

VECTOR GROUP LTD
Form DEF 14A
April 05, 2012
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SCHEDULE 14A
(Rule 14a-101)

INFORMATION REQUIRED IN PROXY STATEMENT

SCHEDULE 14A INFORMATION

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

Filed by the Registrant R

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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 Rule 14a-11(c) or Rule 14a-12

Vector Group Ltd.

(Name of Registrant as Specified in its Charter)

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

Payment of Filing Fee (Check the appropriate box):

No fee required.

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(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set
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the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

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

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(4) Date Filed:

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VECTOR GROUP LTD.

100 S.E. Second Street

Miami, Florida 33131

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS

To Be Held May 22, 2012

To the Stockholders of Vector Group Ltd.:

The Annual Meeting of Stockholders of Vector Group Ltd., a Delaware corporation (the "Company"), will be held at the Miami Tower, 100 S.E. Second Street, 19th Floor Auditorium, Miami, Florida 33131 on Tuesday, May 22, 2012 at 11:00 a.m., and at any postponement or adjournment thereof, for the following purposes:

1. To elect seven directors to hold office until the next annual meeting of stockholders and until their successors are elected and qualified;
2. To hold an advisory vote on executive compensation (the "say on pay vote");
3. To ratify the appointment of PricewaterhouseCoopers LLP as our independent registered certified public accounting firm for the year ending December 31, 2012; and
4. To transact such other business as properly may come before the meeting or any adjournments or postponements of the meeting.

Every holder of record of Common Stock of the Company at the close of business on March 27, 2012 is entitled to notice of the meeting and any adjournments or postponements thereof and to vote, in person or by proxy, one vote for each share of Common Stock held by such holder. A list of stockholders entitled to vote at the meeting will be available to any stockholder for any purpose germane to the meeting during ordinary business hours from May 8, 2012 to May 22, 2012, at the headquarters of the Company located at 100 S.E. Second Street, 32nd Floor, Miami, Florida 33131. A proxy statement, form of proxy and the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2011 are enclosed herewith.

By Order of the Board of Directors,
HOWARD M. LORBER
President and Chief Executive Officer

Miami, Florida
April 5, 2012

IT IS IMPORTANT THAT PROXIES BE RETURNED PROMPTLY. THEREFORE, WHETHER OR NOT YOU EXPECT TO ATTEND THE MEETING IN PERSON, PLEASE SIGN AND RETURN THE ENCLOSED PROXY AS SOON AS POSSIBLE IN THE ENCLOSED POSTAGE PRE-PAID ENVELOPE.

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VECTOR GROUP LTD.
100 S.E. Second Street
Miami, Florida 33131

PROXY STATEMENT

INTRODUCTION

The enclosed proxy is solicited on behalf of the board of directors of Vector Group Ltd., a Delaware corporation (the “Company”). The proxy is solicited for use at the annual meeting of stockholders to be held at the Miami Tower, 100 S.E. Second Street, 19th Floor Auditorium, Miami, Florida 33131 on Tuesday, May 22, 2012, at 11:00 a.m., and at any postponement or adjournment. The Company’s offices are located at 100 S.E. Second Street, 32nd Floor, Miami, Florida 33131, and its telephone number is (305) 579-8000.

VOTING RIGHTS AND SOLICITATION OF PROXIES

Every holder of record of Common Stock of the Company at the close of business on March 27, 2012 is entitled to notice of the meeting and any adjournments or postponements and to vote, in person or by proxy, one vote for each share of Common Stock held by such holder. At the record date, the Company had outstanding 79,445,212 shares of Common Stock. This proxy statement, accompanying notice and proxy and the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2011 are first being mailed to stockholders on or about April 10, 2012.

Any stockholder giving a proxy has the power to revoke the proxy prior to its exercise. A proxy can be revoked by an instrument of revocation delivered at or prior to the annual meeting to Marc N. Bell, the secretary of the Company, by a duly executed proxy bearing a date or time later than the date or time of the proxy being revoked, or at the annual meeting if the stockholder is present and elects to vote in person. Mere attendance at the annual meeting will not serve to revoke a proxy. A stockholder whose shares are held in a brokerage or bank account will need to obtain a legal proxy from the broker, bank or other intermediary in order to vote at the meeting.

The presence, in person or represented by proxy, of the holders of a majority of the issued and outstanding shares of Common Stock will constitute a quorum for the transaction of business at the annual meeting. The affirmative vote of holders of a majority of the shares represented and entitled to vote is required for the election of each director, for the advisory approval of the say on pay vote and for the ratification of the appointment of PricewaterhouseCoopers LLP as the Company’s independent registered certified public accounting firm. Abstentions will have the effect of votes against the advisory say on pay proposal and the ratification of the appointment of our auditors.

Except for the ratification of the auditors, shares that are held by brokers in retail accounts may only be voted if the broker receives voting instructions from the beneficial owner of the shares. Otherwise, the “broker non-votes” may only be counted toward a quorum and, in the broker’s discretion, voted regarding the ratification of auditors. Broker non-votes will have no effect on any of the other matters presented at the annual meeting.

All proxies received and not revoked will be voted as directed. If no directions are specified, proxies which have been signed and returned will be voted “FOR” the election of the board’s nominees as directors, “FOR” the advisory say on pay vote and “FOR” the ratification of PricewaterhouseCoopers LLP as the Company’s independent registered certified public accounting firm.

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SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth, as of the record date, the beneficial ownership of the Company's Common Stock, the only class of voting securities, by:

- each person known to the Company to own beneficially more than five percent of the Common Stock;
- each of the Company's directors and nominees;
- each of the Company's named executive officers shown in the Summary Compensation Table below; and
- all directors and executive officers as a group.

Unless otherwise indicated, each person possesses sole voting and investment power with respect to the shares indicated as beneficially owned, and the business address of each person is 100 S.E. Second Street, Miami, Florida 33131.

Name and Address of Beneficial Owner	Number of Shares	Percent of Class	
Dr. Phillip Frost(1) 4400 Biscayne Boulevard Miami, FL 33137	15,429,451	18.5	%
Bennett S. LeBow(2)(4) Howard M. Lorber(3)(4)(5) Renaissance Technologies LLC	8,778,398	11.0	%
(6) 800 Third Avenue New York, NY 10022	5,172,326	6.1	%
Stanley S. Arkin(4) Arkin Kaplan Rice LLP 590 Madison Avenue; 35th Floor New York, NY 10022	4,661,922	5.9	%
Henry C. Beinstein(4)(7) Gagnon Securities LLC 1370 Avenue of the Americas New York, NY 10019	6,667	(*)	
Jeffrey S. Podell(4) 173 Doral Court Roslyn, NY 11576	72,199	(*)	
Jean E. Sharpe(4) 350 Cherry Street Bedford Hills, NY 10507	85,423	(*)	
Richard J. Lampen(5)(8) J. Bryant Kirkland III(5) Marc N. Bell(5)	76,236	(*)	
Ronald J. Bernstein(4)(5)(9)(10) Liggett Vector Brands LLC 3800 Paramount Parkway; Suite 250 Morrisville, NC 27560	301,897	(*)	
All directors and executive officers as a group (10 persons)	88,200	(*)	
	28,875	(*)	
	325,336	(*)	
	14,935,557	18.7	%

(* The percentage of shares beneficially owned does not exceed 1% of the outstanding Common Stock.

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- Based upon a Schedule 13D filed by Dr. Frost on November 22, 2011, which reports ownership of 11,569,384 shares of Common Stock owned by Frost Gamma Investments Trust, a trust organized under Florida law, and \$50 million principal amount of the Company's 6.75% Variable Interest Senior Convertible Note due 2014 held by Frost Nevada Investments Trust, a trust organized under Nevada law. The note is convertible into
- (1) 3,848,491 shares of Common Stock. Dr. Frost is the sole trustee of Frost Gamma Investments Trust and Frost Nevada Investments Trust. As the sole trustee, Dr. Frost may be deemed the beneficial owner of all shares owned by the trusts, by virtue of his power to vote or direct the vote of such shares or to dispose or direct the disposition of such shares owned by the trusts. Includes 11,576 shares owned by Dr. Frost's spouse, as to which shares Dr. Frost disclaims beneficial ownership.
Includes 11,025 shares held directly by Mr. LeBow, 5,645,708 shares of Common Stock held by LeBow Gamma Limited Partnership, a Delaware limited partnership, 2,657,702 shares of Common Stock held by LeBow Epsilon 2001 Limited Partnership, a Delaware limited partnership, 330,750 shares of Common Stock held by LeBow Alpha LLLP, a Delaware limited liability limited partnership and 133,213 shares held by The Bennett and Geraldine LeBow Foundation, Inc., a Florida not-for-profit corporation. LeBow 2011 Management Trust, a trust for the benefit of family members, is the controlling member of LeBow Holdings LLC, a Delaware limited liability company, which is the general partner of LeBow Alpha LLLP and the sole stockholder of LeBow Gamma, Inc., a Nevada Corporation, which is the general partner of LeBow Gamma Limited Partnership. LeBow Epsilon 2001 LLC, a Delaware limited liability company, is the general partner of LeBow Epsilon 2001 Limited Partnership, a Delaware limited partnership. Mr. LeBow is the sole trustee of LeBow 2011 Management Trust, a director and officer of LeBow Gamma, Inc. and a manager of LeBow Epsilon 2001 LLC. LeBow Alpha LLLP is the controlling member of LeBow Epsilon 2001 LLC. Mr. LeBow and other family members serve as directors and executive officers of the foundations, and Mr. LeBow possesses shared voting power and shared dispositive power with the other directors of the foundation with respect to the foundation's shares of Common Stock.
Includes 2,442,925 shares of Common Stock held directly by Mr. Lorber, 2,569,495 shares held by Lorber Epsilon 1999 Limited Partnership, a Delaware limited partnership, 49,637 shares held by Lorber Alpha II Limited Partnership, a Nevada limited partnership, 110,250 shares held by Lorber Gamma Limited Partnership, a Nevada limited partnership, and 19 shares in an Individual Retirement Account. There are 3,659,346 shares that are pledged to collateralize a bank line of credit; 1,832,490 of those shares are owned by Lorber Epsilon 1999 Limited Partnership, 1,777,219 of those shares are owned by Mr. Lorber and 49,637 of those shares are owned by Lorber Alpha II Limited Partnership. There are an additional 461,993 shares held by Mr. Lorber that are pledged to
 - (3) collateralize a margin loan to Mr. Lorber. Mr. Lorber exercises sole voting power and sole dispositive power over the shares of Common Stock held by the partnerships and by himself. Lorber Epsilon 1999 LLC, a Delaware limited liability company, is the general partner of Lorber Epsilon 1999 Limited Partnership. Lorber Alpha II Limited Partnership is the sole member of, and Mr. Lorber is the manager of, Lorber Epsilon 1999 LLC. Lorber Alpha II, Inc., a Nevada corporation, is the general partner of Lorber Alpha II Limited Partnership. Mr. Lorber is a director, officer and controlling shareholder of Lorber Alpha II, Inc. Mr. Lorber disclaims beneficial ownership of 15,957 shares of Common Stock held by Lorber Charitable Fund. Lorber Charitable Fund is a New York not-for-profit corporation, of which family members of Mr. Lorber serve as directors and executive officers.
 - (4) The named individual is a director of the Company.
 - (5) The named individual is an executive officer of the Company.
 - (6) Based on amended Schedule 13G filed on February 13, 2012 by Renaissance Technologies LLC and Renaissance Technologies Holdings Corporation.
 - (7) Includes 598 shares beneficially owned by Mr. Beinstein's spouse, as to which shares Mr. Beinstein disclaims beneficial ownership.
 - (8) Includes 50,000 shares held by Mr. Lampen that are pledged to collateralize a margin loan to Mr. Lampen.
 - (9) Includes 261,522 shares issuable upon exercise of outstanding options to purchase Common Stock exercisable within 60 days of the record date.
 - (10)

The named individual is an executive officer of the Company's subsidiaries Liggett Vector Brands LLC and Liggett Group LLC.

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The by-laws of the Company provide, among other things, that the board, from time to time, shall determine the number of directors of the Company. The size of the board is presently set at seven. The present term of office of all directors will expire at the 2012 annual meeting. Seven directors are to be elected at the 2012 annual meeting to serve until the next annual meeting of stockholders and until their respective successors are duly elected and qualified or until their earlier resignation or removal.

It is intended that proxies received will be voted “FOR” election of the nominees named below unless marked to the contrary. In the event any such person is unable or unwilling to serve as a director, proxies may be voted for substitute nominees designated by the present board. The board has no reason to believe that any of the persons named below will be unable or unwilling to serve as a director if elected.

The affirmative vote of a majority of the shares represented at the annual meeting and entitled to vote on the election of directors is required to elect each director.

The Board of Directors recommends that stockholders vote “FOR” election of the nominees named below.

Information with Respect to Nominees

The following table sets forth certain information, as of the record date, with respect to each of the nominees. Each nominee is a citizen of the United States.

Name and Address	Age	Principal Occupation
Bennett S. LeBow Vector Group Ltd. 100 S.E. Second Street Miami, FL 33131	74	Chairman of the Board; Private Investor
Howard M. Lorber Vector Group Ltd. 100 S.E. Second Street Miami, FL 33131	63	President and Chief Executive Officer
Ronald J. Bernstein Liggett Vector Brands LLC 3800 Paramount Parkway Morrisville, NC 27560	58	President and Chief Executive Officer, Liggett Group LLC and Liggett Vector Brands LLC
Stanley S. Arkin Arkin Kaplan Rice LLP 590 Madison Avenue, 35th Floor New York, NY 10022	74	Founding and Senior Partner, Arkin Kaplan Rice LLP
Henry C. Beinstein Gagnon Securities LLC 1370 Avenue of the Americas New York, NY 10022	69	Partner, Gagnon Securities LLC
Jeffrey S. Podell 173 Doral Court Roslyn, NY 11576	71	Private Investor
Jean E. Sharpe 350 Cherry Street Bedford Hills, NY 10507	65	Private Investor

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Business Experience and Qualifications of Nominees

The Company believes that the combination of the various qualifications, skills and experiences of its directors contribute to an effective and well-functioning board and that individually and, as a whole, the directors possess the necessary qualifications to provide effective oversight of the business, and provide quality advice to the Company's management. Details regarding the experience and qualifications of the directors are set forth below.

Bennett S. LeBow is the Chairman of the Company's Board of Directors and has been a director of the Company since October 1986. Mr. LeBow, currently a private investor, served as Executive Chairman from January 2006 until his retirement on December 30, 2008 and served as Chairman of the Board of Directors of Borders Group Inc. from May 2010 until January 2012 and Chief Executive Officer of Borders Group Inc. from June 2010 until January 2012. In February 2011, Borders Group Inc. filed for protection under Chapter 11 of Title 11 of the United States Bankruptcy Code. He served as the Chairman and Chief Executive Officer of the Company from June 1990 to December 2005.

Mr. LeBow was Chairman of the Board of New Valley Corporation from January 1988 to December 2005 and served as its Chief Executive Officer from November 1994 to December 2005. New Valley Corporation was a majority-owned subsidiary of the Company until December 2005, when the Company acquired the remaining minority interest, engaged in the real estate business and seeking to acquire additional operating companies and real estate properties. Mr. LeBow's pertinent experience, qualifications, attributes and skills include his decades of experience as an investor and the knowledge and experience in the cigarette industry he has attained through his service as the Company's Chief Executive Officer from 1990 to 2005 and as Chairman of the Board since 1990.

Howard M. Lorber has been President and Chief Executive Officer of the Company since January 2006 and has served as a director of the Company since January 2001. He served as President and Chief Operating Officer of the Company from January 2001 to December 2005. From November 1994 to December 2005, Mr. Lorber served as President and Chief Operating Officer of New Valley Corporation, where he also served as a director. Mr. Lorber was Chairman of the Board of Directors of Hallman & Lorber Assoc. Inc., consultants and actuaries of qualified pension and profit sharing plans, and various of its affiliates from 1975 to December 2004 and has been a consultant to these entities since January 2005; Chairman of the Board of Directors since 1987 and Chief Executive Officer from November 1993 to December 2006 of Nathan's Famous, Inc., a chain of fast food restaurants; a director of United Capital Corp., a real estate investment and diversified manufacturing company, since May 1991; Chairman of the Board of Ladenburg Thalmann Financial Services Inc. from May 2001 to July 2006 and Vice Chairman since July 2006; and a Director of Borders Group Inc. from May 2010 until January 2012. He is also a trustee of Long Island University. In addition to his decades of experience as a real estate investor and service as a director of other publicly-traded corporations, Mr. Lorber's pertinent experience, qualifications, attributes and skills include his knowledge and experience at the Company attained through his service as the Company's President since 2001 and Chief Executive Officer since 2006 as well as his leadership and service as New Valley's President and Chief Operating Officer from 1994 to 2005.

Ronald J. Bernstein has served as President and Chief Executive Officer of Liggett Group LLC since September 1, 2000 and of Liggett Vector Brands LLC since March 2002 and has been a director of the Company since March 2004. From July 1996 to December 1999, Mr. Bernstein served as General Director and, from December 1999 to September 2000, as Chairman of Liggett-Ducat Ltd., the Company's former Russian tobacco business sold in 2000. Prior to that time, Mr. Bernstein served in various positions with Liggett commencing in 1991, including Executive Vice President and Chief Financial Officer. Mr. Bernstein's pertinent experience, qualifications, attributes and skills include the knowledge and experience in the cigarette industry he has attained through his 20 years of employment with our tobacco and real estate subsidiaries.

Stanley S. Arkin has been a director since November 2011. Mr. Arkin is the founding member and the senior partner of the law firm of Arkin Kaplan Rice LLP and is Chairman of The Arkin Group, a private intelligence agency. Mr. Arkin was a member of the Board of Directors of Authentic Fitness Corp from 1995 to 1998. He is a member of the Council on Foreign Relations, and has served on or chaired numerous committees in other professional organizations, such as the American College of Trial Lawyers, the Judicial Conference of the State of New York, the Association of the Bar of the City of New York, the American Bar Association, the New York State Bar Association, and the New York County Lawyers Association. Mr. Arkin's pertinent experience, qualifications, attributes and skills include his

managerial experience, financial literacy and the knowledge and experience he has attained through his career in the legal profession as well as his service as a director of a publicly-traded corporation.

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Henry C. Beinstein has been a director of the Company since March 2004. Since January 2005, Mr. Beinstein has been a partner of Gagnon Securities LLC, a broker-dealer and FINRA member firm, and has been a money manager and registered representative at such firm since August 2002. He retired in August 2002 as the Executive Director of Schulte Roth & Zabel LLP, a New York-based law firm, a position he had held since August 1997. Before that, Mr. Beinstein had served as the Managing Director of Milbank, Tweed, Hadley & McCloy LLP, a New York-based law firm, commencing November 1995. Mr. Beinstein was the Executive Director of Proskauer Rose LLP, a New York-based law firm, from April 1985 through October 1995. Mr. Beinstein is a certified public accountant in New York and New Jersey and prior to joining Proskauer was a partner and National Director of Finance and Administration at Coopers & Lybrand. Mr. Beinstein also serves as a director of Ladenburg Thalmann Financial Services Inc. and Castle Brands Inc. Mr. Beinstein has been licensed as a Certified Public Accountant in the state of New York since 1968. Mr. Beinstein's pertinent experience, qualifications, attributes and skills include financial literacy and expertise, managerial experience through his years at Coopers & Lybrand, Proskauer Rose LLP, Milbank, Tweed, Hadley & McCloy LLP and Schulte Roth & Zabel LLP, and the knowledge and experience he has attained through his service as a director of the Company and other publicly-traded corporations.

Jeffrey S. Podell has been a director of the Company since November 1993 and is a private investor. Mr. Podell also serves as a director of Ladenburg Thalmann Financial Services Inc. Mr. Podell was a member of the New York State Bar Association from 1965 until March 2010. Mr. Podell's pertinent experience, qualifications, attributes and skills include managerial experience and the knowledge and experience he has attained through his service as a director of the Company and other publicly-traded corporations.

Jean E. Sharpe has been a director of the Company since May 1998. Ms. Sharpe is a private investor and has engaged in various philanthropic activities since her retirement in September 1993 as Executive Vice President and Secretary of the Company and as an officer of various of its subsidiaries. Ms. Sharpe previously served as a director of the Company from July 1990 until September 1993. Ms. Sharpe has been a member of the New York State Bar Association since 1979. Ms. Sharpe's pertinent experience, qualifications, attributes and skills include the knowledge and managerial experience she has attained as serving as our general counsel from 1988 until 1993 and her service as a director of the Company.

Board of Directors and Committees

The board of directors, which held seven meetings in 2011, currently has seven members. Each director attended at least 75% of the aggregate number of meetings of the board and of each committee on which the director served as a member, during such period. To ensure free and open discussion and communication among the independent directors of the board, the independent directors meet in executive sessions periodically, with no members of management present. The chair of the corporate governance and nominating committee presides at the executive sessions.

The Company's Corporate Governance Guidelines provide that the board shall be free to choose its chair in any way it deems best for the Company at any time. The board believes that it is desirable to have the flexibility to decide whether the roles of Chairman of the Board and Chief Executive Officer should be combined or separate in light of the Company's circumstances from time to time. The roles of Chief Executive Officer and Chairman of the Board are presently held by two different directors. The Chief Executive Officer is responsible for setting the strategic direction of the Company and the day-to-day leadership and performance of the Company, while the Chairman of the Board provides guidance to the Chief Executive Officer, reviews the agenda for board meetings and presides over meetings of the full board.

The board of directors oversees the risks that could affect the Company through its committees and reports of officers responsible for particular risks within the Company.

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The board of directors has four committees established in accordance with the Company's bylaws: the executive committee, audit committee, compensation committee, and corporate governance and nominating committee. The board has determined that the Company's non-employee directors (Stanley S. Arkin, Henry C. Beinstein, Bennett S. LeBow, Jeffrey S. Podell and Jean E. Sharpe) have no material relationship with the Company and meet the New York Stock Exchange listing standards for independence. Each of the members of the audit committee, compensation committee, and corporate governance and nominating committee meets the New York Stock Exchange listing standards for independence.

The executive committee, whose members are presently Messrs. LeBow, chairman and Lorber, did not meet in 2011. The executive committee exercises, in the intervals between meetings of the board, all the powers of the board in the management and affairs of the Company, except for matters expressly reserved by law for board action.

The audit committee, whose members are presently Messrs. Beinstein, chairman, and Podell and Ms. Sharpe, met 15 times in 2011. The committee is governed by a written charter which requires that it discuss policies and guidelines to govern the process by which risk assessment and risk management are handled and that it meet periodically with management to review and assess the Company's major financial risk exposures and the manner in which such risks are being monitored and controlled. Accordingly, in addition to its other duties, the audit committee periodically reviews the Company's risk assessment and management, including in the areas of legal compliance, internal auditing and financial controls. In this role, the audit committee considers the nature of the material risks the Company faces, and the adequacy of the Company's policies and procedures designed to respond to and mitigate these risks and receives reports from management and other advisors. Although the board's primary risk oversight has been assigned to the audit committee, the full board also receives regular reports from members of senior management on areas of material risk to the Company, including operational, financial, competitive and legal risks. In addition to an ongoing compliance program, the board encourages management to promote a corporate culture that understands risk management and incorporates it into the overall corporate strategy and day-to-day business operations. The Company's board of directors and its audit committee regularly discuss with management the Company's major risk exposures, their potential financial impact on the Company, and the steps (both short-term and long-term) the Company takes to manage them. The audit committee oversees the Company's financial statements, system of internal controls, and auditing, accounting and financial reporting processes and risks related thereto; the audit committee appoints, compensates, evaluates and, where appropriate, replaces the Company's independent accountants; reviews annually the audit committee charter; and reviews and pre-approves audit and permissible non-audit services. See "Audit Committee Report" on page 29. Each of the members of the audit committee is financially literate as required of audit committee members by the New York Stock Exchange and independent as defined by the rules of the New York Stock Exchange and the Securities and Exchange Commission. The board of directors has determined that Mr. Beinstein is an "audit committee financial expert" as defined by the rules of the Securities and Exchange Commission.

The compensation committee, whose members are presently Messrs. Podell, chairman, and Beinstein, and Ms. Sharpe, met six times in 2011. The committee is governed by a written charter. The compensation committee is responsible for risks relating to employment policies and the Company's compensation and benefits systems. To aid the compensation committee with its responsibilities, the compensation committee retains an independent consultant, as necessary, to understand the implications of compensation decisions being made. See "Compensation Discussion and Analysis" beginning on page 9 for a discussion of the consulting services provided to the compensation committee by GK Partners. The compensation committee reviews, approves and administers management compensation and executive compensation plans. The compensation committee also administers the Company's 1998 Long-Term Incentive Plan, the Amended and Restated 1999 Long-Term Incentive Plan and the Senior Executive Incentive Compensation Plan. See "Compensation Discussion and Analysis" on page 9. In March 2009, the compensation committee formed a Performance-Based Compensation Subcommittee (the "Subcommittee"), consisting of Messrs. Beinstein and Podell, and delegated to the Subcommittee the authority to grant compensation to executive officers that is intended to qualify as "performance-based compensation" exempt from the \$1 million deduction limitation of Section 162(m) of the Internal Revenue Code. The Subcommittee administers the participation of named executive officers in the Senior Executive Incentive Compensation Plan.

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The corporate governance and nominating committee, whose members are presently Ms. Sharpe, chair, and Messrs. Arkin and Beinstein, met three times in 2011. Mr. Arkin was appointed to the corporate governance and nominating committee concurrently with his appointment to the Board of Directors on November 30, 2011. The committee is governed by a written charter. This committee is responsible for the oversight of risks relating to the management and board succession planning. The committee assists the board of directors in identifying individuals qualified to become board members and recommends to the board the nominees for election as directors at the next annual meeting of stockholders, develops and recommends to the board the corporate governance guidelines applicable to the Company, and oversees the evaluation of the board and management. In recommending candidates for the board, the committee takes into consideration the following criteria established by the board in the Company's corporate governance guidelines:

- personal qualities and characteristics, accomplishments and reputation in the business community;
- current knowledge and contacts in the communities in which the Company does business and in the Company's industry or other industries relevant to the Company's business;
- ability and willingness to commit adequate time to board and c