

SHELLS SEAFOOD RESTAURANTS INC
Form DEF 14A
April 08, 2004
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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**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

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

SHELLS SEAFOOD RESTAURANTS, INC.

(Name of Registrant as Specified in Its Charter)

N/A

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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:

(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 forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

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Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

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

(3) Filing Party:

(4) Date Filed:

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SHELLS SEAFOOD RESTAURANTS, INC.

16313 N. Dale Mabry Highway

Suite 100

Tampa, Florida 33618

April 8, 2004

Dear Stockholder,

You are cordially invited to attend our Annual Meeting of Stockholders to be held at 10:00 a.m., on Wednesday, May 5, 2004, at the Company's headquarters located at 16313 N. Dale Mabry Highway, Tampa, Florida 33618.

At the Annual Meeting of Stockholders, you are being asked to vote on the election of six directors to our Board of Directors. I will be pleased to report on the affairs of the Company and a discussion period will be provided for questions and comments of general interest to stockholders.

It is important that your shares be represented at the meeting, whether or not you plan to attend in person. We urge you to promptly vote by following the instructions on the enclosed proxy card. You can vote your shares by completing and returning the enclosed proxy card, or in certain circumstances as we discuss in the following Proxy Statement, by Internet or telephone. In this way, you can be sure your shares will be voted at the meeting. If you later decide to attend the meeting, you can, if you wish, revoke the proxy and vote in person.

Thank you for your cooperation.

Very truly yours,

Leslie J. Christon

President and Chief Executive Officer

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SHELLS SEAFOOD RESTAURANTS, INC.

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS

April 8, 2004

Notice is hereby given that we will hold the 2004 Annual Meeting of Stockholders of Shells Seafood Restaurants, Inc. on Wednesday, May 5, 2004, at 10:00 a.m., at the Company's headquarters located at 16313 N. Dale Mabry Highway, Tampa, Florida 33618 for the following purposes:

- (1) To elect six directors to serve for the ensuing year.

- (2) To transact such other business as may properly come before the meeting or any adjournment or postponement of the meeting.

Stockholders of record at the close of business on April 2, 2004 will be entitled to notice of and to vote at the meeting or any adjournment or postponement thereof.

Warren R. Nelson

Secretary

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SHELLS SEAFOOD RESTAURANTS, INC.

16313 N. Dale Mabry Highway

Suite 100

Tampa, Florida 33618

PROXY STATEMENT

ABOUT THE MEETING

This proxy statement contains information relating to our 2004 Annual Meeting of Stockholders to be held on Wednesday, May 5, 2004, at 10:00 a.m. at the Company's headquarters located at 16313 N. Dale Mabry Highway, Tampa, Florida, and at any postponements or adjournments of the meeting.

What is the purpose of the Annual Meeting?

At our Annual Meeting, stockholders will elect six directors to serve on our Board and will act upon any other business which may properly come before the meeting or any adjournment thereof. In addition, management will report on our performance for fiscal 2003 and respond to appropriate questions from stockholders. We are not currently aware of any other matters which will come before the meeting.

Proxies for use at the meeting are being solicited by the Board of Directors of Shells, chiefly by mail. We began mailing this proxy statement, along with the proxy card, on or about April 5, 2004. We will make arrangements with brokerage houses and other custodians, nominees and fiduciaries to send proxies and proxy material to the beneficial owners of the shares and will reimburse them for their expenses in so doing. To ensure adequate representation of shares and the presence of a quorum at the meeting, officers, agents and Shells employees may communicate with stockholders, banks, brokerage houses and others by telephone, facsimile or in person to request that proxies be furnished. Shells will bear all expenses incurred in connection with this solicitation. We have no present plans to hire special employees or paid solicitors to assist in obtaining proxies, but reserve the option of doing so if it should appear that a quorum otherwise might not be obtained.

Who is entitled to vote at the meeting?

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Only stockholders of record at the close of business on April 2, 2004, the record date for the meeting, are entitled to receive notice of, and to participate in the Annual Meeting, or any postponements and adjournments of the meeting. If you were a stockholder of record on that date, you will be entitled to vote all of the shares you held on that date at the Annual Meeting. Your proxy card shows the number of shares you held at the close of business on April 2, 2004.

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

If you received more than one proxy card, you have multiple accounts with your brokers or our transfer agent. Please vote all of these shares. We recommend that you contact your broker or our transfer

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agent to consolidate as many accounts as possible under the same name and address. You may contact our transfer agent, Continental Stock Transfer & Trust Company at (212) 509-4000.

What are the voting rights of the holders of Common Stock?

Each outstanding share of our Common Stock will be entitled to one vote on each matter to be acted upon at the meeting. On April 2, 2004, there were 4,661,375 shares of Common Stock outstanding.

What constitutes a quorum?

The presence at the meeting, in person or by proxy, of the holders of a majority of the outstanding shares of Common Stock as of April 2, 2004 will constitute a quorum, thereby permitting the meeting to conduct its business. As stated earlier, there were 4,661,375 shares of Common Stock, representing the same number of votes, outstanding on April 2, 2004. Accordingly, the presence of holders representing at least 2,330,688 votes will be required to establish a quorum. Proxies received but marked as abstentions and broker non-votes will be counted in determining whether a quorum is present. Broker non-votes are shares held by brokers or nominees which are present in person or represented by proxy, but which are not voted on a particular matter because instructions have not been received from the beneficial owner. Under applicable Delaware law, the effect of broker non-votes on a particular matter depends on whether the matter is one as to which the broker or nominee has discretionary voting authority under the applicable rule of the New York Stock Exchange.

How do I vote?

You may vote your shares by mailing the enclosed proxy card which gives detailed instructions. If you vote by mail, please complete and properly sign the enclosed proxy card and return it in the envelope we have provided. It then will be voted according to your instructions. If you are a registered stockholder and attend the meeting, you may deliver your completed proxy card or vote in person. A registered stockholder receives proxy material directly from our transfer agent, Continental Stock Transfer & Trust Co.

Alternatively, you may be able to vote by Internet or telephone. If your shares are held in a brokerage account in the name of your bank or broker (this is called street name), those shares are not included in the total number of shares listed as owned by you on the enclosed proxy card. Instead, your bank or broker will send you directions how to vote those shares. Many (but not all) brokerage firms and banks participate in a program provided through ADP Investor Communication Services that offers telephone and Internet voting options.

Unless you give other instructions on your proxy card, the persons named as proxy holders on the proxy card will vote for the election of the nominated slate of directors to serve for the ensuing year. These votes are in accordance with the recommendations of our Board. With respect to any other matter that properly comes before the meeting, the proxy holders will vote according to their best judgment.

Can I change my vote after I have voted?

Yes. Even after you have submitted your proxy card you may change your vote at any time before the proxy is exercised, by filing with the Secretary of Shells either a notice of revocation or a duly executed proxy bearing a later date. The powers of the proxy holders will be suspended if you attend the meeting in

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person and request to vote in person, although attendance at the meeting alone will not itself revoke a previously granted proxy.

If your shares are held by a bank or broker and you wish to vote your shares in person, you must contact them and request a special proxy card indicating your ownership of our stock. In addition, you should consult your brokerage firm or bank for directions, in the event you voted your shares by Internet or telephone and want to later change your vote prior to the Annual Meeting.

INFORMATION ABOUT OWNERSHIP OF OUR COMMON STOCK

The following table sets forth certain information as of April 2, 2004 regarding the beneficial ownership of our Common Stock by (i) each person known by us to own beneficially more than 5% of the outstanding Common Stock; (ii) each current director (all of whom are standing for re-election); (iii) each executive officer named in the Summary Compensation Table appearing later in this proxy statement; and (iv) all of our directors and executive officers as a group. Except as otherwise specified, the named beneficial owner has the sole voting and investment power over the shares listed, and has an address c/o Shells Seafood Restaurants, Inc., 16313 N. Dale Mabry Highway, Suite 100, Tampa, FL 33618. For purposes of this table, beneficial ownership is determined according to the rules of the Securities and Exchange Commission (the "SEC"), which generally attributes beneficial ownership of securities to persons who possess sole or shared voting power and/or investment power with respect to those securities. Common stock options and warrants which are presently exercisable or which become exercisable within 60 days of April 2, 2004 are considered beneficially owned shares of Common Stock.

Name and Address of Beneficial Owner	Beneficial Ownership Amount	Percent of Class
Philip R. Chapman 645 Madison Avenue, 14th Floor New York, NY 10022 (1)	4,520,015	49.4%
J. Stephen Gardner c/o Bush Ross Gardner Warren & Rudy, P.A. 220 South Franklin Street Tampa, FL 33602 (2)(3)	1,101,234	19.1%
John N. Giordano c/o Bush Ross Gardner Warren & Rudy, P.A. 220 South Franklin Street Tampa, FL 33602 (4)(3)	1,101,234	19.1%
Michael R. Golding Grand Central Station P.O. Box 4561	10,000	*

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New York, NY 10362 (5)

Christopher D. Illick	34,000	*
154 Mercer Street		
Princeton, NJ 08540 (6)		

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Name and Address of Beneficial Owner	Beneficial Ownership Amount	Percent of Class
Thomas R. Newkirk 4943 Bay Way Drive Tampa, FL 33629 (7)(3)	2,281,547	32.9%
Leslie J. Christon (8) Guy C. Kathman (9)		
Warren R. Nelson (10)	215,353	4.5%
Frederick R. Adler 1520 South Ocean Blvd. Palm Beach, FL 33480 (11)	1,204,426	25.8%
Catherine R. Adler 1520 South Ocean Blvd. Palm Beach, FL 33480 (12)	4,454,015	48.9%
Bruce Galloway c/o Galloway Capital Management, LLC 1325 Avenue of the Americas, 26th Floor New York, NY 10019 (13)	281,000	6.0%
William E. Hattaway 235 Binnacle Point Vero Beach, FL 32963 (14)	435,923	9.3%
Banyon Investment, LLC. 645 Madison Avenue, 14th Floor New York, NY 10012 (15)	4,454,015	48.9%
Shells Investment Partners, L.L.C. 100 South Ashley Drive, Suite 1650 Tampa, FL 33602 (16)(3)	4,454,015	48.9%
All directors and executive officers as a group (9 persons)(17)	9,263,383	67.0%

* less than 1%

- (1) Includes 36,000 shares of Common Stock which may be acquired through the exercise of options and a warrant to purchase 4,454,015 shares of Common Stock held by Banyon Investment, LLC. Mr. Chapman and Catherine R. Adler are co-managing members of Banyon Investment, LLC and share voting and investment powers with respect to shares held by Banyon Investments, LLC.
- (2) Consists of 10,000 shares of Common Stock which may be acquired through the exercise of options and 1,091,234 shares of Common Stock representing Mr. Gardner's allocable percentage of the warrant to purchase 4,454,015 shares of Common Stock held by Shells Investment Partners, L.L.C.

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- (3) Pursuant to an agreement entered into among Shells Investment Partners, L.L.C., Thomas R. Newkirk, John N. Giordano, J. Stephen Gardner and George W. Heaton, as more fully described in this proxy statement under the heading "The Financing Transaction," a portion of the warrants issued to Shells Investment Partners, L.L.C. must be transferred to George W. Heaton upon the occurrence of certain events. George W. Heaton has assigned his rights under this agreement to Linn D. Heaton.
- (4) Consists of 10,000 shares of Common Stock which may be acquired through the exercise of options and 1,091,234 shares of Common Stock representing Mr. Giordano's allocable percentage of the warrant to purchase 4,454,015 shares of Common Stock held by Shells Investment Partners, L.L.C.
- (5) Consists of 10,000 shares of Common Stock which may be acquired through the exercise of options.
- (6) Consists of 34,000 shares of Common Stock which may be acquired through the exercise of options.
- (7) Consists of 10,000 shares of Common Stock which may be acquired through the exercise of options and 2,271,547 shares of Common Stock representing Mr. Newkirk's allocable percentage of the warrant to purchase 4,454,015 shares of Common Stock held by Shells Investment Partners, L.L.C.
- (8) Does not include options to purchase 297,374 shares of Common Stock which are not exercisable within 60 days of April 2, 2004.

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- (9) Does not include options to purchase 50,000 shares of Common Stock which are not exercisable within 60 days of April 2, 2004.
- (10) Includes 150,085 shares of Common Stock which may be acquired through the exercise of options. Does not include options to purchase 86,891 shares of Common Stock which are not exercisable within 60 days of April 2, 2004.
- (11) Includes 10,100 shares of Common Stock held by 1520 Partners LP. Mr. Adler is the General Partner of 1520 Partners LP. Does not include warrants to purchase 4,454,015 shares which are held by Banyon Investment, LLC. Mr. Adler's wife is a co-managing member of Banyon Investment, LLC.
- (12) Consists of a warrant to purchase 4,454,015 shares of Common Stock held by Banyon Investment, LLC. Mrs. Adler and Mr. Chapman are co-managing members of Banyon Investment, LLC and share voting and investment powers with respect to shares held by Banyon Investments, LLC. Does not include any shares held by Mr. Adler.
- (13) Information obtained from Schedule 13G filed by Mr. Galloway on April 2, 2004 and dated March 8, 2004.
- (14) Includes 19,000 shares of Common Stock which may be acquired through the exercise of options.
- (15) Consists of a warrant to purchase 4,454,015 shares of Common Stock which is exercisable through January 31, 2005. Mrs. Adler and Mr. Chapman are co-managing members.
- (16) Consists of a warrant to purchase 4,454,015 shares of Common Stock which is exercisable through January 31, 2005. Messrs. Gardner, Giordano and Newkirk are members of Shells Investment Partners, L.L.C.
- (17) Includes an aggregate of 260,085 shares of Common Stock which may be acquired through the exercise of options and 8,908,030 shares of Common Stock which may be acquired through the exercise of warrants. Does not include options to purchase an aggregate of 434,265 shares of Common Stock which are not exercisable within 60 days of April 2, 2004.

The Financing Transaction

In January 2002, we raised \$2,000,000 in a private financing transaction, consisting of secured promissory notes and warrants to purchase Common Stock. The two investors in the financing transaction were Shells Investment Partners, L.L.C. ("SIP") and Banyon Investment, LLC ("Banyon"). SIP is an entity comprised of Messrs. Gardner, Giordano and Newkirk, each of whom is currently a director and is a nominee for director for the ensuing year. At the time of the transactions, none of Messrs. Gardner, Giordano and Newkirk were affiliated with us. Banyon is an entity associated with Philip R. Chapman, Chairman of our Board of Directors, and certain family members of Frederick R. Adler, a greater than 10% stockholder. The proceeds of the financing transaction were used for working capital requirements.

In the financing, we issued to each of SIP and Banyon (i) a \$1 million secured promissory note due January 31, 2005 which bears interest at 15% per annum, of which 8% is payable monthly in arrears and 7% is deferred and payable when the principal is payable in full and (ii) a warrant to purchase 4,454,015 shares of Common Stock at an exercise price of \$0.16 per share. The warrants are exercisable through January 31, 2005. If Banyon and SIP were to exercise the warrants in full, collectively, they would own 65.7% of the issued and outstanding shares of Common Stock on a fully diluted basis (exclusive of other shares or stock options which may be held by either of them or their members). Pursuant to an agreement, dated as of February 22, 2002, among SIP, Thomas R. Newkirk, John N. Giordano, J. Stephen Gardner and George W. Heaton, upon repayment by Shells of the \$1 million promissory note issued to SIP, Mr. Heaton is entitled to receive a portion of the warrants issued to SIP. When Shells repays the SIP note, Mr. Heaton is entitled to 33.33% of the SIP warrants. George W. Heaton has assigned his rights under this agreement to Linn D. Heaton.

The Banyon investment consists of the personal funds of its members. The SIP investment consists of funds obtained through a \$700,000 revolving line of credit which matures on January 29, 2005 through Suntrust Bank, N.A. and the personal funds of its members. This revolving line of credit bears a 6.95% fixed interest rate with interest paid on a quarterly basis. A principal payment on the credit line of \$100,000 was required and paid on January 29, 2003 and an additional principal payment of \$100,000 was required and paid on or about March 3, 2004.

Table of Contents**PROPOSAL NO. 1 ELECTION OF DIRECTORS****How is the Board Structured?**

There are six directors to be elected at the Annual Meeting, each of whom currently serves as a director of Shells. Directors are elected for a term of one year which expires at the next annual meeting of stockholders or at such other time as his or her successor is duly elected and qualified. Unless you specify otherwise, your proxy will be voted in favor of the six persons named below. We have no reason to believe that any of the listed nominees will be unable to serve or that any vacancy will occur on the Board of Directors. However, in the event any of these nominees is unable to serve as a director, the shares represented by your proxy will be voted for the person, if any, who is designated by the Board to replace the nominee. All of the listed nominees have consented to be named and have indicated their intent to serve if elected.

In January 2002, in connection with the \$2 million financing transaction described earlier, we entered into an Investor Rights Agreement with SIP, Banyon and certain other stockholders. The Investor Rights Agreement fixes the composition of the Board at seven members and provides each of Banyon and SIP with the right to nominate three individuals to serve on the Board. This right will terminate with respect to each of Banyon and SIP on the earlier of (i) the date that such entity ceases to beneficially own at least 13% of our issued and outstanding stock, on a fully diluted basis, or (ii) the date that such entity's \$1 million promissory note has been paid in full. Banyon has appointed Philip R. Chapman, Michael R. Golding and Christopher D. Illick, and SIP has appointed Thomas R. Newkirk, J. Stephen Gardner and John N. Giordano, as their respective nominees to the Board.

William E. Hattaway, our former president, and George W. Heaton have been designated as Board observers, with the right to attend and observe all meetings of the Board. Neither Mr. Hattaway nor Mr. Heaton may vote on any matters which come before the Board for consideration.

Who are the nominees for election to the Board?

The nominees, their ages, the year in which each first became a director and their principal occupations or employment during the past five years are summarized below:

<u>Director</u>	<u>Age</u>	<u>Year First Became Director</u>	<u>Principal Occupation During the Past Five Years</u>
Philip R. Chapman	42	1997	Mr. Chapman has served on the Board of Directors beginning May 1977 and as Chairman since April 2001. Since 1993, Mr. Chapman has been President of Adler & Company, a corporation which provides administrative services for financial and venture capital investing, including those controlled by Frederick R. Adler, a greater than 10% stockholder. Mr. Chapman is a director of Regeneration Technologies, Inc. and various private companies. He is also a General Partner in Euro-America II, L.P., a private venture capital fund, and a managing partner of Zenith Asset Management, a private hedge fund. Mr. Chapman is the son-in-law of Fredrick R.

Adler.

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<u>Director</u>	<u>Age</u>	<u>Year First Became Director</u>	<u>Principal Occupation During the Past Five Years</u>
J. Stephen Gardner	59	2002	Mr. Gardner is a founder of Bush Ross Gardner Warren & Rudy, P.A., a commercial law firm in Tampa, Florida, of which he has been a shareholder, officer and director since 1981. In addition, he has been active in the Tampa Bay community, having been president and chairman of numerous non-profit organizations.
John N. Giordano	46	2002	Mr. Giordano has been a shareholder, officer and director of Bush Ross Gardner Warren & Rudy, P.A. since 1988.
Michael R. Golding	70	2002	Dr. Golding has been a professor of surgery at the State University of New York Health Science Center in Brooklyn, New York since 1963, where he is currently an Emeritus Clinical Professor of Surgery. From 1977 to 1989, Dr. Golding served as Director of Surgery at Lutheran Medical Center in Brooklyn, New York. From 1984 to 1989, Dr. Golding was President of the Tri-Boro Association of Directors of Surgery. Dr. Golding is a Fellow of the American College of Surgeons, a Fellow of the American College of Chest Physicians, and a Fellow of the American College of Angiology. Dr. Golding is a Member of the Board of Directors of the United Hospital Fund. Dr. Golding also serves on the boards of numerous professional entities and private companies.
Christopher D. Illick	65	1998	Mr. Illick has been the President of iQ Venture Partners, Inc., an investment bank, since 2001 and General Partner of Illick Brothers, a real estate and management concern, since 1965. From 1997 to 2001, Mr. Illick was a senior officer of the investment bank of Brean Murray & Co., Inc. Mr. Illick is a Member of the Board of Directors of Analytical Surveys, Inc.
Thomas R. Newkirk	60	2002	Mr. Newkirk has served as a consultant to Pender Newkirk & Company, CPAs since 1997. Prior to 1997, Mr. Newkirk was the managing partner of that firm. From 1995 to 1999, Mr. Newkirk served as Executive Vice President and Chief Financial Officer of Questar Imaging, Inc., a developer and operator of medical imaging facilities. Mr. Newkirk is a certified public accountant and has served on the boards of numerous civic and social organizations in the Tampa Bay community.

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During the fiscal year ended December 28, 2003, we held 14 meetings, acted by unanimous written consent two times and acted by committee action seven times. Each director currently standing for re-election attended at least 75% of the aggregate number of meetings of the Board of Directors and all committees of the Board on which he served, during this past fiscal year.

This year, we instituted a policy, generally, of expecting our directors to attend our Annual Meetings. Three of our directors were in attendance at last year's Annual Meeting.

Board Committees

The Board of Directors has standing Executive, Audit, and Stock Option and Compensation Committees.

The Executive Committee possesses all the powers and authority of the Board in the management of the business and affairs of our Company, except for certain powers which are specifically reserved by Delaware law to the entire Board or the stockholders. Messrs. Chapman and Newkirk are the current members of the Executive Committee. The Executive Committee did not meet in fiscal 2003.

The Audit Committee's responsibilities, which include reviewing our internal accounting procedures and consulting with and reviewing the services provided by the independent auditors, are described in the Audit Committee Charter. The Audit Committee's Report appears later in this proxy statement. Messrs. Newkirk and Illick and Dr. Golding are the current members of the Audit Committee. The Audit Committee met four times in fiscal 2003.

The Stock Option and Compensation Committee is charged with reviewing compensation policies and practices, recommending compensation for executives and key employees and administering our stock option plans. The Stock Option and Compensation Committee Report appears later in this proxy statement. Messrs. Chapman and Giordano are the current members of the Stock Option and Compensation Committee. During fiscal 2003, the Stock Option and Compensation Committee met twice and acted by unanimous written consent one time.

Shells does not have a nominating committee nor a charter for a nominating committee. The composition of our board and nomination of board candidates is prescribed by the Investor Rights Agreement between SIP, Banyon and certain other stockholders as described earlier. The Board of Directors does not have a policy with regard to the consideration of any director candidates recommended by security holders but will consider such recommendations.

Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Securities Exchange Act of 1934, as amended, requires our executive officers and directors, and persons who beneficially own more than 10% of our Common Stock, to file initial reports of ownership and reports of changes in ownership with the SEC. Executive officers, directors and greater than 10% stockholders are required by the SEC to furnish us with copies of all Section 16(a) forms they file.

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Based upon a review of the copies of the forms furnished to us and written representations from our executive officers and directors, we believe that during fiscal 2003, all Section 16(a) filing requirements

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applicable to our executive officers, directors and greater than 10% beneficial owners were complied with on a timely basis except for a Form 4 for Warren R. Nelson, relating to a stock bonus received by Mr. Nelson on April 30, 2003. We also understand that certain former executive officers of Shells may not have filed timely all requisite Section 16(a) filings.

What is the vote required to approve Proposal No. 1?

The six nominees receiving the highest number of affirmative votes of the shares rightfully voted will be elected as directors. Only votes cast for a nominee will be counted, except that the accompanying proxy will be voted for all nominees in the absence of instructions to the contrary. Abstentions, broker non-votes and instructions on the accompanying proxy card to withhold authority to vote for one or more nominees will result in the respective nominees receiving fewer votes. However, the number of votes otherwise received by a nominee will not be reduced by any of these actions.

What does the Board recommend?

THE BOARD OF DIRECTORS DEEMS THE ELECTION AS DIRECTORS OF THE SIX NOMINEES LISTED ABOVE TO BE IN THE BEST INTERESTS OF SHELLS AND ITS STOCKHOLDERS AND RECOMMENDS A VOTE FOR THE ELECTION OF EACH OF THESE NOMINEES.

How do we compensate our Directors?

Prior to 2002, we had a policy of compensating directors, both generally and for their attendance at meetings of the Board of Directors. In February 2002, as part of our cash conservation program, we revised this policy to eliminate all cash compensation for attendance at Board meetings. Additionally, we eliminated the automatic annual stock option awards to non-employee directors pursuant to the Shells Seafood Restaurants, Inc. Stock Option Plan for Non-employee Directors. We will continue to compensate directors for reasonable expenses incurred in connection with attendance at meetings.

During 2002, an option to purchase 10,000 shares of Common Stock was granted under the Shells Seafood Restaurants, Inc. 2002 Equity Incentive Plan (the 2002 Plan) to each of Messrs. Chapman, Gardner, Giordano, Illick, Mandell and Newkirk, Dr. Golding and our two Board observers, Messrs. Hattaway and Heaton. All of these stock options vest over a two year period.

How can you contact our Directors?

Securityholders may contact our directors through the Executive Officers in Tampa, Florida through written correspondence or e-mail. Written correspondence should be mailed to our Executive Offices at 16313 N. Dale Mabry Highway, Suite 100, Tampa, Florida 33618 Attn: Secretary. E-Mail correspondence should be directed to TalktoShells@ShellsSeafood.com Attn: Secretary.

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The following table shows all the cash compensation, as well as other compensation, we paid during the fiscal years indicated to (i) our Chief Executive Officer and (ii) each other executive officer whose total annual salary and bonus exceeded \$100,000 for our fiscal year ended December 28, 2003.

SUMMARY COMPENSATION TABLE

Name and Principal Position	Fiscal Year	Annual Compensation			Long-Term Compensation	
		Salary	Bonus	Other	Awards	Options
Leslie J. Christon, Chief Executive Officer and President (1)	2003	\$ 121,635		\$ 31,403		297,374
David W. Head, Former Chief Executive Officer and President (2)	2003	\$ 149,360	\$ 70,356	\$ 9,172		
	2002	\$ 249,617	\$ 24,200	\$ 18,343		664,000
	2001	\$ 170,170		\$ 11,149		360,000
Warren R. Nelson, Executive Vice President of Finance, Chief Financial Officer, Secretary and Treasurer (3)	2003	\$ 155,769	\$ 36,334	\$ 605		
	2002	\$ 142,225				157,984
	2001	\$ 136,917				20,000
John R. Ritchey, Former Vice President of Operations (4)	2003	\$ 147,390	\$ 31,904			
	2002	\$ 130,769				120,000

- (1) Mrs. Christon joined Shells in July 2003. Compensation for 2003 reflects payments made pursuant to her employment agreement for the portion of 2003 during which she was employed by us. The amount of other compensation includes: (i) \$1,403 paid by Shells for Mrs. Christon's automobile allowance, and (ii) \$30,000 paid by Shells for relocation costs of Mrs. Christon.
- (2) Mr. Head was employed by Shells between April 2001 and June 2003. Compensation for 2001 and 2003 reflects payments made pursuant to his employment agreement for the portion of the year in which he was employed by us. The amount of other compensation includes (i) an automobile allowance for fiscal 2003, 2002 and 2001 of \$4,500, \$9,000 and \$6,750, respectively, and (ii) life and disability insurance policy premiums for fiscal 2003, 2002 and 2001 of \$4,672, \$9,343 and \$4,399, respectively. The fiscal 2003 bonus consisted of \$35,178 in cash and \$35,178 in Common Stock grants, which after adjusting for payroll tax withholdings, comprised 50,437 shares of unrestricted Common Stock at \$0.40 per share, issued and paid pursuant to the 2002 management incentive plan relating to 2002 results.
- (3) Mr. Nelson's other compensation consists of \$605 paid by Shells for life insurance premiums. The fiscal 2003 bonus consisted of \$18,167 in cash and \$18,167 in Common Stock grants, which after adjusting for payroll tax withholdings, comprised 28,318 shares of unrestricted Common Stock at \$0.40 per share, issued and paid pursuant to the 2002 management incentive plan relating to 2002 results.
- (4) Mr. Ritchey was employed by Shells between April 2001 and September 2003. Mr. Ritchey was paid severance pay through March 2004. The fiscal 2003 bonus consisted of \$15,952 in cash and \$15,952 in Common Stock grants, which after adjusting for payroll tax withholdings, comprised 24,864 shares of unrestricted Common Stock at \$0.40 per share, issued and paid pursuant to the 2002 management incentive plan relating to 2002 results.

Table of Contents**OPTION GRANTS IN LAST FISCAL YEAR**

The following table sets forth information with respect to option grants made during the fiscal year ended December 28, 2003 to the persons named in the Summary Compensation Table.

Name	Number of Securities Underlying Options Granted(#)	% of Total Options Granted to Employees in Fiscal Year (1)	Exercise or Base Price (\$/sh)	Expiration Date	Potential Realizable Value at Assumed	
					Annual Rates of	
					Stock Price Appreciation for	
					Option Term (2)	
					5% (\$)	10% (\$)
Leslie J. Christon	297,374(3)	72.4%	\$ 0.62	7/7/13	\$ 63,000	\$ 209,000

- (1) Based upon options to purchase an aggregate of 410,914 shares of Common Stock granted to all employees during fiscal 2003, exclusive of 160,790 shares of unrestricted Common Stock grants to management personnel pursuant to the 2002 management incentive plan relating to 2002 results.
- (2) The 5% and 10% assumed rates of appreciation are specified by the rules of the Securities and Exchange Commission and are not intended to forecast possible future appreciation, if any, in the price of our common stock.
- (3) These options vest annually over 2 years.

AGGREGATED OPTION EXERCISES IN LAST FISCAL YEAR AND FISCAL YEAR END OPTION VALUES

The following table sets forth information with respect to (i) options exercised during fiscal 2003 by the persons named in the Summary Compensation Table and (ii) unexercised options held by these individuals at December 28, 2003 (our fiscal year end).

Name	Shares Acquired on Exercise (#)	Value Realized	Number of Securities Underlying Unexercised Option Held at Fiscal Year End		Value of Unexercised, In-the-Money Option at Fiscal Year End (1)	
			Exercisable	Unexercisable	Exercisable	Unexercisable
			Leslie J. Christon	0		
Warren R. Nelson	0		150,085	86,891	7,598	7,820
John R. Ritchey	0		86,667		6,400	

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(1) Based on the closing market price of the Common Stock of \$0.51 on Friday, December 26, 2003, the last trading date of fiscal 2003.

Employment Agreements

On July 1, 2003, we entered into a two-year employment agreement with Leslie J. Christon, pursuant to which she serves as our President and Chief Executive Officer. The employment agreement provided for an annual base salary of \$275,000 during fiscal 2003, supplemental discretionary bonuses, as determined by the Stock Option and Compensation Committee of the Board, and an option to purchase 297,374 shares of Common Stock. The option vests annually over two years. Mrs. Christon's employment agreement automatically renews for consecutive one-year terms unless either we or she gives notice to the other of an intention not to renew.

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Mr. Nelson does not currently have an employment agreement with the Company. However, Mr. Nelson has a letter agreement with the Board stating that in the event Mr. Nelson's employment is terminated without cause, Mr. Nelson will be entitled to receive severance payments for a period of 12 months following the termination in an amount equal to his then current salary as of such date.

Stock Option Plans

Currently, Shells has three stock option plans for employees, consisting of the 1996 Employee Stock Option Plan (the 1996 Plan), the 1995 Employee Stock Option Plan (the 1995 Plan), and the 2002 Equity Incentive Plan (the 2002 Plan). The stock option plans authorize us to issue incentive stock options (ISOs), as defined in Section 422 of the Internal Revenue Code, and stock options that do not conform to the requirements of that Code section (Non-ISOs). The exercise price of each ISO may not be less than 100% of the fair market value of the Common Stock at the time of grant, except that in the case of a grant to an employee who owns (within the meaning of Section 422 of the Code) 10% or more of our outstanding stock, the exercise price cannot be less than 110% of such fair market value. The exercise price of each Non-ISO may not be less than the par value of the Common Stock. Options may not be exercised on or after the tenth anniversary (fifth anniversary in the case of an ISO granted to a 10% stockholder), of their grant. Options may not be transferred during the lifetime of an optionholder.

The 1996 Plan, the 1995 Plan, and the 2002 Plan are administered by the Stock Option and Compensation Committee of the Board of Directors. Subject to the provisions of the stock option plans, the Stock Option and Compensation Committee has the authority to determine the individuals to whom the stock options are to be granted, the number of shares to be covered by each option, the option price, the type of option, the option period, the restrictions, if any, on the exercise of the option, the terms for the payment of the option price and other terms and conditions. Payment by optionholders upon exercise of an option may be made (as determined by the Stock Option and Compensation Committee) in cash, by promissory note or other such form of payment acceptable to the Stock Option and Compensation Committee, including shares of Common Stock.

The 2002 Plan also provides for grants of restricted stock units, the value of which is tied to shares of Common Stock, and other equity based awards related to Common Stock, including unrestricted shares of Common Stock, stock appreciation rights and dividend equivalents. Awards of restricted stock, restricted stock units and other types of equity based awards may be made in such amounts, and subject to such terms and conditions, as the Stock Option and Compensation Committee may determine.

During fiscal 2003, the Stock Option and Compensation Committee awarded 160,790 shares of common stock at \$0.40 per share under the 2002 Plan pursuant to a management incentive plan for key management personnel. Additionally, options were awarded during 2003 to purchase shares of Common Stock (i) pursuant to an employment agreement with our new Chief Executive Officer and President, Leslie J. Christon, for 297,374 shares, (ii) upon hiring a new Vice President of Operations amounting to 50,000 shares, and (iii) otherwise in the ordinary course of business, including for various promotions and hiring of management personnel.

Table of Contents**Equity Compensation Plan Information**

The following table provides information as of December 28, 2003, the last day of fiscal 2003, regarding securities issued under the equity compensation plans that were in effect during fiscal 2003.

<u>Plan Category</u>	<u>Number of securities to be issued upon exercise of outstanding options, warrants and rights</u>	<u>Weighted average exercise price of outstanding options, warrants and rights</u>	<u>Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))</u>
Equity compensation plans approved by stockholders	2,941,000	\$ 0.94	1,560,142
Equity compensation plans not approved by stockholders (1)	8,908,030	\$ 0.16	—
Total	11,849,030		1,560,142

(1) Consists of warrants to purchase shares of common stock, issued on January 31, 2002, in connection with a \$2,000,000 private financing transaction. The warrants, which may be exercised by a cashless exercise, have an exercise price of \$0.16 per share and are exercisable through January 31, 2005.

CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

The information set forth below briefly describes certain transactions between our Company and certain parties who or which may be deemed to be affiliated with us.

On March 1, 1994, our wholly-owned subsidiary, Shells of Melbourne, Inc. entered into a joint venture agreement with WLH Investments, Inc., a corporation wholly-owned by Wanda L. Hattaway, wife of William E. Hattaway, our former president. The joint venture owns and operates the Shells restaurant located in Melbourne, Florida. The Joint Venture Agreement provides that WLH Investments receives a cumulative annual preferred return of 15% on the \$400,000 of capital contributed to the joint venture by WLH Investments. Shells of Melbourne will then be allocated an equal amount to this preferred return. The remaining net income of the joint venture will be allocated 51% to Shells of Melbourne and 49% to WLH Investments. Based upon these allocations, we paid \$60,000 to WLH Investments for its fiscal 2003 preferred return, and \$167,000 in net income allocations to WLH Investments during 2003. Capital calls unfunded by WLH as of December 28, 2003 were \$104,000 partially offset by \$66,000 in undistributed net income allocations. We intend to offset the remaining \$38,000 in unfunded capital calls, to the extent then still outstanding, against funds available for distribution to WLH Investments in 2004.

In January 2002, we raised \$2,000,000 in the financing transaction described more fully earlier in this proxy statement under the heading Information about ownership of Our Common Stock The Financing Transaction. Both of the investment entities which participated in the financing transaction, SIP and Banyon, have members who are nominated for election to the Board of Directors. J. Stephen Gardner, John N. Giordano and Thomas R. Newkirk are members of SIP. Philip R. Chapman, our Chairman of the Board, and Catherine Adler, the spouse of Frederick R. Adler, one of our principal stockholders, are co-managing members of Banyon. Certain other family members of Frederick R. Adler also are members of Banyon. The financing transaction was approved by a special committee of the Board, comprised of the then

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disinterested members of the Board. Although we believe that the transaction was on terms no less favorable than would have been available from unaffiliated third parties in arm's length transactions, there can be no assurance that this is the case.

During October 2002, we refinanced through Colonial Bank two of our restaurant properties, Melbourne and Winter Haven, with notes of \$635,000 and \$667,000, respectively. The loans, which bear interest at the bank's then base rate, are for terms of five years with required annual principal payments based on a 15 year amortization schedule, and a balloon payment of all then outstanding amounts due at the end of the five years. The principal balances owed on these two notes as of December 28, 2003 were \$579,000 and \$612,000, respectively. The refinancing of the Winter Haven note produced net funds to us of \$375,000 after settlement of an existing mortgage. These net funds were placed into segregated accounts, as inducement for the approval of the property refinancing by the noteholders of our \$2,000,000 financing. In 2003 with the consent of these noteholders, these segregated funds were released into our general working capital.

STOCK OPTION AND COMPENSATION COMMITTEE REPORT TO STOCKHOLDERS

REGARDING EXECUTIVE COMPENSATION

The report of the Stock Option and Compensation Committee shall not be deemed incorporated by reference by any general statement incorporating by reference this proxy statement into any filing under the Securities Act of 1933, as amended, or under the Securities Exchange Act of 1934, as amended, except to the extent the Company specifically incorporates this information by reference, and shall not otherwise be deemed filed under such Acts.

What is our Executive Compensation Philosophy?

Shells manages and operates full service, mid-priced, casual dining seafood restaurants. One of our central goals is to ensure that the Company's remuneration policy enables it to attract, retain and reward capable employees who can contribute, both short and longer-term, to the success of the Company. Equity participation and a strong alignment to stockholders' interests are key elements of the Company's compensation philosophy.

The Company's executive compensation program consists of three parts: base salary, bonus and stock options. In awarding salary increases and bonuses, we considered whether the compensation package as a whole adequately compensated each executive for Shells' performance during fiscal 2003 and that executive's contribution to this performance.

Base Salaries of Executive Officers

Base salary represents the fixed component of the executive compensation program. The Company's practice generally is to maintain base salaries at approximately competitive industry averages. Determinations of base salary levels are established on an annual review of marketplace competitiveness with similar restaurant companies. Periodic increases in base salary relate to individual contributions to the Company's overall performance and relative marketplace competitiveness.

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Bonus

Bonuses represent the variable component of the executive compensation program that is tied to the Company's performance and individual achievement. To the extent deemed appropriate, our policy is to grant bonuses as a portion of the compensation paid to Shells' management personnel. In determining bonuses, we consider factors such as performance of the Company during the year and the individual's contribution to that performance. During fiscal 2002, we adopted an executive and management bonus program specifying criteria relating to the Company's financial performance as well as the individuals' contributions to Shells. During fiscal 2003, Shells paid \$138,594 in cash and stock bonuses with respect to 2002 performance.

Stock Options

We believe that an important goal of the executive compensation program should be to provide executives and key employees who have significant responsibility for the management, growth and future success of the Company with an opportunity to increase their ownership in Shells and the potential for financial gain from increases in the Company's stock price. This approach ensures that the interests of the stockholders, executives and employees will be closely aligned. Therefore, executive officers and other key employees of the Company are granted stock options which give them a right to purchase shares of Common Stock at a specified price in the future. The grant of options is based primarily on an employee's potential contribution to Shells' growth and financial results. In determining the size of option grants, we also consider the number of options owned by such officer, the number and exercise price of options previously granted and currently outstanding, and the aggregate size of the current option grants. Options generally are granted at the prevailing market value of the Common Stock and will only have value if the Company's stock price increases. Generally, grants of options vest over time, and the individual must be employed by Shells for the options to vest.

How is Shells' President Compensated?

On July 1, 2003, Shells entered into a two-year employment agreement with Leslie J. Christon, pursuant to which she serves as President and Chief Executive Officer. The employment agreement provided for an annual base compensation of \$275,000 during fiscal 2003 and supplemental discretionary bonuses, as determined by the Stock Option and Compensation Committee. During fiscal 2003, Mrs. Christon received an option to purchase 297,374 shares of Common Stock which vests annually over two years. In determining Mrs. Christon's compensation, we considered the pay practices of other companies in the restaurant industry as well as her potential contribution to the Company's future performance. A more complete description of Mrs. Christon's employment agreement is set out earlier in the proxy statement under the heading "Executive Compensation - Employment Agreements."

Stock Option and Compensation Committee

Philip R. Chapman, Chairman

John N. Giordano

Compensation Committee Interlocks and Insider Participation

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In fiscal 2003, Leslie J. Christon participated in deliberations of the Stock Option and Compensation Committee concerning executive officer hiring and compensation of Guy C. Kathman. However, Mrs. Christon did not participate in deliberations concerning her own compensation.

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OUR STOCK PRICE PERFORMANCE

The following Stock Price Performance Graph shall not be deemed incorporated by reference by any general statement incorporating by reference this proxy statement into any filing under the Securities Act of 1933 or under the Securities Exchange Act of 1934, except to the extent the Company specifically incorporates this information by reference, and shall not otherwise be deemed filed under such Acts.

The following graph compares cumulative total return of our Common Stock with the cumulative total return of (i) the Russell 2000 Index and (ii) the Nations Restaurant News Stock Index (the Peer Index). The graph assumes (a) \$100 was invested on January 4, 1999 (the first day of our fiscal 1999) in each of our Common Stock, the stocks comprising the Russell 2000 Index and the stocks comprising the Peer Index, and (b) the reinvestment of dividends, if any.

**COMPARISON OF CUMULATIVE TOTAL RETURN AMONG
SHELLS SEAFOOD RESTAURANTS, INC., RUSSELL 2000 INDEX,
AND NATIONS RESTAURANT NEWS STOCK INDEX**

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AUDIT COMMITTEE REPORT

This report of the Audit Committee shall not be deemed incorporated by reference by any general statement incorporating by reference this proxy statement into any filing under the Securities Act of 1933 or the Securities Exchange Act of 1934, except to the extent that the Company specifically incorporates the information by reference, and shall not otherwise be deemed filed under such Acts.

Management has the primary responsibility for the financial statements and the reporting process, including the systems of internal control. On behalf of the Board, the Audit Committee, among other things, reviews and monitors the financial reporting process, the systems of internal control, the audit process, the independence and performance of the independent accountants and the process for monitoring compliance with laws and regulations. Mr. Illick and Dr. Golding satisfy the definition of independent directors as that term is defined by Rule 4200(a)(15) of the National Association of Securities Dealers Listing Standards. Mr. Newkirk may not be an independent director pursuant to that definition. On May 17, 2000, the Company adopted a written charter for the Audit Committee.

The Audit Committee reviewed the Company's financial statements with management and the Board of Directors and discussed with Kirkland Russ Murphy & Tapp P.A. (Kirkland Russ), the Company's independent auditors for the fiscal year ended December 28, 2003, the matters required to be discussed by Statement of Auditing Standard No. 61. The Audit Committee received from Kirkland Russ the written disclosures and the letter required by Independence Standards Board Standard No. 1 and discussed with them their independence. The Audit Committee has reviewed the audit fees of Kirkland Russ and any non-audit services and fees, to assure compliance with Shells' and the Committee's policies restricting the independent accountants from performing services that might impair their independence.

After reviewing and discussing the financial statements, and in reliance on the matters reviewed and discussed above, and without other independent verification, the Audit Committee recommended that the audited consolidated financial statements of the Company be included in the Company's Annual Report on Form 10-K for the year ended December 28, 2003.

Audit Committee

Thomas R. Newkirk, Chairman

Christopher D. Illick

Michael R. Golding

RELATIONSHIP WITH INDEPENDENT AUDITORS

Who are our Independent Auditors?

The firm of Kirkland, Russ, Murphy & Tapp, P.A. audited and issued a report on our financial statements for the fiscal year ended December 28, 2003 and has been selected by the Audit Committee to issue a report on our financial statements for the fiscal year ending January 2, 2005. A representative of Kirkland Russ is expected to be present at the Annual Meeting and available to respond to appropriate questions from

stockholders, and will have an opportunity to make a statement if he or she desires to do so.

Table of Contents**What were our audit fees for fiscal 2003?**

For the fiscal year ended December 28, 2003, fees for professional services performed by Kirkland Russ were as follows:

	Fiscal 2003	Fiscal 2002
Audit Fees	\$ 51,550	\$ 53,700
Audit Related Fees	0	0
Tax Fees	22,800	28,600
All Other Fees	0	0
Total	\$ 74,350	\$ 82,300

The Audit Committee of the Board of Directors has considered whether the performance and services related to Tax Fees is compatible with maintaining the independence of Kirkland Russ.

We have a policy that discourages the retention of our independent auditors for non-audit services. We will not retain our independent auditors for non-audit work unless: (a) the approvals of the Chair of the Audit Committee and the Chief Financial Officer are obtained prior to the retention; and (b) the retention will not affect the status of the auditors as independent accountants under applicable rules of the SEC and the Independence Standards Board.

The details regarding any engagement of the independent auditors for non-audit services are provided promptly to the full Audit Committee. During fiscal 2003 and 2002, all of the services provided by Kirkland Russ for the services described above under Tax Fees were pre-approved using the above procedures.

OTHER MATTERS**When are stockholders proposals for the 2005 Annual Meeting due?**

We anticipate that the 2005 Annual Meeting of Stockholders will be held in our second financial quarter. To be considered for inclusion in the proxy statement for the 2005 Annual Meeting, each stockholder proposal must be received by us no later than January 7, 2005. However, in the event the 2005 Annual Meeting of Stockholders is to be held at a later date, then stockholder proposals will be accepted until a reasonable time before the date we begin to print and distribute the proxy materials.

We know of no other business to be acted upon at the Annual Meeting. However, if any other business properly comes before the Annual Meeting, it is the intention of the persons named in the enclosed proxy to vote on such matters in accordance with their best judgment.

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The prompt submission of your proxy will be appreciated and helpful in obtaining the necessary vote. Therefore, whether or not you expect to attend the Annual Meeting, please vote by Internet, telephone or signing the proxy and returning it in the enclosed envelope.

By Order of the Board of Directors

Warren R. Nelson

Secretary

Dated: April 8, 2004

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A COPY OF OUR ANNUAL REPORT ON FORM 10-K

WILL BE SENT WITHOUT CHARGE TO ANY STOCKHOLDER

REQUESTING IT IN WRITING FROM:

SHELLS SEAFOOD RESTAURANTS, INC.

16313 N. DALE MABRY HIGHWAY, SUITE 100

TAMPA, FLORIDA 33618

ATTENTION: SECRETARY

OR

VISIT OUR WEBSITE AT

WWW.SHELLSSEAFOOD.COM

TO ACCESS AND PRINT

A COPY OF OUR ANNUAL REPORT ON FORM 10-K

GO TO MENU OPTION INVESTOR RELATIONS

AND LOOK FOR EDGAR FILINGS

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SHELLS SEAFOOD RESTAURANTS, INC.

THIS PROXY IS SOLICITED BY THE BOARD OF DIRECTORS

FOR THE ANNUAL MEETING OF STOCKHOLDERS

TO BE HELD ON MAY 5, 2004

Leslie J. Christon and Warren R. Nelson, as the true and lawful attorneys, agents and proxies of the undersigned, with full power of substitution, are hereby authorized to represent and to vote all shares of Common Stock of Shells Seafood Restaurants, Inc. held of record by the undersigned on April 2, 2004, at the Annual Meeting of Stockholders to be held at 10:00 a.m., Wednesday, May 5, 2004, at the Company's headquarters located at 16313 N. Dale Mabry Highway, Tampa, Florida 33618 and at any adjournment or postponement thereof. Any and all proxies heretofore given are hereby revoked.

WHEN PROPERLY EXECUTED, THIS PROXY WILL BE VOTED AS DESIGNATED BY THE UNDERSIGNED. IF NO CHOICE IS SPECIFIED, THE PROXY WILL BE VOTED FOR ALL LISTED NOMINEES FOR DIRECTOR.

Proposal No. 1 Election of Directors Nominees are:

Philip R. Chapman, J. Stephen Gardner, John N. Giordano, Michael R. Golding, Christopher D. Illick and Thomas R. Newkirk.

“ FOR “ WITHHOLD AUTHORITY

all listed nominees (except do not vote

for the nominee(s) whose name(s)

appear(s) below):

(Continued and to be signed on reverse side)

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(Continued from other side)

Discretionary authority is hereby granted with respect to such other matters as may properly come before the meeting.

IMPORTANT: Please sign exactly as name appears below. Each joint owner shall sign. Executors, administrators, trustees, etc. should give full title as such. If signer is a corporation, please give full corporate name by duly authorized officer. If a partnership, please sign in partnership name by authorized person.

Dated: _____, 2004

(Signature)

(Signature if held jointly)

The above-signed acknowledges receipt of the Notice of Annual Meeting of Stockholders and the Proxy Statement furnished therewith.

PLEASE MARK, SIGN, DATE AND RETURN THIS PROXY CARD

USING THE ENCLOSED, PREPAID ENVELOPE.