BIGLARI HOLDINGS INC.
Form 10-K/A
January 27, 2011

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

FORM 10-K/A

(Amendment No. 1)

x ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended September 29, 2010

or
o TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the transition period from ___ to ___

Commission file number 0-8445

BIGLARI HOLDINGS INC.
(Exact name of registrant as specified in its charter)

INDIANA	37-0684070
(State or other jurisdiction of incorporation)	(I.R.S. Employer Identification No.)
175 East Houston Street, Suite 1300 San Antonio, Texas	78205
(Address of principal executive offices)	(Zip Code)

(210) 344-3400
Registrant's telephone number, including area code

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

Title of each class	Name of each exchange on which registered
Common Stock, stated value $.50 per share	New York Stock Exchange
14% Redeemable Subordinated Debentures Due 2015	New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act: NONE

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

232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No x

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 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.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

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

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

The aggregate market value of the voting and non-voting common stock held by non-affiliates of the registrant as of April 14, 2010 was approximately $539,722,712 based on the closing stock price of $405.74 per share on that day.

The number of shares of Common Stock outstanding at January 25, 2011 was 1,433,927.

DOCUMENTS INCORPORATED BY REFERENCE

None.

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EXPLANATORY NOTE

This Amendment No. 1 on Form 10-K/A (the “Amendment”) amends the Annual Report on Form 10-K of Biglari Holdings Inc. (“Biglari Holdings,” “we”, “us”, “our”, the “Company” or the “Corporation”) for the fiscal year ended Septembe 2010, originally filed with the Securities and Exchange Commission (the “SEC”) on December 13, 2010 (the “Original Filing”). Since we will not file our definitive proxy statement within 120 days of our fiscal year ended September 29, 2010, we are filing this Amendment to include the information required by Part III, which was omitted from the Original Filing. In addition, in connection with the filing of this Amendment and pursuant to the rules of the SEC, we are including with this Amendment certain currently dated certifications. Accordingly, Item 15 of Part IV has also been amended to reflect the filing of these currently dated certifications.

This Form 10-K/A does not attempt to modify or update any other disclosures set forth in the Original Filing, except as required to reflect the additional information included in Part III of this Form 10-K/A. Additionally, this Form 10-K/A, except for the additional information included in Part III, speaks as of the filing date of the Original Filing and does not update or discuss any other Company developments subsequent to the date of the Original Filing.

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PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

Executive Officers

The following table sets forth information regarding our executive officers:

Name	Age	Position with Company
Sardar Biglari(1)	33	Chief Executive Officer- Biglari Holdings Biglari Capital Corp. ("Biglari Capital") Steak n Shake Operations, Inc. ("Steak n Shake") Western Sizzlin Corporation ("Western") Chairman - Biglari Holdings Biglari Capital Steak n Shake Western
Duane E. Geiger	48	Interim Chief Financial Officer- Biglari Holdings Steak n Shake Controller - Biglari Holdings Steak n Shake Vice President - Biglari Holdings Steak n Shake Secretary - Biglari Holdings

(1) Member of the Board of Directors of the Company

Mr. Biglari was elected Chairman of the Board in June 2008 and appointed Chief Executive Officer in August 2008 following his election to the Board of Directors at the 2008 Annual Meeting of Shareholders. In addition, Mr. Biglari has served as Chairman and Chief Executive Officer of Biglari Capital, a wholly-owned subsidiary of the Corporation and general partner of The Lion Fund, L.P. ("Lion Fund"), a private investment fund, since its inception in 2000. He has also served as Chairman, since March 2006, and Chief Executive Officer and President, since May 2007, of Western, a diversified holding company, which was acquired by the Corporation in March 2010.

Mr. Geiger was named Interim Chief Financial Officer in July 2008. He has also served as Vice President, Controller since 2004 and in various other positions with the Company since 1993.

Our executive officers are appointed annually by the Board of Directors, or at such interim times as circumstances may require.

Directors

Our Board of Directors currently consists of six members, each of whom is elected to serve one year, or until his or her successor is duly chosen and qualified, or until he or she resigns or is removed.

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Name	Age	Position and Business Experience
Sardar Biglari	33	Chairman, since June 2008, Chief Executive Officer, since August 2008, and a director, since March 2008, of Biglari Holdings. Chairman and Chief Executive Officer of Biglari Capital, a wholly-owned subsidiary of Biglari Holdings and general partner of the Lion Fund, a private investment fund, since its inception in 2000. He has also served as Chairman, since March 2006, Chief Executive Officer and President, since May 2007, and a director, since December 2005, of Western, a diversified holding company, which was acquired by Biglari Holdings in March 2010. Mr. Biglari has managerial and investing experience in a broad range of businesses through his service as Chairman and Chief Executive Officer of the Company and its major operating subsidiaries. He also has experience serving on the boards of directors of public companies.
Philip L. Cooley	67	Vice Chairman of the Board since April 2009 and a director of Biglari Holdings since 2008. Prassel Distinguished Professor of Business at Trinity University, San Antonio, Texas, since 1985. Served as an advisory director of Biglari Capital since 2000 and as Vice Chairman and a director of Western from March 2006 and December 2005, respectively, until its acquisition by Biglari Holdings in March 2010. Dr. Cooley has extensive business and investment knowledge and experience. He also has experience serving on the boards of directors of public companies.
Kenneth R. Cooper	66	Director of Biglari Holdings since 2010. Attorney in the private practice of law in San Antonio, Texas since 1974, specializing in real estate transactions. Served as a director of Western from February 2007 until its acquisition by Biglari Holdings in March 2010. Mr. Cooper has extensive real estate experience and knowledge of Western's business.
Ruth J. Person	65	Director of Biglari Holdings since 2002. Chancellor and Professor of Management, University of Michigan-Flint. Former Chancellor, Indiana University Kokomo and Professor of Management from 1999 through 2008. Member, Board of Managers, Hurley Medical Center, Flint, Michigan. President of the American Association of University Administrators from 2003 through 2004. Formerly served as President and member of the board of directors of Workforce Development Strategies, Inc. and as a member of the Key Bank Advisory Board – Central Indiana. Dr. Person has years of experience in leadership and board positions, and as a professor of management, at various institutions.
William J. Regan, Jr.	64	Director of Biglari Holdings since 2008. Private investor. Previously served as Chief Financial Officer of the California Independent System Operator Corporation from June 1999 until retirement in April 2008. Formerly held senior financial positions at Entergy Corporation, United Services Automobile Association, and American Natural Resources. Mr. Regan has significant financial, management and investment experience.
John W. Ryan	81	Director of Biglari Holdings since 1996. Private Investor. Served as Chancellor of the State University System of New York from 1996 through 1999 and as President of Indiana University from 1971 through 1987. Dr. Ryan has extensive experience in leadership positions and, through his tenure with the Corporation, an intimate

understanding of its business.

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Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), requires the Corporation's officers and directors, and persons who own more than ten percent of a registered class of the Corporation's equity securities, to file reports of ownership and changes in ownership with the SEC and the New York Stock Exchange. Officers, directors and greater than ten-percent shareholders are required by SEC regulation to furnish the Corporation with copies of all Section 16(a) forms they file.

Based solely on its review of the copies of such forms received by it, and written representations from certain reporting persons that no Section 16(a) forms were required for those persons, the Corporation believes that during fiscal 2010 all filing requirements applicable to its officers, directors and greater than ten-percent shareholders were complied with, except for one Form 4 relating to a single transaction that was inadvertently filed late by Mr. Geiger.

Code of Conduct

The Corporation has adopted a Code of Conduct for all directors, officers and employees as well as directors, officers and employees of each of its subsidiaries. The Code of Conduct is available on the Corporation's website at www.biglariholdings.com. A copy of the Code of Conduct may also be obtained at no charge by written request to the attention of the Secretary of the Corporation at 175 East Houston Street, Suite 1300, San Antonio, Texas 78205.

Changes to Procedures for Shareholders to Nominate Persons for Election to the Board of Directors

There were no material changes made during fiscal 2010 to the procedures by which shareholders may recommend nominees to our Board of Directors.

Audit Committee Matters

The Board has established an Audit Committee in accordance with Section 3(a)(58)A of the Exchange Act. The Audit Committee consists of Philip L. Cooley, Ruth J. Person, John W. Ryan, William J. Regan, Jr. and Kenneth R. Cooper. The Board of Directors has determined that each of Philip L. Cooley, Ruth J. Person, John W. Ryan and William J. Regan, Jr. meets the definition of "audit committee financial expert" as that term is used in Item 407(d)(5) of Regulation S-K promulgated under the Exchange Act. All current members of the Audit Committee meet the criteria for independence set forth in Rule 10A-3 under the Exchange Act and in Section 303A of the New York Stock Exchange Listed Company Manual.

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ITEM 11. EXECUTIVE COMPENSATION

Compensation Discussion and Analysis

This Compensation Discussion and Analysis is designed to provide shareholders with a better understanding of our compensation philosophy, core principles, and decision making process. It explains the compensation-related actions taken with respect to the executive officers who are identified in the Summary Compensation Table (the "Named Executive Officers"). Details regarding the compensation we paid to the Named Executive Officers for fiscal 2010 are found in the tables and narrative which follows them.

Compensation Philosophy

Introduction

Biglari Holdings has been restructured as a diversified holding company engaged in a number of diverse business activities. The Company's long-term objective is to maximize per-share intrinsic value of the Company. The Company's most important operating subsidiaries are engaged in investment management and the franchising and operating of restaurants. All major operating, investment, and capital allocation decisions are made for the Company by Sardar Biglari, Chairman and Chief Executive Officer of the holding company and its main operating subsidiaries.

Our executive compensation consists exclusively of a salary and a cash bonus. In fiscal 2009, our restructuring into a diversified holding company effected significant changes to our compensation system. For example, at the end of fiscal 2009 and throughout fiscal 2010, our executive officers consisted of only our Chief Executive Officer, Sardar Biglari, and our Interim Chief Financial Officer, Duane Geiger. In fiscal 2010, the Governance, Compensation and Nominating Committee and our shareholders approved the Amended and Restated Incentive Bonus Agreement with Mr. Biglari (the "Incentive Agreement"), which embodies the pay-for-performance ethos of the Company and its focus on maximizing long-term shareholder value.

To assist shareholders in fully understanding the information in this Form 10-K/A, we have included an overview of our current and future compensation structure and a brief discussion of prior management's past compensation philosophy, from which we have departed significantly.

The Governance, Compensation and Nominating Committee

Our program for compensation of executive officers differs from those of most public companies. The Governance, Compensation and Nominating Committee of our Board (the "Committee") was created in fiscal 2010. The Committee determines the amount of compensation pursuant to the Incentive Agreement. The Committee's functions include oversight of our compensation policies in general, which are described in the Committee's charter. Under the Committee's compensation tenets, the Corporation does not grant stock options to executive officers.

The Committee has delegated to Mr. Biglari the responsibility of establishing the compensation of other executive officers, currently the Company's Interim Chief Financial Officer. Factors Mr. Biglari considers in setting executive officer salary are typically subjective, such as his perception of the merits of the executive's performance and any changes in that executive's functional responsibilities. Mr. Biglari will also affix the compensation for the senior executives of the Company's major subsidiaries. He may utilize different incentive arrangements, with their terms dependent upon such elements as the economic potential or capital intensity of the business. The incentives could be large and will always be tied to the operating results for which an executive exercises authority.

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Compensation of Named Executive Officers—Fiscal Year 2010

Compensation of Sardar Biglari

In light of the Corporation's restructuring as a diversified holding company, its new business strategy, and the acquisition of Biglari Capital, general partner of the Lion Fund, Mr. Biglari's duties have increased substantially after he initially joined the Company. In recognition of Mr. Biglari's expanded and significant role as well as his agreement to fold Biglari Capital into the Company, the Committee decided to redesign his compensation arrangement to coincide more sensibly with his numerous operating and capital-allocation responsibilities. Furthermore, the Company and the Committee espouse a results-oriented, pay-for-performance incentive system that reflects its entrepreneurial culture. To assure a fair, objective, and reasoned compensation system, the Committee retained Towers Watson, nationally recognized compensation consultants, to assist in formulating an appropriate incentive compensation arrangement. The Committee firmly believes it has designed a compensation system that is rational, innovative, and equitably aligned with shareholder interests. In essence, the rationale underlying the remuneration plan emphasizes that pay is based upon performance, is in line with the compensation paid by the Company's peer group, and has resulted in the Biglari Capital acquisition.

In designing Mr. Biglari's incentive arrangement, the Committee examined carefully market data provided by Towers Watson regarding the total remuneration of chief executives in a peer group of 36 companies, which consisted of restaurants, asset managers, and diversified holding companies. These executives carried out responsibilities similar in scope to Mr. Biglari's. The peer group was composed of 18 quick-service and casual-dine restaurants and 18 asset management firms and diversified holding companies. The Committee believes both types of companies that comprise the peer group are appropriate comparisons given Mr. Biglari's dual responsibilities and duties, which encompass restaurant operations and capital allocation and investment management.

Because of the Company's strategic direction and business model, the Committee reviewed the pay practices and fee structures of a broad group of investment companies. The most common type of incentive arrangement was based on a percentage of returns or gains above a predetermined hurdle rate. The Committee noted that this type of arrangement resembled Mr. Biglari's compensation arrangement as Chairman and Chief Executive of Biglari Capital prior to the Lion Fund transaction.

In addition, the Committee tailored Mr. Biglari's compensation arrangement to fulfill the following seven objectives:

1. Alignment with Shareholders – Mr. Biglari's interests should be aligned with those of the shareholders. He should have a strong economic incentive to build long-term business value and thereby create shareholder value.

2. Appropriateness – Mr. Biglari should be compensated for his combined responsibilities as Chairman and Chief Executive Officer of a diversified holding company. His compensation should acknowledge and be in keeping with the expansion of his responsibilities from the time he joined the Corporation. His total remuneration should be commensurate with or below that of executives at other like companies.

3. Equitability concerning Lion Fund Transaction – Mr. Biglari's compensation should, at least partially, be viewed in light of the opportunity cost and remuneration which he gave up through the Lion Fund transaction.

4. Pay for Performance – The compensation program should correlate pay with performance. Common pay vehicles like discretionary bonuses, stock options, time-vested shares and other similar perquisites and benefits should be eliminated because the Committee believes that these conventional incentives (e.g., stock options, restricted stock, etc.) do not closely relate to shareholder value creation.

5. Reduction of Conflicts of Interests – Mr. Biglari should focus on the Corporation's long-term success. The potential for conflicts of interest which could have arisen over Mr. Biglari's compensation arrangement with Biglari Capital should be nullified.

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6. No Dilution of Shareholder Ownership – Mr. Biglari's compensation program should not increase the number of shares outstanding, which would dilute a shareholder's ownership in the Corporation.

7. Mitigation of Risks – The compensation program should not create undue risks to the Corporation and should be able to limit potential hazards.

Economic Terms of Incentive Agreement

The Corporation initially entered into the Incentive Agreement with Mr. Biglari on April 30, 2010, and it was amended and restated on September 28, 2010. The Incentive Agreement was approved by 82% of the votes cast by our shareholders at our special meeting held on November 5, 2010.

The following summary encapsulates the major economic provisions of the Incentive Agreement:

Incentive Formula. The Incentive Agreement establishes a performance-based annual incentive payment to Mr. Biglari contingent on the growth of the Corporation's adjusted book value in each fiscal year. If the Corporation exceeds a 6% annual adjusted book value growth hurdle, Mr. Biglari would receive incentive compensation equal to 25% of the Corporation's growth in adjusted book value in excess of that measuring point. For purposes of the Incentive Agreement, the Corporation's book value is determined by the Corporation's net income and other comprehensive income, on a consolidated basis, excluding dividends, shares issuances or buybacks, and other factors unrelated to Mr. Biglari's exhibited performance. For example, share issuances for the acquisition of businesses or assets, in and of themselves, will not increase Mr. Biglari's incentive compensation for any year or any successive years. Thus, the pay is linked to economic progress. Calculation of increased book value and the incentive compensation payments to Mr. Biglari under the Incentive Agreement are subject to the approval of the Governance, Compensation and Nominating Committee, which has sole authority for monitoring and administering the Incentive Agreement. Payments to Mr. Biglari under the Incentive Agreement will not exceed $10 million with respect to any one-year performance period.

High Water Mark. Mr. Biglari will not receive incentive compensation under the Incentive Agreement unless the Corporation's book value exceeds the previous highest level in book value, or the "high water mark," plus a 6% growth in book value, i.e., the hurdle rate. As such, in a fiscal year in which book value declines, the marker for subsequent fiscal years will require the complete recovery of the deficit from the last high water mark plus attaining the stated 6% hurdle rate before Mr. Biglari is eligible for a bonus.

Purchase of Common Stock. The Incentive Agreement provides that Mr. Biglari will use an amount equal to at least 30% of his annual pre-tax incentive compensation to purchase shares of the Company's common stock on the open market within 120 calendar days of his receipt of such payment, subject to restrictions under the Corporation's insider trading policy. This requirement represents approximately 50% of his after-tax incentive compensation. Mr. Biglari is then required to hold such shares for a minimum of three years from the date of purchase, subject to the terms of the Incentive Agreement.

For fiscal 2010, Mr. Biglari's incentive bonus was determined solely with respect to the fourth fiscal quarter, during which the Company's adjusted book value grew by 3.2%. Accordingly, a pro rata adjusted book value growth hurdle of approximately 1.4% (based on the number of days in such quarter) was used to determine the incentive bonus payment to Mr. Biglari with respect to such quarter, and the 3.2% increase in the Company's adjusted book value during such quarter resulted in an incentive bonus payment to Mr. Biglari of $1,206,896. Mr. Biglari's current base salary of $900,000 was set during fiscal 2009 by the Compensation Committee of the Board of Directors (prior to being merged with the Governance and Nominating Committee).

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Compensation of Interim Chief Financial Officer

The salary and bonus for the Interim Chief Financial Officer in fiscal 2010 were based upon the decision of Mr. Biglari. In determining such amounts, Mr. Biglari considered subjective factors such as his perception of the executive's performance and changes in functional responsibility.

Compensation of Named Executive Officers—Fiscal Year 2009

The base salary of Mr. Biglari was set at $280,000 in fiscal 2008. On June 19, 2009, the Compensation Committee of the Board of Directors (prior to being merged with the Governance and Nominating Committee) voted unanimously to increase Mr. Biglari's salary to $900,000 per year. Mr. Biglari did not receive any stock or stock option grants. The Compensation Committee also noted that Mr. Biglari, through related entities, had significant economic interests in the Corporation, further aligning his interests with the Corporation's shareholders. In determining to increase Mr. Biglari's salary, the Compensation Committee did not use a compensation consultant because the Corporation's remuneration was far less than that of the peer group. The Compensation Committee relied upon its subjective judgment and considered a variety of factors, including the Corporation's financial performance.

Salaries for other named executive officers in fiscal 2009 were either based upon prior employment agreements or upon the decision of Mr. Biglari. Bonus payment decisions were made by Mr. Biglari, at his discretion. In addition, bonus eligibility was predicated on the Corporation's generating free cash flow. He also considered subjective factors such as his perception of the executive's performance and changes in functional responsibility, and operating results over which the executive had authority. The Compensation Committee was apprised of the final bonus determinations by Mr. Biglari, of which it approved.

In fiscal 2009, perquisites provided to executive officers were dramatically reduced, consistent with our performance-based compensation philosophy. Our executive officers also receive the benefits provided to all employees, subject to satisfying the requirements for participation, including participation in the 401(k) Plan, life insurance equal to their annual salary up to a maximum of $350,000, group medical and dental plans and short- and long-term disability insurance. The executive officers are also entitled to participate in the Deferred Compensation Plan, a plan which is only open to those who are "highly compensated" under IRS regulations.

Compensation—Fiscal 2008

All decisions relating to the compensation of our named executive officers with respect to fiscal 2008 were made by the Compensation Committee in executive session, without management present. In assessing the compensation of the Chief Executive Officer, the Compensation Committee made a qualitative assessment of the Company's performance, his contribution to that performance, his expected performance in the future, and other factors (including experience, historical compensation and the relationship of his compensation to that of other executives in the Corporation). In evaluating the performance of other executive officers, the Compensation Committee considered the evaluations provided by the Chief Executive Officer, the Corporation's performance, individual performance, department performance and other criteria that the Compensation Committee believed to be indicative of performance.

As a general matter, over 50% of targeted annual compensation to executive officers took the form of performance-dependent, incentive cash and equity programs. We believed that putting a significant portion of compensation at risk provided an incentive to perform at the highest level and more closely aligned the executive's perspective with that of our shareholders.

As part of making any compensation decision, the Compensation Committee reviewed market compensation levels for executive officers at other restaurant companies (for positions that are unique to our industry) or similarly-sized companies (for other positions) to determine whether the compensation components for our executive officers remained in the targeted ranges. With the assistance of our Human Resources department and a third-party compensation consultant, management collected and presented compensation data for our executive officers. Information regarding the restaurant industry was obtained from the Chain Restaurant Compensation Association and the Compensation Committee's consultant. Information regarding the compensation for executives at similarly-sized companies was obtained from the Compensation Committee's consultant and from published compensation surveys. The compensation surveys provided data on pay practices for executive positions at companies with similar revenue size, although they did not provide names of the reported companies. The compensation assessment that was presented to the Compensation Committee included an evaluation of base salary, target annual incentive opportunities, long-term incentive grant values, and benefits for each executive officer relative to similar positions in the market.

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In fiscal 2008, equity-based incentives were a significant element of total executive officer compensation. These equity-based incentives consisted of stock options and restricted stock.

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

In April 2008, the Compensation Committee approved annual grants of stock options to our named executive officers (except to Mr. Biglari). These options had an exercise price equal to the market value of our stock on the date of grant. They were granted under our 2008 Equity Incentive Plan, which was approved by our shareholders in March 2008. These options vest over four years, at a rate of 25% per year, beginning on the first anniversary of the grant. They expire ten years from the date of grant.

Restricted stock awards provided the recipient with shares of our stock, which the recipient may vote and for which he may receive dividends during the vesting period. The recipient may not transfer or assign the restricted shares for a period after the date of grant, however, and if the recipient ceases to be our employee for any reason other than death, disability or retirement during that period the shares will be forfeited. The restriction on transfer is generally three (3) years. If the recipient ceases being our employee during the vesting period as a result of retirement, death or disability then the recipient (or his/her estate) will receive a pro rata amount of shares reflective of the percent of the vesting period during which the recipient was employed.

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

Current Structure

Mr. Biglari does not have an employment agreement with the Corporation. The Incentive Agreement remains in effect as long as Mr. Biglari remains the Chief Executive Officer of the Company, but does not alter his at-will employment arrangement with the Company.

On January 26, 2010, the Corporation and Mr. Geiger terminated his prior agreement concerning employment, severance, or change in control. Instead the Corporation and Mr. Geiger entered into a new, simpler agreement. The new contractual obligation stipulates that, only in the event Mr. Biglari ceases to be Chairman and Chief Executive Officer of the Corporation, shall Mr. Geiger have the option of terminating his employment with the Corporation and receiving a lump sum severance payment equal to one year of his then current base compensation. The new accord, unlike the prior one, does not contemplate or contractually bind the Corporation to severance payment in the event of termination without cause.

Termination Events Under the Incentive Agreement

If, on or prior to the third anniversary of the Incentive Agreement, there is a change in control of the Corporation, Mr. Biglari is terminated by the Corporation without “cause” or Mr. Biglari resigns for “good reason,” Mr. Biglari has the option, exercisable within 30 days after the occurrence of any such event, to repurchase Biglari Capital from the Corporation for a purchase price equal to Biglari Capital’s adjusted capital balance, in its capacity as general partner of the Lion Fund, through the repurchase date, less any distributions in respect of such amount previously received by the Corporation.

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If the option described in the preceding paragraph expires unexercised after three years, and after such time there is a change in control of the Corporation, Mr. Biglari is terminated by the Corporation without “cause” or Mr. Biglari resigns for “good reason,” Mr. Biglari will be entitled to receive a severance payment equal to 299% of the average annual cash compensation (consisting of his base salary and incentive compensation) paid to him since the date of the Incentive Agreement, subject to reduction to the extent necessary so that no portion of the severance payment will be subject to the excise tax imposed by Section 4999 of the Internal Revenue Code of 1986, as amended.

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

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

All prior restricted stock plans, the 2006 Steak n Shake Employee Stock Option Plan and the 2008 Equity Incentive Plan contain provisions that accelerate the vesting of the awards upon a change in control. Options granted under prior stock option plans may be accelerated upon a change in control at the discretion of the Board.

The number of unvested shares that would vest on a change in control, and the value of those shares as of the end of the fiscal year, is set forth in the table below entitled “Outstanding Equity Awards at Fiscal Year End.”

Deductibility Cap on Executive Compensation

Section 162(m) of the Internal Revenue Code generally disallows a federal income tax deduction to any publicly held corporation for compensation to the principal executive officer, principal financial officer, or any of the three other most highly compensated executive officers in excess of $1 million in any taxable year. Payments made pursuant to the Incentive Agreement, however, are intended to qualify as “performance based compensation,” eligible for continued deductibility with shareholder approval. To preserve the tax deductibility of such compensation, the Corporation sought and obtained approval of the Incentive Agreement at the November 5, 2010 special meeting of shareholders.

In fiscal 2010, we did not pay compensation that was not deductible under Section 162(m).

Compensation Policies Relating to Risk Management

The Governance, Compensation and Nominating Committee believes that our compensation policies and practices do not encourage unnecessary or excessive risk taking and that any risks arising from our compensation policies and practices are not reasonably likely to have a material adverse effect on the Corporation.

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Summary Compensation Information

The following table shows the compensation paid to the Company's Chief Executive Officer and Interim Chief Financial Officer, who are the Company's only executive officers and whom we refer to herein collectively as our "Named Executive Officers," for the 2010, 2009 and 2008 fiscal years.

SUMMARY COMPENSATION TABLE

Principal Position	Fiscal Year	Salary ($)	Bonus ($)	Stock Awards ($)a	Option Awards ($)a