

inContact, Inc.  
Form DEF 14A  
May 02, 2011

## 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

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material Pursuant to Section 240.14a-12

Confidential, for Use of the Commission Only

(as permitted by Rule 14a-6(e)(2))

## INCONTACT, INC.

(Name of Registrant as Specified in Its Charter)

Commission File Number: 001-33762

**Not Applicable**

(Name of Persons 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)(4) and 0-11.

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

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):

4) Proposed maximum aggregate value of transaction:

5) Total fee paid:

.. Fee paid previously with preliminary materials.

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1) Amount Previously Paid:

2) Form, Schedule or Registration Statement No.:

3) Filing Party:

4) Date Filed:

**inContact, Inc.**

**7730 South Union Park Avenue, Suite 500**

**Midvale, UT 84047**

**ANNUAL MEETING OF STOCKHOLDERS**

**June 15, 2011**

**NOTICE OF MEETING**

The annual meeting of the stockholders of inContact, Inc., a Delaware corporation, will be held at 1:00 p.m., on June 15, 2011, at 7730 South Union Park Avenue, Suite 500, Midvale, UT 84047, for the following purposes:

to elect six directors;

approval of an amendment to our Bylaws to classify our Board of Directors and to provide for staggered three-year terms of service for each class of directors;

to ratify the Audit Committee's appointment of Deloitte & Touche LLP as inContact's independent registered public accounting firm for the year ending December 31, 2011;

to hold a non-binding advisory vote on a resolution for approval of executive compensation for our named executive officers;

to hold a non-binding advisory vote on whether future non-binding advisory votes on executive compensation should occur every one, two or three years; and

to conduct any other business as may properly come before the meeting or any adjournment or postponement of the meeting.

Stockholders at the close of business on April 18, 2011 are entitled to vote in person or by proxy at the annual meeting. The annual meeting will be open to the public.

Kimm Partridge, Corporate Secretary

May 2, 2011

**Important Notice – Voting of Shares:** Due to a change in stock exchange rules, unlike previous annual meetings your broker will NOT be able to vote shares held in your brokerage account for any matter submitted to a vote unless you provide your broker directions on how to vote. We urge you to submit your vote through your broker by following the voting instructions in our proxy materials.

**inContact, Inc.**

**7730 South Union Park Avenue, Suite 500**

**Midvale, UT 84047**

**PROXY STATEMENT**

This proxy statement is provided to stockholders of inContact, Inc. ( inContact, we, us, our, or the Company ) in connection with the annual meeting of stockholders and any adjournments or postponements of the annual meeting. The annual meeting will be held at 1:00 p.m., on June 15, 2011, at 7730 South Union Park Avenue, Suite 500, Midvale, UT 84047.

**ABOUT THE MEETING, VOTING, STOCKHOLDER PROPOSALS**

**AND COMPANY INFORMATION**

**Delivery and Availability of Proxy Materials**

Under U.S. Securities and Exchange Commission ( SEC ) rules, we are furnishing proxy materials to our stockholders primarily via the Internet, instead of mailing printed copies of those materials to each stockholder. Beginning May 2, 2011, we mailed to our stockholders (other than those who previously requested electronic or paper delivery) a notice containing instructions on how to access our proxy materials, including our proxy statement and our annual report. On that date, our proxy statement and our Annual Report (of which our 2010 Annual Report on Form 10-K is a part) were available for review over the Internet at the website listed in the notice. The notice also instructs you on how to access your proxy card to vote through the Internet or by telephone.

This process is designed to expedite stockholders' receipt of proxy materials, lower the cost of the annual meeting and help conserve natural resources. However, if you would prefer to receive printed proxy materials, please follow the instructions included in the notice. If you have previously elected to receive our proxy materials electronically, you will continue to receive these materials via e-mail unless you elect otherwise.

**Matters to be Voted On at the Meeting and Solicitation**

By authority of the Board of Directors, inContact is soliciting your vote for:

election of six directors;

approval of an amendment to our Bylaws to classify our Board of Directors and to provide for staggered three-year terms of service for each class of directors;

ratification of the Audit Committee's appointment of Deloitte & Touche LLP as inContact's independent registered public accounting firm for the year ending December 31, 2011;

to hold a non-binding advisory vote on a resolution for approval of executive compensation for our named executive officers;

to hold a non-binding advisory vote on whether future non-binding advisory votes on executive compensation should occur every one, two or three years; and

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action upon such other matters as may properly come before the meeting or any adjournment or postponement of the meeting.

The cost of this solicitation is being borne by inContact. Proxies may be solicited on our behalf by our directors, officers and regular employees by telephone or other means. There will be no special or additional compensation for these services. Brokerage houses, custodians, nominees and fiduciaries will be requested to forward the soliciting materials to the beneficial owners of record of our common shares, and we will reimburse them for their related charges and expenses. We may also elect to engage a proxy solicitation firm to distribute and solicit proxies.

#### **Persons Entitled to Vote**

Stockholders of record at the close of business on April 18, 2011, the record date, are entitled to vote on matters that come before the meeting. Shares can be voted only if the stockholder is present in person or is represented by proxy.

#### **How to Vote**

If you own your shares through a bank or broker, you should follow the separate instructions they provide you. If your shares are registered in your name:

You may vote in person at the annual meeting.

You may vote over the Internet. You may vote over the Internet regardless of whether you receive your annual meeting materials through the mail or over the Internet. Simply follow the instructions on your notice of Internet access to the proxy materials or your proxy card. If you vote over the Internet, you should not vote by telephone or vote by returning a proxy card.

You may vote by telephone. You may vote by telephone regardless of whether you receive your annual meeting materials through the mail or over the Internet. Simply follow the instructions on the proxy card. If you vote over the telephone, you should not vote by Internet or vote by returning a proxy card.

You may vote by mail. If you received a proxy card through the mail, simply complete and sign your proxy card and mail it in the enclosed envelope. If you mark your voting instructions on the proxy card, your shares will be voted as you instruct. If no voting specification is made on your signed and returned proxy card, Theodore Stern or Paul Jarman, the persons named as proxy holders on the proxy card, will vote FOR the election of the director nominees, FOR approval of the proposed amendment to our bylaws to classify our Board of Directors, FOR the ratification of the appointment by the Audit Committee of the independent auditor, FOR the approval of a non-binding resolution approving executive compensation for our named executive officers, and FOR the approval of a non-binding resolution that future non-binding advisory votes on executive compensation should occur every three years. If any other business is brought before the meeting, any unspecified proxies will be voted in accordance with the judgment of the proxy holders voting those shares. If you vote by mail, you should not vote by telephone or over the Internet.

#### **Changing Your Vote**

You can change your vote submitted by Internet, telephone or written proxy card by revoking it at any time before it is cast at the annual meeting in one of three ways:

notify our Corporate Secretary in writing before the annual meeting that you are revoking your proxy;

submit another proxy with a date later than your last vote made by Internet, telephone or proxy; or

vote in person at the annual meeting.

#### **Number of Votes and Quorum**

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Each share of inContact common stock that you own as of the record date entitles you to one vote. On April 18, 2011 there were 35,809,178 outstanding shares of our common stock. The presence of the owners of a

majority of the shares entitled to vote at the annual meeting constitutes a quorum. Presence may be in person or by proxy. You will be considered part of the quorum if you attend the annual meeting, vote by Internet or telephone or return a signed and dated proxy card. Abstentions, broker non-votes and shares voted by a broker or bank holding shares for a beneficial owner are counted as present and entitled to vote for determining a quorum.

### **Required Vote to Approve each Proposal**

**Election of Directors:** Each of the six Board of Director positions is voted on separately. The persons who receive the most votes for each of the six director positions will be elected. Any shares not voted (whether by abstention or otherwise) have no impact on the vote.

**Amendment of the inContact bylaws:** To amend our bylaws to classify our Board of Directors and to provide for staggered three-year terms of service for each class of directors requires the affirmative vote of a majority of the votes cast. Any shares not voted (whether by abstention or otherwise) have no impact on the vote.

**Ratification of Appointment of Deloitte & Touche LLP, as independent registered public accounting firm for 2011:** This proposal requires the affirmative vote of a majority of the votes cast. Any shares not voted (whether by abstention or otherwise) have no impact on the vote.

**Advisory vote on executive compensation:** This is a non-binding advisory vote on a resolution for approval of executive compensation for our named executive officers. The Company will consider the vote of a majority of the votes cast. Any shares not voted (whether by abstention or otherwise) have no impact on the vote.

**Advisory Vote on Frequency of Advisory Vote on Executive Compensation:** This is a non-binding advisory vote on whether future non-binding advisory votes on executive compensation should occur every one, two or three years. The Company will consider the alternative receiving the greatest number of votes as the frequency that stockholders favor. Any shares not voted (whether by abstention or otherwise) have no impact on the vote.

### **Board Recommendations on Proposals**

The Board recommends a vote FOR election of each director nominated by the Board, FOR the proposal to amend our bylaws to classify our Board of Directors and to provide for staggered three-year terms of service for each class of directors, FOR ratification of the appointment of Deloitte & Touche LLP, FOR the advisory approval of the compensation of the Company's named executive officers as described in this Proxy Statement, and FOR the option of three years as to the frequency of future advisory votes on executive compensation.

### **Selection of the Board's Director Nominees**

Each of the six nominees now serves as a director and was approved for inclusion on our slate of directors by the entire Board. All nominees were elected by our stockholders as directors at our June 2010 annual meeting and are standing for re-election. Theodore Stern is Chairman of the Board. One of our directors, Paul Jarman, is also our President and Chief Executive Officer.

The Corporate Governance and Nominating Committee is responsible for reviewing the requisite skills and characteristics of new Board members as well as the composition of the Board as a whole. We believe that the minimum qualifications for serving as a director are that a nominee demonstrate an ability to make a meaningful contribution to the Board's oversight of inContact's business and affairs and have an unsullied reputation with respect to ethical conduct. Nominees for director will include individuals who, taking into account their diversity, skills, and experience in the context of the needs of the Board, as well as other relevant factors such as conflicts of interest and other commitments, would enhance the Board's ability to manage and direct our affairs and business. Although we do not have a formal policy on diversity for board members, it is a factor in assessing



potential board members. Diversity not only encompasses racial and gender diversity, but it also relates to diversity of experience and background in an effort to ensure that the composition of our directors provides a strong and well balanced foundation of skill and experience.

#### **Standard for Director Independence**

The Board applies the definition of independence adopted by Nasdaq for determining independence of our directors. Based on that definition, we believe all of the directors nominated for election at our 2011 annual meeting are independent, except for our Chairman of the Board, Mr. Stern, and our Chief Executive Officer, Mr. Jarman.

#### **How Stockholders Can Recommend a Candidate for Election to the Board**

Stockholders who wish to recommend a candidate for election to our Board should write to: Corporate Secretary, inContact, Inc. 7730 South Union Park Avenue, Suite 500, Midvale, UT 84047, stating in detail the qualifications of a candidate for consideration by the Board. In considering Board candidates, the Board seeks individuals of proven judgment and competence who have strong reputations in their respective fields. The Board considers such factors as experience, education, employment history, special talents or personal attributes, anticipated participation in Board activities, and geographic and diversity factors. The process for identifying and evaluating nominees would include detailed consideration of the recommendations and opinions of members of our Board, our executive officers, and our stockholders. There would be no difference in the process of evaluation of candidates recommended by a stockholder and those recommended by other sources.

#### **How to Communicate with the Board**

Stockholders interested in communicating directly with our Board may do so by writing to: Board of Directors, inContact, Inc. 7730 South Union Park Avenue, Suite 500, Midvale, UT 84047. All such written correspondence is delivered to the director or directors to whom it is addressed or, if addressed generally to the Board, to all directors. Concerns relating to accounting, internal controls, or auditing matters are immediately forwarded to the Chief Executive Officer, Chief Financial Officer, and Chairman of the Audit Committee.

#### **Business Sought to be Presented From the Floor**

Our Bylaws provide that any item of business not included in the notice of annual meeting, including the nomination of a director, that a stockholder intends to bring to the floor of the annual meeting for action can be ruled out of order and the matter dismissed without further consideration, if the stockholder does not give written notice to inContact describing the business the stockholder intends to bring to the floor of the meeting within five business days after inContact gives written notice of the date and place of the annual meeting to its stockholders. Any such notice must be delivered to inContact on or before May 9, 2011, for the annual meeting scheduled on June 15, 2011.

#### **How to Submit a Stockholder Proposal for Inclusion in the 2012 Proxy Statement; Discretionary Voting**

Stockholder proposals may be submitted for inclusion in our 2012 proxy statement after the 2011 annual meeting, but must be received no later than 5:00 p.m. MST on Tuesday, January 3, 2012. Proposals should be sent via registered, certified, or express mail to: Corporate Secretary, inContact, Inc. 7730 South Union Park Avenue, Suite 500, Midvale, UT 84047.

As to any proposal that is not submitted for inclusion in our proxy statement for the 2012 annual meeting of stockholders, but is instead sought to be presented directly at the meeting, certain rules adopted by the SEC permit management to vote proxies in its discretion if: (1) we receive notice of the proposal before the close of business on March 18, 2012, and advise stockholders in the proxy statement about the nature of the proposal and how management intends to vote on such matter; or (2) we do not receive notice of the proposal prior to the close of business on March 18, 2012.

**Where to Find inContact's Code of Ethics**

inContact has a Code of Ethics that applies to its Chief Executive Officer, its Chief Financial Officer and all other employees. We will provide to any person, without charge, a copy of the Code of Ethics upon written or oral request directed to Corporate Secretary, inContact, Inc. 7730 South Union Park Avenue, Suite 500, Midvale, UT 84047, telephone (801) 715-5021. Furthermore, a copy of the Code of Ethics is accessible at our corporate website, <http://www.inContact.com>.

**Where to Find inContact's Corporate Governance and Nominating Committee, Audit Committee and Compensation Committee Charters**

The Board of Directors of inContact has formed a Corporate Governance and Nominating Committee, Audit Committee and Compensation Committee. Each of these Committees has a formal charter, which is made available for your examination on our corporate website at <http://www.inContact.com>. We will provide to any person, without charge, a copy of any of the charters upon written or oral request directed to Corporate Secretary, inContact, Inc. 7730 South Union Park Avenue, Suite 500, Midvale, UT 84047, telephone (801) 715-5021.

**Where to Find More Information on inContact**

Our corporate website is <http://www.inContact.com>. We make available on this website, free of charge, access to our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, Proxy Statement on Schedule 14A and amendments to those materials filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 as soon as reasonably practicable after we electronically submit such material to the SEC. The SEC makes available on its website, free of charge, reports, proxy and information statements, and other information regarding issuers, such as us, that file electronically with the SEC. The SEC's website is <http://www.sec.gov>.

**Directors and Officers**

The following table sets forth the names, ages, and positions with inContact for each of the directors and officers.

<b>Name</b>	<b>Age</b>	<b>Positions</b>	<b>Since</b>
Theodore Stern	81	Chairman of the Board of Directors	1999
Steve Barnett	68	Director	2000
Paul F. Koeppel	61	Director	2004
Blake O. Fisher, Jr.	67	Director	2004
Mark J. Emkjer	55	Director	2009
Paul Jarman	41	Director and Chief Executive Officer	1997
Gregory Ayers	49	Executive Vice President and Chief Financial Officer	2009
Scott Welch	46	Executive Vice President and Chief Operating Officer	2004
Frank Maylett	48	Executive Vice President of Sales	2008
Jim Tanner	45	Executive Vice President, Product and Strategy	2010
Mariann McDonagh	49	Executive Vice President and Chief Marketing Officer	2010

All directors hold office until the next annual meeting of stockholders and until their successors are elected and qualify. Officers serve at the discretion of our Board. The following is information on the business experience of each director now serving.

Theodore Stern became a director of inContact in June 1999 and subsequently the Chairman of the Board of Directors and Chief Executive Officer in September 2000. Mr. Stern served in those positions until January 1, 2005, when the two positions were separated. He served on the board of directors of Distributed Energy Systems Corporation, a manufacturer of renewable generation systems located in Wallingford, CT from November 2003

to May 2010. He holds a Bachelor of Mechanical Engineering from the Pratt Institute and a Master of Science degree in Theoretical Mathematics from New York University. Mr. Stern is a member of the National Academy of Engineering. Mr. Stern has over 20 years experience serving as a director with public companies. Through that service he gained experience as chairman and as a member of audit, compensation and governance committees, which we believe brings a wealth of experience and savvy to developing and overseeing the development of our strategic and operating plans consistent with effective corporate governance policies. His ten years of service as our Chairman gives him an in-depth knowledge of who we are and where we are going, which we believe to be valuable in making our decisions for the future.

Steve Barnett has been self-employed for the past six years as an advisor to manufacturing and distribution companies, as well as to public entities, on improving business operations. Mr. Barnett currently serves as an advisor to, and is on the Board of Directors of a private national real estate development company, and a private electrical systems manufacturing company. He is Chairman of the Board of a technology company specializing in juvenile safety products. He also serves on the Board of Directors for Medis Technologies Ltd., a company specializing in advanced technology regarding unique fuel cell power packs for portable electronic devices, and he also serves on the Board of Directors for OSI Geospatial Inc., a TSE company which delivers advanced geospatial systems and software that enable shared real-time situational awareness for military and homeland security, safety and security application on a worldwide basis. Mr. Barnett served on the board of Bank Leumi USA from 2000 to 2007. Mr. Barnett graduated from the University of Chicago Law School with a Doctor of Jurisprudence degree. Mr. Barnett has served as a director of inContact for 11 years, so his long time service also provides a historical perspective that enhances the development of our strategic and operational plans going forward. His experience as a director for other software and technology companies enables him fulfill an oversight function with respect to our research and development efforts and how to focus those efforts on exploiting market opportunities.

Paul F. Koeppel was President, CEO and founder of Superconductivity, Inc., a manufacturer of superconducting magnetic energy storage systems from 1988 to 1997 when it was acquired by American Superconductor, an electricity solutions company. He then served as Executive Vice President of Strategic Planning for American Superconductor until his retirement in 2001. From 1993 to 1995, Paul was acting CEO and chairman of the executive committee of the board of directors of Best Power, Inc., a supplier of uninterruptible power supply equipment. Beginning August 2009, he serves on the Board of Directors for ZBB Energy Corporation, a manufacturer of large capacity energy storage systems, and served as Interim CEO from November 2009 until January 2010. Paul has also served as a Director of Distributed Energy Systems Corp., a public company engaged in the business of creating and delivering products and services to the energy marketplace and also as a Director of Northern Power Systems from 1998 to until 2003 when Northern was acquired by Distributed Energy Systems Corp. He holds a Bachelors Degree in Business Administration and Associate Degrees in Materials Management and Electrical Power Technology. Mr. Koeppel now serves as the chairman of the audit committee of ZBB Energy Corporation, which (together with his other experience) brings significant financial experience to our Board, as well as experience with sound corporate governance and internal control policies. Furthermore, his substantial experience as an executive officer followed by board service provides to us executive and employee compensation experience that we depend on to guide the policies we establish for compensating and incentivizing our employees.

Blake O. Fisher, Jr. provided management and financial consulting to the telecommunications and utility industries from May 2004 through December 2008, including financial consulting to the USDA on Rural Utilities Service's broadband program. From May 2004 to December 2004 he served as Chief Financial Officer for Fiber Utilities of Iowa, an entity that provides operation and construction services to municipal utilities. From May 2002 to May 2004 he was retired from business activities. From February 1996 to May 2002, he held senior management positions with McLeodUSA, a telecommunications provider, initially as Chief Financial Officer, then as President of the company's Western region and as Chief Development Officer. He also serves on the Board of Directors for Headwaters Incorporated, an energy and building products company. The Board believes that Mr. Fisher's chief financial officer experience is of substantial benefit in discharging the Board's oversight

function with respect to financial controls and procedures, the Board's relationship with our financial staff and auditors, annual budget development and strategic planning.

Mark J. Emkjer is currently the CEO of the Health Services Division of WebMD. From May 2004 to January 2009 he was CEO, President and Board Member of Accelrys, Inc., a software company serving the pharmaceutical and biotech industries. Prior to Accelrys, Mr. Emkjer was the President and CEO of Sunquest, a public company listed on Nasdaq that develops laboratory and pharmacy information systems for hospitals worldwide. Mr. Emkjer has held executive-level positions with other companies since graduating with a Masters in Business Administration and International Finance from the University of Miami in Florida. Mr. Emkjer's substantial experience as an executive in software companies provides significant industry experience and knowledge with respect to our product, product development, market opportunities and operational aspects of a software company. The Board believes this software industry knowledge and experience provides valuable insights for short-term and long-term operational and strategic planning.

Paul Jarman has served as an officer of inContact during the past seven years. He has served as President since December 2002 and as Chief Executive Officer since January 2005. Prior to December 2002 he served as an Executive Vice President. Mr. Jarman is one of the original founders of inContact. He earned a Bachelor of Science degree in Accounting from the University of Utah. We believe Mr. Jarman's qualifications to serve on our Board include his executive management experience, including experience for several years as our Chief Executive Officer and a long history and familiarity with inContact, which provides the Board with essential insight into the day-to-day operations of the Company.

***Executive Officers***

Information on our executive officers is presented in our Annual Report on Form 10-K for the year ended December 31, 2010.

### STOCK OWNERSHIP

The following table sets forth, as of April 18, 2011, the number and percentage of the outstanding shares of common stock that, according to the information supplied to inContact, were beneficially owned by each person who, to the knowledge of the Company, is the beneficial owner of more than five percent of the outstanding common stock. Except as otherwise indicated, the persons named in the table have sole voting and dispositive power with respect to all shares beneficially owned, subject to community property laws where applicable.

Name and Address	Common Shares	Percentage of Class (1)
<i>Principal stockholders:</i>		
Diker Management, LLC (2)	3,823,100	10.7%
730 5th Ave, 15th Floor		
New York, NY 10019		
Kinderhook Partners, LP (3)	3,428,571	9.6%
1 Executive Dr, Suite 160 Montrose Boulevard, Suite 510		
Fort Lee, NJ 07024		
Marathon Capital Management, LLC (4)	2,926,272	8.2%
4 North Park Dr, Suite 106		
Hunt Valley, MD 21030		
Select Contrarian Value Partners, LP (5)	1,817,568	5.1%
Kaizen Capital, LLC		
4200 Montrose Boulevard, Suite 510		
Houston, TX 77066		
Lake Union Capital Fund, LP (6)	1,893,500	5.3%
601 Union St, Suite 4616		
Seattle, WA 98101		

- (1) These figures represent the percentage of ownership of the named persons assuming each of them alone has exercised any warrants or purchase rights the person may hold to purchase common shares.
- (2) Diker Management, LLC is the investment manager of Diker Small-Cap Fund, LP, Diker Micro-Cap Fund, LP, Diker Small-Cap QP Fund, LP, and other select managed account relationships. These funds, collectively, are the holders of the shares listed. Mark Diker is the managing member of Diker Management. As a result of these relationships, Diker Management and Mr. Diker may be deemed to hold an indirect beneficial interest in the shares held by these funds.
- (3) Kinderhook GP, LLC, is the general partner of Kinderhook Partners, LP. Tushar Shah and Stephen J. Clearman are the managing members of Kinderhook GP, LLC. As a result of these relationships, Kinderhook GP, LLC, Tushar Shah, and Stephen J. Clearman may be deemed to hold a beneficial interest in the shares held by Kinderhook Partners, LP. Each of these persons, including Kinderhook Partners, LP, disclaims any beneficial interest in the shares, except to the extent of their respective pecuniary interests therein.
- (4) James G. Kennedy is the president of Marathon Capital Management, LLC, which is a registered investment adviser.
- (5) Kaizen Management, LP, is the general partner of Select Contrarian Value Partners. David W. Berry is the sole owner of Kaizen Capital, L.C., which is the general partner of Kaizen Management, LP. As a result of these relationships, Kaizen Management, LP and Mr. Berry may be deemed to hold an indirect beneficial interest in the shares held by Select Contrarian Value Partners.

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- (6) Lake Union Capital Management, LLC, is the general partner of Lake Union Capital Fund, LP. Michael Self is the managing member of Lake Union Capital Management, LLC. As a result of these relationships, Michael Self may be deemed to hold an indirect beneficial interest in the shares held by the fund.

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The following table sets forth, as of April 18, 2011, the number and percentage of the outstanding shares of common stock that, according to the information supplied to inContact, were beneficially owned by (i) each person who is currently a director, (ii) each executive officer, and (iii) all current directors and executive officers as a group. Except as otherwise indicated, the persons named in the table have sole voting and dispositive power with respect to all shares beneficially owned, subject to community property laws where applicable.

Name and Address	Common Shares	Percentage of Class (1)
<i>Officers and directors:</i>		
Theodore Stern (2)	1,719,365	4.8%
Steve Barnett (2)	611,282	1.7%
Paul F. Koeppel (2)	433,982	1.2%
Blake O. Fisher, Jr. (2)	216,982	0.6%
Mark J. Emkjer (2)	73,319	0.2%
Paul Jarman (2)	1,039,553	2.9%
Gregory S. Ayers (2)	216,668	0.6%
Scott Welch (2)	340,000	0.9%
Frank Maylett (2)	300,000	0.8%
Jim Tanner (2)	75,000	0.2%
Mariann McDonagh (2)	83,333	0.2%
All Executive Officers and Directors as a Group (11 persons)	5,109,484	13.8%

- (1) These figures represent the percentage of ownership of the named groups and individuals assuming each of them alone has exercised his options to purchase common shares, and percentage ownership of all officers and directors as a group, assuming all purchase rights held by such individuals are exercised.
- (2) These figures include: for Mr. Stern options to purchase 75,000 shares of common stock at exercise prices ranging from \$2.00 per share to \$4.57 per share and 81,652 shares issuable under restricted stock units; for Mr. Barnett options to purchase 135,000 shares at exercise prices ranging from \$2.00 to \$4.57 per share and 97,982 shares issuable under restricted stock units; for Mr. Koeppel options to purchase 117,000 shares at an exercise prices ranging from \$2.00 to \$4.57 per share, and 94,982 shares issuable under restricted stock units; for Mr. Fisher options to purchase 107,000 shares at exercise prices ranging from \$2.00 to \$4.57 per share and 94,982 shares issuable under restricted stock units; for Mr. Emkjer 73,319 shares issuable under restricted stock units; for Mr. Jarman options to purchase 883,467 shares of common stock at exercise prices ranging from \$1.76 to \$5.39 per share; for Mr. Ayers options to purchase 216,668 shares of common stock at an exercise price of \$1.78 per share; for Mr. Welch options to purchase 340,000 shares of common stock at exercise prices ranging from \$1.76 to \$4.20 per share; for Mr. Maylett options to purchase 300,000 shares of common stock at a exercise prices ranging from \$1.76 to \$2.87 per share; for Mr. Tanner options to purchase 75,000 shares of common stock at a exercise prices ranging from \$2.51 to \$3.42 per share; and for Ms. McDonagh options to purchase 83,333 shares of common stock at an exercise price of \$3.09.

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**THE BOARD AND ITS COMMITTEES; CORPORATE GOVERNANCE; SECTION 16 COMPLIANCE**

**The Board and Committees**

Our Board of Directors has six members. The Chairman of the Board, Theodore Stern, provides business consulting services to inContact for a monthly fee. Our Chief Executive Officer, Paul Jarman, is a member of the Board and is a full time employee of inContact. The other four members of the Board, Steve Barnett, Paul F. Koeppel, Blake O. Fisher, Jr. and Mark J. Emkjer, are non-employee directors, and the Board has determined that these persons (who constitute a majority of the Board) are independent directors under the criteria set forth in Rule 5605(a)(2) of the Nasdaq Listing Rules. The Board met eight times during the year ended December 31, 2010. All directors attended at least 75 percent of the meetings of the Board.

In 2007, the Board formed a Corporate Governance and Nominating Committee which is appointed by the Board to: (1) identify individuals qualified to serve as members of the Board and, where appropriate, recommend individuals to be nominated by the Board for election by the stockholders or to be appointed by the Board to fill vacancies consistent with the criteria approved by the Board; (2) develop and periodically evaluate and recommend changes to inContact's Corporate Governance Guidelines and Code of Ethics, and to review the Company's policies and programs that relate to matters of corporate responsibility, including public issues of significance to the Company and its stakeholders; and (3) oversee an annual evaluation of the performance of the Board. The current members of the Corporate Governance and Nominating Committee are Steve Barnett (Chairman), Blake O. Fisher, Jr., Paul F. Koeppel and Mark J. Emkjer. Our Board of Directors determined that each of these directors is an independent director under the criteria set forth in Rule 5605(a)(2) of the Nasdaq Listing Rules. The Corporate Governance and Nominating Committee met four times in 2010, and all director members of the committee attended the meetings. The Corporate Governance and Nominating Committee operates under a written charter adopted by the Board of Directors, which sets forth the responsibilities and powers delegated by the Board to the Corporate Governance and Nominating Committee.

In 2000, the Board formed the Audit Committee, the current members of which are Blake O. Fisher, Jr. (Chairman), Steve Barnett, Paul F. Koeppel and Mark J. Emkjer. The Audit Committee provides oversight for financial reporting matters, internal controls, and compliance with the Company's financial policies, and meets with its auditors when appropriate. The Audit Committee met five times in 2010, and all director members of the committee attended at least 75 percent of the meetings. The Board has determined that Steve Barnett, Paul F. Koeppel and Blake O. Fisher, Jr. are audit committee financial experts within the meaning of Item 407(d)(5) of Regulation S-K. Further, the Board has determined that each of the members of the Audit Committee is independent under the standard set forth in Rule 5605(a)(2) of the Nasdaq Listing Rules. The Audit Committee operates under a written charter adopted by the Board of Directors, which sets forth the responsibilities and powers delegated by the Board to the Audit Committee.

During 2000, the Board also formed the Compensation Committee, the current members of which are Paul F. Koeppel, (Chairman), Steve Barnett, Blake O. Fisher, Jr. and Mark J. Emkjer. The Compensation Committee considers salary and benefit matters for the executive officers and key personnel of the Company. The Compensation Committee met five times in 2010, and all director members of the committee attended at least 75 percent of the meetings. The Board has determined that each of the members of the Compensation Committee is independent under the criteria set forth in Rule 5605(a)(2) of the Nasdaq Listing Rules. The Compensation Committee operates under a written charter adopted by the Board of Directors, which sets forth the responsibilities and powers delegated by the Board to the Compensation Committee.

**Corporate Governance Guidelines and Code of Ethics**

In 2007, the Board adopted Corporate Governance Guidelines for inContact. Under the Guidelines, the Audit Committee is required to conduct, at least annually, an appropriate review of all related party transactions for potential conflict of interest situations on an ongoing basis, and all such transactions must be approved by the Audit Committee. For purposes of this review, related party transactions means transactions required to be



disclosed pursuant to Item 404 of Regulation S-K adopted by the Commission, which are related party transactions we report in this proxy statement.

The bylaws of the Company provide that no contract or transaction between inContact and one or more of its directors or officers, or between inContact and any other corporation, firm, association, or other organization in which one or more of its directors or officers are financially interested, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the Board of Directors or committee that authorizes or approves the contract or transaction, or because their votes are counted for such purpose, provided that:

the material facts as to his, her, or their relationship or interest as to the contract or transaction are disclosed or are known to the Board of Directors or the committee and noted in the minutes, and the Board of Directors or committee, authorizes the contract or transaction in good faith by the affirmative vote of a majority of disinterested directors, even though the disinterested directors are less than a quorum;

the material facts as to his, her, or their relationship or interest as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon, and the contract or transaction is specifically approved or ratified in good faith by the majority of shares entitled to vote, counting the votes of the common or interested directors or officers; or

the contract or transaction is fair as to inContact as of the time it is authorized or approved.

Under the Company's Code of Ethics, an officer has an obligation to disclose to the Board of Directors or appropriate committee any situation that may present a conflict of interest between inContact and the officer.

#### **Board Leadership Structure and Role in Risk Oversight**

Our Chief Executive Officer is a member of the Board, but a different director who is not an executive officer serves as Chairman of the Board. The Board believes that this leadership structure is best at this time, as it facilitates the ability of the Board and its committees to bring independent evaluation and thinking to strategic planning for our present and future operations, and allows the Board, without the participation of our executives, to fulfill its oversight function with respect to what we do and how we do it. We believe the benefit of having the Chief Executive Officer on the Board is the information and insight about our business that he brings to each Board meeting and adds to the totality of information our Directors have received to consider.

Our directors believe it is a Board-level function to provide oversight with respect to the management of risks. Accordingly, our Board regularly engages in risk oversight by evaluating our circumstances and opportunities for the purpose of trying to strike a reasonable balance between anticipated risks we are willing to accept to create opportunities to achieve rewards that are consistent with our short and long-term business objectives. While certain risks are in the purview of Committees of the Board, and are scrutinized closely at the Committee level, the full Board has responsibility for risk oversight.

Our Board believes each action, either directly or indirectly by association with other circumstances and events, could create or enhance risk exposure at any level of our operations. As management modifies and refines our strategic plan, it:

Assesses risks it believes may be associated with implementation of the strategy,

Briefs the Board on the potential risks,

Seeks from the Board guidance on how to proceed and appropriate authorization, and

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Develops systemic processes and procedures it believes will enable employees to monitor the level of various risks as part of a process to gather information reported up the ladder to the Board for consideration in its oversight of our risk profile and deciding on future strategies and actions.

Our Board is assisted in its oversight responsibilities by the standing Board committees, which have assigned areas of oversight responsibility for various matters as described in the Committee charters. For example, our Audit Committee assists the Board's oversight of the integrity of our financial statements, the qualifications and independence of our independent registered public accounting firm, and the performance of our internal audit function and independent registered public accounting firm. Pursuant to its charter the Audit Committee also considers our policies with respect to risk assessment and risk management. The Compensation Committee oversees the compensation of our chief executive officer and other executive officers and evaluates the appropriate compensation incentives to motivate senior management to grow long-term stockholder returns without undue risk taking. Our Corporate Governance and Nominating Committee periodically evaluates and recommends changes to our Corporate Governance Guidelines and Code of Ethics.

With respect to consideration of risks related to compensation, our Board has reviewed potential risks related to compensation policies and practices applicable to all employees and has concluded that they are not reasonably likely to have a material adverse effect on our company.

#### **Audit Committee Report**

The purposes of the Audit Committee are set forth in the Committee's written charter. As provided in the charter, the role of the committee is to assist the Board of Directors in its oversight on matters relating to accounting, financial reporting, internal control, auditing, regulatory compliance activities and other matters the Board deems appropriate. The Committee also selects inContact's independent registered public accounting firm in accordance with the provisions set out in the charter. Management, however, is responsible for the preparation, presentation and integrity of inContact's financial statements, and for the procedures designed to assure compliance with accounting standards and applicable laws and regulations. The independent registered public accounting firm is responsible for planning and carrying out proper audits and reviews.

In fulfilling its responsibilities, the Audit Committee has reviewed and discussed the audited financial statements contained in the 2010 Annual Report on Form 10-K of inContact with management and the independent registered public accounting firm. In addition, the committee has discussed with the independent registered public accounting firm the matters required to be discussed pursuant to Statement of Auditing Standards No. 61, as modified or supplemented. The Committee has also received from the independent registered public accounting firm the written disclosures and letter required by applicable requirements of the Public Company Accounting Oversight Board, considered whether the provision of non-audit services by the independent registered public accounting firm is compatible with maintaining the independent registered public accounting firm's independence, and discussed with the independent registered public accounting firm its independence.

In reliance on the reviews and discussions with management and the independent registered public accounting firm referred to above, and subject to the limitations on the responsibilities and role of the Audit Committee set forth in the charter and discussed above, the Committee recommended to the Board of Directors, and the Board approved, that the audited financial statements of inContact be included in its 2010 Annual Report on Form 10-K for filing with the Securities and Exchange Commission.

Respectfully submitted on April 20, 2011, by the members of the Audit Committee of the Board of Directors:

Blake O. Fisher, Jr. (Chairman)

Paul F. Koeppe

Steve Barnett

Mark J. Emkjer

**Section 16(a) Filing Compliance**

Section 16(a) of the Securities Exchange Act of 1934 (Exchange Act) requires officers and directors of inContact and persons who own more than ten percent of a registered class of its equity securities to file reports of ownership and changes in their ownership on Forms 3, 4 and 5 with the Commission, and forward copies of such filings to the Company. Based on the copies of filings received by the Company during the most recent fiscal year the directors, officers and beneficial owners of more than ten percent of the equity securities of inContact registered pursuant to Section 12 of the Exchange Act have filed on a timely basis all required Forms 3, 4 and 5 and any amendments thereto.

## EXECUTIVE COMPENSATION

### **Compensation Discussion and Analysis**

The primary objectives of our compensation policies are to attract and retain experienced and well-qualified executive officers, and provide incentives for financial and business achievements that benefit our stockholders. The Compensation Committee of the Board is charged with the responsibility of evaluating compensation and benefits for our executive officers and recommending specific compensation packages to the Board. The Compensation Committee also evaluates and recommends compensation arrangements for our non-employee Directors to the Board.

### ***How the Compensation Committee Performs its Tasks***

With respect to executives other than the Chief Executive Officer, the Compensation Committee seeks and receives recommendations from the Chief Executive Officer with respect to performance and appropriate levels of compensation. For 2010, the Compensation Committee approved a compensation package for the executive officers that closely followed the Chief Executive Officer's recommendation, which included a fixed base salary and a cash bonus based on performance. The Chairman of the Board discusses his recommendations for compensation for our Chief Executive Officer with him with a view to obtaining the input of our Chief Executive Officer with respect to his own evaluation of his performance and goals for the coming year and a compensation package that is reasonable in relation to the compensation recommended for our other executive officers. Based on these discussions the Chairman of the Board recommended to the Committee a package for 2010 that included a fixed base salary and a cash bonus based on performance.

The Compensation Committee's conclusions and recommendations on the compensation packages for our executive officers are based on the total mix of information from the sources described above, as well as the Committee members' general knowledge of executive compensation practices and their personal evaluations of the likely effects of compensation levels and structure on the attainment of our business and financial objectives.

### ***Objectives of our Compensation Programs***

We are committed to providing total compensation packages that are intended to retain and motivate talented employees. We believe in pay for performance and we link performance to pay throughout our organization in order to create the appropriate level of incentives. We actively manage our compensation structures and levels to adapt to changes in the marketplace and the continuing evolution of our company. Changes in the economic and business climate over the past years have resulted in heightened interest and concern by stockholders and others with respect to compensation levels for executives in American business. The Compensation Committee is sensitive to these concerns and pursues its work with a view to establishing compensation packages and arrangements that address our need to attract and retain executive officers and incentivize those officers to manage our business to achieve short-term objectives for the coming year and long-term sustainable growth, while at the same time paying compensation at a level that is within the limits of our budget.

### ***The Elements of our Compensation Packages***

In line with our compensation objectives, the Compensation Committee seeks to maintain the salary component of each officer's compensation at a moderate level; to provide bonuses based on short-term financial performance; and to also provide stock awards, consisting primarily of options, the value of which the