

INVESTTOOLS INC  
Form DEF 14A  
April 29, 2008

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

**SCHEDULE 14A**

Proxy Statement Pursuant to Section 14(a) of  
the Securities Exchange Act of 1934 (Amendment No. )

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Pursuant to §240.14a-12

**Investools Inc.**

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(Name of Registrant as Specified In Its Charter)

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**INVESTOOLS INC.**  
**45 Rockefeller Plaza, Suite 2012**  
**NEW YORK, NEW YORK 10111**

**NOTICE OF ANNUAL MEETING OF STOCKHOLDERS**  
**June 6, 2008**

**To the Stockholders of Investools Inc.:**

The Annual Meeting of stockholders (the "Annual Meeting") of Investools Inc. (the "Company") will be held on Friday, June 6, 2008 at 9:00 a.m. (local time) at the New York Marriott East Side, 525 Lexington Avenue, New York, New York 10017, for the following purposes:

1. To elect three Class I directors of the Company to hold office until the 2011 Annual Meeting of Stockholders.
2. To approve an amendment to the Company's 2004 Restricted Stock Plan to increase the number of shares of common stock available for issuance thereunder from 500,000 to 1,500,000 shares (the "Restricted Stock Plan Amendment").
3. To ratify the appointment of KPMG LLP as the Company's independent registered public accounting firm for the year ending December 31, 2008.
4. To transact such other business as may properly come before the Annual Meeting or any adjournments thereof.

Further information regarding the meeting and the above proposals is set forth in the accompanying Proxy Statement. The Board of Directors has fixed the close of business on April 21, 2008 as the record date for the meeting, and only holders of common stock of record at such time will be entitled to vote at the Annual Meeting or any adjournments thereof. You are cordially invited to attend the Annual Meeting in person. Even if you plan to attend the Annual Meeting, we urge you to vote your shares at your earliest convenience in order to ensure that your shares will be represented at the meeting. You can vote by signing, dating and returning the enclosed proxy card, or by submitting your proxy voting instructions by telephone or through the Internet. If you hold your shares through a broker or other nominee you should contact your broker to determine whether you may submit your proxy by telephone or Internet.

By Order of the Board of Directors,

Lee K. Barba  
*Chairman of the Board*

May 5, 2008

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Proxy Statement

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**INVESTOOLS INC.**

**45 Rockefeller Plaza, Suite 2012  
New York, New York 10111**

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**PROXY STATEMENT**

**2008 Annual Meeting of Stockholders**

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This Proxy Statement and accompanying Proxy Card are being furnished to stockholders in connection with the solicitation of proxies by the Board of Directors (the "Board") of Investools Inc., a Delaware Corporation (the "Company"), for use at the 2008 Annual Meeting of Stockholders of the Company to be held at the New York Marriott East Side, 525 Lexington Avenue, New York, New York 10017, at 9:00 a.m. (local time) on Friday, June 6, 2008, and at any adjournments thereof (such meeting or adjournment(s) thereof referred to as the "Annual Meeting"), for the purpose of considering and voting upon the matters set forth in the accompanying notice of Annual Meeting of Stockholders. This Proxy Statement and the accompanying form of proxy card are first being mailed to stockholders on or about May 5, 2008.

The close of business on April 21, 2008 has been fixed as the record date for the determination of stockholders entitled to notice of and to vote at the Annual Meeting. As of the record date, 66,263,420 shares of the Company's common stock, par value \$0.01 per share (the "Common Stock"), were issued and outstanding. Each share is entitled to one vote on all issues requiring a stockholder vote at the Annual Meeting. The presence, in person or by proxy, of at least one third of the outstanding shares of Common Stock on the record date is necessary to constitute a quorum at the Annual Meeting. Abstentions and broker non-votes are counted for purposes of determining the presence or absence of a quorum for the transaction of business.

The directors will be elected by a plurality of the votes of the shares present or represented by proxy and entitled to vote at the Annual Meeting. Withheld votes, if any, will not be taken into account in determining the outcome of the election of directors. Stockholders may not cumulate their votes for the election of directors. In order to approve the Restricted Stock Plan Amendment and to ratify the selection of KPMG LLP as the independent registered public accounting firm, an affirmative vote of a majority of the shares present in person or by proxy and entitled to vote at the Annual Meeting is required. For each of these proposals, abstentions are treated as shares present or represented and voting, so abstaining has the same effect as a negative vote. Broker non-votes on a proposal (shares held by brokers that do not have discretionary authority to vote on the matter and have not received voting instructions from their clients) are not counted or deemed to be present or represented for the purpose of determining whether stockholders have approved that proposal. Please note that banks and brokers that have not received voting instructions from their clients cannot vote on their clients' behalf on the proposals to approve the Restricted Stock Plan Amendment, but may vote their clients' shares on the election of directors and ratifying KPMG LLP as our independent registered public accounting firm.

All shares represented by properly executed or submitted proxies, unless such proxies previously have been revoked, will be voted at the Annual Meeting in accordance with the directions on the proxies. If no direction is indicated, the shares will be voted **FOR** the election as directors of the nominees listed therein, **FOR** the approval of the Restricted Stock Plan Amendment, **FOR** the ratification of KPMG LLP as the Company's independent registered public accounting firm for the year ending December 31, 2008, and in the discretion of the persons named in the proxy in connection with any other business that may properly come before the Annual Meeting. Any person who signs and mails the enclosed proxy, even though executed and returned, may revoke the proxy at any time prior to the voting of the proxy (i) by the execution and submission of a revised proxy, (ii) by written notice to the Corporate Secretary of the Company or (iii) by voting in person at the Annual Meeting. However, a proxy will not be revoked simply by attending the Annual Meeting and not voting. To revoke a proxy previously submitted by telephone or the Internet, a stockholder of record can simply vote again at a later date, using the same procedures, in which case the later submitted vote will be recorded and the earlier vote will thereby be revoked.

**ITEM 1 ELECTION OF DIRECTORS**

***General***

The persons named as proxyholders in the enclosed proxy have been selected by the Board of Directors to serve as Proxies and will vote the shares represented by valid proxies at the 2008 Annual Meeting of Stockholders and any adjournments thereof. They have indicated that, unless otherwise specified in the proxy, they intend to vote for the election as director each of the persons named as a nominee listed below under "Nominees for Director" unless authority to vote in the election of directors is withheld on each proxy. Each nominee is currently a member of the Board of Directors. Each duly elected director will hold office until the 2011 Annual Meeting of Stockholders or until his or her successor has been elected and qualified. Although the Board of Directors of the Company does not contemplate that a nominee will be unable to serve, if such a situation arises prior to the Annual Meeting, the persons named in the enclosed proxy will vote for the election of such other person as may be nominated by the Board of Directors. Proxies cannot be voted in the election of directors for more than three persons, as that is the number of nominees named herein.

***Nominees for Director***

***The Board of Directors unanimously recommends a vote FOR the election of the nominees listed below.***

**Lisa Polsky**

Ms. Polsky was appointed a Director of the Company in February 2007. Since March 2002, she has served as the President of Polsky Partners, a consulting company she founded in March 2002 that is focused on risk management, valuations of complex securities, business development, corporate governance, due diligence, and asset allocation across alternative investments. From October 2000 to March 2002, Ms. Polsky was a Managing Director at Merrill Lynch, from 1995 to 2000, she was a Managing Director at Morgan Stanley Dean Witter, from 1990 to 1995, she was a Partner with Bankers Trust and from 1980 to 1990, she was a Vice President with Citibank N.A. Ms. Polsky received a Bachelor degree, *magna cum laude*, from New York University in 1978.

**Scott D. Sheridan**

Mr. Sheridan was appointed a Director of the Company in February 2007 in connection with the Company's merger with thinkorswim Group, Inc. Mr. Sheridan co-founded thinkorswim in 1999 with Tom Sosnoff. From thinkorswim's founding until the merger, Mr. Sheridan served as its President, Secretary and a director. Upon the merger, Mr. Sheridan became an Executive Vice President and remained a director and the Secretary of thinkorswim. Mr. Sheridan began his career on the Chicago Board of Options Exchange in 1987, where he acted as a market maker until 2003. While there, he worked as a market maker in the S&P 100 Index pit for more than 15 years. Mr. Sheridan received his B.A. in Finance and Economics from Miami University, Oxford, Ohio.

**Douglas T. Tansill**

Mr. Tansill was appointed a Director of the Company in October 2003 and from December 2004 through December 2006 he served as Lead Director of the Board. Mr. Tansill is a private investor and financial consultant and has been associated with Cove Harbor Partners, LLC since 2000. From 1986 to 1994, Mr. Tansill was a Managing Director of Kidder Peabody, Inc. and served on the Board of Directors of Kidder Peabody Group, Inc. In 1994, he became a Managing Director of PaineWebber Incorporated and subsequently served as an Advisory Director there and from 2000 to 2002 as an advisor to UBS Warburg. Mr. Tansill received a B.A. in Economics from Trinity College, Hartford, Connecticut and an M.B.A. from Harvard University.

**Organization of the Board of Directors**

The Company's directors are divided into three classes designated Class I, Class II and Class III. Each class consists, as nearly as practical, of one-third of the total number of directors constituting the entire Board of Directors. Unless otherwise noted below, at the 2006 Annual Meeting of Stockholders, Class II directors were elected for a term expiring at the 2009 Annual Meeting of Stockholders, and at the 2007 Annual Meeting of Stockholders, Class III directors were elected for a term expiring at the 2010 Annual Meeting of Stockholders. The Class I directors being elected at the Annual Meeting will serve for a term expiring at the 2011 Annual Meeting of Stockholders. At each Annual Meeting of Stockholders, successors to the class of directors whose term expires at that Annual Meeting will be elected for a term expiring at the third succeeding Annual Meeting. Each director holds office until the Annual Meeting for the year in which his or her term expires and until his or her successor has been elected and qualified. The Board of Directors have determined that all of the directors other than Lee Barba, who is the Company's Chief Executive Officer, and Tom Sosnoff and Scott D. Sheridan, who are the President and Executive Vice President, respectively, of thinkorswim Group, Inc., are independent directors under applicable NASDAQ listing standards and Securities and Exchange Commission ("SEC") rules.

The Company, under the Stockholders' Agreement, agreed to appoint each of Mr. Sosnoff and Mr. Sheridan to the Board as of February 15, 2007. In addition, the Company has agreed, under the Stockholders' Agreement, that so long as Mr. Sosnoff or Mr. Sheridan is an employee of the Company, until February 15, 2010, they may each designate one person to be nominated for election to the Board at each Annual Meeting. Mr. Sosnoff and Mr. Sheridan each serve as their own designee. Because Mr. Sheridan was appointed as a Class I director, with a term ending 2008, he has the right to designate a nominee for the Board for this Annual Meeting, which he designated as himself.

As of April 27, 2008, the Company's directors were as follows:

<b>Name</b>	<b>Class</b>	<b>Age</b>	<b>Position</b>	<b>Committees</b>
Lisa Polsky*	Class I	51	Director	Audit, Nominating and Governance
Scott D. Sheridan**	Class I	44	Director, Executive Vice President of thinkorswim Group, Inc.	
Douglas T. Tansill	Class I	69	Director	Audit (Chair), Compensation
Lee K. Barba	Class II	57	Chairman of the Board of Directors and Chief Executive Officer	
Tom Sosnoff**	Class II	51	Director, President of thinkorswim Group, Inc.	
Hans von Meiss	Class II	60	Director	Audit, Compensation (Chair), Nominating and Governance (Chair)
F. Warren McFarlan	Class III	70	Director	Audit, Compensation

\*  
Recommended for election to the Board by current management in February 2007.

\*\*  
Elected to the Board in February 2007 in connection with the Company's merger with thinkorswim Group, Inc. and pursuant to the terms of a Stockholders' Agreement dated February 15, 2007 (the "Stockholders' Agreement").

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Information concerning the business experience of Ms. Polsky and Messrs. Sheridan and Tansill is provided under the section entitled "Nominees for Director."

### **Lee K. Barba**

Mr. Barba was appointed Chief Executive Officer and Director of the Company in December 2001 and Chairman in June 2002. Prior to joining the Company in February of 2000, he was the Chief Executive Officer of Open Link Financial, a risk management software company whose largest stockholder, Coral Energy, was a wholly owned subsidiary of Shell Oil Company. Mr. Barba joined Open Link after serving as President of Coral Energy. Mr. Barba joined Coral Energy after 22 years on Wall Street, where he was responsible for managing global trading businesses for Bankers Trust Company. While based in London, he was responsible for managing Bankers Trust's European offices, as well as the Global Risk Management Advisory Practice, which had offices in Asia and Latin America. Upon returning to New York in 1995, Mr. Barba was the senior executive of Bankers Trust, responsible for managing the consolidation of the firm's technology and operations functions for the global capital markets businesses, which included over 2,100 in staff operating throughout Asia, Europe and North America. Earlier in his career, Mr. Barba served as a co-head of the Fixed Income Division at PaineWebber and as a Vice President of Lehman Brothers Kuhn Loeb. He earned his M.B.A. from Columbia University and his B.A. from the University of North Carolina.

### **Tom Sosnoff**

Mr. Sosnoff was appointed a Director of the Company in February 2007 in connection with the Company's merger with thinkorswim Group Inc. Mr. Sosnoff co-founded thinkorswim in 1999 with Scott Sheridan, and served as its Chief Executive Officer and a director. Since the merger, he has served as thinkorswim's President and remained a director of thinkorswim. Mr. Sosnoff was a market maker for the Chicago Board of Options Exchange from 1980 through 2001, where he was one of the original market makers in the S&P 100 Index pit. Mr. Sosnoff earned his B.A. in Political Science from the State University of New York at Albany.

### **Hans von Meiss**

Mr. von Meiss was appointed a Director of the Company in December 2001. Since 1997, Mr. von Meiss has been involved in financial management and consulting and has pursued investments in Internet related businesses. He also serves on the Board of Directors as Chairman of an industrial concern, as a member of the Board of Directors of an ecology company and his own company, G. von Meiss AG. From 1994 to 1997, Mr. von Meiss served as Chief Executive Officer of Swiss Textile Group. From 1991 to 1994, Mr. von Meiss was Chief Executive Officer of a publicly quoted Dutch company following its privatization from the Dutch government. From 1988 to 1991, Mr. von Meiss worked as an independent financial consultant. Mr. von Meiss served as Chief Executive Officer of Dr. Ing. Koenig AG, a leading Swiss service center for flat steel and industrial fasteners from 1984 to 1988. From 1977 to 1984, Mr. von Meiss served in various positions in investment banking with Bankers Trust International Ltd. and Chase Manhattan Ltd. in London. Mr. von Meiss received a Bachelors degree in Economics in 1973 from the University of St. Gallen in Switzerland. He received his M.B.A. from INSEAD, Fontainebleau, France in 1977.

### **F. Warren McFarlan**

Mr. McFarlan was appointed as a Director of the Company in December 2004 upon recommendation from an independent director. Mr. McFarlan also serves on the Board of Directors of Computer Sciences Corporation and Li & Fung Limited. Since 1973, he has been a professor at Harvard Business School. In this position, he has had a significant role in introducing materials on Management Information Systems to all major programs at the Harvard Business School since the first



course on the subject was offered in 1962. He has also been a long-time teacher in the Advanced Management Program: International Senior Managers Program, Delivering Information Services Program, and several of the Social Sector programs. He currently teaches a second-year course entitled "Doing Business in China." During his long tenure at Harvard Business School, Mr. McFarlan has served in many capacities, most recently as Senior Associate Dean and Director of Harvard's Asia-Pacific Initiative from 2000 to 2004. From 1995 to 2000, he was Senior Associate Dean and Director of External Relations. From 1991 to 1995, he was Senior Associate Dean and Director of Research. From 1979 to 1980, he was Chairman of all executive education programs. From 1975 to 1978, he was Chairman of the Advanced Management Program. In 1973, shortly after his appointment to full professor, Mr. McFarlan, along with four other faculty members, was sent to Switzerland to set up Harvard Business School's International Senior Management Program. Mr. McFarlan earned his A.B. from Harvard University in 1959 and his M.B.A. and D.B.A. from the Harvard Business School in 1961 and 1965, respectively.

#### ***Meetings and Committees of the Board of Directors***

There were eight meetings of the Board during 2007. All of the directors other than Scott Sheridan attended at least 75 percent of the aggregate of all meetings of the Board and of the Committees of the Board on which they served (held during the periods that he or she served). The Company does not have a formal policy regarding director attendance at Annual Meetings of Stockholders, however, it is expected, absent good reason, that all directors will be in attendance. All of the Company's directors who were directors at the time of the 2007 Annual Meeting attended the meeting. Currently, the Board has three standing committees: the Audit Committee, the Compensation Committee, and the Nominating and Corporate Governance Committee. Only independent directors serve as members of those committees.

#### **Audit Committee**

During 2007, the Audit Committee consisted of Mr. Tansill, who serves as Chairman, and Messrs. McFarlan, von Meiss, Wood, who resigned from the Board effective February 15, 2007, and Goldsmith, who resigned from the Board effective August 31, 2007, and Ms. Polsky who was appointed to the committee to replace Mr. Wood. The Audit Committee, which held eight meetings during 2007, acts on behalf of the Board to oversee all material aspects of the Company's reporting, control and audit functions. The Audit Committee's role includes a particular focus on the qualitative aspects of financial reporting to stockholders and on Company processes for the management of the business/financial risk and for compliance with significant applicable legal, ethical and regulatory requirements. The Board of Directors has determined that Messrs. Tansill, McFarlan and von Meiss are Audit Committee financial experts as described in Item 407(d)(5) of regulation S-K. In addition, the Board has determined that each member of the Audit Committee is independent under applicable NASDAQ listing standards and SEC rules. The Audit Committee is established in accordance with section 3(a)(58)(A) of the Securities Exchange Act of 1934, as amended. The Audit Committee operates pursuant to a charter adopted by the Board of Directors. The charter is available on the Company's corporate website, at <http://www.investtools.com> on the "Investor Relations" page under "Corporate Governance."

#### **Compensation Committee**

During 2007, the Compensation Committee consisted of Mr. Wood, who served as Chairman until his resignation from the Board effective February 15, 2007, and Messrs. McFarlan, Tansill, von Meiss and Goldsmith, who resigned from the Board effective August 31, 2007. Mr. Goldsmith served as Chairman of the Compensation Committee after Mr. Wood's resignation. Mr. von Meiss has served as Chairman since September 2007, following Mr. Goldsmith's resignation. The Compensation Committee,

which held seven meetings during 2007, administers the Investtools Inc. 2004 Restricted Stock Plan and the Investtools Inc. 2001 Stock Option Plan, establishes the compensation of the Chief Executive Officer, and sets policy for compensation of all executive officers and outside directors (directors who are also employees are not compensated for their service on the Board). The Compensation Committee is also responsible for the administration of four other stock option plans from which no new grants are currently being made. The Board has determined that each member of the Compensation Committee is independent under applicable NASDAQ listing standards and SEC rules. The Compensation Committee operates pursuant to a charter adopted by the Board of Directors. The charter is available on the Company's corporate website, at <http://www.investtools.com> on the "Investor Relations" page under "Corporate Governance."

#### **Nominating and Corporate Governance Committee**

In April 2007, the Board established the Nominating and Corporate Governance Committee. The members of that committee are Mr. von Meiss (Chair) and Ms. Polsky. Mr. Goldsmith also served until his resignation on August 31, 2007. The Nominating and Corporate Governance Committee did not hold any meetings during 2007. The primary purpose and function of the Nominating and Corporate Governance Committee is to develop and recommend to the Board a set of corporate governance principles applicable to the Company, identify individuals qualified to become members of the Board (including by reviewing the qualifications of candidates for Board membership and screening and interviewing possible candidates for Board membership), select, or recommend that the Board select, the director nominees for the next Annual Meeting of stockholders, and communicate with members of the Board regarding Board meeting format and procedures.

The Board has determined that each member of the Nominating and Corporate Governance Committee is independent under applicable NASDAQ listing standards and SEC rules. The Nominating and Corporate Governance Committee operates pursuant to a charter. Both the charter and the Board of Directors Nomination Policy are available on the company's corporate website, at <http://www.investtools.com> on the "Investor Relations" page under "Corporate Governance." The policy describes the process by which candidates for inclusion in the Company's recommended slate of director nominees are selected.

Candidates for Board membership must possess the background, skills and expertise to make significant contributions to the Board and to the Company and its stockholders. Desired qualities to be considered include substantial experience in business or administrative activities; breadth of knowledge about issues affecting the Company; and ability and willingness to contribute special competencies to Board activities. The Nominating and Corporate Governance Committee also considers whether members and potential members are independent under applicable NASDAQ listing standards and SEC rules. In addition, candidates should possess the following attributes: personal integrity; absence of conflicts of interest that might impede the proper performance of the responsibilities of a director; ability to apply sound and independent business judgment; sufficient time to devote to Board and Company matters; ability to fairly and equally represent all stockholders; reputation and achievement in other areas; independence under rules promulgated by the SEC and the NASDAQ Stock Market listing standards; and diversity of viewpoints, background and experiences.

The Board is of the view that the continuing service of qualified incumbents promotes stability and continuity in the boardroom, contributing to the Board's ability to work as a collective body, while giving the Company the benefit of the familiarity and insight into the Company's affairs that its directors have accumulated during their tenure. Accordingly, the process of the Nominating and Corporate Governance Committee for identifying nominees reflects the Company's practice of re-nominating incumbent directors who continue to satisfy the Nominating and Corporate Governance Committee's criteria for membership on the Board, whom the Nominating and Corporate Governance

Committee believes continue to make important contributions to the Board and who consent to continue their service on the Board.

The Nominating and Corporate Governance Committee will identify and evaluate new candidates for election to the Board where there is no qualified and available incumbent, including for the purpose of filling vacancies arising by reason of the resignation, retirement, removal, death or disability of an incumbent director or a decision of the directors to expand the size of the Board. The Nominating and Corporate Governance Committee may use multiple sources for identifying director candidates, including its own contacts and referrals from other directors, members of management, the Company's advisors, and executive search firms.

The Nominating and Corporate Governance Committee will consider director candidates recommended by stockholders and will evaluate such director candidates in the same manner in which it evaluates candidates recommended by other sources. In making its selection, the Nominating and Corporate Governance Committee will evaluate candidates proposed by stockholders under criteria similar to the evaluation of other candidates, except that the Nominating and Corporate Governance Committee may consider, as one of the factors in its evaluation of stockholder recommended nominees, the size and duration of the interest of the recommending stockholder or stockholder group in the equity of the Company. The Nominating and Corporate Governance Committee may also consider the extent to which the recommending stockholder intends to continue holding its interest in the Company, including, in the case of nominees recommended for election at an annual meeting of stockholders, whether the recommending stockholder intends to continue holding its interest at least through the time of such annual meeting.

The charter for the Nominating and Corporate Governance Committee provides that the committee will review and assess the adequacy of its charter periodically and oversee the annual performance evaluation of the Board.

#### **Communications with Directors**

The Board of Directors welcomes communications from its stockholders and other interested parties and has adopted a procedure for receiving and addressing those communications. Stockholders and other interested parties may communicate any concerns they may have about the Company directly to either the full Board of Directors or one or more directors by mailing their communications to the Company at the following address: [Director], Investtools Inc., 13947 South Minuteman Drive, Draper, Utah 84020, Attention: Corporate Secretary (Board Matters) or email investor.relations@investtools.com. The Corporate Secretary promptly will forward all stockholder communications and other communications from interested parties unopened to the intended recipient.

#### **Stockholder Nominations**

The Board will consider director candidates recommended by stockholders and will evaluate such director candidates in the same manner in which it evaluates candidates recommended by other sources.

The Company's Bylaws, as amended, provide that in making recommendations for director nominees for the Annual Meeting of Stockholders, the Board of Directors will consider any written recommendations of director candidates by stockholders received by the Secretary of the Company no later than 90 days before the anniversary of the previous year's annual meeting of stockholders, except that if no annual meeting was held in the previous year or if the date of the annual meeting is advanced by more than 30 days prior to, or delayed by more than 60 days after such anniversary date, notice must be received by the 10th day following the date that public disclosure of the date of the annual meeting is given to stockholders. Recommendations must be mailed to Investtools Inc., 45 Rockefeller Plaza, Suite 2012, New York, New York 10111, Attention: Corporate Secretary, and

include all information regarding the candidate as would be required to be included in a proxy statement filed pursuant to the proxy rules promulgated by the SEC if the candidate were nominated by the Board of Directors (including such candidate's written consent to being named in the proxy statement as a nominee and to serving as a director if elected). The stockholder giving notice must provide (i) his or her name and address, as they appear on the Company's books, and (ii) the class and number of shares of the Company which are beneficially owned by such stockholder. The Company may require any proposed nominee to furnish such other information it may require to be set forth in a stockholder's notice of nomination which pertains to the nominee.

**Director Independence**

The Company's Board of Directors is comprised of a majority of independent directors as defined in the applicable rules of The NASDAQ Stock Market. In making this determination, the Board considered transactions and relationships between each director or his or her immediate family and the Company and its subsidiaries, including those reported under "Compensation Committee Interlocks and Insider Participation" and "Policies and Procedure with Respect to Related Person Transactions" below. The purpose of this review was to determine whether any such relationships or transactions were material and, therefore, inconsistent with a determination that the director is independent. In addition, the Board requires each of its members and each of the director nominees to disclose in an annual questionnaire any relationship he or she or his or her family members have had with the Company, its subsidiaries, its independent accountants, directors and officers within the past three years. The Board considers any such relationship in making its determination. There are no family relationships between any nominees, directors and executive officers. Messrs. Barba, Sheridan and Sosnoff are not independent because of their employment as senior executives of the Company or its subsidiaries.

**Executive Officers**

As of April 15, 2008, the following persons were the executive officers of the Company:

Name	Age	Position
Lee K. Barba	57	Chairman of the Board and Chief Executive Officer
Ida K. Kane	38	Senior Vice President and Chief Financial Officer
Paul A. Helbling	54	Senior Vice President, Chief Administrative Officer and Corporate Secretary
Andrew B. Scott	37	Senior Vice President, Student Lifetime Value and Retention
Scott D. Sheridan	44	Executive Vice President, thinkorswim Group, Inc. and Director of the Company
Ainslie J. Simmonds	38	Senior Vice President and Chief Marketing and Product Development Officer
Tom Sosnoff	51	President, thinkorswim Group, Inc. and Director of the Company

Information concerning the business experience of Messrs. Barba and Sosnoff are provided under the section entitled "Organization of the Board of Directors" and of Mr. Sheridan under the section entitled "Nominees for Director."

**Ida K. Kane**

Ms. Kane was appointed Chief Financial Officer and Senior Vice President of the Company in January 2005. Prior to joining the Company, she served as the Chief Financial Officer and Vice President of Operations for the Organizational Solutions Business Unit of FranklinCovey in Salt Lake City. From 1999 to 2001, Ms. Kane was Partner and Chief Accounting Officer for Encubate

Holdings LLC, a venture capital firm. From 1997 to 1999, she served as corporate controller for Equitrac Corporation, a manufacturing company listed on NASDAQ. From 1992 to 1997, Ms. Kane served in various positions with KPMG LLP, including audit manager. Ms. Kane became a Certified Public Accountant in 1991. She received her B.A. degree in Business Administration in 1991 and her M.B.A. in 1992 from the University of Miami.

**Paul A. Helbling**

Mr. Helbling was appointed Chief Administrative Officer of the Company in January 2005, as Senior Vice President in June 2003, and as Corporate Secretary in February 2002. Mr. Helbling served as the Company's Chief Financial Officer from December 2001 until his appointment as Chief Administrative Officer. Prior to joining Telescan in August 1999, he was Vice President of Finance at PCC Flow Technologies, Inc., a subsidiary of Precision Castparts Corporation and a \$350 million manufacturer of pumps and valves in the U.S. and Europe. From 1991 to 1997 Mr. Helbling served as Vice President and Chief Financial Officer of HydroChem Industrial Services, a \$150 million provider of industrial cleaning services to the petrochemical, refining and utility industries. Mr. Helbling became a Certified Public Accountant in 1978, with experience in public accounting and in the contract drilling and oil and gas exploration and production industries. Mr. Helbling holds a B.A. and a M.A. Degree from Rice University.

**Andrew B. Scott**

Mr. Scott was appointed Senior Vice President, Student Lifetime Value and Retention in April 2007. Prior to being appointed to that position, Mr. Scott served as Vice President of the Company, leading the workshop team since May 2003. Mr. Scott has been an instructor for the Company since October 1998, has taught over 650 workshops, and instructed over 50,000 of the Company's students. He received his B.A. in Economics from the University of Texas.

**Ainslie J. Simmonds**

Ms. Simmonds was appointed Senior Vice President and Chief Marketing and Product Development Officer in December 2005. Prior to joining the Company, Ms. Simmonds was a Partner at Markitecture LLC, a marketing consulting firm located in Norwalk, Connecticut. From 2000 to 2002, Ms. Simmonds was Vice President of Marketing for Molson USA LLC, a joint venture between Molson Breweries and the Coors Brewing Company. From 1992 to 2000, she served in progressive marketing related positions, including Director of Marketing, for Campbell Soup Company's North American operations. Ms. Simmonds received her B.A. Degree in Business Administration with honors in 1992 from the University of Western Ontario and her M.B.A. in 1997 from Harvard University.

## EXECUTIVE COMPENSATION

### *Compensation Discussion and Analysis*

#### **Overview**

The following is a narrative overview of the Company's executive compensation philosophy, programs and policies. It is intended to highlight for investors material information relating to the Company's executive compensation programs and includes analysis on the compensation earned by our "named executive officers" as detailed in the executive compensation tables. The individuals who served as the Company's Chief Executive Officer and Chief Financial Officer during fiscal 2007, as well as the other three most highly compensated executive officers of the Company, who served in such capacities during fiscal 2007 are referred to as the "named executive officers."

#### **Compensation-related Governance and Role of the Chief Executive Officer**

The Board of Directors approves the appointment of members to the Compensation Committee (for purposes of this discussion, the "Committee"). During 2007, the Committee consisted of Stephen C. Wood, who served as Chairman until his resignation from the Board effective February 15, 2007, Michael H. Goldsmith, who served as Chairman after Mr. Wood's resignation until his resignation from the Board effective August 31, 2007, Hans von Meiss, current Chairman since September 2007, F. Warren McFarlan, and Douglas T. Tansill. After reviewing the qualifications of current members of the Committee, and any relationships that they may have with the Company, the Board has determined that all current members of the Committee are "independent", as independence is defined under applicable NASDAQ listing standards and SEC rules. The Committee establishes, reviews, approves, and oversees all compensation and benefit policies, plans, and programs for our personnel in the aggregate and for our executive officers in particular. The Committee meets at least twice a year and as needed to review and consider all elements of officers' compensation including base salary, incentive pay, long-term (equity) incentive compensation, benefits and payout obligations under employment agreements and scenarios. The Committee meets in executive session, without management present, whenever the Committee deems appropriate. The full Board receives written minutes on the activities of the Committee.

The Committee makes all compensation decisions for the Chief Executive Officer ("CEO") and approves, as appropriate, recommendations from the CEO regarding compensation, equity awards and non-equity awards to all other named executive officers. The CEO annually reviews the performance of each of the named executive officers (other than himself). The conclusions reached and recommendations based on these reviews, including with respect to salary adjustments and annual award amounts, are presented to the Committee. The Committee can exercise its discretion in modifying any recommended adjustments or awards to executives.

#### ***Compensation Philosophy and Objectives***

The Company's compensation program is designed to reward executives based on favorable individual performance and favorable Company financial results. Compensation policies and plans (including benefits) are designed to attract and retain top quality and experienced executives by providing the opportunity to earn competitive cash compensation based on companywide, departmental and individual performance, plus the opportunity to accumulate stock-based wealth commensurate with the long-term growth and value created for the Company's stockholders. The Company strives to create an environment where its employees feel valued and rewarded for their contributions to the Company's sustainable growth plan. Ultimately, the Company's compensation program should align the interests of the Company's management team with those of its stockholders.

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In structuring a compensation program that will responsibly implement these principles, the Company considers the following objectives:

attracting and retaining individuals critical to the growth and long-term success of the Company;

rewarding the achievement of the Company's short- and long-term strategic initiatives;

a significant portion of total compensation should be contingent on, and variable with, companywide, departmental and individual performance;

compensation should be reasonable and reflect the current market for comparable skills and experience; and

the structure of the compensation program should align the named executive officers to the interests of the Company's stockholders.

The Company's compensation practices demonstrate its commitment to these principles and objectives. The Company has embraced the principle of establishing aggressive but achievable goals as a key part of its compensation philosophy as it continues to grow.

### ***Compensation Factors***

***CEO.*** The Committee's decisions regarding the CEO and the CEO and Committee's decisions regarding the other named executive officers, are based in part on the Committee's and CEO's (with respect to the other named executive officers) subjective judgment and take into account qualitative and quantitative factors, as will be set forth in the discussion below. In reviewing the named executive officer's compensation, the Committee and CEO (other than with respect to himself) consider and evaluate all components of the officer's total compensation package. Based on this review, the Committee concluded that for fiscal year 2007, except for the CEO, each of the named executive officer's total compensation (including compensation not yet paid) is appropriate and reasonable in the aggregate both in terms of absolute dollars and relative to performance.

***Benchmark for the CEO.*** In the second quarter of 2006, the Committee engaged Alan Nadel & Company LLC, an independent compensation consultant, to assess the CEO's current compensation package and to develop a new compensation package and an employment agreement that fairly rewards the CEO for achievement of corporate objectives, provides incentives for continue outstanding performance and is fair to the Company's stockholders. The consultants provided benchmarking data to the Committee based on a comparison to the combined peer groups of the Company. The peer groups examined included financial services firms, companies with similar service lines as the Company and companies of similar and slightly larger size and market capitalization as the Company. In its evaluation, the Committee found that the CEO's compensation was below the peer group levels for all elements of compensation. Consequently, the Committee determined that an amendment to the CEO's employment agreement was necessary to better align all elements of his compensation with median of the Company's peer group. In connection with the review of the CEO's compensation and the merger with thinkorswim Group, Inc., in February 2007 the Committee amended the CEO's employment agreement (see " Employment Agreement" below). The Committee also accelerated the vesting of stock options awarded in 2002 for the purchase of 550,000 shares of Common Stock at \$0.18 per share.

***Corporate Performance.*** In establishing executive compensation, the CEO and the Committee measure the Company's performance compared to management's and the Board's goals and objectives, including an annual budget, as well as to the performance of companies of similar size and market capitalization in the Company's industry or related industries. The Committee and the CEO believe that using the Company's performance as a factor in determining an executive officer's compensation is effective in helping to align the executive's interests with those of the Company's stockholders. With that in mind, the Committee and the CEO focus on performance versus key financial and operating

performance criteria, such as growth in sales transaction volume, earnings or loss (before interest, income taxes, depreciation and amortization, special charges, other non-cash income/expense items and net change in deferred revenue), and execution of strategic initiatives.

**Individual Performance.** When evaluating an executive's individual performance, the Committee relies upon the CEO's assessment of individual performance, as well as the Committee's and other Board members' own assessment from their interactions with executives throughout the year. The assessment considers the executive's efforts in achieving his or her individual goals each year, recruiting, managing and developing employees and their relative role in the future growth and the executive officer's contribution to the overall Company. Each executive has different goals established that contribute to the long-term strategic goals of the Company. Individual goals for executives (other than the CEO) are established by the CEO in consultation with each executive and the Committee. The individual goals for the CEO are established by the Committee, in consultation with the full Board and the CEO.

#### **Compensation Elements**

In the aggregate, the Company's compensation program is designed to not only attract and retain desired employees in a highly competitive market, but also to reward quality individual contribution, overall team performance, and achievement of peer-competitive metrics for overall Company performance.

The compensation program for the Company consists of various elements, including:

base salary;

performance based incentive bonus and commissions;

equity-based compensation; and

benefits.

The Company believes these elements work in unison to provide a reasonable and well-balanced mix of both cash and non-cash compensation as well as short-term and long-term compensation to provide the appropriate incentives and motivation for the named executive officers and align to the interest of the Company's stockholders.

#### **Direct Compensation**

**Base Salary.** The Company provides the named executive officers with base salaries to provide them a basic level of income comparable to that of executives in similar positions at other companies, taking into account the individual's performance and experience. The Company believes this is consistent with competitive practices and will help assure that the Company retains qualified leadership in those positions. The Company's practice has generally been to set base salary levels for each named executive officer at the median range of comparable base salaries as companies similar in size, market capitalization and in the same or related industries as the Company. In setting these salary levels for individual named executive officers, the Committee and the CEO may consider:

the compensation philosophy and guiding principles described above;

the base salary paid to the officers in comparable positions at companies in similar industries, size and market capitalization to the Company;

the overall professional experience and background and the industry knowledge of the named executive officer and the quality of their performance and effectiveness of their leadership at the Company;



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all of the components of executive compensation, including base salary, bonus, stock options and restricted stock, and benefits; and

internal pay equity among the Company's executives.

The Company pays annual base salaries to the CEO and Chief Financial Officer under employment agreements. Tom Sosnoff, President of thinkorswim Group, Inc. and Scott Sheridan, Executive Vice President of thinkorswim Group, Inc., are also paid under employment agreements. (See discussion of "Employment Agreements" below). The employment agreement of the CEO provides that his base salary is subject to annual review by the Board or the Committee for possible increases (but not decreases). The employment agreements for Ms. Kane, Mr. Sosnoff and Mr. Sheridan provide that the Company may increase the executive's salary at any time in its sole discretion. The base salary for Mr. Scott is set annually by the Committee upon recommendation from the CEO.

Set forth below is a table showing the base salaries of the named executive officers for the year ended December 31, 2007:

NAME	2007 BASE SALARY
Lee K. Barba	\$ 500,000
Ida K. Kane	\$ 265,000
Andrew B. Scott	\$ 265,000*
Tom Sosnoff	\$ 120,000**
Scott D. Sheridan	\$ 120,000**

\*  
Effective April 5, 2007.

\*\*  
Effective February 15, 2007. See below under "Employment Agreements."

**Performance Based Annual Bonus and Commissions.** A substantial portion of total direct compensation is allocated to variable, performance-based incentives in the form of an annual bonus. This is done to link executive compensation closely to the achievement of Company results and performance. The target bonus for each of Mr. Barba and Ms. Kane is based on individual performance and overall Company performance. The target bonus for Mr. Barba for 2007 was 100% or higher of his base salary. Mr. Barba's employment agreement provides that his target annual bonus opportunity in the future will also be at least 100% of annual base salary. The target bonus for Ms. Kane is and will remain, 35% or higher of her base salary. The CEO, with respect to Ms. Kane and the Committee, with respect to the CEO, determined that each of the named executive officers should receive either their target bonus or more than their target bonuses for fiscal year 2007. The CEO and Committee, as applicable, concluded that the Company's performance against strategic initiatives, growth in sales transaction volume, the integration of thinkorswim Group, Inc. with the Company, and the individual performance of each of such named executive officers met or exceeded Company expectations.

Mr. Sosnoff and Mr. Sheridan are paid bonuses pursuant to their employment agreements with the Company. The employment agreements were negotiated in connection with the merger with thinkorswim Group, Inc. Mr. Sosnoff and Mr. Sheridan agreed that they would take a lower salary than would otherwise be paid to them in exchange for bonuses that would constitute an amount greater than their respective salaries. Historically, with thinkorswim Group, Inc., Mr. Sosnoff and Mr. Sheridan received bonuses in excess of their salaries and desired to maintain such payment practices. Their agreements provide that each of them is to receive a bonus as determined by the Committee in their sole discretion, but in no event less than \$225,000 (approximately 187% of their salaries). The Committee consults with the CEO in determining Mr. Sosnoff and Mr. Sheridan's bonuses. The



Committee concluded, in consultation with the CEO, to pay the minimum \$225,000 bonus for 2007. While the Committee determined that their respective performances met or exceeded Company expectations, given the amount of their other compensation components, namely options issued in February 2007, the Committee determined that it was appropriate to pay the minimum amount of bonuses in 2007. It is anticipated that the Compensation Committee will review substantially the same factors as for the other named executive officers in the future in determining the amount of bonuses to be paid to Mr. Sosnoff and Mr. Sheridan.

Mr. Scott, in addition to his base salary as a Senior Vice President, received certain commission compensation in connection with teaching and overseeing all sales functions. The Company determined to continue to compensate Mr. Scott for the workshop services after his becoming an executive officer because it was deemed to be in the best interests of the Company for him to continue to stay closely connected to this activity. In light of this performance component of his compensation, Mr. Scott did not receive any additional bonuses.

The bonuses and commissions paid to the named executive officers are set forth in the Summary Compensation Table on page 18 of this Proxy Statement.

**Long-Term Equity-Based Incentive Compensation.** The Company believes that the grant of annual equity awards further aligns the long-term interests of senior management and stockholders. Therefore, the grant of stock options and the award of restricted stock are important components of annual compensation. The Company's equity programs are designed to encourage a long-term focus on results, employee recruiting and retention. By doing so the Company believes these programs help align employee and stockholder interests by promoting the creation of long-term value for the Company's stockholders. At the same time, the Committee has carefully considered the impact of equity expensing, dilution and overhang levels. The Company's equity programs consist of restricted stock awards under the Investtools Inc. 2004 Restricted Stock Plan ("2004 Restricted Stock Plan") and stock option grants under the Investtools Inc. 2001 Stock Option Plan ("2001 Plan", and together with the 2004 Restricted Plan, the "Plans"). The Company used an annual grant process for making long-term incentive awards for its named executive officers, other than with respect to Mr. Sosnoff and Mr. Sheridan in 2007.

The Company currently uses restricted stock and stock options as the two primary grant forms. The Company believes both forms play an important role in attracting, retaining and motivating executives to focus on long-term value creation. The Company uses stock options because stock options, granted at fair market value at the date of the grant, deliver value only when the stock price goes up, and thus when stockholders receive value. Stock option grants allow the named executive officers to acquire shares of the Company's Common Stock, subject to the completion of a four-year vesting period ( $1/4$ th of the options become exercisable on each of the first four anniversary dates following the grant). These shares may be acquired at a fixed price per share (the fair market value on the grant date) and have a ten-year term. The Company also uses restricted stock because with restricted stock, executives receive full value shares and become stockholders of record at the date of grant. As a result, restricted stock provides ownership opportunities while enhancing executive retention as a result of a forfeiture restriction in the event that the executives leave the Company before the end of the stated vesting period. Restricted stock grants to named executive officers are subject to the completion of a two-year vesting period ( $1/2$  of the restricted stock vests on each of the first two anniversary dates following the grant).

Stock option and restricted stock award levels are determined annually based on analysis of companies similar in size, market capitalization and related industries as the Company, individual performance and Company performance, using the same criteria used in determining the performance-based annual bonuses, and vary among participants based on their positions within the Company. Based on these factors the Committee determines discretionary long-term equity incentive awards and allocations across the two grant forms for the named executive officers, taking into account the CEO's

recommendation for awards (other than his own). Mr. Sosnoff and Mr. Sheridan were exceptions to this policy in 2007, as their compensation packages were negotiated in connection with the merger with thinkorswim Group, Inc. They therefore did not receive any restricted stock awards and instead, as incentive compensation, as of the closing date of the merger Mr. Sosnoff was granted 457,782 options and Mr. Sheridan was granted 457,781 options, 228,891 of which have an exercise price equal to the fair market value of the grant date, and the balance of which have an exercise price of 150% of the fair market value of the stock on the date of grant.

The stock awards and options awards set forth in the Summary Compensation Table on page 18 of this Proxy Statement reflect awards made through the end of 2007. With the exception of Mr. Sosnoff and Mr. Sheridan's options described below, stock options for the executive officers are awarded at the NASDAQ's closing price of the Company's Common Stock on the date of the grant. The Committee does not grant options with an exercise price that is less than the closing price of the Company's Common Stock on the grant date, nor does it grant options which are priced on a date other than the grant date.

#### ***Indirect Compensation***

***Benefits, Perquisites and Other Compensation.*** All eligible employees, including the named executive officers, participate in the Company's benefit programs. The Company provides medical, prescription drug, vision and dental coverages, life insurance, accidental death and dismemberment, business travel and accident, long-term disability insurance, flexible spending accounts, various voluntary coverages including long-term care insurance. The Company also maintains a 401(k) plan.

While the Committee reviews and monitors the level of other compensation offered to the named executive officers, the Committee typically does not adjust the level of benefits offered on an annual basis. In general the Committee believes that benefits and perquisites for named executive officers should be very limited in scope and value and reflective of similar perquisites from competitive employers both in the industry and the region. Due to this philosophy, the Company has generally only provided benefits to executives that are available to all full-time employees and the Company plans to continue this approach in the future. The employment agreement for Mr. Barba includes his family's participation in an executive health plan, which provides additional benefits. The employment agreement for Ms. Kane also provides for reimbursement from the Company, not to exceed \$15,000, for an annual physical examination. The Company does not provide any other perquisites to its executives at this time.

***Post-Termination Compensation.*** The Company has entered into agreements with Mr. Barba, Ms. Kane, Mr. Sosnoff and Mr. Sheridan that provide them compensation under certain circumstances in the event of their termination. The Committee has measured these severance payments against those of companies similar in size and market capitalization to the Company and general industry practices and believes they are reasonable when measured against the peers in light of the objective of retaining talented executives. More detail on these severance arrangements is set forth beginning on page 22 of this Proxy Statement under the caption "Potential Payments Upon Termination or Change in Control."

#### ***Employment Agreements***

In the fourth quarter of 2006, the Committee, with respect to the CEO, and the CEO with respect to Ms. Kane, determined that the total compensation for these executive officers was no longer commensurate with their job scope and responsibility in light of the then pending merger with thinkorswim Group, Inc. Consequently, the Committee, with respect to the CEO, and the CEO with respect to Ms. Kane, amended and restated their respective employment agreements with the Company effective February 15, 2007. The amended and restated employment agreements reflect salary increases for these executives.

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*Chief Executive Officer.* Effective February 15, 2007, the Committee approved an amended and restated employment agreement with Mr. Barba. Pursuant to the agreement, Mr. Barba receives \$500,000 per year as base salary (an increase from \$425,000 in 2006), automatically increasing by \$50,000 in each of 2008 and 2009. The amended employment agreement also provides that Mr. Barba is eligible for future grants of stock options and restricted shares, as determined by the Committee, but in any event on a basis (including vesting terms, exercise price, exercise period and number of shares) which is no less favorable to Mr. Barba than is provided to any other Company executive.

*Chief Financial Officer.* On February 15, 2007, the Committee approved an amendment to Ms. Kane's January 2005 employment agreement. Pursuant to the amended agreement, Ms. Kane will receive \$265,000 per year as base salary (she received \$225,000 as base salary in 2006). The agreement includes a covenant not to compete and a covenant not to solicit or interfere for six months after termination from the Company.

*President, thinkorswim Group, Inc.* Effective February 15, 2007, the Company entered into a three year term employment agreement with Mr. Sosnoff, which may be extended upon the mutual agreement of the Company and Mr. Sosnoff. Pursuant to the agreement, Mr. Sosnoff receives \$120,000 in base salary and a minimum bonus of \$225,000. The agreement includes a covenant not to compete and a covenant not to solicit or interfere for the longer of one year after termination from the Company or February 15, 2010.

*Executive Vice President, thinkorswim Group, Inc.* Effective February 15, 2007, the Company entered into a three year term employment agreement with Mr. Sheridan, which may be extended upon the mutual agreement of the Company and Mr. Sheridan. Pursuant to the agreement, Mr. Sheridan receives \$120,000 in base salary and a minimum bonus of \$225,000. The agreement includes a covenant not to compete and a covenant not to solicit or interfere for the longer of one year after termination from the Company or February 15, 2010.

### ***Additional Policies Related to Compensation***

***Securities Trading Policy.*** The Board has adopted a Securities Trading and Investment Policy. The provisions of this policy expressly prohibit directors, officers or other employees, after becoming aware of material nonpublic information related to any company, including the Company, from buying, selling or recommending the purchase or sale of securities for his or her own account or the accounts of others, including the Company. To further ensure adherence with this policy, guidelines have been established for blackout periods and appropriate disclosure of internal information to external parties. The insider trading policy provides guidance as to what constitutes material information and when information becomes public. The policy discusses the consequences of an insider trading violation and mentions additional trading restrictions and certain reporting requirements applicable to directors, officers and designated key employees. The Company's management offers direction to employees on compliance with this policy.

***Policy on the Re-pricing of Stock Options.*** Stock options are granted at no less than the fair market value on the date of the grant and are not subject to re-pricing.

***Policy on Timing Stock Award.*** The timing of stock awards must be consistent with guidelines established in a stock program, such as the Plans, that the Committee approves prior to the awarding of any grant. The Committee approves the grant prior to the stock being awarded in the awarding of stock or stock options to a new hire.

***Policy on Deductibility of Compensation Over \$1 million.*** Section 162(m) of the Internal Revenue Code (the "Code") precludes a public corporation from taking a deduction for compensation in excess of \$1 million in any taxable year for its chief executive officer or any of its three other highest paid

executive officers, (other than the chief financial officer) unless certain specific and detailed criteria are satisfied. The Committee considers the anticipated tax treatment to the Company and the executive officers in its review and establishment of compensation programs and payments. The deductibility of some types of compensation payments can depend upon the timing of an executive's vesting or exercise of previously granted rights. While reserving the Company's right to offer such compensation arrangements as may from time to time be necessary to attract and retain top-quality management, the Committee intends generally to structure such arrangements, where feasible, so as to minimize or eliminate the impact of the limitations of Section 162(m).

***Policies on the Impact of Accounting/Tax Treatments on any Elements of Compensation.*** The Company's stock-based compensation policy applies to all forms of stock-based compensation including stock options and restricted stock. All stock-based compensation is accounted for under the fair-value method as required by United States generally accepted accounting principles. The expense associated with stock-based compensation is recognized over the vesting period of each individual arrangement. The fair value of each stock option award is estimated on the date of grant using a Black-Scholes-Merton option valuation model. The fair value of restricted stock is based on the fair value at the date of grant.

***Policy on Assessing Past Stock Awards in Determining Future Awards.*** The value, or lack of value, realized from at-risk awards granted in prior years is not taken into account by the Committee in the process of setting compensation for the current year. The Committee believes that doing so would be inconsistent with the underlying reasons for the use of at-risk compensation. If current year awards were increased to recover from below-target performance in prior years or decreased to account for above-target performance in prior years, the committee would be diluting or eliminating the link between performance and award. Recipients would have little incentive to improve performance if it meant decreased target awards in the future, or if the negative consequences for poor performance would be cushioned by increases in the target value of future awards. Additionally, the value realized from equity-based awards granted in prior periods depends in large measure on when the recipient decides to realize that value by exercising options or by selling vested shares of stock. The Committee does not believe it would be appropriate to adjust future grants in light of these types of individual decisions.

#### **Report of the Compensation Committee**

The Compensation Committee has reviewed and discussed the foregoing Compensation Discussion and Analysis with the management of the Company. Based on this review and discussion, we recommend to the Board of Directors that the Compensation Discussion and Analysis be included in the Company's Proxy Statement for the 2008 Annual Meeting.

*Compensation Committee:*

Hans von Meiss

*Chairman*

F. Warren McFarlan

Douglas T. Tansill

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**Summary Compensation Table for Fiscal Year 2007 and 2006**

The following table sets forth the compensation of (i) the Chief Executive Officer of the Company, (ii) the Chief Financial Officer of the Company and (iii) the other three most highly compensated executive officers of the Company who were serving as executive officers at the end of 2007 (collectively, the "named executive officers") for the years ended December 31, 2007 and December 31, 2006.

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<b>Name and Principal Position</b>	<b>Year</b>	<b>Salary (\$)</b>	<b>Bonus (\$)</b>	<b>Stock Awards \$(1)</b>	<b>Option Awards \$(2)</b>
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