

GEN PROBE INC  
Form PRE 14A  
April 06, 2004

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**SCHEDULE 14A INFORMATION**

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

GEN-PROBE INCORPORATED

(Name of Registrant as Specified in Its Charter)

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(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- No fee required.
- Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

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

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

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(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (Set forth the amount on which the filing fee is calculated and state how it was determined):

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- Fee paid previously with preliminary materials:
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(1) Amount Previously Paid:

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

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(3) Filing Party:

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(4) Date Filed:

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Dear Fellow Stockholders:

You are cordially invited to attend our Company's annual meeting of stockholders on Friday, May 28, 2004 at the corporate headquarters of the Company at 10210 Genetic Center Drive, San Diego, California 92121. The formal meeting will begin at 10:00 a.m., at which time I will report on the Company's business and ask you to vote on the following three proposals: Proposal 1: Election of three Class II Directors; Proposal 2: Increase Authorized Number of Shares of Common Stock; Proposal 3: Ratification of Independent Auditors. I would like to highlight Proposal 2.

**Proposal to Increase Authorized Number of Shares**

On September 30, 2003, the Company effected a 2-for-1 stock split by stock dividend. This stock dividend was distributed approximately one year after the spin-off of the Company by Chugai Pharmaceutical Co., Ltd. Prior to the stock split, the Company's share price had increased from \$13.79 at market close on September 16, 2002 to an intra day high of \$68.73 during September 2003.

The September 30, 2003 stock split by share dividend doubled the number of outstanding and reserved shares of the Company. As a result, the Board of Directors is requesting stockholder approval of an amendment to the Company's Amended and Restated Certificate of Incorporation to increase the Company's authorized number of shares of common stock from 100,000,000 shares to 200,000,000 shares. As of March 31, 2004 there were 49,071,018 shares of the Company's common stock issued and outstanding, and the Board had reserved 9,756,818 additional shares for issuance upon exercise of outstanding options and rights granted under the Company's stock option plans and employee stock purchase plan.

At present the Board of Directors has no plans to issue additional shares of common stock. However, it is in the Company's best interest to have adequate shares available in the future for a variety of purposes, including possible future stock splits by stock dividend.

For these reasons, I urge you to vote in favor of Proposal 2.

**Your vote is very important to us. The items of business to be considered at the annual meeting are more fully described in the accompanying proxy statement. Please review the enclosed proxy materials and send in your vote today.**

Sincerely,

HENRY L. NORDHOFF  
*Chairman, President and Chief Executive Officer*

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**10210 Genetic Center Drive  
San Diego, California 92121**

**NOTICE OF ANNUAL MEETING OF STOCKHOLDERS**

**To Be Held On May 28, 2004**

Dear Stockholder:

You are cordially invited to attend the Annual Meeting of Stockholders of Gen-Probe Incorporated, a Delaware corporation (the Company). The meeting will be held on Friday, May 28, 2004 at 10:00 a.m. local time at the corporate headquarters of the Company at 10210 Genetic Center Drive, San Diego, California 92121, for the following purposes:

1. To elect three directors to hold office until the 2007 Annual Meeting of Stockholders.
2. To approve an amendment to the Company's Amended and Restated Certificate of Incorporation to increase the authorized number of shares of common stock from 100,000,000 to 200,000,000 shares.
3. To ratify the selection by the Audit Committee of the Board of Directors of Ernst & Young LLP as independent auditors of the Company for its fiscal year ending December 31, 2004.
4. To conduct any other business properly brought before the meeting.

These items of business are more fully described in the Proxy Statement accompanying this Notice.

The record date for the Annual Meeting is April 15, 2004. Only stockholders of record at the close of business on that date may vote at the meeting or any adjournment thereof.

By Order of the Board of Directors

Henry L. Nordhoff  
*Chairman, President and Chief Executive Officer*

San Diego, California  
April 19, 2004

**You are cordially invited to attend the meeting in person. Whether or not you expect to attend the meeting, please complete, date, sign and return the enclosed proxy, or vote over the Internet as instructed in these materials, as promptly as possible in order to ensure your representation at the meeting. A return envelope (which is postage prepaid if mailed in the United States) is enclosed for your convenience. Even if you have voted by proxy, you may still vote in person if you attend the meeting. Please note, however, that if your shares are held of record by a broker, bank or other nominee and you wish to vote at the meeting, you must obtain a proxy issued in your name from that record holder.**

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**GEN-PROBE INCORPORATED**

10210 Genetic Center Drive  
San Diego, California 92121

**PROXY STATEMENT  
FOR THE 2004 ANNUAL MEETING OF STOCKHOLDERS  
April 19, 2004**

**QUESTIONS AND ANSWERS ABOUT THIS PROXY MATERIAL AND VOTING**

**Why am I receiving these materials?**

We sent you this proxy statement and the enclosed proxy card because the Board of Directors of Gen-Probe Incorporated (sometimes referred to as the Company or Gen-Probe) is soliciting your proxy to vote at the 2004 Annual Meeting of Stockholders. You are invited to attend the annual meeting to vote on the proposals described in this proxy statement. However, you do not need to attend the annual meeting to vote your shares. Instead, you may simply complete, sign and return the enclosed proxy card, or follow the instructions below to submit your proxy over the telephone or on the Internet.

We intend to mail this proxy statement and accompanying proxy card on or about April 19, 2004 to all stockholders of record entitled to vote at the annual meeting.

**Who can vote at the annual meeting?**

Only stockholders of record at the close of business on April 15, 2004 will be entitled to vote at the annual meeting. On this record date, there were [ ] shares of common stock outstanding and entitled to vote.

***Stockholder of Record: Shares Registered in Your Name***

If on April 15, 2004 your shares were registered directly in your name with Gen-Probe's transfer agent, Mellon Investor Services, LLC, then you are a stockholder of record. As a stockholder of record, you may vote in person at the annual meeting or vote by proxy. Whether or not you plan to attend the annual meeting, we urge you to fill out and return the enclosed proxy card or vote by proxy over the telephone or on the Internet as instructed below to ensure your vote is counted.

***Beneficial Owner: Shares Registered in the Name of a Broker or Bank***

If on April 15, 2004 your shares were held in an account at a brokerage firm, bank, dealer, or other similar organization, then you are the beneficial owner of shares held in street name and these proxy materials are being forwarded to you by that organization. The organization holding your account is considered the stockholder of record for purposes of voting at the annual meeting. As a beneficial owner, you have the right to direct your broker or other agent on how to vote the shares in your account. You are also invited to attend the annual meeting. However, since you are not the stockholder of record, you may not vote your shares in person at the annual meeting unless you request and obtain a valid proxy from your broker or other agent.

**What am I voting on?**

There are three matters scheduled for a vote:

Election of three directors;

Proposed amendment to the Company's Amended and Restated Certificate of Incorporation to increase the authorized number of shares of common stock from 100,000,000 to 200,000,000 shares; and

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Ratification of the selection by the Audit Committee of the Board of Directors of Ernst & Young LLP as independent auditors of the Company for its fiscal year ending December 31, 2004.

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### **How do I vote?**

You may either vote For all the nominees to the Board of Directors or you may abstain from voting for any nominee you specify. For each of the other matters to be voted on, you may vote For or Against or abstain from voting. The procedures for voting are fairly simple:

#### ***Stockholder of Record: Shares Registered in Your Name***

If you are a stockholder of record, you may vote in person at the annual meeting, vote by proxy using the enclosed proxy card, vote by proxy over the telephone, or vote by proxy on the Internet. Whether or not you plan to attend the annual meeting, we urge you to vote by proxy to ensure your vote is counted. You may still attend the annual meeting and vote in person if you have already voted by proxy.

To vote in person, come to the annual meeting and we will give you a ballot when you arrive.

To vote using the proxy card, simply complete, sign and date the enclosed proxy card and return it promptly in the envelope provided. If you return your signed proxy card to us before the annual meeting, we will vote your shares as you direct.

To vote over the telephone, available for USA, Canada and Puerto Rico stockholders only, dial toll-free 1-800-435-6710 using a touch-tone phone and follow the recorded instructions. You will be asked to provide the company number and control number from the enclosed proxy card. Your vote must be received by 11:00 p.m. Eastern Standard Time on May 27, 2004 to be counted.

To vote on the Internet, go to <http://www.eproxy.com/gpro> to complete an electronic proxy card. You will be asked to provide the company number and control number from the enclosed proxy card. Your vote must be received by 11:00 p.m. Eastern Standard Time on May 27, 2004 to be counted.

#### ***Beneficial Owner: Shares Registered in the Name of Broker or Bank***

If you are a beneficial owner of shares registered in the name of your broker, bank, or other agent, you should have received a proxy card and voting instructions with these proxy materials from that organization rather than from Gen-Probe. Simply complete and mail the proxy card to ensure that your vote is counted. Alternatively, you may vote by telephone or over the Internet as instructed by your broker or bank. To vote in person at the annual meeting, you must obtain a valid proxy from your broker, bank, or other agent. Follow the instructions from your broker or bank included with these proxy materials, or contact your broker or bank to request a proxy form.

**We provide Internet proxy voting to allow you to vote your shares on-line, with procedures designed to ensure the authenticity and correctness of your proxy vote instructions. However, please be aware that you must bear any costs associated with your Internet access, such as usage charges from Internet access providers and telephone companies.**

### **How many votes do I have?**

On each matter to be voted upon, you have one vote for each share of common stock you own as of April 15, 2004.

### **What if I return a proxy card but do not make specific choices?**

If you return a signed and dated proxy card without marking any voting selections, your shares will be voted For the election of all three nominees for director, For the amendment to the Company's Amended and Restated Certificate of Incorporation to increase the number of authorized shares of common stock from 100,000,000 to 200,000,000 shares, and For the selection of Ernst & Young LLP as independent auditors of the Company for its fiscal year ending December 31, 2004. If any other matter is properly presented at the

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annual meeting, your proxy (one of the individuals named on your proxy card) will vote your shares using his or her best judgment.

**Who is paying for this proxy solicitation?**

We will pay for the entire cost of soliciting proxies. In addition to these mailed proxy materials, our directors and employees may also solicit proxies in person, by telephone, or by other means of communication. Directors and employees will not be paid any additional compensation for soliciting proxies. We may also reimburse brokerage firms, banks and other agents for the cost of forwarding proxy materials to beneficial owners. The solicitation of proxies may also be supplemented through the use of a proxy solicitation firm. If used, a proxy solicitor will receive a customary fee which we estimate to be approximately \$10,000.

**What does it mean if I receive more than one proxy card?**

If you receive more than one proxy card, your shares are registered in more than one name or are registered in different accounts. Please complete, sign and return **each** proxy card to ensure that all of your shares are voted.

**Can I change my vote after submitting my proxy?**

Yes. You can revoke your proxy at any time before the final vote at the meeting. You may revoke your proxy in any one of three ways:

You may submit another properly completed proxy card with a later date.

You may send a written notice that you are revoking your proxy to Gen-Probe's Secretary at 10210 Genetic Center Drive, San Diego, California 92121.

You may attend the annual meeting and vote in person. Simply attending the meeting will not, by itself, revoke your proxy.

**When are stockholder proposals due for next year's annual meeting?**

To be considered for inclusion in next year's proxy materials, your proposal must be submitted in writing by December 20, 2004, to Gen-Probe's Secretary at 10210 Genetic Center Drive, San Diego, California 92121. These proposals must comply with the requirements as to form and substance established by the Securities and Exchange Commission (SEC) for such proposals in order to be included in the proxy statement. If you wish to submit a proposal that is not to be included in next year's proxy materials or nominate a director, you must do so by no later than February 27, 2005 and no earlier than January 28, 2005. If you fail to give notice by this date, then the persons named as proxies in the proxies solicited by the Board for the 2005 Annual Meeting may exercise discretionary voting power regarding any such proposal.

**How are votes counted?**

Votes will be counted by the inspector of election appointed for the meeting, who will separately count For and (with respect to proposals other than the election of directors) Against votes, abstentions and broker non-votes. Abstentions will be counted towards the vote total for each proposal, and will have the same effect as Against votes. Broker non-votes have no effect and will not be counted towards the vote total for any proposal except Proposal 2. For Proposal 2, broker non-votes will have the same effect as Against votes.

If your shares are held by your broker as your nominee (that is, in street name), you will need to obtain a proxy form from the institution that holds your shares and follow the instructions included on that form regarding how to instruct your broker to vote your shares. If you do not give instructions to your broker, your broker can vote your shares with respect to discretionary items, but not with respect to non-discretionary items. Discretionary items are proposals considered routine under the rules of the New York Stock Exchange (NYSE) on which your broker may vote shares held in street name in the absence of your voting

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instructions. On non-discretionary items for which you do not give your broker instructions, the shares will be treated as broker non-votes.

**How many votes are needed to approve each proposal?**

For the election of directors, the three nominees receiving the most For votes (among votes properly cast in person or by proxy) will be elected. Broker non-votes will have no effect.

To be approved, Proposal No. 2, the proposed amendment to the Company's Amended and Restated Certificate of Incorporation to increase the number of authorized shares of common stock from 100,000,000 to 200,000,000 shares, must receive a For vote from the majority of the outstanding shares either in person or by proxy. If you Abstain from voting shares, it will have the same effect as an Against vote. Broker non-votes will have the same effect as Against votes.

To be approved, Proposal No. 3, ratification of the selection by the Audit Committee of the Board of Directors of Ernst & Young LLP as independent auditors of the Company for its fiscal year ending December 31, 2004, must receive a For vote from the majority of shares present and entitled to vote either in person or by proxy. If you Abstain from voting, it will have the same effect as an Against vote. Broker non-votes will have no effect.

**What is the quorum requirement?**

A quorum of stockholders is necessary to hold a valid meeting. A quorum will be present if at least a majority of the outstanding shares are represented by stockholders present at the meeting or by proxy. On April 15, 2004, the record date, there were [ ] shares outstanding and entitled to vote. As a result, [ ] of these shares must be represented by stockholders present at the meeting or by proxy to have a quorum. Your shares will be counted towards the quorum only if you submit a valid proxy vote or vote at the meeting. Abstentions and broker non-votes will be counted towards the quorum requirement. If there is no quorum, a majority of the votes present at the meeting may adjourn the meeting to another date.

**How can I find out the results of the voting at the annual meeting?**

Preliminary voting results will be announced at the annual meeting. Final voting results will be published in the Company's quarterly report on Form 10-Q for the second quarter of 2004.

**Table of Contents****PROPOSAL 1****ELECTION OF DIRECTORS**

Gen-Probe's Board of Directors is divided into three classes. Each class consists, as nearly as possible, of one-third of the total number of directors, and each class has a three-year term. Vacancies on the Board may be filled only by persons elected by a majority of the remaining directors. A director elected by the Board to fill a vacancy in a class shall serve for the remainder of the full term of that class, and until the director's successor is elected and qualified. This includes vacancies created by an increase in the number of directors.

The Board of Directors presently has eight members. There are three directors in the class whose term of office expires in 2007. Each of the nominees listed below is currently a director of the Company. Mr. Kessler was elected to the Board in November 2002. Dr. McNamee was elected to the Board in September 2002. Mr. Kessler and Dr. McNamee were recommended for election to the Board by Mr. Nordhoff, the Company's Chairman, President and Chief Executive Officer, in connection with the Company's spin-off from Chugai Pharmaceutical Co., Ltd. In February 2004, Dr. Kurokawa resigned from the Board of Directors due to increasing demands on his time in Japan. Following Dr. Kurokawa's resignation, Dr. Jemison was recommended for election to the Board by Messrs. Dittamore and Sofaer, each a non-management director of the Company, and was subsequently elected to the Board in March 2004 to fill the vacancy in Class II of the Board created by Dr. Kurokawa's resignation. If elected at the annual meeting, each of these nominees would serve until the 2007 annual meeting and until his or her successor is elected and has qualified, or until the director's death, resignation or removal. It is our policy to encourage our directors and nominees for directors to attend our annual meetings of stockholders. All of our directors attended the 2003 Annual Meeting of Stockholders, including the nominees for election as a director at the 2003 Annual Meeting of Stockholders.

Directors are elected by a plurality of the votes properly cast in person or by proxy. The three nominees receiving the highest number of affirmative votes will be elected. Shares represented by executed proxies will be voted, if authority to do so is not withheld, for the election of the three nominees named below. If any nominee becomes unavailable for election as a result of an unexpected occurrence, your shares will be voted for the election of a substitute nominee proposed by the Company's management. Each person nominated for election has agreed to serve if elected. Our management has no reason to believe that any nominee will be unable to serve.

The following is a brief biography of each nominee and each director whose term will continue after the annual meeting.

**Nominees for Election to the Board of Directors****For a Three-Year Term Expiring at the****2007 Annual Meeting of Stockholders**

<b>Name</b>	<b>Age</b>	<b>Present Position with the Company</b>
Mae C. Jemison, M.D.	47	Director
Brian A. McNamee, M.B.B.S.	47	Director
Armin M. Kessler	66	Director

*Mae C. Jemison, M.D.*, has served as a director of the Company since March 2004. Dr. Jemison has been President and founder of BioSentient Corporation, a medical devices company specializing in ambulatory physiologic monitoring, since December 2000. She has also been President of The Jemison Group, Inc. since 1993. The Jemison Group is a technology consulting company that applies and integrates science and advanced technology considering the worldwide social and technological circumstances of the users. Dr. Jemison founded and directs The Earth We Share, an international science camp for students ages 12 to 16 worldwide. She is also A.D. White Professor At-Large at Cornell University. From 1987 to 1993, she was an astronaut with the National Aeronautics and Space Administration (NASA) and was a member of the Space Shuttle Endeavour Flight in September 1992. Dr. Jemison is also a director of Scholastic, Inc., a

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publishing company, Valspar Corporation and Kimberly-Clark Corporation and a member of the Institute of Medicine of the National Academy of Sciences.

*Brian A. McNamee, M.B.B.S.*, has served as a director of the Company since September 2002. Dr. McNamee has been Chief Executive Officer and Managing Director of CSL Ltd. since 1990. CSL is a leading biopharmaceutical company in Australia with significant activities in human plasma, vaccines and cell culture. Prior to joining CSL, Dr. McNamee was Managing Director of a start up biotechnology company, Pacific Biotechnology Limited, in Sydney, Australia and General Manager of Faulding Product Divisions, F.H. Faulding & Co Limited in Adelaide. Dr. McNamee has a medical degree from the University of Melbourne.

*Armin M. Kessler*, has served as a director of the Company since November 2002. Mr. Kessler served as Chief Operating Officer of Hoffman-La Roche in Basel, Switzerland from 1990 to 1995. Prior to being appointed Chief Operating Officer, Mr. Kessler held several senior positions at Hoffman-La Roche, including head of the diagnostics and pharmaceutical divisions of the organization. Earlier positions in his career included Director of Pharmaceutical Marketing Worldwide for Novartis (formerly Sandoz) and President of Sandoz KK in Tokyo. Mr. Kessler currently serves on the board of Spectrum Pharmaceuticals (formerly Neotherapeutics) and The Medicines Company, and has served on the boards of both Syntex Chemicals and Genentech. Mr. Kessler received a degree in Physics and Chemistry from Pretoria University in South Africa, a degree in chemical engineering from the University of Cape Town, South Africa, a juris doctorate from Seton Hall University, and a Ds.h.s. in Business Administration from the University of Pretoria.

**The Board of Directors recommends a vote in favor of each named nominee.**

**Members of the Board of Directors Continuing in Office**

**Term Expiring at the  
2005 Annual Meeting of Stockholders**

Name	Age	Present Position with the Company
Raymond V. Dittamore	61	Director
Abraham D. Sofaer	65	Director
Phillip M. Schneider	48	Director

*Raymond V. Dittamore*, has served as a Director of the Company since August 2002. Mr. Dittamore is a retired audit partner of the international accounting firm of Ernst & Young LLP. Mr. Dittamore retired from Ernst & Young in 2001 after 35 years of service with the firm, including 14 years as the managing partner of the firm's San Diego office. His practice in San Diego focused on companies in the life sciences industry, and he was a collaborative editor for Ernst & Young's annual biotechnology report. Mr. Dittamore is a member of the board of directors of Invitrogen Corporation, Qualcomm Incorporated, and Applied Molecular Evolution Inc. Mr. Dittamore received a B.S. in accounting from San Diego State University.

*Abraham D. Sofaer*, has served as a director of the Company since August 2002. Since 1994, Mr. Sofaer has been the George P. Shultz Distinguished Scholar and Senior Fellow, The Hoover Institution, Stanford University. He previously served as a United States District Judge for the Southern District of New York, as the senior Legal Adviser for the United States Department of State, as a Professor at Columbia University School of Law, and as a partner in the New York law firm of Hughes, Hubbard & Reed. Mr. Sofaer is a member of the board of directors of NTI, Inc. He received a B.A. in history from Yeshiva College and an LL.B. from New York University School of Law.

*Phillip M. Schneider*, has served as a director of the Company since November 2002. Mr. Schneider is the former Chief Financial Officer of IDEC Pharmaceuticals Corporation. During his 15-year tenure at IDEC, he served as Senior Vice President and Chief Financial Officer where he played an integral role in the company's growth. Prior to his association with IDEC, Mr. Schneider held various management positions at Syntex Pharmaceuticals Corporation and was previously with KPMG, LLP. Mr. Schneider is a member of the board of directors of CancerVax Corporation. Mr. Schneider holds a M.B.A. from the University of Southern California and a B.S. in biochemistry from the University of California at Davis.

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<b>Name</b>	<b>Age</b>	<b>Present Position with the Company</b>
Henry L. Nordhoff	62	Chairman, President and Chief Executive Officer
Gerald D. Laubach, Ph.D	78	Director

*Henry L. Nordhoff*, has served as a director of the Company since July 1994. Mr. Nordhoff joined the Company in July 1994 as Chief Executive Officer and President and was elected Chairman of the Board in September 2002. Prior to joining the Company, he was President and Chief Executive Officer of TargeTech, Inc., a gene therapy company that was merged into Immune Response Corporation. Prior to that, Mr. Nordhoff was at Pfizer, Inc. in senior positions in Brussels, Seoul, Tokyo and New York. He received a B.A. in international relations and political economy from Johns Hopkins University and an M.B.A. from Columbia University.

*Gerald D. Laubach, Ph.D.*, has served as a director of the Company since September 2002. Dr. Laubach was President of Pfizer, Inc. from 1972 to 1990. He is a member of the Institute of Medicine and the National Academy of Engineering. He is a former director of Cigna Corporation, Pfizer Inc., Millipore Corporation and several biotechnology firms. Dr. Laubach received a B.A. from the University of Pennsylvania and a Ph.D. in organic chemistry from the Massachusetts Institute of Technology.

**Independence of the Board of Directors**

As required under The NASDAQ Stock Market ( NASDAQ ) listing standards, a majority of the members of a listed company's Board of Directors must qualify as independent, as affirmatively determined by the Board of Directors. The Board consults with the Company's counsel to ensure that the Board's determinations are consistent with all relevant securities and other laws and regulations regarding the definition of independent, including those set forth in pertinent NASDAQ listing standards, as in effect time to time. Consistent with these considerations, after review of all relevant transactions or relationships between each director, or any of his or her family members, and the Company, its senior management and its independent auditors, the Board affirmatively has determined that all of the Company's directors are independent directors within the meaning of the applicable NASDAQ listing standards, except for Mr. Nordhoff, our Chairman, President and Chief Executive Officer.

**Information Regarding the Board of Directors and its Committees**

In November 2003, the Board of Directors documented the governance practices followed by the Company by adopting Corporate Governance Guidelines to assure that the Board will have the necessary authority and practices in place to review and evaluate the Company's business operations as needed and to make decisions that are independent of the Company's management. The guidelines are also intended to align the interests of directors and management with those of the Company's stockholders. The Corporate Governance Guidelines set forth the practices the Board will follow with respect to board composition and selection, board meetings and involvement of senior management, Chief Executive Officer performance evaluation and succession planning, and board committees and compensation. The Corporate Governance Guidelines were adopted by the Board to, among other things, reflect changes to the NASDAQ listing standards and SEC rules adopted to implement provisions of the Sarbanes-Oxley Act of 2002. The Corporate Governance Guidelines, as well as the charters for each committee of the Board, may be viewed at [www.gen-probe.com](http://www.gen-probe.com).

As required under new NASDAQ listing standards, the Company's independent directors will meet in regularly scheduled executive sessions at which only independent directors are present. Persons interested in communicating with the independent directors regarding their concerns or issues may address correspondence to a particular director, or to the independent directors generally, in care of Gen-Probe Incorporated, Attention: Corporate Secretary, 10210 Genetic Center Drive, San Diego, California 92121.

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The Board has three committees: an Audit Committee, a Compensation Committee, and a Corporate Governance Committee. The following table provides membership and meeting information for fiscal 2003 for each of the Board committees:

Committee Members in Fiscal Year 2003	Audit	Compensation	Governance
Raymond V. Dittamore			X*
Armin M. Kessler		X	X
Kiyoshi Kurokawa, M.D., MACP			X
Gerald D. Laubach, Ph.D.	X	X	
Brian A. McNamee, M.B.B.S.		X*	
Henry L. Nordhoff			
Phillip M. Schneider	X*		
Abraham D. Sofaer	X		X
Total meetings in fiscal year 2003	8	6	7

\* Committee Chairperson

Below is a current description of each committee of the Board of Directors. The Board of Directors has determined that each member of each committee meets the applicable rules and regulations regarding independence and that each member is free of any relationship that would interfere with his or her individual exercise of independent judgment with regard to the Company.

**Audit Committee**

The Audit Committee of the Board of Directors oversees the Company's corporate accounting and financial reporting process. For this purpose, the Audit Committee performs several functions. The Audit Committee evaluates the performance of and assesses the qualifications of the independent auditors; determines and approves the engagement of the independent auditors; determines whether to retain or terminate the existing independent auditors or to appoint and engage new independent auditors; reviews and approves the retention of the independent auditors to perform any proposed permissible non-audit services; monitors the rotation of partners of the independent auditors on the Company's audit engagement team as required by law; confers with management and the independent auditors regarding the effectiveness of internal controls over financial reporting; establishes procedures, as required under applicable law, for the receipt, retention and treatment of complaints received by the Company regarding accounting, internal accounting controls or auditing matters and the confidential and anonymous submission by employees of concerns regarding questionable accounting or auditing matters; reviews the financial statements to be included in the Company's Annual Report on Form 10-K; oversees the internal audit function of the Company; and discusses with management and the independent auditors the results of the annual audit and the results of the Company's quarterly financial statements. Three directors currently comprise the Audit Committee: Mr. Schneider (Chairman), Dr. Laubach and Mr. Sofaer. Effective as of May 28, 2004, the Audit Committee will be comprised of Mr. Schneider (Chairman), Mr. Dittamore, Dr. Laubach and Mr. Sofaer. The Audit Committee met eight times during the 2003 fiscal year. The Audit Committee has adopted a written Audit Committee Charter that is attached as Appendix A to these proxy materials.

The Board of Directors annually reviews the NASDAQ listing standards definition of independence for Audit Committee members and has determined that all members of the Company's Audit Committee are independent (as independence is currently described in Rule 4350(d)(2)(A)(i) and (ii) of the NASDAQ listing standards). The Board of Directors has determined that Mr. Schneider and Mr. Dittamore each qualify as an audit committee financial expert, as defined in applicable SEC rules. The Board made a qualitative assessment of Mr. Schneider's and Mr. Dittamore's level of knowledge and experience based on a number of factors, including their formal education and, in the case of Mr. Schneider, his experience as a chief financial officer for a public reporting company, and in the case of Mr. Dittamore, his experience as a Partner with Ernst & Young LLP. In addition to the Company's Audit Committee, Mr. Schneider also serves as Chairman

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of the Audit Committee of CancerVax Corporation. In addition to the Company's Audit Committee, which Mr. Dittamore will join on May 28, 2004, Mr. Dittamore also serves as Chairman of the Audit Committee of Invitrogen Corporation, Qualcomm Corporation and Applied Molecular Evolution Inc. The Board of Directors has determined that such simultaneous service does not impair Mr. Schneider's or Mr. Dittamore's ability to effectively serve on the Company's Audit Committee.

### **Compensation Committee**

The Compensation Committee of the Board of Directors reviews and approves the overall compensation strategy and policies for the Company. The Compensation Committee reviews and approves corporate performance goals and objectives relevant to the compensation of the Company's executive officers and other senior management; reviews and approves the compensation and other terms of employment of the Company's Chief Executive Officer; reviews and approves the compensation and other terms of employment of the other executive officers; and administers the Company's stock option and stock purchase plans. Three directors currently comprise the Compensation Committee: Dr. McNamee (Chairman), Dr. Laubach and Mr. Kessler. Effective as of May 28, 2004, the Compensation Committee will be comprised of Mr. Kessler (Chairman), Dr. McNamee, Dr. Laubach and Dr. Jemison. All members of the Company's Compensation Committee are independent (as independence is currently defined in Rule 4200(a)(15) of the NASDAQ listing standards). The Compensation Committee met six times during the 2003 fiscal year.

### **Corporate Governance Committee**

The Corporate Governance Committee of the Board of Directors is responsible for assessing the performance of the Board, developing guidelines for board composition; and reviewing and administering the Company's corporate governance guidelines and considering other issues related to corporate governance. Three directors currently comprise the Corporate Governance Committee: Mr. Dittamore (Chairman), Mr. Kessler and Mr. Sofaer. Effective as of May 28, 2004, Mr. Sofaer will replace Mr. Dittamore as Chairman of this committee. All members of the Corporate Governance Committee are independent (as independence is currently defined in Rule 4200(a)(15) of the NASDAQ listing standards). The Corporate Governance Committee met seven times during the 2003 fiscal year.

The Company currently does not have a Nominating Committee of the Board. Director nominees are selected by a majority of our independent directors, in accordance with procedures established pursuant to resolutions of our Board of Directors. All of our independent directors, Messrs. Dittamore, Kessler, Schneider and Sofaer and Drs. Jemison, McNamee and Laubach, participate in the consideration of director nominees. Each of these directors is an independent director as defined by NASDAQ. Since all of our directors other than Mr. Nordhoff, our Chairman, President and Chief Executive Officer, are independent, the Board believes it is appropriate at this time for all independent directors to participate in the process of identifying, reviewing and evaluating candidates to serve as directors, consistent with criteria approved by the Board. The Board may in the future establish a Nominating Committee for this function.

The Board believes that candidates for director should have certain minimum qualifications, including being able to read and understand basic financial statements, being over 21 years of age and having the highest personal integrity and ethics. The Board also considers such factors as possessing relevant expertise upon which to be able to offer advice and guidance to management, having sufficient time to devote to the affairs of the Company, demonstrated excellence in his or her field, having the ability to exercise sound business judgment and having the commitment to rigorously represent the long-term interests of the Company's stockholders. However, the Board retains the right to modify these qualifications from time to time. Candidates for director nominees are reviewed in the context of the current composition of the Board, the operating requirements of the Company and the long-term interests of stockholders. In conducting this assessment, the Board considers skills, diversity, age, and such other factors as it deems appropriate given the current needs of the Board and the Company, to maintain a balance of knowledge, experience and capability. In the case of incumbent directors whose terms of office are set to expire, the Board and the Corporate Governance Committee reviews such directors' overall service to the Company during their term, including the number of meetings attended, level of participation, quality of performance, and any other relationships



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and transactions that might impair such directors' independence. In the case of new director candidates, the Board also determines whether the nominee must be independent for NASDAQ purposes, which determination is based upon applicable NASDAQ listing standards, applicable SEC rules and regulations and the advice of counsel, if necessary. The Board then uses its network of contacts to compile a list of potential candidates, but may also engage, if it deems appropriate, a professional search firm. The Board conducts any appropriate and necessary inquiries into the backgrounds and qualifications of possible candidates after considering the function and needs of the Board. The Board meets to discuss and consider such candidates' qualifications and then selects a nominee for recommendation to the Board by majority vote. To date, the Board has not paid a fee to any third party to assist in the process of identifying or evaluating director candidates. To date, the Board has not rejected a timely director nominee from a stockholder or stockholders.

At this time, the Committee does not consider director candidates recommended by stockholders. The Board believes that it is in the best position to identify, review, evaluate and select qualified candidates for Board membership, based on the comprehensive criteria for Board membership approved by the Board. In the future, the Company's Board of Directors expects to expand the duties and responsibilities of the committees of the Board of Directors consistent with new enacted laws and recently proposed regulations and listing requirements of NASDAQ.

### **Meetings of the Board of Directors**

The Board of Directors met nine times during the 2003 fiscal year. Each Board member attended 75% or more of the aggregate of the meetings of the Board and of the committees on which he served, held during the period for which he was a director or committee member, respectively.

### **Stockholder Communications with the Board of Directors**

Historically, the Company has not adopted a formal process for stockholder communications with the Board of Directors. Nevertheless, every effort has been made to ensure that the views of stockholders are heard by the Board or individual directors, as applicable, and that appropriate responses are provided to stockholders in a timely manner. We believe our responsiveness to stockholder communications to the Board has been excellent. During the upcoming year, the Corporate Governance Committee will give full consideration to the adoption of a formal process for stockholder communications with the Board and, if adopted, publish it promptly and post it to the Company's website.

### **Code of Ethics**

The Company has adopted the Gen-Probe Incorporated Code of Ethics that applies to all officers, directors and employees. The Code of Ethics is available on our website at [www.gen-probe.com](http://www.gen-probe.com). If the Company makes any substantive amendments to the Code of Ethics or grants any waiver from a provision of the Code to any executive officer or director, the Company will promptly disclose the nature of the amendment or waiver on its website.

### **Report of the Audit Committee of the Board of Directors**

The primary purpose of the Audit Committee is to assist the Board of Directors in its general oversight of the Company's financial reporting process. The Audit Committee's function is more fully described in its charter, which the Board has adopted and is included as Appendix A to these proxy materials.

Management is responsible for the preparation, presentation, and integrity of the Company's financial statements, accounting and financial reporting principles, internal controls, and procedures designed to ensure compliance with accounting standards, applicable laws, and regulations. The Company's independent auditors, Ernst & Young LLP, are responsible for performing an independent audit of the consolidated financial statements and expressing an opinion on the conformity of those financial statements with generally accepted accounting principles.

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The Audit Committee has reviewed and discussed the audited financial statements of the Company for the fiscal year ended December 31, 2003 with the Company's management and has discussed with Ernst & Young LLP the matters required to be discussed by Statement on Auditing Standards Board Standard No. 61, as amended, Communication with Audit Committees. In addition, Ernst & Young LLP has provided the Audit Committee with the written disclosures and the letter required by the Independence Standards Board Standard No. 1, Independence Discussions with Audit Committees, and the Audit Committee has discussed with Ernst & Young LLP their independence.

Based on these reviews and discussions, on February 23, 2004, the Audit Committee recommended to the Board of Directors that the audited financial statements be included in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2003, for filing with the SEC.

AUDIT COMMITTEE

Phillip M. Schneider, Chairman  
Gerald D. Laubach, Ph.D.  
Abraham D. Sofaer

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**PROPOSAL 2**

**APPROVAL OF INCREASE IN NUMBER OF AUTHORIZED SHARES OF COMMON STOCK**

The Board of Directors is requesting stockholder approval of an amendment to the Company's Amended and Restated Certificate of Incorporation to increase the Company's authorized number of shares of common stock from 100,000,000 shares to 200,000,000 shares.

The additional common stock to be authorized by adoption of the amendment would have rights identical to the currently outstanding common stock of the Company. Adoption of the proposed amendment and issuance of the common stock would not affect the rights of the holders of currently outstanding common stock of the Company, except for effects incidental to increasing the number of shares of the Company's common stock outstanding, such as dilution of the earnings per share and voting rights of current holders of common stock. If the amendment is adopted, it will become effective upon filing of a Certificate of Amendment of the Company's Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware.

In addition to the 49,071,018 shares of common stock issued and outstanding on March 31, 2004, the Board has reserved 9,756,818 shares for issuance upon exercise of options and rights granted under the Company's stock option plans and employee stock purchase plan.

Although at present the Board of Directors has no other plans to issue the additional shares of common stock, it desires to have the shares available to provide additional flexibility to use its capital stock for business and financial purposes in the future. The additional shares of common stock may be used for various purposes without further stockholder approval. These purposes may include: effecting additional stock dividends; raising capital; providing equity incentives to employees, officers or directors; establishing strategic relationships with other companies; expanding the company's business or product lines through the acquisition of other businesses or products; and other purposes.

The additional shares of common stock that would become available for issuance if this proposal is adopted could also be used by the Company to oppose a hostile takeover attempt or to delay or prevent changes in control or management of the Company. For example, without further stockholder approval, the Board could strategically sell shares of common stock in a private transaction to purchasers who would oppose a takeover or favor the current Board. Although this proposal to increase the authorized common stock has been prompted by business and financial considerations and not by the threat of any hostile takeover attempt (nor is the Board currently aware of any such attempts directed at the Company), nevertheless, stockholders should be aware that approval of this proposal could facilitate future efforts by the Company to deter or prevent changes in control of the Company, including transactions in which the stockholders might otherwise receive a premium for their shares over then current market prices.

The Company's audited consolidated financial statements, management's discussion and analysis of financial condition and results of operations, and certain supplementary financial information are incorporated by reference to the Company's Annual Report on Form 10-K for the year ended December 31, 2003, and its other current or periodic reports filed with the SEC.

The affirmative vote of the holders of a majority of the outstanding shares of our common stock will be required to approve this amendment to the Company's Amended and Restated Certificate of Incorporation. As a result, abstentions and broker non-votes will have the same effect as negative votes.

**The Board of Directors recommends a vote in favor of Proposal 2.**

**Table of Contents****PROPOSAL 3****RATIFICATION OF SELECTION OF INDEPENDENT AUDITORS**

The Audit Committee of the Board of Directors has selected Ernst & Young LLP as the Company's independent auditors for the fiscal year ending December 31, 2004, and has further directed that management submit the selection of independent auditors for ratification by the stockholders at the Annual Meeting. Ernst & Young LLP has audited the Company's financial statements since 1989. Representatives of Ernst & Young LLP are expected to be present at the Annual Meeting. They will have an opportunity to make a statement if they so desire and will be available to respond to appropriate questions.

Neither the Company's Bylaws nor other governing documents or law require stockholder ratification of the selection of Ernst & Young LLP as the Company's independent auditors. However, the Audit Committee of the Board of Directors is submitting the selection of Ernst & Young LLP to the stockholders for ratification as a matter of good corporate practice. If the stockholders fail to ratify the selection, the Audit Committee of the Board of Directors will reconsider whether or not to retain that firm. Even if the selection is ratified, the Audit Committee of the Board of Directors in its discretion may direct the appointment of different independent auditors at any time during the year if they determine that such a change would be in the best interests of the Company and its stockholders.

The affirmative vote of the holders of a majority of the shares present in person or represented by proxy and entitled to vote at the annual meeting will be required to ratify the selection of Ernst & Young LLP. Abstentions will be counted toward the tabulation of votes cast on proposals presented to the stockholders and will have the same effect as negative votes. Broker non-votes are counted towards a quorum, but are not counted for any purpose in determining whether this matter has been approved.

**Independent Auditors Fees**

The following table represents aggregate fees billed to the Company for fiscal years ended December 31, 2003 and 2002 by Ernst & Young LLP, the Company's principal auditors. Certain amounts from fiscal 2002 have been restated to conform to new presentation requirements. All fees described below were approved by the Audit Committee.

	<b>Fiscal Year Ended</b>	
	<b>2003</b>	<b>2002</b>
	<b>(In thousands)</b>	
Audit Fees(1)	\$ 240	\$ 288
Audit-related Fees(2)	76	17
Tax Fees(3)	6	93
All Other Fees	7	3
<b>Total Fees</b>	<b>\$ 329</b>	<b>\$ 401</b>

- (1) These fees include the audit of the Company's annual financial statements, review of the Company's financial information included in its quarterly reports on Form 10-Q, accounting consultations and the review of the Company's Registration Statement on Form 10 filed in 2002 in connection with the spin-off from Chugai Pharmaceutical.
- (2) These fees include the audit of the Company's 401(k) savings plan and due diligence activities.
- (3) These fees include tax consulting services provided to the Company in connection with the 2002 spin-off from Chugai Pharmaceutical Co. Ltd. and reviews of corporate tax returns.

**Pre-approval Policies and Procedures**

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The Audit Committee has adopted a policy and procedures for the pre-approval of audit and non-audit services rendered by our independent auditor, Ernst & Young LLP. The Company's pre-approval policy also

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applies to services rendered by Deloitte & Touche, the independent auditor of our consolidated subsidiary Molecular Light Technology Limited and its subsidiaries. The policy generally pre-approves specified services in the defined categories of audit services, audit-related services, and tax services up to specified amounts. Pre-approval may also be given as part of the Audit Committee's approval of the scope of the engagement of the independent auditor or on an individual explicit case-by-case basis before the independent auditor is engaged to provide each service. The pre-approval of services may be delegated to one or more of the Audit Committee's members, but the decision must be reported to the full Audit Committee at its next scheduled meeting.

The Audit Committee has determined that the rendering of the services other than audit services by Ernst & Young LLP is compatible with maintaining the principal accountant's independence.

**The Board of Directors recommends a vote in favor of Proposal 3.**

**Table of Contents****SECURITY OWNERSHIP OF****CERTAIN BENEFICIAL OWNERS AND MANAGEMENT**

The following table sets forth certain information regarding the ownership of the Company's common stock as of March 15, 2004 by: (i) each director of the Company; (ii) the Named Executive Officers (as defined below); (iii) all directors and executive officers of the Company as a group; and (iv) all those known by the Company to be beneficial owners of more than five percent of its common stock.

	Beneficial Ownership(1)	
	Number of Shares	Percent of Total
<b>Five Percent Beneficial Stockholders:</b>		
Orbimed Advisors LLC, Orbimed Capital LLC and Samuel D. Isaly(2)	3,127,202	6.37%
<b>Directors and Executive Officers:</b>		
Henry L. Nordhoff(3)	422,151	*
Daniel L. Kacian, Ph.D., M.D.(3)	84,172	*
Niall M. Conway(3)(4)	66,739	*
R. William Bowen(3)	23,138	*
James H. Godsey, Ph.D.(3)	2,878	*
Raymond V. Dittamore(3)(5)	13,448	*
Mae C. Jemison, M.D.(3)		*
Armin M. Kessler(3)	6,803	*
Gerald D. Laubach, Ph.D.(3)	21,448	*
Brian A. McNamee, M.B.B.S.(3)	11,622	*
Phillip M. Schneider(3)	14,895	*
Abraham D. Sofaer(3)	19,327	*
All executive officers and directors as a group (17 individuals)(6)	800,577	1.61%

\* Represents beneficial ownership of less than 1% of our common stock.

- (1) This table is based upon information supplied by officers, directors and principal stockholders and Schedules 13D and 13G (if any) filed with the Securities and Exchange Commission (the "SEC"). Unless otherwise indicated in the footnotes to this table and subject to community property laws where applicable, the Company believes that each of the stockholders named in this table has sole voting and investment power with respect to the shares indicated as beneficially owned. Applicable percentages are based on 49,058,753 shares outstanding on March 15, 2004, adjusted as required by rules promulgated by the SEC.
- (2) The business address for Orbimed Advisors LLC, Orbimed Capital LLC's, and Samuel D. Isaly is: 767 Third Avenue, New York, New York 10017. The foregoing information is based solely upon information contained in a Schedule 13G filed with the SEC by the foregoing entities on February 17, 2004.
- (3) In the case of the individuals listed below, the number of shares beneficially owned includes the specified number of shares issuable upon exercise of stock options within 60 days after March 15, 2004: Mr. Nordhoff (412,608); Dr. Kacian (83,498); Mr. Conway (63,976); Mr. Bowen (22,638); Mr. Godsey (2,452); Mr. Dittamore (11,110); Mr. Kessler (1,667); Dr. Laubach (11,110); Dr. McNamee (11,110); Mr. Schneider (10,000); and Mr. Sofaer (11,110).
- (4) Includes 260 shares of common stock held by Mr. Conway's wife, Margaret Conway.
- (5) Includes 2,000 shares of common stock held by the Dittamore Family Trust A, in which Mr. Dittamore is the trustee.
- (6) Includes shares described in note (3) above. Also includes an aggregate of 102,768 shares which other executive officers of the Company have the right to acquire within 60 days after March 15, 2004 pursuant





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to outstanding stock options, as follows: Mr. Edelshain (0); Mr. Freiberg (3,465); Dr. Mimms (12,633); Mr. Rosenman (48,751); Ms. Vedova (37,919).

**Section 16(a) Beneficial Ownership Reporting Compliance**

Section 16(a) of the Securities Exchange Act of 1934 requires the Company's directors and executive officers, and persons who own more than ten percent of a registered class of the Company's equity securities, to file with the SEC initial reports of ownership and reports of changes in ownership of common stock and other equity securities of the Company. Officers, directors and greater than ten percent stockholders are required by SEC regulation to furnish the Company with copies of all Section 16(a) forms they file.

To the Company's knowledge, based solely on a review of the copies of such reports furnished to the Company and written representations that no other reports were required, during the fiscal year ended December 31, 2003, all Section 16(a) filing requirements applicable to its officers, directors and greater than ten percent beneficial owners were complied with; except an initial report of ownership, and one report covering one transaction were filed late by Mr. Edelshain; and one report covering one transaction each was filed late by each of the following individuals: Messrs. Dittamore, Kessler, Laubach, McNamee, Kurokawa, Powelson, Schneider and Sofaer.

**Compensation of Directors**

Each non-employee director of the Company receives an annual retainer of \$60,000, with twenty percent of the annual retainer to be paid in the form of common stock of the Company, if shares are then available for issuance under an equity incentive plan adopted by the Company. The twenty percent of the annual retainer received in the form of common stock must be held until the director retires from the Board. In addition, directors may elect to receive the remainder of their annual retainer in the form of common stock of the Company, subject to share availability. Shares are granted as restricted stock awards under the Company's 2003 Incentive Award Plan and the number of shares is determined based on the fair market value on the date of grant, the first day of the calendar quarter following the director's service. Non-employee directors also receive an initial grant of an option to purchase 20,000 shares of the Company's common stock, and an annual grant of an option to purchase 10,000 shares of the Company's common stock, if options are then available, under an equity incentive plan adopted by the Company. The exercise price of these options is based on the fair market value of the Company's common stock on the date of grant. Additionally, the Company pays an additional retainer of \$20,000 to the Chairman of the Audit Committee and \$10,000 each to the Chairs of the Compensation Committee and the Corporate Governance Committee. In the fiscal year ended December 31, 2003, the total compensation paid to non-employee directors was \$350,000. An additional \$115,000 was paid in January 2004 for director services rendered during the fourth quarter of 2003. The members of the Board of Directors are also eligible for reimbursement for their expenses incurred in attending Board meetings in accordance with Company policy.

During the last fiscal year, the Company granted options to purchase 10,000 shares of our common stock to each non-employee director of the Company, at an exercise price per share of \$19.185, the fair market value of our common stock on the date of grant. As of March 15, 2004, 17,777 options of the total options granted to non-employee directors had been exercised.

**Table of Contents****EXECUTIVE COMPENSATION AND OTHER INFORMATION****Our Executive Officers and Key Employees**

The following table sets forth information as to persons who serve as our executive officers and key employees as of March 15, 2004.

<b>Name</b>	<b>Position</b>	<b>Age</b>
Henry L. Nordhoff	Chairman, President and Chief Executive Officer	62
Niall M. Conway	Executive Vice President Sales and Operations	