MusclePharm Corp
Form 10-K
April 01, 2013

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

For the Fiscal Year ended December 31, 2012

Commission File Number – 000-53166

MusclePharm Corporation

(Exact name of registrant as specified in its charter)

Nevada	**77-0664193**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**

4721 Ironton Street, Building A
Denver, Colorado 80239
(Address of principal executive offices) (Zip code)

(303) 396-6100

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(g) of the Act:

Title of each class

Common Stock, Par Value $0.001 Per Share

Indicated by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. ¨ Yes x No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. ¨ Yes x No

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files) Yes x No ¨

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ¨

Indicated by check mark whether the registrant is a large accelerated file, an accelerated file, a non-accelerated filer, or a smaller reporting company. (Check one):

Large accelerated filer	¨	Accelerated filer	¨
Non-accelerated filer	¨	Smaller reporting company	x

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

Aggregate market value of the voting common stock held by non-affiliates of the registrant at June 30, 2012: $14,931,500

Number of shares of the registrant's common stock outstanding at March 29, 2013: 6,776,647

DOCUMENTS INCORPORATED BY REFERENCE:

None.

MusclePharm Corporation

Form 10-K

For the Year Ended December 31, 2012

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Forward-Looking Statements

Certain statements contained in this report on Form 10-K are not statements of historical fact and constitute forward-looking statements within the meaning of the various provisions of the Securities Act of 1933, as amended, (the "Securities Act") and the Securities Exchange Act of 1934, as amended (the "Exchange Act"), including, without limitation, the statements specifically identified as forward-looking statements within this report. Many of these statements contain risk factors as well. In addition, certain statements in our future filings with the SEC, in press releases, and in oral and written statements made by or with our approval which are not statements of historical fact constitute forward-looking statements within the meaning of the Securities Act and the Exchange Act. Examples of forward-looking statements, include, but are not limited to: (i) projections of capital expenditures, revenues, income or loss, earnings or loss per share, capital structure, and other financial items, (ii) statements of our plans and objectives or our management or board of directors including those relating to planned development of future products, (iii) statements of future economic performance and (iv) statements of assumptions underlying such statements. Words such as "believes," "anticipates," "expects," "intends," "targeted," "may," "will" and similar expressions are intended to identif forward-looking statements but are not the exclusive means of identifying such statements. Important factors that could cause actual results to differ materially from the forward looking statements include, but are not limited to:

- significant competition in our industry;
- unfavorable publicity or consumer perception of our products;
- increases in the cost of borrowings and limitations on availability of additional debt or equity capital;
- incurrence of material product liability and product recall costs;
- loss or retirement of directors or key members of management;
- costs of compliance and our failure to comply with new and existing governmental regulations including, but not limited to, tax regulations;
- costs of litigation and the failure to successfully defend lawsuits and other claims against us;
- economic, political and other risks associated with our international operations;
- failure to keep pace with the demands of our customers for new products and services;

- disruptions in our manufacturing system or losses of manufacturing certifications;
- disruptions in our distribution network;
- lack of long-term experience with human consumption of ingredients in some of our products;
- failure to adequately protect or enforce our intellectual property rights against competitors;
- changes in raw material costs and pricing of our products;
- failure to successfully execute our growth strategy, including any delays in our planned future growth;
- damage or interruption to our information systems;
- impact of current economic conditions on our business;
- natural disasters, unusually adverse weather conditions, pandemic outbreaks, boycotts and geo-political events; and
- failure to maintain effective internal controls.

Consequently, forward-looking statements should be regarded solely as our current plans, estimates and beliefs. You should not place undue reliance on forward-looking statements. We cannot guarantee future results, events, levels of activity, performance or achievements. We do not undertake and specifically decline any obligation to update, republish or revise forward-looking statements to reflect future events or circumstances or to reflect the occurrences of unanticipated events.

PART I

Item 1. Business

General

MusclePharm Corporation, a Nevada corporation ("MusclePharm", the "Company", "we", "us", or "our") was incorporated in the state of Nevada on August 4, 2006, under the name "Tone in Twenty" for the purpose of engaging in the business of providing personal fitness training using isometric techniques. On February 18, 2010, Tone in Twenty acquired all of the issued and outstanding equity and voting interests of Muscle Pharm, LLC, a Colorado limited liability company, in exchange for 30,589 shares of its common stock. As a result of this transaction, Muscle Pharm, LLC became a wholly owned subsidiary of Tone in Twenty, and Tone in Twenty changed its name to "MusclePharm Corporation." Our principal executive offices are located at 4721 Ironton Street, Building A, Denver, Colorado 80239 and our telephone number is (303) 396-6100.

We develop, market and sell athlete-focused, high quality nutritional supplements primarily to specialty resellers. Our products have been formulated to enhance active fitness regimens, including muscle building, weight loss and maintaining general fitness. Our nutritional supplements are available for purchase in over 10,500 U.S. retail outlets, including Dick's Sporting Goods, GNC, Vitamin Shoppe and Vitamin World. We also sell our products to over 100 online channels, including bodybuilding.com, amazon.com, gnc.com and vitacost.com. Internationally, our nutritional supplements are sold in approximately 90 countries, and we expect that international sales will be a significant portion of our sales for the foreseeable future.

We started formulating our nutritional supplements in 2008 for consumption by active individuals, high performance athletes and fitness enthusiasts. We launched our sales and marketing programs in late 2008 through our internal sales executives and staff targeting specialty retail distributors.

We supply our nutritional supplements to elite athletes on teams in the National Football League, Major League Baseball and the National Basketball Association, as well as Ultimate Fighting Championship fighters. While these endorsers and professional sports teams use our products, no endorsement by any of them as to the merits of our securities should be inferred.

Our products were created through our six-stage process using the expertise of distinguished nutritional scientists we have retained and they are typically field tested using a pool of several elite athletes on various teams in the National

Football League, Major League Baseball and National Basketball Association, as well as Ultimate Fighting Championship fighters. We do not directly manufacturer or ship our products to most of our customers. Rather, we outsource our manufacturing to non-affiliated third parties who fulfill our orders and ship products directly to our customers.

We have recently experienced significant growth in our product sales. Our net sales for the years ended December 31, 2012 and 2011 were $67.1 million and $17.2 million, respectively. Additionally, during the second quarter of 2012, we commenced operations in Ontario, Canada, through our subsidiary Canada MusclePharm Enterprises Corp.

At the 2012 Bodybuilding.com Supplement Awards, we received three Awards of Excellence; we received (i) the “Brand of the Year” award, (ii) the “Packaging of the Year” award, and (iii) the “Pre-Workout Supplement of the Year” award for Assault™.

Our headquarters in Denver, Colorado has a state-of-the-art over 30,300 square feet athletic facility with a medical and clinical testing department, complete with equipment for measuring and conducting athletic clinical studies and supporting athletes. Our medical and clinical professionals consist of several nationally recognized medical doctors and nutritional experts who oversee our product research, formulation, efficacy analysis and testing.

Recent Developments

Reverse Stock Split and Increase in Number of Authorized Shares of Common Stock

On November 26, 2012, we (i) effected a 1-for-850 reverse stock split of our common stock, including a proportionate reduction in the number of authorized shares of our common stock from 2.36 billion shares to 2.8 million shares of common stock, and (ii) amended our articles of incorporation to increase the number of authorized shares of common stock (post reverse stock split) from 2,941,177 to 100 million effective November 27, 2012. All share and per share amounts in this document have been changed to give effect to the reverse stock split.

Conversion of Warrants into Common Stock

In late September 2012, we issued 512,675 shares of our common stock to several accredited investors pursuant to conversions of warrants to purchase an aggregate of 723,747 shares of our common stock. As a result of these warrant conversions and other extinguishments of derivative liabilities during the quarter ended September 30, 2012, our stockholders' deficit decreased from $11,013,113 at June 30, 2012 to $7,297,593 at September 30, 2012 and our derivative liabilities decreased from $7,908,960 at June 30, 2012 to $24,889 at September 30, 2012. On December 5, 2012, we converted a warrant exercisable for 4,902 shares of common stock into 3,677 shares of our common stock. Thereafter, our derivative liability was reduced to approximately $300 as of December 5, 2012.

Registered Direct Offerings

On February 4, 2013, we completed the final closing of our registered direct offering of an aggregate of 1,500,000 shares of our Series D Convertible Preferred Stock, at a public offering price of $8.00 per share pursuant to an offering registered with the SEC. Each share of Series D Convertible Preferred Stock is convertible into two shares of common stock, subject to adjustment. Our net proceeds from the offering were approximately $10.8 million after placement agent discounts, and other offering expenses of $1.2 million. Net proceeds from this offering were used to reduce indebtedness and for other corporate purposes.

As of the date of this report, 1,176,125 Series D shares have been converted into 2,352,250 shares of the Company's common stock and 323,875 shares of Series D preferred stock remain outstanding.

Private Placement of Common Stock

On March 26, 2013, the Company entered into subscription agreements with non-affiliated accredited investors for the issuance of 705,882 shares of common stock pursuant to exemptions from registration under federal and state securities laws. The shares of common stock were sold for $8.50 per share. The gross proceeds to the Company of $6.0 million were reduced by commissions and issuance costs of $115,000.

An unaudited pro-forma balance sheet showing the effect of these capital raises is shown below:

	December 31, 2012	Total Adjustment (unaudited)	Pro Forma (unaudited)
Assets			
Assets:			
Cash	$-	$6,296,669	$6,296,669
Current assets	4,949,881	-	4,949,881
Non-current assets	1,816,846	-	1,816,846
Total assets	$6,766,727	$6,296,669	$13,063,396
Liabilities and Stockholders' Deficit			
Liabilities:			
Current liabilities	$16,520,456	$(8,238,165)	$8,282,291
Non-current liabilities	4,523	-	4,523
Total Liabilities	$16,524,979	$(8,238,165)	$8,286,814
Stockholders' Deficit:			
Series A, Convertible Preferred Stock	-	-	-
Series B, Preferred Stock	-	-	-
Series C, Convertible Preferred Stock	-	-	-
Series D, Convertible Preferred Stock	-	324	324
Common Stock	2,778	2,972	5,750
Treasury Stock, at cost	(460,978)	-	(460,978)
Additional paid-in capital	54,817,341	16,698,755	71,516,096
Accumulated deficit	(64,109,476)	(2,167,217)	(66,276,693)
Accumulated other comprehensive income	(7,917)	-	(7,917)
Total Stockholders' Deficit	(9,758,252)	14,534,834	4,776,582
Total Liabilities and Stockholders' Deficit	$6,766,727	$6,296,669	$13,063,396

Our Growth Strategy

Our primary growth strategy is to:

- increase our product distribution and sales through increased market penetrations both domestically and internationally;

- increase our margins by focusing on streamlining our operations and seeking operating efficiencies in all areas of our operations;

- continue to conduct additional testing of the safety and efficacy of our products and formulate new products; and

- increase awareness of our products by increasing our marketing and branding opportunities through endorsements, sponsorships and brand extensions.

Our Core Marketing Strategy

Our core marketing strategy is to brand MusclePharm as the “must have” fitness brand for workout enthusiasts and elite athletes. We seek to be known as The Athletes Company®, run by athletes who create their products for other athletes, both professional and otherwise. We believe that our marketing mix of endorsers, sponsorships and providing sample products for our retail resellers to use is an optimal strategy to increase sales.

Sponsorships and Promotions

Since 2011, we have been the official supplement provider and sponsor of the Ultimate Fighting Championship, or UFC. Our sponsorship includes prominent logo placement on the fighting mat, and our branding can be seen on FOX Television Stations, FX Networks, FUEL TV and Pay-Per-View television worldwide. The UFC fighters we sponsor feature our brand on their uniforms and we also extensively advertise at the UFC events.

We are also currently engaged in various in-store promotions, including point-of-purchase stands, aisle displays in retail outlets, as well as sample demonstrations in Dick’s Sporting Goods, GNC, Vitamin World and Vitamin Shoppe.

In 2011, we launched an advanced website in seeking to tap into the social networking world and to further our brand and consumer awareness. The information in our website is not part of this report. We have included our website address as a factual reference and do not intend it to be an active link to our website. Also, we currently have over 617,000 fans combined between our company and executive officer Facebook and Twitter accounts.

Industry Overview

We operate within the large and growing U.S. nutritional supplements industry. According to Nutrition Business Journal's 2012 Supplement Business Report, our industry generated over $30 billion in sales in 2011 and $28.1 billion in 2010, and is projected to grow at an average annual rate of approximately 6.0% through 2020.

According to Nutrition Business Journal, sports nutrition products represented approximately 12% of the total sales in the U.S. nutritional supplements industry in 2011, and the category is expected to grow at a 9.1% compound annual growth rate (or CAGR) from 2012 to 2020, representing the fastest growing product category in the nutritional supplements industry.

We believe there are several key demographic, healthcare and lifestyle trends driving the continued growth of our industry. These trends include:

- Increasing awareness of nutritional supplements across major age and lifestyle segments of the U.S. population. We believe that awareness of the benefits of nutritional supplements is growing among active, younger populations, providing the foundation for our future consumer base. In addition, the average age of the U.S. population is increasing and data from the United States Census Bureau indicates that the number of Americans age 65 or older is expected to increase by approximately 36% from 2010 to 2020. We believe that these consumers are likely to increasingly use nutritional supplements and generally have higher levels of disposable income to pursue healthier lifestyles.

- Increased focus on fitness and healthy living. We believe that consumers are trying to lead more active lifestyles and become increasingly focused on healthy living, nutritional and supplemental. According to the Nutrition Business Journal's 2012 Supplement Business Report, 20% of the U.S. adult population (or 47 million people) were regular or heavy users of vitamins in 2011. We believe that growth in our industry will continue to be driven by consumers who increasingly embrace health and wellness as an important part of their lifestyles.

Participants in our industry include specialty retailers, supermarkets, drugstores, mass merchants, multi-level marketing organizations, online retailers, mail-order companies and a variety of other small participants. The nutritional supplements sold through these channels are divided into four major product categories: vitamins, minerals and health supplements; sports nutrition products; diet products; and other wellness products. Most supermarkets, drugstores and mass merchants have narrow nutrition supplement product offerings limited primarily to simple vitamins and herbs, with less knowledgeable sales associates than specialty retailers.

Our Products

We currently offer 28 athlete-focused, high quality nutritional supplement products. None of our products are formulated to contain substances that have been the subject of publicized health concerns by the medical community such as ephedra, androstene, androstenedione, aspartame, steroids or human growth hormones. Our products are comprised of vitamins, minerals, herbs and herbal extracts, carbohydrates, proteins and amino acids tested by our recognized scientists, and intended to be safe and effective for the overall health of athletes. Moreover, our nutritional supplements are intended to enhance the effects of workouts, support muscle recovery and strength, and nourish the human body for optimal physical fitness. The following is a brief description of our current products:

Product Name	**Description and/or Intended Benefits**
Amino 1™	Hydration sports recovery drink with amino acids, coconut water powder and electrolytes
Armor-V Advanced Multi Nutrient Complex®	Advanced multi-vitamin complex; multiple vitamins and minerals along with immune system support
Assault™	Fuel pre-workout power for long-lasting energy to enhance focus and build lean muscle mass
Battle Fuel XT™	Herbal formula to enhance athletic performance and support testosterone production
BCAA	Promote muscle development and maintenance through several amino acid complexes
Bizzy Diet® Stack™	Combination of products to support fat loss and lean muscle tissue
MusclePharm BulletProof Nighttime Recovery Matrix®	Promote deep sleep; optimize recovery; and support growth hormone/testosterone output
Carnitine Core ™	Promote energy for muscle gain and fat loss
Casein	Slow digesting protein with added digestive enzymes and pro-biotic blend
CLA Core™	Support body composition and aid in weight loss
Combat Powder®	

	High protein supplement; enhance digestion of nutrients and maximize response to intense training
Creatine	Promote strength, power and endurance
MusclePharm Energel®	Increased “Energy On The Go®” for workouts and daily activities
Fish Oil	Blend of nutritional oils
GetSwole® Stack™	Combination of products to support lean muscle mass
Glutamine	Assist in recovery time, enhance muscle growth
Hybrid N.O.™	Increase muscle fullness and vascularity
Live Shredded® Stack™	Combination of products to support lean muscle mass maintenance
MusclePharm Musclegel®	Protein and nutrition supplement, contains several different proteins

Re-Con®	Promote post-workout growth and repair; replenish nutrients
MusclePharm Shred Matrix®	Multi-level weight-loss system; increase metabolism, decrease body fat, appetite balance and weight management
Z-Core PM™	Mineral support formula to support natural testosterone levels, deep sleep and healthy libido function
FitMiss Burn™	Support appetite balance, increased energy and healthy metabolism for women
FitMiss Cleanse™	Support healthy body composition and weight management for women
FitMiss Delight™	Protein nutrition shake for women
FitMiss Tone™	Support body composition and aids in weight loss for women
FitMiss Ignite™	Pre-workout energy booster for women
FitMiss Balance	Multivitamin and mineral product for women

MusclePharm Apparel

We granted an exclusive indefinite license to market, manufacture, design and sell our existing apparel line. The licensee paid an initial fee of $250,000 in June, 2011 and will pay us a 10% net royalty based on the licensee's net income at the end of each fiscal year. As of December 31, 2012, we had not earned any royalty revenue under this licensing arrangement.

Quality in Our Products

In seeking quality in our products, we require that before a product is brought to market, all:

- supplements are supported with publicly available scientific research and references;
- our manufacturers carry applicable manufacturing licenses;
- ingredients are combined so that their effectiveness is not impaired;
- ingredients are in dosage levels that fall within tolerable upper intake levels established for healthy people by the Institute of Medicine of the National Academies;
- products do not contain any substances banned by major sporting organizations such as the World Anti-Doping Agent, or WADA, NFL or MLB, or adulterated ingredients such as ephedra, androstenedione, aspartame, steroids or human growth hormones;

- formulations have a minimum two-year shelf life; and

- tablets, capsules and soft gels are designed to readily dissolve in the body to facilitate absorption.

Future Products

New products are derived from a number of sources, including our management, trade publications, scientific and health journals, consultants and distributors. Prior to introducing new products, we investigate product formulations as they relate to regulatory compliance and other issues.

Research and Development

Each of our products is the end result of a six stage process involving recognized nutrition scientists, doctors and professional athletes. Our expenses for research and development for the years ended December 31, 2012 and 2011, were approximately $0.2 million and $0.1 million, respectively.

Management Information, Internet and Telecommunication Systems

The ability to efficiently manage distribution, compensation, inventory control, and communication functions through the use of sophisticated and dependable information processing systems is critical to our success.

We continue to invest in applications and integrations to improve and optimize business processes and to increase performance company wide.

Product Returns

We provide an informal seven day right of return for our products. Historically, product returns as a percentage of our net sales have been nominal.

Trademarks and Patents

We regard our trademarks and other proprietary rights as valuable assets and believe that protecting our key trademarks is crucial to our business strategy of building strong brand name recognition. These trademarks are crucial elements of our business, and have significant value in the marketing of our products.

Our policy is to pursue registrations for all of the trademarks associated with our products. Federally registered trademarks have a perpetual life, provided that they are maintained and renewed on a timely basis and used correctly as trademarks, subject to the rights of third parties to attempt to cancel a trademark if priority is claimed or there is confusion of usage. We rely on common law trademark rights to protect our unregistered trademarks. Common law trademark rights generally are limited to the geographic area in which the trademark is actually used, while a United States federal registration of a trademark enables the registrant to stop the unauthorized use of the trademark by any third party anywhere in the United States. Furthermore, the protection available, if any, in foreign jurisdictions may not be as extensive as the protection available to us in the United States.

Although we seek to ensure that we do not infringe on the intellectual property rights of others, there can be no assurance that third parties will not assert intellectual property infringement claims against us.

We have obtained U.S. registration on trademarks for eight of our products with USPTO applications pending on several of our newest products. We have abandoned or not pursued efforts to register marks identifying other items in our product line for various reasons including the inability of some names to qualify for registration. We also received federal trademark registration for 14 names or expressions that we use or intend to use to distinguish ourselves from others, with several USPTO applications pending. All trademark registrations are protected for an initial period of five years and then are renewable after five years if still in use and every 10 years thereafter.

We have filed for a provisional patent to protect technology used in certain of our products, including MusclePharm Musclegel® and Re-Con®. The patent was filed in the United States as a Patent Cooperation Treaty (PCT) application to secure patent protection worldwide. An International Search Report (ISR)/Written Opinion was issued in October 2012, and was published at the International Bureau on February 28, 2013.

We also have filed for protection of various marks throughout the world and are committed to a significant long-term strategy to build and protect the MusclePharm brand globally. The “MusclePharm” mark is pending registration in 14 countries. The mark has been granted final trademark registration in six countries, and we believe the remaining registrations will be granted within the next several months.

The “MP” logo has been filed and registration granted in one country. The application for protection of the logo is expected to be filed in the near future in 26 additional countries. Going forward, we expect to seek trademark registration for our best-selling international products.

Competition

We compete with many companies engaged in selling nutritional supplements. The sports nutrition business is highly competitive. Most of our competitors have significantly more financial and human resources than we do, and have operating histories longer than ours. We seek to differentiate our products and marketing from our competitors based on our product quality, the use of sports celebrity endorsers and through our marketing program. Competition is based primarily on quality and assortment of products, marketing support, and availability of new products. Currently, our main competitors are three private companies: Optimum Nutrition, Inc., or Optimum, Iovate Health Sciences, Inc., or IHS, and Bio-Engineered Supplements and Nutrition, Inc., or BSN. Optimum is a wholly owned subsidiary of Glanbia Nutritionals, Inc., an international nutritional ingredients group. Optimum owns and operates two brands of nutritional supplements (Optimum Nutrition and American Body Building), providing a line of products across multiple categories. IHS is a nutritional supplement company that delivers a range of products to the nutritional marketplace. Headquartered in Oakville, Ontario, Canada, IHS's line of products can be found in major retail stores and include such brands as Hydroxy-Cut™, Cell-Tech™, Six Star Nutrition™. BSN is also a sports nutrition leader whose top products include No-Explode™ and Syntha Six Protein™.

The retail market for nutritional supplements is characterized by a few dominant national companies, including GNC, Vitamin World, Vitamin Shoppe, and Great Earth Vitamin Stores. Others have a presence within local markets, such as Vitamin Cottage in Denver, Colorado. Four companies dominate the online channel—bodybuilding.com, vitamins.com (owned by Puritan's Pride), GNC.com and vitaminshoppe.com, the latter two having retail sales locations as well.

Major competitors in the sports nutrition and weight-loss markets consist of companies such as EAS, Inc., Weider Nutrition International, Inc. and Twinlab Corporation, which dominate the market with such products as Myoplex (EAS), Body Shaper (Weider) and Ripped Fuel (Twinlab).

We also compete with a number of large direct selling firms selling nutritional, diet, health, personal care and environmental products, and numerous small competitors. The principal direct selling competitors are Amway Corporation, Nature's Bounty, Inc., Sunrider Corporation, New Vision USA, Inc., Herbalife International of America, Inc., USANA, Inc., and Melaleuca, Inc.

We intend to compete by aggressively marketing our brand, emphasizing our relationships with professional athletes, and maximizing our relationships with those athletes, retail outlets and industry publications that align with our vision.

Our Manufacturers

We are committed to producing and selling highly efficacious products that are trusted for their quality and safety. To date, our products have been outsourced to a third party manufacturer where the products are manufactured in full compliance with the current good manufacturing practice, or cGMP, standards set by the U.S. Food and Drug Administration, or FDA.

We use four non-affiliated principal manufacturers for the components of our products, and multiple vendors for packaging and labeling. We have an agreement in place with our primary manufacturer. This agreement was designed to support our growth and ensure consistence in production and quality. Our primary manufacturer purchases all needed raw materials from suppliers. Additionally, our primary manufacturer is responsible for acquisition and storage of all product inventory (at both on and off-site facilities). We do not take title to our products until time of shipment to retailers. The three non-primary manufacturers are governed by purchase order terms and can be terminated at any time.

Our relationship with any of our manufactures may be terminated upon proper notice. We have established relationships with other manufacturers that we believe can satisfy our needs if our relationship with any manufacturer terminates.

Product Delivery

All of our products shipped out of the United States are shipped by our manufacturers directly to our retailers. Our manufacturers collect sales tax on products based upon the address of the consumer to whom products are sent regardless of how the order is placed. Products sold by MuscleCharm Canada are shipped from our inventory held in Canada. We collect sales tax on products when applicable.

Regulatory Matters

Government Regulation and Statutes – Product Regulation

Domestic

The manufacture, packaging, labeling, advertising, promotion, distribution and sale of our products are subject to regulation by one or more federal agencies, including the FDA, Consumer Product Safety Commission, or CPSC, and the U.S. Department of Agriculture, or USDA. Advertising and other forms of promotion and methods of marketing are subject to regulation primarily by the U.S. Federal Trade Commission, or FTC, which regulates these activities under the Federal Trade Commission Act, or FTCA. The foregoing matters regarding our products are also regulated by various state and local agencies as well as those of each foreign country to which we distribute our products.

The Dietary Supplement Health and Education Act of 1994, or DSHEA, amended the Federal Food, Drug, and Cosmetic Act, or FFDC Act, to establish a new framework governing the composition, safety, labeling, manufacturing and marketing of dietary supplements. All of the products we market are regulated as dietary supplements under the FFDC Act.

Generally, under the FFDC Act, dietary ingredients that were marketed in the United States prior to October 15, 1994 may be used in dietary supplements without notifying the FDA. “New” dietary ingredients (i.e., dietary ingredients that were “not marketed in the United States before October 15, 1994”) must be the subject of a new dietary ingredient notification submitted to the FDA unless the ingredient has been “present in the food supply as an article used for food” without being “chemically altered”. A new dietary ingredient notification must provide the FDA with evidence of a “history of use or other evidence of safety” establishing that use of the dietary ingredient “will reasonably be expected to be safe”. A new dietary ingredient notification must be submitted to the FDA at least 75 days before it is initially marketed. The FDA may determine that a new dietary ingredient notification does not provide an adequate basis to conclude that the ingredient is reasonably expected to be safe. Such a determination could prevent the marketing of the dietary ingredient. The FDA recently issued draft guidance governing the notification for new dietary ingredients. Although FDA guidance is not mandatory, and companies are free to use an alternative approach if the approach satisfies the requirements of applicable laws and regulations, FDA guidance is a strong indication of the FDA’s “current thinking” on the topic discussed in the guidance, including its position on enforcement. At this time, it is difficult to determine whether the draft guidance, if finalized, would have a material impact on our operations. However, if the FDA were to enforce the applicable statutes and regulations in accordance with the draft guidance as written, this manner of enforcement could require us to incur additional expenses, which could be significant, and negatively impact our business in several ways, including, but not limited to, enjoining the manufacturing of our products until the FDA determines that we are in compliance and can resume manufacturing, which could increase our liability and reduce our growth prospects.

The Dietary Supplement Labeling Act of 2011, which was introduced in July 2011 (S1310), would amend the FFDC Act to, among other things, (i) require dietary supplement manufacturers to register the dietary supplements that they manufacture with the FDA (and provide a list of the ingredients in and copies of the labels and labeling of the supplements), (ii) mandate the FDA and the Institute of Medicine (a non-governmental, nonprofit organization that provides advice to the public and decision makers, such as the FDA, concerning health issues) to identify dietary ingredients that cause potentially serious adverse effects, (iii) require warning statements for dietary supplements

containing potentially unsafe ingredients and (iv) require that the FDA define the term “conventional food”. If the bill is reintroduced and enacted, it could restrict the number of dietary supplements available for sale, increase our costs, liabilities and potential penalties associated with manufacturing and selling dietary supplements, and reduce our growth prospects.

The Dietary Supplement Safety Act (S3002) was introduced in February 2010 and would repeal the provision of DSHEA that permits the sale of all dietary ingredients sold in dietary supplements marketed in the United States prior to October 15, 1994, and instead permit the sale of only those dietary ingredients included on a list of Accepted Dietary Ingredients to be issued and maintained by the FDA. The bill also would allow the FDA to: impose a fine of twice the gross profits earned by a distributor on sales of any dietary supplement found to violate the law; require a distributor to submit a yearly report on all non-serious adverse event reports received during the year to the FDA; and allow the FDA to recall any dietary supplement it determines with “a reasonable probability” would cause serious adverse health consequences or is adulterated or misbranded. The bill also would require any dietary supplement distributor to register with the FDA and submit a list of the ingredients in and copies of the labels of its dietary supplements to the FDA and thereafter update such disclosures yearly and submit any new dietary supplement product labels to the FDA before marketing any dietary supplement product. If this bill is reintroduced and enacted, it could severely restrict the number of dietary supplements available for sale and increase our costs and potential penalties associated with selling dietary supplements.

The FDA or other agencies could take actions against products or product ingredients that in its determination present an unreasonable health risk to consumers that would make it illegal for us to sell such products. In addition, the FDA could issue consumer warnings with respect to the products or ingredients in such products at the point they are sold to end users. Such actions or warnings could be based on information received through FFDC Act-mandated reporting of serious adverse events. The FDA in recent years has applied these procedures to require that consumers be warned to stop using certain dietary supplements. For businesses that have been subjected to these regulatory actions, sales have been reduced and the businesses have been required to pay refunds for recalled products.

In general, we seek representations and warranties, indemnification and/or insurance from our vendors. However, even with adequate insurance and indemnification, any claims of non-compliance could significantly damage our reputation and consumer confidence in our products. In addition, the failure of such products to comply with applicable regulatory and legislative requirements could prevent us from marketing the products or require us to recall or remove such products from the market, which in certain cases could materially and adversely affect our business, financial condition and results of operations.

Under the current provisions of the FFDC Act, there are four categories of claims that pertain to the regulation of dietary supplements. First are health claims that describe the relationship between a nutrient or dietary ingredient and a disease or health related condition and can be made on the labeling of dietary supplements if supported by significant scientific agreement and authorized by the FDA in advance via notice and comment rulemaking. Second are nutrient content claims which describe the nutritional value of the product and may be made if defined by the FDA through notice and comment rulemaking and if one serving of the product meets the definition. Third are statements of nutritional support or product performance. The FFDC Act permits “statements of nutritional support” to be included in labeling for dietary supplements without FDA pre-market approval. These statements must be submitted to the FDA within 30 days of marketing and may describe how a particular dietary ingredient affects the structure, function or general well-being of the body, or the mechanism of action by which a dietary ingredient may affect body structure, function or well-being, but may not expressly or implicitly represent that a dietary supplement will diagnose, cure, mitigate, treat or prevent a disease. A company that uses a statement of nutritional support in labeling must possess scientific evidence substantiating that the statement is truthful and not misleading. The fourth category are drug claims, representations that a product is intended to diagnose, mitigate, treat, cure or prevent a disease, are prohibited from use in the labeling of dietary supplements, and we make no drug claims regarding our products.

We may make claims for our dietary supplement products regarding three of the four categories, that are statements of nutritional support, health claims and nutrient content claims when authorized by the FDA, or that otherwise are allowed by law. The FDA’s interpretation of what constitutes an acceptable statement of nutritional support may change in the future, thereby requiring that we revise our labeling. These regulatory activities include those discussed above concerning products marketed before October 15, 1994 or afterwards, and the requirements of 75 days advance notice to the FDA before marketing products containing new dietary ingredients. There is no assurance that the FDA will accept the evidence of safety for any new dietary ingredients that we may wish to market, and the FDA’s refusal to accept that evidence could prevent the marketing of the new dietary ingredients and dietary supplements containing a new dietary ingredient. If the FDA determines that a particular statement of nutritional support is an unacceptable drug claim, conventional food claim or an unauthorized version of a “health claim”, or, if the FDA determines that a particular claim is not adequately supported by existing scientific data or is false or misleading, we would be

prevented from using the claim.

In addition, DSHEA provides that so-called “third-party literature”, e.g., a reprint of a peer-reviewed scientific publication linking a particular dietary ingredient with health benefits, may be used “in connection with the sale of a dietary supplement to consumers” without the literature being subject to regulation as labeling. The literature: (1) must not be false or misleading; (2) may not “promote” a particular manufacturer or brand of dietary supplement; (3) must present a balanced view of the available scientific information on the subject matter; (4) if displayed in an establishment, must be physically separate from the dietary supplements; and (5) should not have appended to it any information by sticker or any other method. If the literature fails to satisfy each of these requirements, we may be prevented from disseminating such literature with our products, and any dissemination could subject our product to regulatory action as an illegal drug.

Our dietary supplements must also comply with the Dietary Supplement and Nonprescription Drug Consumer Protection Act, which became effective on December 22, 2007. This law amends the FFDC Act to mandate that we report to the FDA any reports of serious adverse events that we receive. Under the law, an “adverse event” is any health-related event associated with the use of a dietary supplement that is adverse, and a “serious adverse event” is any adverse event that results in death, a life-threatening experience, inpatient hospitalization, a persistent or significant disability or incapacity, or a congenital anomaly or birth defect, or requires, based on reasonable medical judgment, a medical or surgical intervention to prevent one of these outcomes. Serious adverse event reports received through the address or phone number on the label of a dietary supplement, as well as all follow-up reports of new medical information received within one year after the initial report, must be submitted to the FDA no later than 15 business days after the report is received. The law also requires recordkeeping for reports of non-serious adverse events as well as serious adverse events for six years following the event, and these records are subject to FDA inspection.

In June 2007, pursuant to the authority granted by the FFDC Act as amended by DSHEA, the FDA published detailed current good manufacturing practice, or cGMP, regulations that govern the manufacturing, packaging, labeling and holding operations of dietary supplement manufacturers. The cGMP regulations, among other things, impose significant recordkeeping requirements on manufacturers. The cGMP requirements are in effect for all manufacturers, and the FDA is conducting inspections of dietary supplement manufacturers pursuant to these requirements. There remains considerable uncertainty with respect to the FDA's interpretation of the regulations and their actual implementation in manufacturing facilities. The failure of a manufacturing facility to comply with the cGMP regulations renders products manufactured in such facility "adulterated", and subjects such products and the manufacturer to a variety of potential FDA enforcement actions.

The FDA has also announced its intention to promulgate new cGMPs specific to dietary supplements, to fully enforce DSHEA and monitor compliance with the Bioterrorism Act of 2002. We intend to comply with the new cGMPs once they are adopted. The new cGMPs, predicted to be finalized shortly, would be more detailed and stringent than the cGMPs that currently apply to dietary supplements and may, among other things, require dietary supplements to be prepared, packaged, produced and held in compliance with regulations similar to the cGMP regulations for drugs. There can be no assurance that, if the FDA adopts cGMP regulations for dietary supplements, we will be able to comply with the new regulations without incurring a substantial expense.

In addition, under the Food Safety Modernization Act, or FSMA, which was enacted on January 4, 2011, the manufacturing of dietary ingredients contained in dietary supplements will be subject to similar or even more burdensome manufacturing requirements, which will likely increase the costs of dietary ingredients and will subject suppliers of such ingredients to more rigorous inspections and enforcement. The FSMA will also require importers of food, including dietary supplements and dietary ingredients, to conduct verification activities to ensure that the food they might import meets applicable domestic requirements.

The FDA has broad authority to enforce the provisions of federal law applicable to dietary supplements, including powers to issue a public warning or notice of violation letter to a company, publicize information about illegal products, detain products intended for import, require the reporting of serious adverse events, require a recall of illegal or unsafe products from the market, and request the Department of Justice to initiate a seizure action, an injunction action or a criminal prosecution in the U.S. courts. The FSMA expands the reach and regulatory powers of the FDA with respect to the production and importation of food, including dietary supplements. The expanded reach and regulatory powers include the FDA's ability to order mandatory recalls, administratively detain domestic products, require certification of compliance with domestic requirements for imported foods associated with safety issues and administratively revoke manufacturing facility registrations, effectively enjoining manufacturing of dietary ingredients and dietary supplements without judicial process. The regulation of dietary supplements may increase or become more restrictive in the future.

Our failure to comply with applicable FDA regulatory requirements could result in, among other things, injunctions, product withdrawals, recalls, product seizures, fines and criminal prosecutions.

Our advertising of dietary supplement products is subject to regulation by the FTC under the FTCA. Section 5 of the FTCA empowers the FTC to prohibit unfair methods of competition and unfair or deceptive acts or practices in or affecting commerce. Section 12 of the FTCA provides that the dissemination of any false advertisement for the purpose of inducing, directly or indirectly, the purchase of drugs or foods, which would include dietary supplements, is an unfair or deceptive act or practice. Additionally, under the FTC's Substantiation Doctrine, an advertiser is required to have a "reasonable basis" for all objective product claims before the claims are made. Failure to adequately substantiate claims may also be considered an unfair or deceptive practice. Pursuant to this FTC requirement, we are required to have adequate substantiation for all material advertising claims made for our products.

On November 18, 1998, the FTC issued "Dietary Supplements: An Advertising Guide for Industry." This guide provides marketers of dietary supplements with guidelines for applying FTC law to dietary supplement advertising and reiterates and explains the FTC's "reasonable basis" determination. It includes examples of the principles that should be used when interpreting and substantiating dietary supplement advertising. Although the guide provides additional explanation, it does not substantively change the FTC's existing policy that all supplement marketers have an obligation to ensure that claims are presented truthfully and to verify that such claims are adequately substantiated.

The FTC has a variety of processes and remedies available to it for enforcement, both administratively and judicially, including compulsory process, cease and desist orders and injunctions. FTC enforcement can result in orders requiring, among other things, limits on advertising, corrective advertising, consumer redress, divestiture of assets, rescission of contracts and such other relief as may be deemed necessary. Any violation could have a material adverse effect on our business, financial condition and results of operations.

As a result of our efforts to comply with applicable statutes and regulations in the United States and elsewhere, we have from time to time reformulated, eliminated or relabeled certain of our products and revised certain advertising claims. We cannot predict the nature of any future laws, regulations, interpretations or applications, nor can we determine what effect additional governmental regulations or administrative orders, when and if promulgated, would have on our business in the future. They could, however, require the reformulation of certain products to meet new standards, the recall or discontinuance of certain products not capable of reformulation, additional record keeping, expanded documentation of the properties of certain products, expanded or different labeling, and/or scientific substantiation. Any or all of such requirements could have a material adverse effect on our business, financial condition and results of operations.

Advertising and labeling for dietary supplements and conventional foods are also regulated by state, county and other local governmental authorities. Some states also permit these laws to be enforced by private attorney generals. These private attorney generals may seek relief for consumers, seek class action certifications, seek class-wide damages, seek class-wide refunds and product recalls of products sold by us. There can be no assurance that state and local authorities will not commence regulatory action, which could restrict the permissible scope of our product advertising claims, or products that can be sold in the future.

Foreign

Our products which we sell or may make plans to sell in foreign countries are also subject to regulation under various national, local and international laws that include provisions governing, among other things, the formulation, manufacturing, packaging, labeling, advertising and distribution of dietary supplements and over-the-counter drugs. These regulations may prevent or delay entry into the market or prevent or delay the introduction, or require the reformulation, of certain of our products. Compliance with such foreign governmental regulations is generally the responsibility of our distributors for those countries. These distributors are independent contractors over whom we have limited control.

Possible New Legislation or Regulation

Legislation may be introduced which, if passed, would impose substantial new regulatory requirements on dietary supplements. For example, although not yet reintroduced in this session of Congress, bills have been repeatedly proposed in past sessions of Congress which would subject the dietary ingredient dehydroepiandrosterone, or DHEA, to the requirements of the Controlled Substances Act, which would prevent the sale of products containing DHEA. In March 2009, the General Accounting Office, or GAO, issued a report that made four recommendations to enhance the FDA's oversight of dietary supplements. The GAO recommended that the Secretary of the Department of Health and Human Services direct the Commissioner of the FDA to: (1) request authority to require dietary supplement companies to identify themselves as a dietary supplement company and update this information annually, provide a list of all dietary supplement products they sell and a copy of the labels and update this information annually, and report all adverse events related to dietary supplements, not just serious adverse events; (2) issue guidance to clarify when an ingredient is considered a new dietary ingredient, the evidence needed to document the safety of new dietary ingredients, and appropriate methods for establishing ingredient identity; (3) provide guidance to industry to clarify when products should be marketed as either dietary supplements or conventional foods formulated with added dietary ingredients; and (4) coordinate with stakeholder groups involved in consumer outreach to identify additional mechanisms for educating consumers about the safety, efficacy, and labeling of dietary supplements, implement these mechanisms, and assess their effectiveness. These recommendations could lead to increased regulation by the FDA or future legislation concerning dietary supplements.

We cannot determine what effect additional domestic or international governmental legislation, regulations, or administrative orders, when and if promulgated, would have on our business in the future. New legislation or regulations may require the reformulation of certain products to meet new standards, require the recall or discontinuance of certain products not capable of reformulation, impose additional record keeping or require expanded documentation of the properties of certain products, expanded or different labeling or scientific substantiation.

Employees

We believe that our success will depend significantly on our ability to identify, attract, and retain capable employees. As of March 29, 2013, we had 47 full time employees. Our employees are not represented by any collective bargaining unit, and we believe our relations with our employees are good. We have recently completed staffing for the in-house medical and physiology center on-site in our training facilities.

Insurance

We maintain commercial liability, including product liability coverage, and property insurance. Our policy provides for a general liability of $1.0 million per occurrence, and $2.0 million annual aggregate coverage which includes our main corporate facility. We carry property coverage on our main office facility to cover our legal liability, tenant's improvements, business property, and inventory. We maintain product liability insurance with an aggregate cap on retained loss of $5.0 million.

Item 1A. Risk Factors

Set forth below are risks with respect to our Company. Readers should review these risks, together with the other information contained in this report. The risks and uncertainties we have described in this report are not the only ones we face. There may be additional risks and uncertainties that are not presently known to us, or that we presently deem immaterial, that may become material and also adversely affect our business. If any of the following risks develop into actual events, our business, financial conditions or results of operations could be material and adversely affected. See "Forward-Looking Statements" at the beginning of this report for additional risks.

Risks Related to Our Business and Industry

Our business and operations are experiencing rapid growth. If we fail to effectively manage our growth, our business and operating results could be harmed.

We have experienced and expect to continue to experience rapid growth in our operations, which has placed, and will continue to place, significant demands on our management, and our operational and financial infrastructure. If we do not effectively manage our growth, we may fail to attain operational efficiencies we are seeking, timely deliver

products to our customers in sufficient volume or the quality of our products could suffer, which could negatively affect our operating results. To effectively manage this growth, we expect we will need to hire additional persons, particularly in sales and marketing, and we will need to continue to improve significantly our operational, financial and management controls and our reporting systems and procedures. These additional employees, systems enhancements and improvements will require significant capital expenditures and management resources. Failure to implement these proposed growth objectives would likely hurt our ability to manage our growth and our financial position.

As of the date of this report, management has taken over the shipping of most product, other than drop shipments, to our customers from our 152,000 square foot distribution center in Franklin, Tennessee. We have hired a warehouse manager, and relocated two shipping logistic individuals from our Denver, Colorado office to manage shipping. We also hired several local warehouse individuals to manage this process. We believe this efficiency will improve our shipping time and reduce our overall cost of goods sold.

Additionally, the Company has hired six new sales and marketing individuals to continue the expansion and growth of sales. The finance team has added four new staff members and our board of directors appointed a new Chief Financial Officer on July 1, 2012. New controls and procedures have been implemented over sales orders and discounting as well as new financial controls, budgeting processes, daily and monthly monitoring reports along with dashboard reporting for aiding management in making good decisions.

The Company has appointed a five member Board of Directors, three of which are independent by the board. The Company has also appointed an audit committee, and compensation committee. Regular board meetings are held and task lists are reviewed and checked off with members of outside counsel to mitigate issues and promote further improvements around internal controls and reporting which the Company believes is much improved but not yet complete.

Our failure to respond appropriately to competitive challenges, changing consumer preferences and demand for new products could significantly harm our customer relationships and product sales.

The nutritional sports supplement industry is characterized by intense competition for product offerings and rapid and frequent changes in consumer demand. Our failure to predict accurately product trends could negatively impact our products and cause our revenues to decline.

Our success with any particular product offering (whether new or existing) depends upon a number of factors, including our ability to:

- deliver products in a timely manner in sufficient volumes;
- accurately anticipate customer needs and forecast accurately to our manufacturers in an expanding business;
- differentiate our product offerings from those of our competitors;
- competitively price our products; and
- develop new products.

Products often have to be promoted heavily in stores or in the media to obtain visibility and consumer acceptance. Acquiring distribution for products is difficult and often expensive due to slotting and other promotional charges mandated by retailers. Products can take substantial periods of time to develop consumer awareness, consumer acceptance and sales volume. Accordingly, some products may fail to gain or maintain sufficient sales volume and as a result may have to be discontinued. In a highly competitive marketplace it may be difficult to have retailers open stock-keeping units (sku's) for new products.

Our management has determined that certain disclosure controls and procedures may be ineffective, even though they have been improved upon, which could result in material misstatements in our financial statements.

Our management is responsible for establishing and maintaining adequate internal control over our financial reporting, as defined in Rule 13a-15(f) under the Exchange Act. As of December 31, 2012, our management determined that some of our disclosure controls and procedures were ineffective due to weaknesses in our financial closing process.

We intend to implement remedial measures designed to address the ineffectiveness of our disclosure controls and procedures, such as hiring several individuals with significant accounting, auditing and financial reporting experience and segregating our internal and external financial reporting among our larger financing and accounting staff, implementing more specific segregation of our accounting software and providing historical information more timely, such as monthly budgeting analysis and cash reporting. We have also adopted and implemented written procedures to

document purchase orders, product discounts and product transition flow as well as analysis of our cost of goods sold. If these remedial measures are insufficient to address the ineffectiveness of our disclosure controls and procedures, or if material weaknesses or significant deficiencies in our internal control are discovered or occur in the future and the ineffectiveness of our disclosure controls and procedures continues, we may fail to meet our future reporting obligations on a timely basis, our consolidated financial statements may contain material misstatements, we could be required to restate our prior period financial results, our operating results may be harmed, we may be subject to class action litigation, and if we gain a listing on a stock exchange, our common stock could be delisted from that exchange. Any failure to address the ineffectiveness of our disclosure controls and procedures could also adversely affect the results of the periodic management evaluations regarding the effectiveness of our internal control over financial reporting and our disclosure controls and procedures that are required to be included in our annual report on Form 10-K. Internal control deficiencies and ineffective disclosure controls and procedures could also cause investors to lose confidence in our reported financial information. We can give no assurance that the measures we plan to take in the future will remediate the ineffectiveness of our disclosure controls and procedures or that any material weaknesses or restatements of financial results will not arise in the future due to a failure to implement and maintain adequate internal control over financial reporting or adequate disclosure controls and procedures or circumvention of these controls. In addition, even if we are successful in strengthening our controls and procedures, in the future those controls and procedures may not be adequate to prevent or identify irregularities or errors or to facilitate the fair presentation of our consolidated financial statements.

If we fail to comply with the rules under the Sarbanes-Oxley Act of 2002 related to disclosure controls and procedures, or, if we discover material weaknesses and other deficiencies in our internal control and accounting procedures, our stock price could decline significantly and raising capital could be more difficult.

If we fail to comply with the rules under the Sarbanes-Oxley Act of 2002 related to disclosure controls and procedures, or, if we discover additional material weaknesses and other deficiencies in our internal control and accounting procedures, our stock price could decline significantly and raising capital could be more difficult. Moreover, effective internal controls are necessary for us to produce reliable financial reports and are important to helping prevent financial fraud. If we cannot provide reliable financial reports or prevent fraud, our business and operating results could be harmed, investors could lose confidence in our reported financial information, and the trading price of our common stock could drop significantly. In addition, we cannot be certain that additional material weaknesses or significant deficiencies in our internal controls will not be discovered in the future.

Our industry is highly competitive, and our failure to compete effectively could adversely affect our market share, financial condition and future growth.

The nutritional supplement industry is highly competitive with respect to:

- price;
- shelf space and store placement;
- brand and product recognition;
- new product introductions; and
- raw materials.

Most of our competitors are larger more established and possess greater financial, personnel, distribution and other resources than we have. We face competition in the health food channel from a limited number of large nationally known manufacturers, private label brands and many smaller manufacturers of dietary supplements.

We rely on a limited number of customers for a substantial portion of our sales, and the loss of or material reduction in purchase volume by any of these customers would adversely affect our sales and operating results.

For the year ended December 31, 2012, two of our customers accounted for approximately 45% of our sales. Our largest customer for the year ended December 31, 2012, accounted for 33% of our sales. For the year ended December 31, 2011, two customers accounted for approximately 55% of our sales and our largest customer represented 41% of our sales. The loss of any of our major customers, a significant reduction in purchases by any major customer, or, any

serious financial difficulty of a major customer, could have a material adverse effect on our sales and results of operations.

Adverse publicity or consumer perception of our products and any similar products distributed by others could harm our reputation and adversely affect our sales and revenues.

We believe we are highly dependent upon positive consumer perceptions of the safety and quality of our products as well as similar products distributed by other sports nutrition supplement companies. Consumer perception of sports nutrition supplements and our products in particular can be substantially influenced by scientific research or findings, national media attention and other publicity about product use. Adverse publicity from these sources regarding the safety, quality or efficacy of nutritional supplements and our products could harm our reputation and results of operations. The mere publication of news articles or reports asserting that such products may be harmful or questioning their efficacy could have a material adverse effect on our business, financial condition and results of operations, regardless of whether such news articles or reports are scientifically supported or whether the claimed harmful effects would be present at the dosages recommended for such products.

We rely on highly skilled personnel and, if we are unable to retain or motivate key personnel, hire qualified personnel, we may not be able to grow effectively.

Our performance largely depends on the talents and efforts of highly skilled individuals. Our future success depends on our continuing ability to identify, hire, develop, motivate and retain highly skilled personnel for all areas of our organization, particularly sales and marketing. Competition in our industry for qualified employees is intense. In addition, our compensation arrangements, such as our bonus programs, may not always be successful in attracting new employees or retaining and motivating our existing employees. Our continued ability to compete effectively depends on our ability to attract new employees and to retain and motivate our existing employees.

If we are unable to retain key personnel, our ability to manage our business effectively and continue our growth could be negatively impacted.

Our management employees include Brad J. Pyatt, L. Gary Davis, John H. Bluher, Jeremy R. DeLuca and Cory J. Gregory. These key management employees are primarily responsible for our day-to-day operations, and we believe our success depends in large part on our ability to retain them and to continue to attract additional qualified individuals to our management team. Currently, we have executed employment agreements with our key management employees. The loss or limitation of the services of any of our key management employees or the inability to attract additional qualified personnel could have a material adverse effect on our business and results of operations.

Our operating results may fluctuate, which makes our results difficult to predict and could cause our results to fall short of expectations.

Our operating results may fluctuate as a result of a number of factors, many of which may be outside of our control. As a result, comparing our operating results on a period-to-period basis may not be meaningful, and you should not rely on our past results as an indication of our future performance. Our quarterly, year-to-date, and annual expenses as a percentage of our revenues may differ significantly from our historical or projected rates. Our operating results in future quarters may fall below expectations. Each of the following factors may affect our operating results:

- our ability to deliver products in a timely manner in sufficient volumes;
- our ability to recognize product trends;
- our loss of one or more significant customers;
- the introduction of successful new products by our competitors; and
- adverse media reports on the use or efficacy of nutritional supplements.

Because our business is changing and evolving, our historical operating results may not be useful to you in predicting our future operating results.

The continuing effects of the most recent global economic crisis may impact our business, operating results, or financial condition.

The global economic crisis that began in 2008 has caused disruptions and extreme volatility in global financial markets and increased rates of default and bankruptcy, and has impacted levels of consumer spending. These macroeconomic developments could negatively affect our business, operating results, and financial condition. For example, if consumer spending decreases, this may result in lower sales.

We may be exposed to material product liability claims, which could increase our costs and adversely affect our reputation and business.

As a marketer and distributor of products designed for human consumption, we could be subject to product liability claims if the use of our products is alleged to have resulted in injury. Our products consist of vitamins, minerals, herbs and other ingredients that are classified as dietary supplements and in most cases are not subject to pre-market regulatory approval in the United States or internationally. Previously unknown adverse reactions resulting from human consumption of these ingredients could occur.

We have not had any product liability claims filed against us, but in the future we may be subject to various product liability claims, including among others that our products had inadequate instructions for use, or inadequate warnings concerning possible side effects and interactions with other substances. The cost of defense can be substantially higher than the cost of settlement even when claims are without merit. The high cost to defend or settle product liability claims could have a material adverse effect on our business and operating results.

Our insurance coverage or third party indemnification rights may not be sufficient to cover our legal claims or other losses that we may incur in the future.

We maintain insurance, including property, general and product liability, and workers' compensation to protect ourselves against potential loss exposures. In the future, insurance coverage may not be available at adequate levels or on adequate terms to cover potential losses, including on terms that meet our customer's requirements. If insurance coverage is inadequate or unavailable, we may face claims that exceed coverage limits or that are not covered, which could increase our costs and adversely affect our operating results.

Our intellectual property rights are valuable, and any inability to protect them could reduce the value of our products and brand.

We have invested significant resources to protect our brands and intellectual property rights. However, we may be unable or unwilling to strictly enforce our intellectual property rights, including our trademarks, from infringement. Our failure to enforce our intellectual property rights could diminish the value of our brands and product offerings and harm our business and future growth prospects.

We may be subject to intellectual property rights claims, which are costly to defend, could require us to pay damages and could limit our ability to sell some of our products.

Our industry is characterized by vigorous pursuit and protection of intellectual property rights, which has resulted in protracted and expensive litigation for several companies. Third parties may assert claims of misappropriation of trade secrets or infringement of intellectual property rights against us or against our end customers or partners for which we may be liable.

As our business expands, the number of products and competitors in our markets increases and product overlaps occur, infringement claims may increase in number and significance. Intellectual property lawsuits are subject to inherent uncertainties due to the complexity of the technical issues involved, and we cannot be certain that we would be successful in defending ourselves against intellectual property claims. Further, many potential litigants have the capability to dedicate substantially greater resources than we can to enforce their intellectual property rights and to defend claims that may be brought against them. Furthermore, a successful claimant could secure a judgment that requires us to pay substantial damages or prevents us from distributing products or performing certain services.

An increase in product returns could negatively impact our operating results and profitability.

We permit the return of damaged or defective products and accept limited amounts of product returns in certain instances. While such returns have historically been nominal and within management’s expectations and the provisions established, future return rates may differ from those experienced in the past. Any significant increase in damaged or defective products or expected returns could have a material adverse effect on our operating results for the period or periods in which such returns materialize.

We have no manufacturing capacity and anticipate continued reliance on third-party manufacturers for the development and commercialization of our products.

We do not currently operate manufacturing facilities for production of our products. We lack the resources and the capabilities to manufacture our products on a commercial scale. We do not intend to develop facilities for the manufacture of products in the foreseeable future. We rely on third-party manufacturers to produce bulk products required to meet our sales needs. We plan to continue to rely upon contract manufacturers to manufacture commercial quantities of our products.

Our contract manufacturers' failure to achieve and maintain high manufacturing standards, in accordance with applicable regulatory requirements, or the incidence of manufacturing errors, could result in consumer injury or death, product shortages, product recalls or withdrawals, delays or failures in product testing or delivery, cost overruns or other problems that could seriously harm our business. Contract manufacturers often encounter difficulties involving production yields, quality control and quality assurance, as well as shortages of qualified personnel. Our existing manufacturers and any future contract manufacturers may not perform as agreed or may not remain in the contract manufacturing business. In the event of a natural disaster, business failure, strike or other difficulty, we may be unable to replace a third-party manufacturer in a timely manner and the production of our products would be interrupted, resulting in delays, additional costs and reduced revenues.

A shortage in the supply of key raw materials could increase our costs or adversely affect our sales and revenues.

All of our raw materials for our products are obtained from third-party suppliers. Since all of the ingredients in our products are commonly used, we have not experienced any shortages or delays in obtaining raw materials. If circumstances changed, shortages could result in materially higher raw material prices or adversely affect our ability to have a product manufactured. Price increases from a supplier would directly affect our profitability if we are not able to pass price increases on to customers. Our inability to obtain adequate supplies of raw materials in a timely manner or a material increase in the price of our raw materials could have a material adverse effect on our business, financial condition and results of operations.

Because we are subject to numerous laws and regulations, and we may become involved in litigation from time to time, we could incur substantial judgments, fines, legal fees and other costs.

Our industry is highly regulated. The manufacture, labeling and advertising for our products are regulated by various federal, state and local agencies as well as those of each foreign country to which we distribute. These governmental authorities may commence regulatory or legal proceedings, which could restrict the permissible scope of our product claims or the ability to manufacture and sell our products in the future. The U.S. Food and Drug Administration, or FDA, regulates our products to ensure that the products are not adulterated or misbranded. Failure to comply with FDA requirements may result in, among other things, injunctions, product withdrawals, recalls, product seizures, fines and criminal prosecutions. Our advertising is subject to regulation by the Federal Trade Commission, or FTC, under the Federal Trade Commission Act. In recent years the FTC has initiated numerous investigations of dietary supplement and weight loss products and companies. Additionally, some states also permit advertising and labeling laws to be enforced by private attorney generals, who may seek relief for consumers, seek class action certifications, seek class wide damages and product recalls of products sold by us. Any of these types of adverse actions against us by governmental authorities or private litigants could have a material adverse effect on our business, financial condition and results of operations.

A member of our management team has been involved in a bankruptcy proceeding and other failed business ventures that may expose us to assertions that we are not able to effectively manage our business, which could have a material adverse effect on our business and your investment in our securities.

Our chief executive officer and co-chairman of our board of directors, Brad J. Pyatt, has been involved in a personal bankruptcy and other failed business ventures. This may expose us to assertions by others that our management team may not know how to effectively run a business. To address this risk, our board of directors has devoted significant time and energy to bolstering our management team with individuals who have public company experience and financial expertise, as well as adding independent board members. Notwithstanding these efforts, if our business partners and investors do not have confidence in our management team, it could have a material adverse effect on our business and your investment in our company.

Because certain of our stockholders control a significant number of shares of our common stock, they may have effective control over actions requiring stockholder approval.

As of March 29, 2013, our directors, executive officers, and their respective affiliates, beneficially own approximately 8.2% of our outstanding shares of common stock. Also, two of our executive officers own 51 shares of our Series B Preferred Stock, which has voting control of the Company. As a result, these stockholders, acting together, would have the ability to control the outcome of matters submitted to our stockholders for approval, including the election of directors and any merger, consolidation or sale of all or substantially all of our assets. In addition, these stockholders, acting together, would have the ability to control the management and affairs of our company. Accordingly, this

concentration of ownership might harm the market price of our common stock by:

- delaying, deferring or preventing a change in corporate control;
- impeding a merger, consolidation, takeover or other business combination involving us; or
- discouraging a potential acquirer from making a tender offer or otherwise attempting to obtain control of us.

The conversion reset provision relating to our Series D Preferred Stock could result in difficulty for us to obtain future equity financing.

Because the conversion price reset provisions relating to our Series D Preferred Stock discussed above are so significant and to the potential detriment of common stockholders, it may make it more difficult for us to raise any future equity capital. This potential difficulty should be reviewed in light of our existing levels of little capital and significant working capital deficit. As of the date of issuance of this report approximately 76% of the preferred stock issued in the Series D offering has been converted to common stock, greatly reducing this risk.

We may, in the future, issue additional shares of common stock, which would reduce investors' percent of ownership and may dilute our share value.

Our articles of incorporation, as amended, authorize the issuance of 100,000,000 shares of common stock and 10,000,000 shares of preferred stock, of which (i) 5,000,000 shares have been designated as Series A Convertible Preferred Stock, (ii) 51 shares have been designated as Series B Preferred Stock, (iii) 500 shares have been designated as Series C Convertible Preferred Stock and (iv) 1,600,000 shares have been designated as Series D Convertible Preferred Stock. The articles of incorporation authorize our board of directors to prescribe the series and the voting powers, designations, preferences, limitations, restrictions and relative rights of any undesignated shares of our preferred stock. The future issuance of common stock and preferred stock may result in substantial dilution in the percentage of our common stock held by our then existing stockholders. We may value any common stock or preferred stock issued in the future on an arbitrary basis. The issuance of common stock for future services or acquisitions or other corporate actions may have the effect of diluting the value of the shares held by our investors, and might have an adverse effect on any trading market for our common stock.

We may issue additional shares of preferred stock in the future that may adversely impact your rights as holders of our common stock.

Our articles of incorporation, as amended, authorize us to issue shares of preferred stock in various series. Currently, we have 51 shares of Series B Preferred Stock issued and outstanding, which shares have voting control of the Company. Each share of our Series A Preferred Stock is convertible into 200 shares of our common stock although no shares of this series are outstanding. Each shares of our Series D Convertible Preferred Stock is convertible into two shares of our common stock. In addition, our board of directors has the authority to fix and determine the relative rights and preferences of our authorized but undesignated preferred stock, as well as the authority to issue shares of such preferred stock, without further stockholder approval. As a result, our board of directors could authorize the issuance of a series of preferred stock that would grant to holders preferred rights to our assets upon liquidation, the right to receive dividends before dividends are declared to holders of our common stock, and the right to the redemption of such preferred stock, together with a premium, prior to the redemption of the common stock. To the extent that we do issue such additional shares of preferred stock, your rights as holders of common stock could be impaired thereby, including, without limitation, dilution of your ownership interests in us. In addition, shares of preferred stock could be issued with terms calculated to delay or prevent a change in control or make removal of management more difficult, which may not be in your interest as a holder of common stock.

Our common stock is quoted on the OTCBB which may have an unfavorable impact on our stock price and liquidity.

Our common stock is quoted on the OTCBB. The OTCBB is a significantly more limited market than the New York Stock Exchange or the NASDAQ Stock Market. The quotation of our shares on the OTCBB may result in a less liquid

market available for existing and potential stockholders to trade shares of our common stock, could depress the trading price of our common stock and could have a long-term adverse impact on our ability to raise capital in the future.

Nevada corporations laws limit the personal liability of corporate directors and officers and require indemnification under certain circumstances.

Section 78.138(7) of the Nevada Revised Statutes provides that, subject to certain very limited statutory exceptions or unless the articles of incorporation provide for greater individual liability, a director or officer of a Nevada corporation is not individually liable to the corporation or its stockholders for any damages as a result of any act or failure to act in his or her capacity as a director or officer, unless it is proven that the act or failure to act constituted a breach of his or her fiduciary duties as a director or officer and such breach involved intentional misconduct, fraud or a knowing violation of law. We have not included in our articles of incorporation any provision intended to provide for greater liability as contemplated by this statutory provision.

In addition, Section 78.7502(3) of the Nevada Revised Statutes provides that to the extent a director or officer of a Nevada corporation has been successful on the merits or otherwise in the defense of certain actions, suits or proceedings (which may include certain stockholder derivative actions), the corporation shall indemnify such director or officer against expenses (including attorneys' fees) actually and reasonably incurred by such director or officer in connection therewith.

Item 2. Properties

Our corporate headquarters is located in Denver, Colorado. This commercial office building is 30,302 square feet and includes, a full performance training center, medical laboratory and a 96-seat theatre room. The term of the lease is 65 months, expiring on December 31, 2015. We currently pay approximately $13,500 in lease payments per month.

We lease an office and distribution warehouse in Boise, Idaho. The warehouse is 6,035 square feet and expired in February 2013. We currently pay approximately $3,500 per month in rent. The office is 4,776 square feet with a term of two years, expiring October 31, 2014. We currently pay approximately $4,400 per month for this lease.

We lease a 64,000 square foot warehouse facility in Franklin, Tennessee. The term of the lease is through August 31, 2015. We currently pay approximately $9,450 per month for rent.

Through our Ontario, Canada subsidiary, Canada MusclePharm Enterprises Corp., we lease a 10,000 square foot office and warehouse facility in Hamilton, Ontario, Canada. The term of the lease expires on March 31, 2013. We currently pay 6,655 in Canadian dollars (or the U.S. dollar equivalent of about $6,544) per month for rent.

Item 3. Legal Proceedings

From time to time, we have become involved in various legal proceedings that arise in the ordinary course of business or otherwise. Legal proceedings are subject to inherent uncertainties as to timing, outcomes, costs, expenses and time expenditures by our management and others on our behalf. Although there can be no assurance, based on information currently available, we believe that the outcome of legal proceedings that are pending or threatened against us will not have a material effect on our financial condition. However, the outcome of any of these matters is neither probable nor reasonably estimable.

The legal proceedings information set forth under “Commitments, Contingencies and Other Matters” in Note 9(B) to the accompanying consolidated financial statements included in this Annual Report on Form 10-K is incorporated herein by reference.

Item 4. Mine Safety Disclosures

None.

PART II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

The following table shows the reported high and low bid quotations per share for our common stock based on information provided by the OTCBB. Our common is quoted on the OTCBB under the symbol "MSLP.OB". These prices reflect the 1-for-850 reverse stock split of our common stock that we effected on November 26, 2012.

	High	Low
2012		
Fourth Quarter	$6.21	$3.40
Third Quarter	$17.43	$5.02
Second Quarter	$31.88	$10.20
First Quarter	$31.03	$5.10
2011		
Fourth Quarter	$22.10	$5.95
Third Quarter	$33.15	$11.90
Second Quarter	$68.85	$21.25
First Quarter	$110.50	$30.60

Quotations on the OTCBB reflect bid and ask quotations, may reflect inter-dealer prices, without retail markup, markdown or commission, and may not represent actual transactions.

The Company's transfer agent is Corporate Stock Transfer, Inc. Their business address is 3200 Cherry Creek Drive South, Suite 430 Denver, CO 80209.

As of March 29, 2013, there were approximately 420 holders of record of our common stock. This figure does not take into account those stockholders whose certificates are held in street name by brokers and other nominees. We estimate that such holders number approximately 3,700.

At March 29, 2013 the Company's issued and diluted shares were as follows:

Shares issued and outstanding at December 31, 2012	2,747,308
Series D Preferred Stock converted to Common Stock through March 29, 2013	2,352,250
Net shares issued through March 29, 2013	1,667,089
Shares issued and outstanding at March 29, 2013	6,776,647
Series D Preferred Stock not yet converted	647,750
Shares awaiting authorization for issuance	307,506
Unvested executive stock awards	86,275
Fully Diluted as of March 29, 2013	7,818,178

Unregistered Sale of Securities

Series D Preferred Stock Issuances

Between January 16, 2013 and February 4, 2013, the Company issued an aggregate of 1,500,000 shares of Series D Preferred Stock for aggregate gross proceeds of approximately $12 million.

Common Stock Issuances

Between October and November 2012 the Company issued 16,908 shares of common stock in accordance with consulting agreements valued at $106,200.

In December 2012 the Company issued 50,000 shares of common stock valued at $549,950 for interest on debt.

Between February and March 2013 the Company issued 2,352,250 shares of common stock pursuant to the conversion of 1,176,125 shares of Series D preferred stock.

In March 2013 the Company issued 142,282 shares of common stock pursuant to the ratchet provisions in the July 2012 securities purchase agreements which are valued at $853,692.

In March 2013 the Company issued an aggregate 741,017 shares of common stock pursuant consulting agreements valued at approximately $6,297,694.

In March 2013 the Company issued an aggregate 43,137 shares of common stock pursuant the vesting of stock awards valued at $294,167.

In March, 2013, the Company an aggregate 705,883 shares of common stock through a private placement to several investors for $6,000,000.

Dividend Policy

We have never declared dividends on our common stock, and currently do not plan to declare dividends on shares of our common stock in the foreseeable future. We expect to retain our future earnings, if any, for use in the operation and expansion of our business. Subject to the foregoing, the payment of cash dividends in the future, if any, will be at the discretion of our board of directors and will depend upon such factors as earnings levels, capital requirements, our overall financial condition and any other factors deemed relevant by our board of directors.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following discussion and analysis should be read together with our consolidated financial statements and the related notes thereto reflected in the index to the consolidated financial statements in this report. This discussion contains forward-looking statements reflecting our current expectations that involve risks and uncertainties. See

"Forward-Looking Statements" for a discussion of the uncertainties, risks and assumptions associated with these statements. Actual results and the timing of events could differ materially from those discussed in our forward-looking statements as a result of many factors, including those set forth under "Risk Factors" and elsewhere in this report. All share amounts and per share amounts in "Management's Discussion and Analysis of Financial Condition and Results of Operations" reflect the 1-for-850 reverse stock split of our common stock that we effected on November 26, 2012.

Plan of Operation

We develop, market and sell athlete-focused, high quality nutritional supplements primarily to specialty resellers. Our propriety and award winning products address active lifestyles including muscle building, weight loss, and maintaining general fitness through a daily nutritional supplement regimen. Our products are available in over 10,500 U.S. retail outlets, including Dick's Sporting Goods, GNC, Vitamin Shoppe and Vitamin World. We also sell our products in over 100 online channels, including bodybuilding.com, amazon.com, gnc.com and vitacost.com. Internationally, our nutritional supplements are sold in approximately 90 countries, and we expect that international sales will be a significant part of our sales for the foreseeable future.

Our primary growth strategy is to:

(1) increase our product distribution and sales through increased market penetrations both domestically and internationally;

(2) increase our margins by focusing on streamlining our operations and seeking operating efficiencies in all areas of our operations;

(3) continue to conduct additional testing of the safety and efficacy of our products and formulate new products; and

(4) increase awareness of our products by increasing our marketing and branding opportunities through endorsements, sponsorships and brand extensions.

Our core marketing strategy is to brand MusclePharm as the “must have” fitness brand for workout enthusiasts and elite athletes. We seek to be known as The Athletes Company®, run by athletes who create their products for other athletes both professional and otherwise. We believe that our marketing mix of endorsers, sponsorships and providing sample products for our retail resellers to use is an optimal strategy to increase sales.

Results of Operations

Year ended December 31, 2012 compared to the year ended December 31, 2011.

	Year Ended December 31,	
	2012	2011
Sales – net	$67,055,215	$17,212,636
Cost of sales	52,726,934	14,845,069
Gross profit	14,328,281	2,367,567
General and administrative expenses	23,064,092	18,587,727
Loss from operations	(8,735,811)	(16,220,160)
Other expense	(10,216,984)	(7,060,790)
Net loss	(18,952,795)	(23,280,950)
Net loss per share – basic and diluted	$(13.00)	$(70.30)
Weighted average number of common shares outstanding during the period – basic and diluted	1,458,757	331,159

Revenues

Our net revenues increased 290% to approximately $67.1 million for the year ended December 31, 2012, compared to approximately $17.2 million for the year ended December 31, 2011. Sales during the year ended December 31, 2012 increased due to increased awareness of our product brand. We have focused on an aggressive marketing plan to penetrate the market, as such, significant expenditures related to advertising and promotions have been experienced. The sales increase was also the result of capital spent on marketing and brand recognition with distributors along with endorsements and sponsorships. The Company’s many efforts for growth included hiring new managers, additional sales and marketing staff, along with adding new products in an effort to continue to expand our customer base. Another growth area was sales in the international markets. International sales are included in the results of operations and increased approximately $16.2 million or 405% to $20.2 million for the year ended December 31, 2012, compared to $4.0 million for the year ended December 31, 2011.

Overall as a direct result of our aggressive marketing plan, our products are currently being offered in more retail stores, both domestically and internationally, receiving better shelf placement, and receiving recognized awards compared to the prior period. The Company has an exclusive marketing arrangement with the UFC, Ultimate Fighting Championships, which has called out MusclePharm as the Supplement of Choice for the UFC and at the 2012 Bodybuilding.com Supplement Awards, we received three Awards of Excellence; (i) the “Brand of the Year” award, (ii) the “Packaging of the Year” award, and (iii) the “Pre-Workout Supplement of the Year” award for Assault™.

Gross Profit

Gross profit for the year ended December 31, 2012 was approximately $14.3 million or 21% of revenue, compared to approximately $2.4 million or 14% of revenue for the year ended December 31, 2011. The increase was primarily due to the reduction to discounts as a percentage of sales and favorable terms for manufacturing improvements in product pricing. For the year ended December 31, 2012, the discounts and allowances as a percentage of sales was 14% compared to the year ended December 31, 2011 which was 19%. We expect our focus on streamlining operations will increase our operating efficiencies and will further improve our gross profit percentage.

General and Administrative Expenses

General and administrative expenses for the year ended December 31, 2012 increased to $23.1 million, compared to $18.6 million for the year ended December 31, 2011. Our 290% sales growth necessitated substantial increases in our general and administrative expenses and included $2.2 million in advertising and promotions and $2.4 million in sponsorship and endorsements all used to promote brand and product awareness. We expect as we continue to promote our brand and products, these areas and levels of promotion will hold steady or increase relative to overall efforts to increase product awareness and sales. Salaries and benefits, excluding executive bonuses, also increased by $1.3 million; however, these were approximately 5% of sales for 2012 compared to approximately 11% of sales in the 2011 period.

Increases in investment advisory and legal fees of $3.1 million were a result of efforts required to obtain financing and dispute resolutions along with two consulting contracts that require us to issue 8.4% of our common stock on an ongoing, fully diluted basis.

The increase in all other general administrative areas of $4.3 million along with significant items listed above, were partially offset by the decrease in stock based compensation of approximately $8.6 million.

The following table provides an overview of expense categories and percentage of net revenue:

	2012 ($)	% of Revenue		2011 ($)	% of Revenue	
Advertising Expense	$8,430,401	12.6	%	$5,241,585	30.5	%
Operating Expense	5,512,197	8.2	%	5,277,500	30.7	%
Professional & R&D Expense	4,524,964	6.7	%	888,695	5.1	%
Salary and Wage Expense	4,596,530	6.9	%	7,179,947	41.7	%
Total G&A Expense	$23,064,092	34.4	%	$18,587,727	108	%

Operating Loss

Operating loss for the year ended December 31, 2012 was approximately $8.7 million, compared to approximately $16.2 million for the year ended December 31, 2011.

Interest Expense

Interest expense for the year ended December 31, 2012 was approximately $7.3 million, as compared to approximately $3.7 million for the year ended December 31, 2011. The increase in interest expense primarily relates to increased interest on debt of $0.6 million, increased amortization of debt issuance costs of $0.1 million and increased amortization of debt discounts of $2.9 million during the year ended December 31, 2012.

Other Expense

Other expenses for the year ended December 31, 2012 were approximately $10.2 million, compared to approximately $7.1 million for the year ended December 31, 2011, an increase of 44.7%. The components of our other expense are as follows:

	Year Ended December 31,	
	2012	2011
Derivative expense	$(4,409,214)	$(4,777,654)
Change in fair value of derivative liabilities	5,899,968	5,162,100
Loss on settlement of accounts payable, debt and conversion of Series C preferred stock (2012 only)	(4,447,732)	(3,862,458)
Interest expense	(7,335,070)	(3,711,278)
Foreign currency transaction gain	15,030	-
Licensing income	10,000	250,000
Other income (expense)	50,034	(121,500)
	$(10,216,984)	$(7,060,790)

Net Loss

Net loss for the year ended December 31, 2012 was approximately $19 million, or $(13.00) per share, compared to the net loss of approximately $23.3 million or $(70.30) per share, for the year ended December 31, 2011. Inflation did not have a material impact on our operations for the years ended December 31, 2012 and 2011.

Liquidity and Capital Resources

The following table summarizes total current assets, liabilities and working deficit at December 31, 2012, compared to December 31, 2011:

	At December 31, 2012	At December 31, 2011	Increase/(Decrease)
Current Assets	$ 4,949,881	$ 4,016,833	$ 933,048
Current Liabilities	16,520,456	17,710,100	(1,189,644)
Working Deficit	$ (11,570,575)	$ (13,693,267)	$ (2,122,692)

Our primary source of operating cash has been from the sale of equity, the issuance of convertible secured promissory notes and other short-term debt as discussed below.

Company's management believes that with increased sales expansion and the opening of the Franklin, Tennessee distribution center, there will be opportunities to increase sales; however, the Company may need to continue to raise capital in order execute the business plan, which includes buying more inventory and broadening the sales platform. There can be no assurance that such capital will be available on acceptable terms or at all.

On December 4, 2012, we entered into a $1.0 million bridge loan to provide us with short-term financing. In connection with the bridge loan, we entered into a subscription agreement with six subscribers pursuant to which we issued an aggregate $1.0 million principal amount of promissory notes and 50,000 shares of common stock to the subscribers. The promissory notes were repaid in January 2013. Additionally, we granted the subscribers "piggy-back" registration rights for the shares of common stock in certain circumstances.

At December 31, 2012, we had cash of $0 and a working capital deficit of approximately $11.6 million, compared to cash of approximately $0.7 million and a working capital deficit of approximately $13.7 million at December 31,

2011. The working capital deficit decrease of approximately $2.1 million was primarily due to a net decrease in