversary of the grant date or one year after the optionee ceases to be a director. An option may not be exercised prior to the first anniversary of the grant date, subject to certain exceptions specified in the Plan. No nonemployee director may receive options to purchase more than 5,000 shares in any 12-month period.

The Company's Nonemployee Director Deferred Compensation Plan permits nonemployee directors to defer all or a portion of their directors' fees in accordance with applicable regulations under the Internal Revenue Code. Deferred amounts bear interest at the average interest rate of U.S. Treasury ten-year obligations. The Company's obligation to pay deferred amounts is unfunded and is payable from general assets of the Company.

The Company's Corporate Governance Guidelines establish guidelines for share ownership. Currently, Directors are expected to accumulate, over time, shares of the Company's common stock with a market value of at least \$100,000.

#### FINANCE AND AUDIT COMMITTEE REPORT

In fulfilling its oversight responsibilities, the Committee reviewed and discussed with management and the independent registered public accounting firm the Company's audited financial statements in the annual report on Form 10-K and their judgment about the quality and appropriateness of accounting principles and financial statement presentations, the reasonableness of significant judgments, the clarity of the disclosures in the financial statements, and major issues as to the adequacy of the Company's internal controls. In addition, the Committee discussed any matter required to be communicated under generally accepted auditing standards. The Committee discussed with the independent registered public accounting firm matters required to be discussed by Statement on Auditing Standards No. 61 (Communication with Audit Committees). The Committee also has discussed with the independent registered public accounting firm the firm's independence from the Company and management, including matters in the written disclosures provided by the independent registered public accounting firm to the Finance and Audit Committee as required by the Independence Standards Board Standards No. 1 (Independence Discussions with Audit Committees). The Committee also considered the compatibility of nonaudit services with the independent registered public accounting firm's independence.

In reliance on the reviews and discussions referred to above, the Committee recommended to the Board, and the Board has approved, that the audited financial statements be included in the Annual Report on Form 10-K for the year ended August 27, 2008, for filing with the Securities and Exchange Commission. The Committee appointed Grant Thornton LLP as the independent registered public accounting firm for the Plan for the 2009 fiscal year.

Finance and Audit Committee  
Joe C. McKinney (Chair)  
J.S.B. Jenkins (Vice-Chair)  
Arthur Emerson

Gasper Mir, III

#### SHAREHOLDER PROPOSALS FOR 2010 ANNUAL MEETING

Proposals of shareholders for inclusion in the Company's proxy statement and form of proxy for the Company's 2010 Annual Meeting of Shareholders submitted pursuant to Rule 14a-8 under the Securities Exchange Act of 1934 must be received in writing by the Company at its corporate office no later than August 5, 2009. Notice of a shareholder proposal submitted outside the processes of Rule 14a-8 with respect to the Company's 2010 Annual Meeting of Shareholders will be considered untimely if received by the Company after October 19, 2009.

#### DIRECTOR NOMINATIONS FOR 2010 ANNUAL MEETING

The Company's Bylaws provide that candidates for election as directors at an Annual Meeting of Shareholders will be nominated by the Board of Directors or by any shareholder of record entitled to vote at the meeting, so long as the shareholder gives timely notice thereof. To be timely, such notice must be delivered in writing to the Secretary of the Company at the principal executive offices of the Company not later than the close of business on the 90th day and not earlier than the close of business on the 120th day prior to the first anniversary of the preceding year's annual meeting of shareholders and must include (1) the name and address of the shareholder who intends to make the nomination; (2) the name, age, and business address of each nominee; and (3) such other information with respect to each nominee as would be required to be disclosed in a proxy solicitation relating to an election of directors pursuant to Regulation 14A under the Securities Exchange Act of 1934.

The Company requests persons such as brokers, nominees, and fiduciaries holding stock in their names for the benefit of others, or holding stock for others who have the right to give voting instructions, to forward proxy material to their principals and to request authority for the execution of the proxy, and the Company will reimburse such persons for their reasonable expenses.

#### HOUSEHOLDING OF PROXY MATERIALS

Under SEC rules, companies and intermediaries (such as brokers) may satisfy the delivery requirements for proxy statements with respect to two or more shareholders sharing the same address by delivering a single proxy statement addressed to those shareholders. This practice, known as "householding," is intended to improve the convenience of shareholders and to reduce the Company's printing and postage costs.

A number of brokers with accountholders who are stockholders of the Company will be householding the Company's proxy materials and accordingly, a single proxy statement will be delivered to multiple shareholders sharing an address unless contrary instructions have been received from an affected shareholder. Shareholders who participate in householding will continue to receive separate proxy cards. Once you who have received notice from your broker that they will be householding communications to your address, householding will continue until you are notified otherwise or you revoke your consent. If at any time you no longer wish to participate in householding and would prefer to receive a separate proxy statement, please notify your broker or call the Company at (713) 329-6808 or write the Company at Luby's Inc., Investor Relations, 13111 Northwest Freeway, Suite 600, Houston, Texas 77040.

Stockholders who currently receive multiple copies of the proxy statement at their address and would like to request householding of their communications should contact their broker.

The Company will provide without charge on the written request of any person solicited hereby a copy of the Company's Annual Report on Form 10-K for the year ended August 27, 2008. Written requests should be mailed to Luby's, Inc., Investor Relations, 13111 Northwest Freeway, Suite 600, Houston, Texas 77040.

By Order of the Board of Directors,



/s/ Peter Tropoli  
Senior Vice President, Administration, General Counsel and Secretary

Dated: December 3, 2008

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AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
LUBY'S, INC.

Luby's, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certifies as follows:

**FIRST:** The name of the Corporation is Luby's, Inc., and the name under which the Corporation was originally incorporated was Cafeterias, Inc. The date of filing its original Certificate of Incorporation with the Secretary of State of the State of Delaware was October 29, 1991.

**SECOND:** This Amended and Restated Certificate of Incorporation restates, integrates and further amends the provisions of the Certificate of Incorporation of the Corporation, as amended, and has been duly adopted and approved in accordance with Sections 242 and 245 of the General Corporation Law of the State of Delaware (the "Delaware General Corporation Law"), the Certificate of Incorporation of the Corporation, as amended, and the Bylaws of the Corporation.

**THIRD:** The Certificate of Incorporation of the Corporation, as amended, hereby is amended and restated in its entirety so as to read as set forth in Exhibit 1 hereto.

**FOURTH:** This Amended and Restated Certificate of Incorporation of the Corporation shall become effective upon filing with the Secretary of State in accordance with Section 103 of the Delaware General Corporation Law, shall thenceforth supersede the Restated Certificate of Incorporation of the Corporation, as amended, and shall, as it may thereafter be amended in accordance with its terms and applicable law, be the certificate of incorporation of the Corporation.

IN WITNESS WHEREOF, Luby's, Inc. has caused this Amended and Restated Certificate of Incorporation to be signed by its duly authorized officer, as of the \_\_\_\_ day of \_\_\_\_\_, 2009.

LUBY'S, INC.

By:

Name:

EXHIBIT 1

FIRST. The name of the Corporation is LUBY'S, INC.

SECOND. The address of the registered office of the Corporation in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle. The name of the registered agent of the Corporation at such address is The Corporation Trust Company.

THIRD. The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

FOURTH. The total number of shares of all classes of stock which the Corporation shall have authority to issue is one hundred million (100,000,000) shares of Common Stock of the par value of thirty-two cents (\$.32) per share.

FIFTH. The period of the Corporation's duration is perpetual.

SIXTH. (a) Number, Election and Terms of Directors. The business and affairs of the Corporation shall be managed by a Board of Directors which shall consist of not less than nine nor more than fifteen persons, who need not be residents of the State of Delaware or stockholders of the Corporation. The exact number of directors within the minimum and maximum limitations specified in the preceding sentence shall be fixed from time to time by the Board of Directors pursuant to a resolution adopted by a majority of the entire Board of Directors. Until the 2012 Annual Meeting of Stockholders, the directors of the Corporation shall be divided into three classes, each consisting of approximately one-third of the total number of directors. At the 2010 Annual Meeting of Stockholders, the terms of the then-serving Class I directors shall expire and Class I directors shall be elected for one-year terms expiring at the 2011 Annual Meeting of Stockholders; at the 2011 Annual Meeting of Stockholders, the terms of the then-serving Class I and II directors shall expire, and both the Class I directors and Class II directors shall be elected for one-year terms expiring at the 2012 Annual Meeting of Stockholders; and at the 2012 Annual Meeting of Stockholders, the terms of the then-serving Class I, II and III directors shall expire. From and after the 2012 Annual Meeting of Stockholders, the directors shall no longer be divided into classes and all directors shall be elected for one-year terms expiring at the next Annual Meeting of Stockholders.

(b) Newly Created Directorships. A directorship to be filled by reason of an increase in the number of directors may be filled (i) by election at an Annual or Special Meeting of Stockholders called for that purpose or (ii) by the Board of Directors for a term of office continuing only until the next election of one or more directors by the stockholders; provided that the Board of Directors may not fill more than two such directorships during the period between any two successive Annual Meetings of Stockholders.

(c) Vacancies in the Board of Directors. Any vacancies in the Board of Directors resulting from death, resignation, retirement, disqualification, removal from office or other cause shall be filled by a majority vote of the directors then in office, and directors so chosen shall hold office for a term expiring at the Annual Meeting of Stockholders at which the term of the class to which they have been elected expires. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

(d) Removal of Directors. Any director, or the entire Board of Directors, may be removed from office at any time, with or without cause, by the affirmative vote of the holders of at least 80% of the voting power of all of the shares of the Corporation entitled to vote generally in the election of directors, voting together as a single class.

(e) Amendment, Repeal, etc. Notwithstanding any other provisions of this Certificate of Incorporation or the By-laws of the Corporation (and notwithstanding the fact that a lesser percentage may be specified by law, this Certificate of

Incorporation or the By-laws of the Corporation), the affirmative vote of the holders of 80% or more of the voting power of the shares of the Corporation then outstanding, voting together as a single class, shall be required to alter, amend, repeal or adopt any provision inconsistent with this Article Sixth.

SEVENTH. In furtherance and not in limitation of the powers conferred by the laws of the State of Delaware, the Board of Directors is expressly authorized to make, alter, adopt, amend, change or repeal the By-laws of the Corporation.

EIGHTH. The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation in the manner now or hereafter prescribed by the laws of the State of Delaware. All rights herein conferred are granted subject to this reservation.

NINTH. The Corporation shall have the power to indemnify to the fullest extent permitted by, and in the manner permissible under, the laws of the State of Delaware any person made, or threatened to be made, a party to any action, suit or proceeding, whether criminal, civil, administrative or investigative, by reason of the fact that he is or was a director, advisory director or officer of the Corporation, or served another corporation, partnership, joint venture, trust or other enterprise as a director, advisory director, officer, employee, or agent at the request of the Corporation, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding. The Board of Directors in its discretion shall have the power on behalf of the Corporation to indemnify similarly any person, other than a director, advisory director or officer, made a party to any action, suit or proceeding by reason of the fact that he is or was an employee or agent of the Corporation. The provisions of this Article Ninth shall be applicable to persons who have ceased to be directors, advisory directors, officers, employees or agents of the Corporation and shall inure to the benefit of their heirs, executors and administrators.

TENTH. Pursuant to section 102(b)(7) (or any successor statute) of the General Corporation Law of the State of Delaware, the personal liability of a director to the Corporation or the stockholders of the Corporation for monetary damages for breach of fiduciary duty is hereby eliminated. The terms of the preceding sentence, however, shall not eliminate or limit the liability of a director (i) for any breach of the director's duty of loyalty to the Corporation or the stockholders of the Corporation, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 (or a successor statute) of the General Corporation Law of the State of Delaware, or (iv) for any transaction from which the director derived an improper personal benefit.

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ELEVENTH. Section 1. Vote Required for Certain Business Combinations.

A. Higher Vote for Certain Business Combinations. In addition to any affirmative vote required by law or this Certificate of Incorporation, and except as otherwise expressly provided in Section 2 of this Article:

(i) any merger or consolidation of the Corporation or any Subsidiary (as hereinafter defined) with (a) any Interested Stockholder (as hereinafter defined) or (b) any other corporation (whether or not itself an Interested Stockholder) which is, or after such merger or consolidation would be, an Affiliate (as hereinafter defined) of an Interested Stockholder; or

(ii) any sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions) to or with any Interested Stockholder or any Affiliate of any Interested Stockholder of any assets of the Corporation or any Subsidiary having an aggregate Fair Market Value of \$10,000,000 or more; or

(iii) the issuance or transfer by the Corporation or any Subsidiary (in one transaction or a series of transactions) of any securities of the Corporation or any Subsidiary to any Interested Stockholder or any Affiliate of any Interested Stockholder in exchange for cash, securities or other property (or a combination thereof) having an aggregate Fair Market Value of \$10,000,000 or more; or

(iv) the adoption of any plan or proposal for the liquidation or dissolution of the Corporation proposed by or on behalf of an Interested Stockholder or any Affiliate of any Interested Stockholder; or

(v) any reclassification of securities (including any reverse stock split), or recapitalization of the Corporation, or any merger or consolidation of the Corporation with any of its Subsidiaries or any other transaction with any of its Subsidiaries or any other transaction (whether or not with or into or otherwise involving an Interested Stockholder) which has the effect, directly or indirectly, of increasing the proportionate share of the outstanding shares of any class of equity or convertible securities of the Corporation or any Subsidiary which is directly or indirectly owned by any Interested Stockholder or any Affiliate of any Interested Stockholder;

shall require the affirmative vote of the holders of at least 80% of the voting power of the then outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors (the "Voting Stock"), voting together as a single class. Such affirmative vote shall be required notwithstanding the fact that no vote may be required, or that a lesser percentage may be specified, by law or in any agreement with any national securities exchange or otherwise.

B. Definition of "Business Combination." The term "Business Combination" as used in this Article shall mean any transaction which is referred to in any one or more of clauses (i) through (v) of paragraph A of this Section 1.

Section 2. When Higher Vote is Not Required. The provisions of Section 1 of this Article shall not be applicable to any particular Business Combination, and such Business Combination shall require only such affirmative vote as is required by law and any other provision of this Certificate of Incorporation, if all of the conditions specified in either of the following paragraphs A and B are met:

A. Approval by Continuing Directors. The Business Combination shall have been approved by a majority of the Continuing Directors (as hereinafter defined).

B. Price and Procedure Requirements. All of the following conditions shall have been met:

(i) The aggregate amount of the cash and the Fair Market Value (as hereinafter defined) as of the date of the consummation of the Business Combination of consideration other than cash to be received per share by holders of Common Stock in such Business Combination shall be at least equal to the higher of the following:

(a) (if applicable) the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the Interested Stockholder for any shares of Common Stock acquired by it (1) within the two-year period immediately prior to the first public announcement of the proposal of the Business Combination (the "Announcement Date") or (2) in the transaction in which it became an Interested Stockholder, whichever is higher; and

(b) the Fair Market Value per share of Common Stock on the Announcement Date or on the date on which the Interested Stockholder became an Interested Stockholder (such latter date being referred to in this Article as the "Determination Date"), whichever is higher.

(ii) The aggregate amount of the cash and the Fair Market Value as of the date of the consummation of the Business Combination of consideration other than cash to be received per share by holders of shares of any other class of outstanding Voting Stock shall be at least equal to the highest of the following (it being intended that the requirements of this paragraph B(ii) shall be required to be met with respect to every class of outstanding Voting Stock, whether or not the Interested Stockholder has previously acquired any shares of a particular class of Voting Stock):

(a) (if applicable) the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the Interested Stockholder for any shares of such class of Voting Stock acquired by it within the two-year period immediately prior to the Announcement Date or (2) in the transaction in which it became an Interested Stockholder, whichever is higher;

(b) (if applicable) the highest preferential amount per share to which the holders of shares of such class of Voting Stock are entitled in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation; and

(c) the Fair Market Value per share of such class of Voting Stock on the Announcement Date or on the Determination Date, whichever is higher.

(iii) The consideration to be received by holders of a particular class of outstanding Voting Stock (including Common Stock) shall be in cash or in the same form as the Interested Stockholder has previously paid for shares of such class of Voting Stock. If the Interested Stockholder has paid for shares of any class of Voting Stock with varying forms of consideration, the form of consideration for such class of Voting Stock shall be either cash or the form used to acquire the largest number of shares of such class of Voting Stock previously acquired by it. In the determination of amounts per share pursuant to subparagraphs (i) and (ii) of this paragraph B, appropriate adjustment shall be made to reflect any stock dividend, stock split, combination of shares or similar event.

(iv) After such Interested Stockholder has become an Interested Stockholder and prior to the consummation of such Business Combination: (a) there shall have been (1) no reduction in the annual rate of dividends paid on the Common Stock (except as necessary to reflect any subdivision of the Common Stock), except as approved by a majority of the Continuing Directors, and (2) an increase in such annual rate of dividends as necessary to reflect any reclassification (including any reverse stock split), recapitalization, reorganization or any similar transaction which has the affect of reducing the number of outstanding shares of the Common Stock, unless the failure so to increase such annual rate is approved by a majority of the Continuing Directors; and (b) such Interested Stockholder shall have not become the beneficial owner of any additional shares of Voting Stock except as part of the transaction which results in such Interested Stockholder becoming an Interested Stockholder.

(v) After such Interested Stockholder has become an Interested Stockholder, such Interested Stockholder shall not have received the benefit, directly or indirectly (except proportionately as a stockholder), of any loans, advances, guarantees, pledges or other financial assistance or any tax credits or other tax advantages provided by the Corporation, whether in anticipation of or in connection with such Business Combination or otherwise.

(vi) A proxy or information statement describing the proposed Business Combination and complying with the requirements of the Securities Exchange Act of 1934 and the rules and regulations thereunder (or any subsequent provisions replacing such Act, rules or regulations) shall be mailed to public stockholders of the Corporation at least 30 days prior to the consummation of such Business Combination (whether or not such proxy or information statement is required to be mailed pursuant to such Act or subsequent provisions).

Section 3. Certain Definitions. For the purposes of this Article:

A. A "person" shall mean any individual, firm, corporation or other entity.

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B. "Interested Stockholder" shall mean any person (other than the Corporation or ' ) I any Subsidiary) who or which:

(i) is the beneficial owner, directly or indirectly, of more than 10% of the voting power of the outstanding Voting Stock; or

(ii) is an Affiliate of the Corporation and at any time within the two-year period immediately prior to the date in question was the beneficial owner, directly or indirectly, of 10% or more of the voting power of the then outstanding Voting Stock; or

(iii) is an assignee of or has otherwise succeeded to any shares of Voting Stock which were at any time within the two-year period immediately prior to the date in question beneficially owned by any Interested Stockholder, if such assignment or succession shall have occurred in the course of a transaction or series of transactions not involving a public offering within the meaning of the Securities Act of 1933.

C. A person shall be a "beneficial owner" of any Voting Stock:

(i) which such person or any of its Affiliates or Associates (as hereinafter defined) beneficially owns, directly or indirectly; or

(ii) which such person or any of its Affiliates or Associates has (a) the right to acquire (whether such right is exercisable immediately or only after the passage of time), pursuant to any agreement, arrangement or understanding or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise, or (b) the right to vote pursuant to any agreement, arrangement or understanding; or

(iii) which are beneficially owned, directly or indirectly, by any other person with which such person or any of its Affiliates or Associates has any agreement, arrangement or understanding for the purpose of acquiring, holding, voting or disposing of any shares of Voting Stock.

D. For the purposes of determining whether a person is an Interested Stockholder pursuant to paragraph B of this Section 3, the number of shares of Voting Stock deemed to be outstanding shall include shares deemed owned through application of paragraph C of this Section 3, but shall not include any other shares of Voting Stock which may be issuable pursuant to any agreement, arrangement or understanding, or upon exercise of conversion rights, warrants or options, or otherwise.

E. "Affiliate" or "Associate" shall have the respective meanings ascribed to such terms in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934, as in effect on October 1, 1985.

F. "Subsidiary" means any corporation of which a majority of any class of equity security is owned, directly or indirectly, by the Corporation; provided, however, that for the purposes of the definition of Interested Stockholder set forth in paragraph B of this Section 3, the term "Subsidiary" shall mean only a corporation of which a majority of each class of equity security is owned, directly or indirectly, by the Corporation.

G. "Continuing Director" means any member of the Board of Directors of the Corporation (the Board) who is unaffiliated with the Interested Stockholder and was a member of the Board prior to the time that the Interested Stockholder became an Interested Stockholder, and any successor of a Continuing Director who is unaffiliated with the Interested Stockholder and is recommended to succeed a Continuing Director by a majority of Continuing Directors then on the Board.



H. Fair Market Value means: (i) in the case of stock, the highest closing sale price during the 30-day period immediately preceding the date in question of a share of such stock on the Composite Tape for New York Stock Exchange-Listed Stocks, or, if such stock is not quoted on the Composite Tape, on the New York Stock Exchange, or, if such stock is not listed on such Exchange, on the principal United States securities exchange registered under the Securities Exchange Act of 1934 on which such stock is listed, or, if such stock is not listed on any such exchange, the highest closing bid quotation with respect to a share of such stock during the 30- day period preceding the date in question on the National Association of Securities Dealers, Inc. Automated Quotations System or any system then in use, or if no such quotations are available, the fair market value on the date in question of a share of such stock as determined by the Board in good faith; and (ii) in the case of property other than cash or stock, the fair market value of such property on the date in question as determined by the Board in good faith.

I. In the event of any Business Combination in which the Corporation survives, the phrase "other consideration to be received" as used in paragraphs B(i) and B(ii) of Section 2 of 1 this Article shall include the shares of Common Stock and/or the shares of any other class of outstanding Voting Stock retained by the holders of such shares.

Section 4. Powers of the Board of Directors. A majority of the directors of the Corporation shall have the power and duty to determine for the purposes of this Article, on the basis of information known to them after reasonable inquiry, (A) whether a person is an Interested Stockholder, (B) the number of shares of Voting Stock beneficially owned by any person, (C) whether a person is an Affiliate or Associate of another and (D) whether the assets which are the subject of any Business Combination have, or the consideration to be received for the issuance or transfer of securities by the Corporation or any Subsidiary in any Business Combination has, an aggregate Fair Market Value of \$10,000,000 or more.

Section 5. No Effect on Fiduciary Obligations of Interested Stockholders. Nothing contained in this Article shall be construed to relieve any Interested Stockholder from any fiduciary obligation imposed by law.

Section 6. Amendment, Repeal. etc. Notwithstanding any other provisions of this Certificate of Incorporation or the By-laws of the Corporation (and notwithstanding the fact that a lesser percentage may be specified by law, this Certificate of Incorporation or the By-laws of the Corporation), the affirmative vote of the holders of 80% or more of the voting power of the shares of the then outstanding Voting Stock, voting together as a single class, shall be required to alter, amend, repeal or adopt any provision inconsistent with this Article Eleventh.

TWELFTH. Special meetings of the stockholders of the Corporation may be called (1) by the President, the Board of Directors, or such other person or persons as may be authorized in the Corporation's By-laws or (2) by the holders of at least fifty percent of all the shares of the Corporation entitled to vote at the proposed special meeting.

THIRTEENTH. Any action required or permitted to be taken by the stockholders of the Corporation must be effected at an annual or special meeting of stockholders of the Corporation and may not be effected by any consent in writing by such stockholders.



