OPENTABLE INC
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May 21, 2009

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63,780

(1) Amount represents matching contributions to our 401(k) savings plan.

(2) Amount represents consulting fees of $21,250 and Board compensation fees of $39,000.

(3) Amount represents severance of $122,500, consulting fees of $12,000 and matching contributions to our 401(k) savings plan of $1,971.

(4) Amount represents severance of $95,000, consulting fees of $17,500, Board compensation fees of $5,000 and matching contributions to our 401(k) savings plan of $2,000.

(5) Amount represents reimbursement of relocation costs and matching contributions to our 401(k) savings plan.

(6) Amount represents severance of $85,000 and matching contributions to our 401(k) savings plan of $2,000.

(7) Amount represents Board compensation fees.

OPTION GRANTS IN LAST FISCAL YEAR

We granted stock options to certain Named Executive Officers during 2001 but not in 2002. We have never granted any stock appreciation rights.

The following table provides information relating to stock options awarded to each of the Named Executive Officers during the year ended December 31, 2002. All such options were awarded under our 1996 Equity Incentive Plan.

	Individual Grants				Potential Realizable Value at Assumed Annual Rates of Stock Price Appreciation for Options Term(4)	
Name	Number of Securities Underlying Options Granted(1)	Percent of Total Options Granted in Fiscal 2002(2)	Exercise Price(3)	Expiration Date	5%	10%
Raymond A. Doig		%	$		$	$
Stephen V. Imbler	10,000	4.0	2.63	11/1/12	16,540	41,915

(1) Options were granted under our 1996 Equity Incentive Plan and generally vest over four years from the date of grant.

(2) Based on an aggregate of 248,000 options granted by us in the year ended December 31, 2002 to our employees, directors and consultants, including the Named Executive Officers.

(3) Options were granted at an exercise price equal to the fair market value per share of common stock on the grant date, as determined by our board of directors according to the provisions of the 1996 Equity Incentive Plan.

(4) The potential realizable value is calculated based on the term of the option at its time of grant, or 10 years. In accordance with the rules of the Securities and Exchange Commission, the following table also sets forth the potential realizable value over the term of the options, the period from the grant date to the expiration date, based on assumed rates of stock appreciation of 5% and 10% compounded annually. These amounts do not represent our estimate of future stock price performance. Actual realizable values, if any, of stock options will depend on the future performance of the common stock.

AGGREGATED OPTION EXERCISES IN LAST FISCAL YEAR

AND FISCAL YEAR END OPTION VALUES

The following table provides summary information concerning stock options held as of December 31, 2002 by each of the Named Executive Officers. One of the Named Executive Officers exercised options in 2002.

	Shares Acquired on Exercise	Value Realized	Number of Securities Underlying Unexercised Options at Fiscal Year-End	Value of Unexercised In-the-Money Options at Fiscal

		($)			Year-End(1)	
Name			**Exercisable**	**Unexercisable**	**Exercisable**	**Unexercisable**
Raymond A. Doig		$	30,000		$	$
Stephen V. Imbler			40,000			
Robert G. Flynn			76,040			
Leon Rishniw	5,000	11,450	106,815		17,591	

(1) The value of unexercised in-the-money options at fiscal year-end is based on a price per share of $2.46 less the exercise price.

EMPLOYMENT CONTRACTS, TERMINATION OF

EMPLOYMENT AND CHANGE-IN-CONTROL ARRANGEMENTS

We have one-year employment contracts with Raymond A. Doig and former director James D. Somes, terminating on November 18, 2003, and a six-month contract with Stephen V. Imbler terminating on May 18, 2003. Under these contracts, each of Raymond A. Doig, Stephen V. Imbler and James D. Somes were advanced six months of salary, or $72,000, in a lump sum payment in November 2002. Each of Mr. Doig and Mr. Somes receive monthly payments of $12,000 beginning on December 1, 2002 and ending on May 31, 2003, with Mr. Doig receiving in April 2003, an accelerated payment of any amounts remaining owed until May 31, 2003. Mr. Imbler received a monthly payment of $12,000 in December 2002 and receives monthly payments of $6,000 beginning on January 1, 2003 and ending on May 31, 2003; however, in April 2003, Mr. Imbler received an accelerated payment of any amounts remaining owed until May 31, 2003. The contract with Mr. Somes was terminated on January 24, 2003. Messrs. Doig and Imbler terminated their employment with us, effective April 15, 2003.

The compensation committee of our Board has approved a plan that provides that in the event of a change-in-control of Liquid Audio, the stock options of each of our executive officers will immediately vest in an amount equal to the greater of one year or 25% of all of their outstanding or unvested stock options. Executive officers qualifying under this plan include Raymond A. Doig, Stephen V. Imbler and H. Thomas Blanco (Vice President of Human Resources). For purposes of this plan, a change-in-control is defined as an event at which either (1) we enter into an agreement to dispose of all or substantially all of our assets; or (2) our stockholders dispose of 50% or more of our outstanding common stock.

BOARD COMPENSATION COMMITTEE REPORT

ON EXECUTIVE COMPENSATION

The compensation committee during the last completed fiscal year ended December 31, 2002 consisted of Seymour Holtzman and Ann Winblad. Ms. Winblad resigned as a director in March 2003 and Seymour Holtzman became an employee of the company in April 2003 (at which time he was no longer a member of the compensation committee); however, the following report is accurate with respect to compensation reported for the last completed fiscal year ended December 31, 2002. In addition, on April 29, 2003 our Board elected Jesse Choper, Michael A. McManus, Jr. and William J. Fox to serve on the compensation committee, with Mr. Choper acting as chairman.

The compensation committee believes that the compensation of the executive officers, including that of the Chief Executive Officer, (each, an ***Executive Officer*** and collectively, the ***Executive Officers***) should be influenced by Liquid Audio s performance. The compensation committee establishes the salaries and bonuses of all of the Executive Officers by considering: (i) Liquid Audio s financial performance for the past year; (ii) the achievement of certain objectives related to the particular Executive Officer s area of responsibility; (iii) the salaries and bonuses of Executive Officers in similar positions of comparably-sized companies; and (iv) the relationship between revenue and Executive Officer compensation.

Due to Liquid Audio s performance in 2001 and to contain expenses, in 2002, the compensation committee established a salary freeze on all of our employees, including the Executive Officers.

In 2002, the compensation committee did not establish bonus targets for the Executive Officers. In the prior year, bonus targets were equal to either 30% or 50% of base salary. Actual bonus amounts were based on both corporate and individual performance measurements. The corporate performance measurements were based on revenue and operating loss targets. No bonus pay-outs were made in 2002.

In addition to salary and bonus, the compensation committee, from time to time, grants options to Executive Officers. The compensation committee views option grants as an important component of its long-term, performance-based compensation philosophy. Since the value of an option bears a direct relationship to our stock price, the compensation committee believes that options motivate Executive Officers to manage Liquid Audio in a manner that will also benefit stockholders. As such, options are granted at the current market price. One of the

principal factors considered in granting options to an Executive Officer is the Executive Officer s ability to influence our long-term growth and profitability. No options were granted to any Executive Officer in 2002.

Compensation Committee of the Board of Directors

JESSE CHOPER

MICHAEL A. MCMANUS, JR.

WILLIAM J. FOX

THE FOREGOING COMPENSATION COMMITTEE REPORT SHALL NOT BE DEEMED TO BE SOLICITING MATERIAL OR TO BE FILED WITH THE SEC, NOR SHALL SUCH INFORMATION BE INCORPORATED BY REFERENCE INTO ANY PAST OR FUTURE FILING UNDER THE SECURITIES ACT OR THE EXCHANGE ACT, EXCEPT TO THE EXTENT WE SPECIFICALLY INCORPORATE IT BY REFERENCE INTO SUCH FILING.

PERFORMANCE GRAPH

The following graph compares the cumulative total return to stockholders on our common stock with the cumulative total return of the Nasdaq Stock Market Index-U.S. and a group of peer issuers selected in good faith and comprised of Intertrust Technologies Corporation (ITRU) and RealNetworks, Inc. (RNWK). The graph assumes that $100 was invested on July 9, 1999, the date of our initial public offering, in our common stock, the Nasdaq Stock Market Index-U.S. and the peer group, including reinvestment of dividends. No dividends have been declared or paid on our common stock. Historic stock price performance is not necessarily indicative of future stock price performance. Note that we were delisted from the Nasdaq National Market as of June 5, 2003 and, as a result, our stock is currently traded on the over-the-counter Bulletin Board.

COMPARISON OF 42 MONTH CUMULATIVE TOTAL RETURN*

AMONG LIQUID AUDIO, THE NASDAQ STOCK MARKET (U.S.) INDEX AND A PEER GROUP

* $100 invested on July 9, 1999 in stock or index, including reinvestment of dividends. Fiscal year ending December 31.

Company/Index	7/9/99	9/99	12/99	3/00	6/00	9/00	12/00	3/01	6/01	9/01	12/01	3/02	6/02	9/02	12/02
Liquid Audio	100.00	246.67	175.00	88.33	63.13	30.00	17.09	16.25	19.67	13.67	15.67	15.27	16.33	17.33	32.42
Peer Group	100.00	113.19	130.24	113.34	87.96	66.05	15.01	13.59	17.72	7.80	9.48	11.04	8.34	7.84	9.01
Nasdaq Stock Market (U.S.)	100.00	98.41	145.37	163.30	145.02	130.69	87.51	65.31	76.97	53.41	69.43	65.78	52.44	42.07	47.99

THE INFORMATION CONTAINED IN THE STOCK PERFORMANCE GRAPH SHALL NOT BE DEEMED TO BE SOLICITING MATERIAL OR TO BE FILED WITH THE SEC, NOR SHALL SUCH INFORMATION BE INCORPORATED BY REFERENCE INTO ANY FUTURE FILING UNDER THE SECURITIES ACT OR THE EXCHANGE ACT, EXCEPT TO THE EXTENT WE SPECIFICALLY INCORPORATE IT BY REFERENCE INTO SUCH FILING.

CERTAIN RELATIONSHIPS AND

RELATED TRANSACTIONS

Since our inception in January 1996, we have never been a party to any transaction or series of similar transactions in which the amount involved exceeded or will exceed $60,000 and in which any director, executive officer or holder of more than 5% of our common stock had or will have an interest, other than as described under SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT, the reimbursement of MM Companies Inc. for legal expenses in connection with a stockholder derivative action (see LEGAL PROCEEDINGS) and the transactions described below.

Robert G. Flynn was involved in our founding and organization and may be considered as one of our promoters. Mr. Flynn is a former executive and former director who served as a director during fiscal year 2002. Following our inception in January 1996, we issued 750,000 shares of common stock to Mr. Flynn. Mr. Flynn contributed a nominal amount of capital for our initial capitalization.

From May to July 1996, we sold an aggregate of 3,049,989 shares of Series A preferred stock to certain investors at a purchase price of $0.656 per share. In May 1997, we sold an aggregate of 3,186,888 shares of Series B preferred stock to certain investors at a purchase price of $1.96 per share. In July and September 1998, we sold an aggregate of 3,507,322 shares of Series C preferred stock to certain investors at a purchase price of $6.14 per share. The shares of Series A, Series B and Series C preferred stock automatically converted into 9,744,199 shares of common stock upon the closing of our initial public offering on July 8, 1999.

The investors in the preferred stock included the following entities, which are 5% stockholders or are affiliated with one of our former directors, who served as a director during fiscal year 2002:

Investor	Shares of Series A Preferred Stock	Shares of Series B Preferred Stock	Shares of Series C Preferred Stock
Entities Affiliated with Directors:			
Entities affiliated with Ann Winblad(1)	1,829,272	788,928	81,431
(Entities affiliated with Hummer Winblad Venture Partners)(2)			

(1) Ann Winblad is a former member of our board of directors. Ms. Winblad is a general partner of Hummer Winblad Venture Partners.

(2) Hummer Winblad Venture Partners II, L.P. purchased 1,756,098 shares of Series A preferred stock, 757,370 shares of Series B preferred stock and 80,943 shares of Series C preferred stock. Hummer Winblad Technology Fund II, L.P. purchased 62,198 shares of Series A preferred stock and 26,825 shares of Series B preferred stock. Hummer Winblad Technology Fund II, L.P. purchased 10,976 shares of Series A preferred stock, 4,733 shares of Series B preferred stock and 488 shares of Series C preferred stock.

In the past, we have granted options to our executive officers and directors. We intend to grant options to our officers and directors in the future. See PROPOSAL ONE Director Compensation and EXECUTIVE COMPENSATION Option Grants in Last Fiscal Year.

We have entered into indemnification agreements with our officers and directors containing provisions which may require us, among other things, to indemnify our officers and directors against certain liabilities that may arise by reason of their status or service as officers or directors

(other than liabilities arising from willful misconduct of a culpable nature) and to advance their expenses incurred as a result of any proceeding against them as to which they could be indemnified. We also intend to execute such agreements with future directors and executive officers.

All of our securities referenced above were purchased or sold at prices equal to the fair market value of such securities, as determined by our board of directors, on the date of issuance.

REPORT OF THE AUDIT COMMITTEE OF THE BOARD

During the fiscal year ended December 31, 2002, the audit committee of the board of directors consisted of two non-employee directors, Mr. Holtzman and Mr. Mitarotonda, each of whom was determined at that time to be independent under the National Association of Securities Dealers Listing Standards; however, in April 2003, Messrs. Holtzman and Mitarotonda both became employees of the company and therefore presently do not qualify as independent directors. On April 29, 2003, our Board replaced Messrs. Holtzman and Mitarotonda by electing William J. Fox, Michael A. McManus, Jr. and Jesse Choper to serve on the audit committee, with Mr. Fox acting as chairman.

The audit committee is a standing committee of the board of directors and operates under a written charter adopted by the board of directors, a copy of which is attached hereto as Appendix A. Among its other functions, the audit committee recommends to the board of directors, subject to stockholder ratification, the selection of independent accountants.

Management is responsible for our internal controls and the financial reporting process. The independent accountants are responsible for performing an independent audit of our consolidated financial statements in accordance with generally accepted accounting principles in the United States and to issue a report thereon. The audit committee s responsibility is to monitor and oversee these processes.

During fiscal 2002, at each of its meetings, the audit committee met with the senior members of our financial management team and the independent accountants. The audit committee s agenda is established by the audit committee and senior members of our financial management team. The audit committee has reviewed with management and the independent accountants the audited consolidated financial statements in the Annual Report, including a discussion of the quality, not just the acceptability, of the accounting principles, the reasonableness of significant judgments and the clarity of disclosures in the consolidated financial statements. Management represented to the audit committee that the consolidated financial statements were prepared in accordance with generally accepted accounting principles. The audit committee discussed with the independent accountants matters required to be discussed by Statement on Auditing Standards No. 61, Codification of Statements on Auditing Standards, AU §380.

The independent accountants also provided to the audit committee the written disclosure required by Independence Standards Board Standard No. 1, Independence Discussions with Audit Committees. The audit committee discussed with the independent accountants that firm s independence and considered whether the non-audit services provided by the independent accountants are compatible with maintaining its independence.

Based on the audit committee s discussion with management and the independent accountants, and the audit committee s review of the representation of management and the report of the independent accountants to the audit committee, the audit committee recommended that the board of directors include the audited consolidated financial statements in our Annual Report on Form 10-K for the year ended December 31, 2002 filed with the Securities and Exchange Commission.

Audit Committee of the Board of Directors

WILLIAM J. FOX

MICHAEL A. MCMANUS, JR.

JESSE CHOPER

THE FOREGOING AUDIT COMMITTEE REPORT SHALL NOT BE DEEMED TO BE SOLICITING MATERIAL OR TO BE FILED WITH THE SEC, NOR SHALL SUCH INFORMATION BE INCORPORATED BY REFERENCE INTO ANY PAST OR FUTURE FILING UNDER THE SECURITIES ACT OR THE EXCHANGE ACT, EXCEPT TO THE EXTENT WE SPECIFICALLY INCORPORATE IT BY REFERENCE INTO SUCH FILING.

LEGAL PROCEEDINGS

On or about April 7, 2000, SightSound, Inc. (***SightSound***) filed an amended complaint against one of our former customers, BeMusic, in the United States District Court for the Western District of Pennsylvania (***Pennsylvania Court***). The suit alleges that BeMusic infringes one or more of three patents (United States Patent Nos. 5,191,573; 5,675,734 and 5,996,440). SightSound claims damages of $20 million plus an unspecified royalty. BeMusic filed an answer to the amended complaint on April 27, 2000, denying the material allegations of the complaint, and asserting counterclaims for declaratory judgment of non-infringement and patent invalidity. Following a claims construction hearing in 2001 and an initial report and recommendation on claim construction by the magistrate judge in February 2002 (which ruling is on appeal to the district judge), we renegotiated our agreement with BeMusic concerning the defense of the case going forward. On December 16, 2002, BeMusic filed a lawsuit against us seeking to enjoin the payment of a $2.50 per share return of capital cash distribution to our stockholders. On January 24, 2003, we entered into a settlement agreement with BeMusic, whereby we agreed to maintain $2.0 million in available cash on hand to pay up to 50% of reasonable attorney fees and costs in connection with the defense of the patent action brought by SightSound against BeMusic, and $5.0 million in available cash on hand to apply towards the satisfaction of any adverse judgment in respect of which it is determined that we would be obligated to indemnify BeMusic. We and BeMusic then dismissed our claims against each other. We have now ceded control of the defense of the case to BeMusic, and are splitting the costs of the defense with BeMusic. As of March 31, 2003, we understand that BeMusic had incurred approximately $554,900 in legal fees and expenses, of which we will be responsible for $277,450. We did not, by entering into the settlement agreement with BeMusic, agree, concede or intend to suggest that we have an obligation to indemnify any party with regard to an adverse judgment, and we specifically reserved our right to assert that we have no such obligation. The action currently is pending in the Pennsylvania Court. No trial date has been set at this time.

On August 27, 2002, MM Companies, Inc. (***MMC*** formerly musicmaker.com, Inc.) filed a lawsuit against us, Raymond A. Doig, Gerald W. Kearby, Robert G. Flynn, Stephen V. Imbler and Ann Winblad in the Delaware Chancery Court seeking injunctive and other equitable relief to prevent the defendants from appointing two additional directors to our Board. MMC s complaint alleged that the defendants decision to expand our Board was in violation of Delaware law. MMC further alleged that the defendants actions were taken solely to interfere with the vote of our stockholders and to deny MMC and other stockholders a substantial presence on our Board. On October 1, 2002, MMC amended its complaint to add James D. Somes and Judith N. Frank, our newly appointed directors, as named defendants. The amended complaint alleged that the Board s decision to expand the size of the Board and to appoint two additional directors was in violation of Delaware General Corporation Law Section 225. At the trial in this matter held on October 21, 2002, the Delaware Chancery Court denied MMC s application for relief and approved the Board s appointment of two additional directors. On October 30, 2002, MMC filed a notice of appeal and a motion for expedited proceedings in the Supreme Court of Delaware. That Court accepted the appeal and, after briefing and oral argument, on January 7, 2003 the Supreme Court of Delaware reversed the trial court s decision and invalidated the Board s decision to appoint two additional directors. Consequently, James D. Somes and Judith N. Frank were removed from the Board.

On August 21, 2002, we filed a lawsuit against MMC and Steel Partners II, LP (***Steel Partners***) in U.S. District Court for the Southern District of New York (***New York Court***). We alleged that MMC and Steel Partners violated the federal securities laws in connection with their campaigns to take control of us, asked the New York Court to prohibit MMC and Steel Partners from such violations and sought compensatory and punitive damages as a result of these alleged violations. Our complaint alleged that MMC failed to register as an investment company under the Investment Company Act of 1940 (***ICA***) and that its purchase of our shares and subsequent proxy contest to take control of the Board was, therefore, in violation of the ICA. The complaint also alleged that Steel Partners was conducting an illegal proxy contest by failing to make the proper filings with the Securities and Exchange Commission (***SEC***) and that, in the course of its contest, Steel Partners had distributed false and misleading statements to our stockholders. Shortly after the filing of this complaint, MMC purchased $4 million in gold bullion and, subsequently, revised its proxy statement to disclose its uncertain status under the ICA. In light of these steps, on September 10, 2002, we informed the New York Court that we were withdrawing our claims for injunctive relief against MMC. In resolution of our claims against Steel Partners, both parties entered into a stipulation, dated September 20, 2002, limiting Steel Partner s ability to issue further press releases referencing us. As a result of the

foregoing, the New York Court, on September 20, 2002, entered an order denying our motion for a preliminary injunction against MMC and Steel Partners. Pursuant to the Settlement and Reimbursement Agreement entered into on January 2, 2003 (***January 2, 2003 Agreement***) described below, the parties stipulated, among other things, that this action be dismissed with prejudice. On January 17, 2003, the New York Court entered an order granting the voluntary dismissal, with prejudice, of our claims against Steel Partners in this action.

On July 23, 2002, MMC filed an action in Delaware Chancery Court against us, each member of our Board, and Alliance Entertainment Corp. (***Alliance***). The complaint alleged that our then directors and Alliance violated their fiduciary duties by approving the Agreement and Plan of Merger dated June 12, 2002 (***Merger Agreement***) by and among us, April Acquisition Corp and Alliance, and that our directors further violated their fiduciary duties by making certain changes to our shareholders rights plan. Alliance was alleged to have aided and abetted the alleged breaches of fiduciary duty by our directors. MMC sought, among other things, to (i) invalidate the Merger Agreement, (ii) prevent us or Alliance from taking any actions to effectuate or enforce the Merger Agreement, the merger of us or Alliance, or the self tender-offer, (iii) direct our Board to restore a previously reduced trigger of our shareholders rights plan from 10% back to 15%, (iv) prevent enforcement of our shareholders rights plan to the extent it prohibits the plaintiff and other stockholders from assisting in the solicitation of proxies for our 2002 annual meeting of stockholders (***2002 Annual Meeting***), (v) collect damages for incidental injuries, and (vi) collect costs and expenses, including attorneys fees and experts fees. In connection with its complaint, MMC filed a motion for a preliminary injunction and a motion for expedited proceedings. On July 31, 2002, MMC withdrew its motion for a preliminary injunction and for expedited proceedings, and stated that it would file an amended complaint. On December 12, 2002, this action was dismissed without prejudice. On November 8, 2002, we agreed to terminate the Merger Agreement. On January 2, 2003, MMC, we and the Board, entered into the January 2, 2003 Agreement, pursuant to which we reimbursed MMC the sum of $929,000, representing MMC s costs associated with this and other litigation with us and members of our Board. The $929,000 is recorded as General and Administrative expense in 2002. This January 2, 2003 Agreement stipulated, among other things, that the action in the Delaware Court be deemed dismissed with prejudice.

In October 2001, two lawsuits were filed in Delaware Chancery Court naming us and certain of our officers and directors as defendants. Both actions related to our response to recent acquisition offers and purported to be class actions brought on behalf of our stockholders. On February 1, 2002, the two complaints were consolidated into a single action, titled *In Re Liquid Audio, Inc., Shareholders Litigation*, Consolidated Civil Action No. 19212-NC. That action was brought against Gerald W. Kearby, Silvia Kessel, Ann L. Winblad and Liquid Audio itself. The complaint alleged that defendants had breached their fiduciary duties owed to our stockholders in connection with our response to acquisition offers from Steel Partners II, LP and an investor group formed by MMC. The complaint sought, among other things, a court order barring us from adopting or maintaining measures that would make us less attractive as a takeover candidate or, alternatively, awarding compensatory damages to the purported plaintiff class. The January 2, 2003 Agreement stipulated, among other things, that this action in the Delaware Court be deemed dismissed with prejudice.

On or about September 27, 2001, Network Commerce, Inc. (***NCI***) filed a Complaint against us in the United States District Court for the Western District of Washington (Seattle) (***Washington Court***). The suit alleged that we infringed the claims of United States Patent No. 6,073,124. NCI requested that we be enjoined from our allegedly infringing activities and seeks unspecified damages. We were served with the Complaint on November 2, 2001 and subsequently submitted our answer and included counterclaims. We also filed a motion for summary judgment in November 2001. In March 2002, our motion for summary judgment was denied and in August 2002, we filed an amended motion for summary judgment. On October 30, 2002, the motion for summary judgment of non-infringement was denied, but the Washington Court did adopt our claim construction of a key term of the patent. In addition, NCI filed for Chapter 11 bankruptcy protection. On January 21, 2003, we entered into a settlement agreement with NCI under which NCI agreed to dismiss their Complaint against us with prejudice and we agreed to pay NCI $150,000. The $150,000 is recorded as General and Administrative expense in 2002. Under the terms of the settlement, both parties provided a mutual release of claims against each other.

We, certain of our officers and directors, and various of the underwriters in our initial public offering (***IPO***) and secondary offering, were named as defendants in a consolidated action filed in the United States District

Court for the Southern District of New York, *In re Liquid Audio, Inc. Initial Public Offering Securities Litigation*, CV-6611. The consolidated amended complaint generally alleges that various investment bank underwriters engaged in improper and undisclosed activities related to the allocation of shares in our IPO and secondary offering of securities. The plaintiffs brought claims for violation of several provisions of the federal securities laws against those underwriters, and also against us and certain of our directors and officers, seeking unspecified damages on behalf of a purported class of purchasers of our common stock between July 8, 1999 and December 6, 2000. Various plaintiffs filed similar actions asserting virtually identical allegations against more than 40 investment banks and 250 other companies. All of these IPO allocation securities class actions currently pending in the Southern District of New York have been assigned to Judge Shira A. Scheindlin for coordinated pretrial proceedings as *In re Liquid Audio, Inc. Initial Public Offering Securities Litigation*, 21 MC 92. Defendants have filed motions to dismiss the actions. In October 2002, the directors and officers were dismissed without prejudice. We believe that we have meritorious defenses to the claims against us and intend to defend ourselves vigorously.

From time to time we receive letters from corporations or other business entities notifying us of alleged infringement of patents held by them or suggesting that we review patents to which they claim rights. These corporations or entities often indicate a willingness to discuss licenses to their patent rights.

COSTS AND METHOD OF SOLICITATION

Proxies may be solicited by mail, advertisement, telephone, via the Internet or in person. Solicitations may be made by directors, officers, investor relations personnel and other employees of Liquid Audio, none of whom will receive additional compensation for such solicitations.

We have retained D.F. King & Co., Inc. (***D.F. King***) to provide solicitation and advisory services in connection with the proxy solicitation, for which D.F. King is to receive a fee estimated at $5,000, plus reimbursement for its reasonable out-of-pocket expenses and for payments made to brokers and other nominees for their expenses in forwarding soliciting material. D.F. King will distribute proxy materials to beneficial owners and solicit proxies by personal interview, mail, telephone and telegram, and via the Internet, and will request brokerage houses and other custodians, nominees and fiduciaries to forward soliciting material to the beneficial owners of shares of Liquid Audio common stock. We have also agreed to indemnify D.F. King against certain liabilities and expenses.

Costs incidental to these solicitations of proxies will be borne by us and include expenditures for printing, postage, legal, accounting, public relations, soliciting, advertising and related expenses.

Certain information about the directors and executive officers of Liquid Audio and certain employees and other representatives of Liquid Audio who may also solicit proxies is set forth in the attached Schedule I. Schedule II sets forth certain information relating to shares of Liquid Audio common stock owned by such parties and certain transactions between any of them and Liquid Audio.

DEADLINE FOR RECEIPT OF STOCKHOLDER PROPOSALS

Pursuant to Rule 14a-8 under the Exchange Act, stockholders may present proper proposals for inclusion in a company s proxy statement and for consideration at the next annual meeting of its stockholders by submitting their proposals to us in a timely manner.

We have not yet determined the date upon which we will hold our annual meeting of stockholders for 2004. However, when the 2004 annual meeting is held, stockholder proposals must be received by us at least 120 days prior to the anniversary of the date on which we mailed this proxy statement in preparation for our 2003 annual meeting and must otherwise comply with the requirements of Rule 14a-8, to be included in our proxy statement for the 2004 annual meeting. All stockholder proposals should be marked for the attention of the Secretary, Liquid Audio, Inc., 888 Seventh Avenue, 17th Floor, New York, NY 10019.

Our Bylaws establish an advance notice procedure for proposals to be brought by stockholders before an annual meeting. For nominations or other business to be properly brought before an annual meeting by a stockholder, such stockholder must provide timely notice as provided above, and the notice must contain specified information concerning the matters to be brought before such meeting and concerning the stockholder proposing such matters. A copy of the full text of the Bylaws provision discussed above may be obtained by writing to our Secretary. All notices of proposals by stockholders, whether or not included in our proxy materials, should be sent to Liquid Audio, Inc., 888 Seventh Avenue, 17th Floor, New York, NY 10019.

PARTICIPANTS IN THE SOLICITATION

Under applicable regulations of the SEC, each member of the Board and certain of our officers may be deemed to be a participant in our solicitations of proxies in connection with the Annual Meeting. For information with respect to each participant in our solicitation of proxies in connection with the Annual Meeting please refer to (i) the table of security ownership of directors and executive officers under the heading SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT in this Proxy Statement, (ii) the discussion under the heading Change of Control Arrangements in this Proxy Statement and (iii) Schedules I and II to this Proxy Statement.

INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

Our Annual Report on Form 10-K for the fiscal year ended December 31, 2002 and our Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2003, together with the financial statements and financial statement schedules required to be filed with each of the Annual Report and the Quarterly Report, are incorporated herein by reference.

All documents filed by us pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act of 1934 subsequent to the date hereof and prior to the date of the Annual Meeting or any adjournment or postponement thereof shall be deemed to be incorporated by reference herein and made a part hereof from the date of the filing of such documents. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of these proxy solicitation materials to the extent that a statement contained herein or in any other document subsequently filed with the Securities Exchange Commission which also is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of these proxy solicitation materials.

We will provide without charge to each person to whom a copy of these proxy solicitation materials is delivered, upon the written or oral request of such person, a copy of any or all of the documents incorporated by reference herein (not including the exhibits to such documents, unless such exhibits are specifically incorporated by reference in such documents). Requests for such copies should be directed by mail to Liquid Audio, Inc., 888 Seventh Avenue, 17th Floor, New York, NY 10019, Attn: Secretary, or by telephone to (212) 974-5730.

OTHER MATTERS

The Board does not intend to present any other matters at the Annual Meeting. If any other matters properly come before the Annual Meeting, it is the intention of the persons named in the enclosed form of proxy to vote the shares they represent as the Board may recommend.

It is important that your shares be represented at the meeting, regardless of the number of shares that you hold. You are, therefore, urged to execute and return, at your earliest convenience, the accompanying proxy in the envelope that has been enclosed.

THE BOARD OF DIRECTORS

New York, New York

June 27, 2003

APPENDIX A

CHARTER FOR THE AUDIT COMMITTEE

OF THE BOARD OF DIRECTORS

OF

LIQUID AUDIO, INC.

PURPOSE:

The purpose of the Audit Committee of the Board of Directors of Liquid Audio, Inc. (the ***Company***) shall be:

- to provide oversight and monitoring of Company management and the independent accountants and their activities with respect to Liquid Audio s financial reporting process;

- to provide Liquid Audio s Board of Directors with the results of its monitoring and recommendations derived therefrom;

- to nominate to the Board of Directors independent accountants to audit Liquid Audio s financial statements and oversee the activities and independence of the accountants; and

- to provide to the Board of Directors such additional information and materials as it may deem necessary to make the Board of Directors aware of significant financial matters that require the attention of the Board of Directors.

The Audit Committee will undertake those specific duties and responsibilities listed below and such other duties as the Board of Directors may from time to time prescribe.

MEMBERSHIP:

The Audit Committee members will be appointed by, and will serve at the discretion of, the Board of Directors and will consist of at least three members of the Board of Directors. On or before June 14, 2001, the members will meet the following criteria:

- Each member will be an independent director, in accordance with the Nasdaq National Market Audit Committee requirements;

- Each member will be able to read and understand fundamental financial statements, in accordance with the Nasdaq National Market Audit Committee requirements; and

- At least one member will have past employment experience in finance or accounting, requisite professional certification in accounting, or other comparable experience or background, including a current or past position as a chief executive or financial officer or other senior officer with financial oversight responsibilities.

RESPONSIBILITIES:

The responsibilities of the Audit Committee shall include:

- providing oversight and monitoring of Company management and the independent accountants and their activities with respect to Liquid Audio s financial reporting process;

- recommending the selection and, where appropriate, replacement of the independent accountants to the Board of Directors;

- reviewing fee arrangements with the independent accountants;

- reviewing the independent accountants proposed audit scope, approach and independence;

- reviewing the performance of the independent accountants, who shall be accountable to the Board of Directors and the Audit Committee;

- requesting from the independent accountants of a formal written statement delineating all relationships between the auditor and Liquid Audio, consistent with Independent Standards Board Standard No. 1, and engaging in a dialogue with the accountants with respect to any disclosed relationships or services that may impact the objectivity and independence of the accountants;

- directing Liquid Audio s independent accountants to review before filing with the SEC Liquid Audio s interim financial statements included in Quarterly Reports on Form 10-Q, using professional standards and procedures for conducting such reviews;

- discussing with Liquid Audio s independent accountants the matters required to be discussed by Statement on Accounting Standard No. 61, as it may be modified or supplemented;

- reviewing with management, before release, the audited financial statements and Management s Discussion and Analysis in Liquid Audio s Annual Report on Form 10-K;

- providing a report in Liquid Audio s proxy statement in accordance with the requirements of Item 306 of Regulation S-K and Item 7(e)(3) of Schedule 14A;

- reviewing the Audit Committee s own structure, processes and membership requirements; and

- performing such other duties as may be requested by the Board of Directors.

MEETINGS:

The Audit Committee will meet at least quarterly. The Audit Committee may establish its own schedule, which it will provide to the Board of Directors in advance.

The Audit Committee will meet separately with the independent accountants as well as members of Liquid Audio s management as it deems appropriate in order to review the financial controls of Liquid Audio.

MINUTES:

The Audit Committee will maintain written minutes of its meetings, which minutes will be filed with the minutes of the meetings of the Board of Directors.

REPORTS:

Apart from the report prepared pursuant to Item 306 of Regulation S-K and Item 7(e)(3) of Schedule 14A, the Audit Committee will summarize its examinations and recommendations to the Board from time to time as may be appropriate, consistent with the Committee s charter.

SCHEDULE I

INFORMATION CONCERNING THE DIRECTORS AND CERTAIN EXECUTIVE OFFICERS

AND EMPLOYEES OF LIQUID AUDIO

The following table sets forth the name and present principal occupation or employment (except with respect to directors, whose principal occupation is set forth under the heading INFORMATION REGARDING THE NOMINEE AND OTHER DIRECTORS), and the name, principal business and address of any corporation or other organization in which such employment is carried on, of (1) the directors of Liquid Audio and (2) certain executive officers and other employees of Liquid Audio who may assist in soliciting proxies from stockholders of Liquid Audio. Unless otherwise indicated, the principal business address of each such person is c/o Liquid Audio, Inc., 888 Seventh Avenue, 17th Floor, New York, NY 10019. Ages shown are as of June 6, 2003.

Name and Principal Business Address	Present Office or Other Principal Occupation or Employment
Seymour Holtzman (age 67)	Co-Chairman, Co-President and Co-Chief Executive Officer of Liquid Audio, Inc., Chairman and Chief Executive Officer of Jewelcor Management, Inc., Chairman of MM Companies, Inc. and Chairman of Casual Male Retail Group, Inc.
James A. Mitarotonda (age 48)	Co-Chairman, Co-President and Co-Chief Executive Officer of Liquid Audio, Inc. and President and Chief Executive Officer of Barington Capital Group, L.P., Barington Companies Investors, LLC and MM Companies, Inc.
Melvyn Brunt (age 59)	Chief Financial Officer and Secretary of Liquid Audio, Inc. and Chief Financial Officer of MM Companies, Inc.
Jesse Choper (age 67)	Professor of Law University of California at Berkeley School of Law (Boalt Hall) Berkeley, California 94720-7200 and Director of Liquid Audio, Inc.
William J. Fox (age 46)	Chairman, President and Chief Executive Officer of AKI, Inc. 1700 Broadway, Suite 2200 New York, NY 10019 and Director of Liquid Audio, Inc.
Michael A. McManus, Jr. (age 59)	President and Chief Executive Officer of Misonix, Inc. 1938 New Highway Farmingdale, NY 11735 and Director of Liquid Audio, Inc.

SCHEDULE II

INFORMATION REGARDING OWNERSHIP OF OUR SECURITIES BY PARTICIPANTS

The number of shares of Liquid Audio common stock held by directors and the named executive officers is set forth in the Proxy Statement under the caption, SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT.

Messrs. Holtzman and Mitarotonda have agreed to serve as the proxies on our proxy card.

Other than as disclosed in this Schedule or in the Proxy Statement, none of Liquid Audio, any of its directors, executive officers or the employees of Liquid Audio named in Schedule I owns any securities of Liquid Audio or any subsidiary of Liquid Audio, beneficially or of record, has purchased or sold any of such securities within the past two years or is or was within the past year a party to any contract, arrangement or understanding with any person with respect to any such securities. Except as disclosed in this Schedule or in the Proxy Statement, to the best of our knowledge of Liquid Audio, our directors and executive officers or our employees named in Schedule I, none of their associates beneficially owns, directly or indirectly, any securities of Liquid Audio.

Other than as disclosed in this Schedule or in the Proxy Statement, to our knowledge, none of Liquid Audio, any of our directors, executive officers or employees named in Schedule I has any substantial interest, direct or indirect, by security holdings or otherwise, in any matter to be acted upon at the Annual Meeting.

Other than as disclosed in this Schedule or in the Proxy Statement, to our knowledge, none of Liquid Audio, any of our directors, executive officers or employees named in Schedule I is, or has been within the past year, a party to any contract, arrangement or understanding with any person with respect to any of our securities, including, but not limited to, joint ventures, loan or option arrangements, puts or calls, guarantees against loss or guarantees of profit, division of losses or profits, or the giving or withholding of proxies.

Other than as set forth in this Schedule or in the Proxy Statement, to our knowledge, none of Liquid Audio, any of our directors, executive officers or employees named in Schedule I, or any of their respective associates, has had or will have a direct or indirect material interest in any transaction or series of similar transactions since the beginning of our last fiscal year or any currently proposed transactions, or series of similar transactions, to which Liquid Audio or any of our subsidiaries was or is to be a party in which the amount involved exceeds $60,000.

Other than as set forth in this Schedule or in the Proxy Statement, to our knowledge, none of Liquid Audio, any of our directors, executive officers or employees named in Schedule I, or any of their associates, has any arrangements or understandings with any person with respect to any future employment by us or our affiliates or with respect to any future transactions to which Liquid Audio or any of our affiliates will or may be a party.

IMPORTANT

1. Your proxy is important no matter how many shares of Liquid Audio common stock you own. Be sure to vote on the enclosed proxy card.

2. If you have already submitted a proxy card to us for the Annual Meeting, you may change your vote to a vote FOR the election of our nominees by signing, dating and returning our enclosed proxy card, which must be dated after any proxy card you may previously have submitted to us. Only your last dated proxy card for the Annual Meeting will count at the Annual Meeting.

3. If any of your shares is held in the name of a bank, broker or other nominee, please contact the person responsible for your account and direct him or her to vote on the enclosed proxy card FOR the election of our nominees.

4. If you hold your shares in more than one type of account or your shares are registered differently, you may receive more than one proxy card. We encourage you to vote each proxy card that you receive.

5. If you have any questions or need assistance in voting your shares, please contact our proxy solicitors, D.F. King, at the number set forth below:

D.F. KING & CO., INC.

77 WATER STREET, 20TH FLOOR

NEW YORK, NY 10005

BANKS AND BROKERS: (212) 269-5550

STOCKHOLDERS CALL TOLL FREE: (800) 431-9643

PROXY **LIQUID AUDIO, INC.** **PROXY**

ANNUAL MEETING OF STOCKHOLDERS JULY 30, 2003

THIS PROXY IS SOLICITED ON BEHALF OF THE BOARD OF DIRECTORS OF

LIQUID AUDIO, INC.

The undersigned stockholder of Liquid Audio, Inc., a Delaware corporation, acknowledges receipt of the Notice of Annual Meeting of Stockholders and Proxy Statement with respect to the 2003 Annual Meeting and appoints Seymour Holtzman and James A. Mitarotonda, or either of them, as the proxies and attorneys-in-fact, with full power to each of substitution on behalf and in the name of the undersigned to vote and otherwise represent all of the shares registered in the name of the undersigned at the 2003 Annual Meeting of Stockholders of Liquid Audio to be held on Wednesday, July 30, 2003 at 10:00 a.m., Eastern Daylight Time, at the offices of Kramer Levin Naftalis & Frankel LLP, 919 Third Avenue, New York, New York 10022-3852, and any adjournment thereof with the same effect as if the undersigned were present and voting such shares, on the following matters and in the following manner:

TO ASSURE YOUR REPRESENTATION AT THE ANNUAL MEETING, PLEASE MARK, SIGN

AND DATE THIS PROXY AND RETURN IT PROMPTLY IN THE ENCLOSED ENVELOPE.

THIS PROXY WILL BE VOTED AS DIRECTED, OR IF NO DIRECTION IS INDICATED,

WILL BE VOTED FOR THE SLATE OF NOMINEES DESCRIBED IN PROPOSAL 1

AND FOR PROPOSALS 2, 3 and 4.

PLEASE INDICATE YOUR VOTE BY PLACING AN X IN THE APPROPRIATE BOX IN THE

FOLLOWING MANNER USING DARK INK ONLY. x

THE BOARD RECOMMENDS A VOTE FOR THE SLATE OF NOMINEES

DESCRIBED IN PROPOSAL 1 AND FOR PROPOSALS 2, 3 and 4.

1. The election of the following persons as Class I directors, to serve until their successors shall be duly elected and qualified.

NOMINEE: William J. Fox

¨ **FOR** ¨ **WITHHOLD**

and

NOMINEE: Michael A. McManus, Jr.

¨ **FOR** ¨ **WITHHOLD**

2. To approve the Name Change via amendment and restatement of the Current Certificate in the form of the Restated Certificate.

¨ **FOR** ¨ **AGAINST** ¨ **ABSTAIN**

3. To approve the amendment and restatement of the Current Certificate in the form of the Restated Certificate.

¨ **FOR** ¨ **AGAINST** ¨ **ABSTAIN**

4. To ratify the appointment of the independent accountants.

¨ FOR ¨ AGAINST ¨ ABSTAIN

5. To vote or otherwise represent the shares on any other business which may properly come before the meeting or any adjournment thereof, according to their discretion and in their discretion.

The shares represented by this proxy will be voted in accordance with the specification made. If no specification is made, the shares represented by this proxy will be voted for each of the above persons and proposals, and for such other matters as may properly come before the meeting as the proxy holders deem advisable.

Signature(s)

(Title, if appropriate) Dated: , 2003

Sign exactly as your name(s) appear on the stock certificate. A corporation is requested to sign its name by its President or other authorized officer, with the office held designated. Executors, administrators, trustees, etc., are requested to so indicate when signing, if stock is registered in two names, both should sign.