

MYERS INDUSTRIES INC  
Form DEFC14A  
March 27, 2013

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

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 Under Rule 14a-12

MYERS INDUSTRIES, INC.  
(Name of Registrant as Specified in Its Charter)

GAMCO ASSET MANAGEMENT INC.  
MARIO J. GABELLI  
DANIEL R. LEE  
(Name of Persons(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

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

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

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

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

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(4) Proposed maximum aggregate value of transaction:

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(1) Amount previously paid:

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

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(3) Filing Party:

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(4) Date Filed:

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GAMCO ASSET MANAGEMENT INC.

March 27, 2013

Dear Fellow Shareholder:

GAMCO Asset Management Inc. (“GAMCO Asset Management”), Mario J. Gabelli and certain of their affiliates (collectively, “GAMCO” or “we”) are the beneficial owners of an aggregate of 5,323,600 shares of common stock, without par value per share (the “Common Stock”), of Myers Industries, Inc., an Ohio corporation (“Myers Industries” or the “Company”), representing approximately 15.74% of the outstanding shares of Common Stock. For the reasons set forth in the attached Proxy Statement, we are seeking representation on the Board of Directors of the Company. We are seeking your support at the annual meeting of shareholders scheduled to be held at the Louis S. Myers Training Center, 1554 South Main Street, Akron, Ohio 44301, on Friday, April 26, 2013 at 9:00 A.M. (local time), including any adjournments or postponements thereof and any meeting which may be called in lieu thereof (the “Annual Meeting”), for the following:

1. To elect GAMCO’s nominee, Daniel R. Lee (the “Nominee”), to the Board of Directors of the Company (the “Board”) in opposition to one of the Company’s incumbent directors;
2. To ratify the appointment of Ernst & Young LLP as the Company’s independent registered public accounting firm for fiscal 2013;
3. To cast a non-binding advisory vote to approve executive compensation;
4. To approve the adoption of the Performance Bonus Plan of the Company; and
5. To consider such other business as may be properly brought before the meeting or any adjournments thereof.

GAMCO and its affiliates have followed Myers Industries through our research for over three decades. We believe that the Company is in urgent need of fresh perspective and a focus on enhancing shareholder value, which, we believe, the Nominee will provide. The Nominee does not have specific plans for the Company.

We are seeking to change a minority of the Board to ensure that the interests of the shareholders, the true owners of the Company, are appropriately represented in the boardroom. The Board is currently composed of nine directors, all of whom are up for election at the Annual Meeting. Through the attached Proxy Statement and enclosed BLUE proxy card, we are soliciting proxies to elect the Nominee. Shareholders who vote on the enclosed BLUE proxy card will also have the opportunity to vote for the candidates who have been nominated by the Company other than Richard P. Johnston. Shareholders will therefore be able to vote for the total number of directors up for election at the Annual Meeting. The names, backgrounds and qualifications of the Company’s Nominee, and other information about them, can be found in the Company’s proxy statement. There is no assurance that any of the Company’s nominees will serve as directors if our Nominee is elected.

We urge you to carefully consider the information contained in the attached Proxy Statement and then support our efforts by signing, dating and returning the enclosed BLUE proxy card today. The attached Proxy Statement and the enclosed BLUE proxy card are first being furnished to the shareholders on or about March 27, 2013.

If you have already voted for the incumbent management slate, you have every right to change your vote by signing, dating and returning a later dated proxy.

If you have any questions or require any assistance with your vote, please contact GAMCO at our address listed below.

Thank you for your support.

/s/ Mario J. Gabelli

Mario J. Gabelli  
GAMCO Asset Management Inc.

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If you have any questions, require assistance in voting your BLUE proxy card,  
or need additional copies of GAMCO's proxy materials,  
please contact GAMCO at the phone number listed below.

GAMCO ASSET MANAGEMENT INC.

ONE CORPORATE CENTER

RYE, NEW YORK 10580

(800) 422-3554

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2013 ANNUAL MEETING OF SHAREHOLDERS  
OF  
MYERS INDUSTRIES, INC.

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PROXY STATEMENT  
OF  
GAMCO ASSET MANAGEMENT INC.

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PLEASE SIGN, DATE AND MAIL THE ENCLOSED BLUE PROXY CARD TODAY

GAMCO Asset Management Inc. (“GAMCO Asset Management”), Mario J. Gabelli and certain of their affiliates (collectively, “GAMCO” or “we”) are significant shareholders of Myers Industries, Inc., an Ohio corporation (“Myers Industries” or the “Company”), owning in the aggregate approximately 15.74% of the outstanding shares of common stock, no par value per share (the “Common Stock”), of the Company. We are seeking representation on the Board of Directors of the Company (the “Board”) because we believe that the Board could be improved by the addition of a director who has strong, relevant background and who is committed to fully exploring all opportunities to unlock shareholder value. We are seeking your support at the annual meeting of shareholders scheduled to be held at the Louis S. Myers Training Center, 1554 South Main Street, Akron, Ohio 44301, on Friday, April 26, 2013 at 9:00 A.M. (local time) (including any adjournments or postponements thereof and any meeting which may be called in lieu thereof, the “Annual Meeting”), for the following:

1. To elect GAMCO’s director nominee, Daniel R. Lee (the “Nominee”), to serve until the 2014 annual meeting of shareholders and until his successor is duly elected and qualified;
2. To ratify the appointment of Ernst & Young LLP as the Company’s independent registered public accounting firm for fiscal 2013;
3. To cast a non-binding advisory vote to approve executive compensation (the “Say-on-Pay Proposal”);
4. To approve the adoption of the Performance Bonus Plan of the Company; and
5. To consider such other business as may be properly brought before the meeting or any adjournments thereof.

As of the date hereof, GAMCO and its affiliates collectively own 5,323,600 shares of Common Stock, constituting approximately 15.74% of the outstanding shares of Common Stock. We intend to vote such shares of Common Stock FOR the election of the Nominee, FOR the ratification of the appointment of Ernst & Young LLP as the Company’s independent registered public accounting firm for fiscal 2013, AGAINST the approval of the Say-on-Pay Proposal, and AGAINST the Performance Bonus Plan, as described herein.

The Company has set the close of business on March 4, 2013 as the record date for determining shareholders entitled to notice of and to vote at the Annual Meeting (the “Record Date”). The mailing address of the principal executive offices of the Company is 1293 South Main Street, Akron, Ohio 44301. Shareholders of record at the close of business on the Record Date will be entitled to vote at the Annual Meeting. According to the Company, as of the Record Date, there were 33,812,213 shares of Common Stock outstanding.





THIS SOLICITATION IS BEING MADE BY GAMCO AND NOT ON BEHALF OF THE BOARD OF DIRECTORS OR MANAGEMENT OF THE COMPANY. WE ARE NOT AWARE OF ANY OTHER MATTERS TO BE BROUGHT BEFORE THE ANNUAL MEETING OTHER THAN AS SET FORTH IN THIS PROXY STATEMENT. SHOULD OTHER MATTERS, WHICH GAMCO IS NOT AWARE OF A REASONABLE TIME BEFORE THIS SOLICITATION, BE BROUGHT BEFORE THE ANNUAL MEETING, THE PERSONS NAMED AS PROXIES IN THE ENCLOSED BLUE PROXY CARD WILL VOTE ON SUCH MATTERS IN OUR DISCRETION.

GAMCO URGES YOU TO SIGN, DATE AND RETURN THE BLUE PROXY CARD IN FAVOR OF THE ELECTION OF THE NOMINEE.

IF YOU HAVE ALREADY SENT A PROXY CARD FURNISHED BY COMPANY MANAGEMENT OR THE BOARD, YOU MAY REVOKE THAT PROXY AND VOTE ON EACH OF THE PROPOSALS DESCRIBED IN THIS PROXY STATEMENT BY SIGNING, DATING AND RETURNING THE ENCLOSED BLUE PROXY CARD. THE LATEST DATED PROXY IS THE ONLY ONE THAT COUNTS. ANY PROXY MAY BE REVOKED AT ANY TIME PRIOR TO THE ANNUAL MEETING BY DELIVERING A WRITTEN NOTICE OF REVOCATION OR A LATER DATED PROXY FOR THE ANNUAL MEETING OR BY VOTING IN PERSON AT THE ANNUAL MEETING.

Important Notice Regarding the Availability of Proxy Materials for the Annual Meeting—This Proxy Statement and our BLUE proxy card are available at  
<http://gproxyonline.com/>

IMPORTANT

Your vote is important, no matter how few shares of Common Stock you own. GAMCO urges you to sign, date, and return the enclosed BLUE proxy card today to vote FOR the election of the Nominee.

- If your shares of Common Stock are registered in your own name, please sign and date the enclosed BLUE proxy card and return it to GAMCO in the enclosed postage-paid envelope today.
- If your shares of Common Stock are held in a brokerage account or bank, you are considered the beneficial owner of the shares of Common Stock, and these proxy materials, together with a BLUE voting form, are being forwarded to you by your broker or bank. As a beneficial owner, you must instruct your broker, trustee or other representative how to vote. Your broker cannot vote your shares of Common Stock on your behalf without your instructions.
- Depending upon your broker or custodian, you may be able to vote either by toll-free telephone or by the Internet. Please refer to the enclosed voting form for instructions on how to vote electronically. You may also vote by signing, dating and returning the enclosed voting form.

Since only your latest dated proxy card will count, we urge you not to return any proxy card you receive from the Company. Even if you return the management proxy card marked “withhold” as a protest against the incumbent directors, it will revoke any proxy card you may have previously sent to us. Remember, you can vote for our Nominee only on our BLUE proxy card. So please make certain that the latest dated proxy card you return is the BLUE proxy card.

GAMCO ASSET MANAGEMENT INC.

ONE CORPORATE CENTER

RYE, NEW YORK 10580

(800) 422-3554

## Background to the Solicitation

The following is a chronology of material events leading up to this proxy solicitation.

- GAMCO has been a major shareholder of the Common Stock of Myers Industries on behalf of our clients for many years. GAMCO and certain of its affiliates initially filed a Schedule 13D with respect to their ownership of securities of the Company on October 25, 2006.
- On February 15, 2012, GAMCO delivered a letter to the Company with respect its nomination of each of Richard L. Bready and Robert S. Prather, Jr. as candidates for election to the Board at the 2012 annual meeting of shareholders of the Company.
- On February 21, 2013, GAMCO delivered a letter to the Company advising it of its intention to nominate Daniel R. Lee for election as director of the Company at the Annual Meeting.
- On February 22, 2013, GAMCO delivered a nomination letter to the Company, in accordance with the requirements of the Company's Amended and Restated Code of Regulations (the "Code of Regulations") with respect to its nomination of Mr. Lee for election as director of the Company at the Annual Meeting.

## REASONS FOR THE SOLICITATION

We believe that urgent change is needed on the Board of Myers Industries. We have little confidence that the Board, as currently composed, is committed to taking the steps necessary to enhance shareholder value at the Company. Therefore, we are soliciting your support to elect our Nominee at the Annual Meeting, who we believe would bring significant and relevant experience, new insight and fresh perspectives to the Board.

We believe the Company is undervalued

If elected at the Annual Meeting, our Nominee will, subject to his fiduciary duties as a director, endeavor to work with the other members of the Board to review the Company's operating business and identify opportunities to address the valuation discrepancy between the intrinsic value of the business and the current enterprise value of the Company. However, since the Nominee would comprise a small minority on the Board if elected, there can be no assurance that any actions or changes proposed by the Nominee will be adopted or supported by the Board. It is our hope, however, that if shareholders vote to elect our Nominee at the Annual Meeting, then the Board will give serious consideration to any ideas, plans or proposals for enhancing shareholder value that the Nominee may recommend to the full Board.

We are concerned with the Board's lack of sufficient stock ownership

The members of the Board, other than John C. Orr, the President and Chief Executive Officer of the Company, collectively own less than 1% of the outstanding shares of Common Stock. In contrast, GAMCO and its affiliates collectively own 5,323,600 shares of Common Stock, or approximately 15.74% of the outstanding shares of Common Stock. We are concerned that this lack of meaningful investment in the stock of the Company creates a misalignment between the interests of the directors and Myers Industries' shareholders. We believe the Board's minimal ownership of shares of Common Stock may compromise the Board's ability to properly evaluate and address the serious challenges facing the Company.

## OUR NOMINEE HAS THE EXPERIENCE, QUALIFICATIONS AND OBJECTIVITY NECESSARY TO FULLY EXPLORE AVAILABLE OPPORTUNITIES TO UNLOCK VALUE FOR SHAREHOLDERS

As Myers Industries' largest shareholder, we have heightened concerns that the Board lacks the objectivity necessary to act in the best interests of shareholders. We have identified a highly qualified, independent director who we believe will bring a fresh perspective into the boardroom and would be extremely helpful in evaluating and executing on initiatives to unlock value at the Company. Further, we believe Myers Industries' continued underperformance and undervaluation warrant the addition of a direct shareholder representative on the Board to ensure that all decisions are made with the best interests of all shareholders as the primary objective.

Daniel R. Lee. Mr. Lee has extensive investment expertise and vast leadership experience as an executive with proven ability to build shareholder value. Mr. Lee brings a diverse set of relevant skills and deep knowledge of both the financial and operational aspects of the business. GAMCO believes that Mr. Lee will be an invaluable addition to the Board that will help improve effective oversight of the Company and strengthen the Board's focus on enhancing shareholder value.

PROPOSAL NO. 1

ELECTION OF DIRECTORS

The Board is currently composed of nine directors. We believe the terms of all nine directors expire at the Annual Meeting. We are seeking your support at the Annual Meeting to elect our Nominee in opposition to one of the Company's incumbent directors. Your vote to elect the Nominee will have the legal effect of replacing this incumbent director with the Nominee. If elected, the Nominee will represent a minority of the members of the Board, and therefore it is not guaranteed that he can implement the actions that he believes are necessary to enhance shareholder value.

THE NOMINEE

The following information sets forth the name, age, business address, present principal occupation, and employment and material occupations, positions, offices, or employments for the past five years of the Nominee. The nomination was made in a timely manner and in compliance with the applicable provisions of the Company's governing instruments. The specific experience, qualifications, attributes and skills that led us to conclude that the Nominee should serve as director of the Company is set forth above in the section entitled "Reasons for the Solicitation." This information has been furnished to us by the Nominee. The Nominee is a citizen of the United States of America.

Daniel R. Lee, age 56, is the Managing Partner of Creative Casinos LLC ("Creative Casinos"), a developer of casino resorts.

During the 1980s and early 1990s, Mr. Lee was a Chartered Financial Analyst working for the investment firms of Drexel Burnham Lambert and Credit Suisse First Boston, Inc. Mr. Lee held various positions at Drexel Burnham Lambert, including serving as a Managing Director. Mr. Lee served as an equity analyst at Credit Suisse First Boston, Inc., covering the lodging, restaurant, gaming, cruise line, toy, and movie industries.

During the 1990s, Mr. Lee worked with noted Las Vegas developer - Steve Wynn as the Chief Financial Officer and Senior Vice President of Finance and Development at Mirage Resorts, and was an integral part of the team that built such icons as Bellagio, Beau Rivage, Monte Carlo and Treasure Island.

Over the past decade, Mr. Lee has focused on gaining in regional markets, first as Chairman and Chief Executive Officer of Pinnacle Entertainment, Inc., a leading developer, owner and operator of hotels and casinos, and then as the founder and managing member of Creative Casinos.

Mr. Lee has served on the Board of Directors of LICT Corporation ("LICT Corporation"), an integrated communications company, since January 2012 and prior to that from October 2000 until December 2005. Mr. Lee has also been a director of Gabelli Securities, Inc. ("Gabelli Securities") since August 2012. Gabelli Securities is an investment advisor registered under the Investment Advisers Act of 1940, as amended ("Advisers Act") and serves as general partner or investment manager to limited partnerships and offshore investment companies and other accounts. Gabelli Securities, Inc. is a majority owned subsidiary of GAMCO Investors, Inc. ("GAMCO Investors"), a publicly traded company.

Mr. Lee has Bachelor's of Science and Masters of Business Administration degrees from Cornell University. The principal business address of Mr. Lee is 10801 West Charleston Blvd., Suite 420, Las Vegas, Nevada 8913.

As of the date hereof, Mr. Lee does not directly own any shares of Common Stock and has not engaged in any transactions in securities of the Company in the past two years. As indicated above, Mr. Lee is a director of Gabelli

Securities, which is a majority owned subsidiary of GAMCO Investors. Mr. Gabelli serves as the Chairman and Chief Executive Officer and is the controlling shareholder of GAMCO Investors. Gabelli Securities beneficially owns 1,500 shares of Common Stock. Mr. Lee does not have investment or voting authority over the referenced shares.

Mr. Lee also serves as a director of LICT Corporation. Mr. Gabelli serves as the Chairman of the Board and Chief Executive Officer of LICT Corporation. Affiliates of GAMCO beneficially own 35.21% of the outstanding common stock of LICT Corporation.

There are no arrangements or understandings between GAMCO or any of its affiliates of clients and the Nominee or any other person or persons pursuant to which the nomination of the Nominee described herein is to be made, other than the consent by the Nominee to be named in this Proxy Statement and to serve as a director of the Company if elected as such at the Annual Meeting. The Nominee is not a party adverse to the Company or any of its subsidiaries nor does he have a material interest adverse to the Company or any of its subsidiaries in any material pending legal proceedings.

The Nominee presently is, and if elected as a director of the Company would be, an “independent director” within the meaning of (i) applicable NYSE listing standards applicable to board composition, including Rule 5605(a)(2) and (ii) Section 301 of the Sarbanes-Oxley Act of 2002. No Nominee is a member of the Company’s compensation, nominating or audit committee that is not independent under any such committee’s applicable independence standards.

We do not expect that the Nominee will be unable to stand for election, but, in the event any Nominee is unable to serve or for good cause will not serve, the shares of Common Stock represented by the enclosed BLUE proxy card will be voted for substitute nominee(s), to the extent this is not prohibited under the Code of Regulations and applicable law. In addition, we reserve the right to nominate substitute person(s) if the Company makes or announces any changes to its Code of Regulations or takes or announces any other action that has, or if consummated would have, the effect of disqualifying any Nominee, to the extent this is not prohibited under the Code of Regulations and applicable law. In any such case, shares of Common Stock represented by the enclosed BLUE proxy card will be voted for such substitute nominee(s). We reserve the right to nominate additional person(s), to the extent this is not prohibited under the Code of Regulations and applicable law, if the Company increases the size of the Board above its existing size or increases the number of directors whose terms expire at the Annual Meeting. Additional nominations made pursuant to the preceding sentence are without prejudice to the position of GAMCO that any attempt to increase the size of the current Board constitutes an unlawful manipulation of the Company’s corporate machinery.

**WE URGE YOU TO VOTE FOR THE ELECTION OF OUR NOMINEE ON THE ENCLOSED BLUE PROXY CARD.**

PROPOSAL NO. 2

RATIFICATION OF THE APPOINTMENT OF ERNST & YOUNG LLP AS THE COMPANY'S INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

As discussed in further detail in the Company's proxy statement, the Audit Committee of the Board has preliminarily selected Ernst & Young LLP to serve as the Company's independent registered public accounting firm for the 2013 fiscal year and is proposing that shareholders ratify such appointment.

As disclosed in the Company's proxy statement, although shareholder ratification is not required under the laws of the State of Ohio, the Company is submitting the appointment of Ernst & Young LLP for ratification of the shareholders at the Annual Meeting. If the Company's shareholders do not ratify the appointment of Ernst & Young LLP, the Audit Committee will reconsider the appointment, but is not obligated to change the appointment and may for other reasons be unable to make another appointment.

WE RECOMMEND A VOTE "FOR" THE RATIFICATION OF THE APPOINTMENT OF ERNST & YOUNG LLP AS THE COMPANY'S INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM FOR THE 2013 FISCAL YEAR AND INTEND TO VOTE OUR SHARES "FOR" THIS PROPOSAL.



PROPOSAL NO. 3

APPROVAL OF ADVISORY VOTE ON EXECUTIVE COMPENSATION

As discussed in further detail in the Company's proxy statement, the Company is asking shareholders to indicate their support for the compensation of the Company's named executive officers. This proposal, commonly known as a "say-on-pay" proposal, is not intended to address any specific item of compensation, but rather the overall compensation of the Company's named executive officers and the philosophy, policies and practices described in the Company's proxy statement. Accordingly, the Company is asking shareholders to vote for the following resolution:

"RESOLVED, that the compensation paid to the Company's named executive officers, as disclosed pursuant to Item 402 of Regulation S-K, including the Compensation Discussion & Analysis, compensation tables, and narrative discussion is hereby APPROVED."

According to the Company's proxy statement, the say-on-pay vote is advisory only and not binding on the Company, the Compensation Committee of the Board or the Board.

WE RECOMMEND A VOTE "AGAINST" THE APPROVAL OF THE NON-BINDING RESOLUTION REGARDING EXECUTIVE COMPENSATION AND INTEND TO VOTE OUR SHARES "AGAINST" THIS PROPOSAL.

PROPOSAL NO. 4

APPROVAL OF ADOPTION OF PERFORMANCE BONUS PLAN

As discussed in further detail in the Company's proxy statement, the Compensation Committee of the Board has adopted the Performance Bonus Plan of Myers Industries, Inc. (the "Performance Bonus Plan"), subject to shareholder approval. Shareholder approval of the Performance Bonus Plan is necessary to ensure that certain compensation paid under the Performance Bonus Plan can be eligible for an exemption from the limits on tax deductibility imposed by Section 162(m) of the Internal Revenue Code. According to the Company's proxy statement, unless the Performance Bonus Plan is approved by the affirmative vote of the holders of shares having a majority of the voting power of all shares represented at a meeting duly held in accordance with Ohio law within 12 months after being approved by the Board, the Performance Bonus Plan and all awards made under the Performance Bonus Plan shall be void and of no force and effect.

WE RECOMMEND A VOTE "AGAINST" THE ADOPTION OF THE PERFORMANCE BONUS PLAN AND INTEND TO VOTE OUR SHARES "AGAINST" THIS PROPOSAL.

## VOTING AND PROXY PROCEDURES

Only shareholders of record on the Record Date will be entitled to notice of and to vote at the Annual Meeting. Shareholders who sell their shares of Common Stock before the Record Date (or acquire them without voting rights after the Record Date) may not vote such shares of Common Stock. Shareholders of record on the Record Date will retain their voting rights in connection with the Annual Meeting even if they sell such shares of Common Stock after the Record Date. Based on publicly available information, GAMCO believes that the only outstanding class of securities of the Company entitled to vote at the Annual Meeting is the shares of Common Stock.

Shares of Common Stock represented by properly executed BLUE proxy cards will be voted at the Annual Meeting as marked and, in the absence of specific instructions, will be voted FOR the election of the Nominee, FOR the ratification of Ernst & Young LLP as the Company's independent registered public accounting firm for the 2013 fiscal year, AGAINST the approval of the Say-on-Pay Proposal, and AGAINST the approval of the Performance Bonus Plan, as described herein.

According to the Company's proxy statement for the Annual Meeting, the current Board intends to nominate nine candidates for election as directors at the Annual Meeting. This Proxy Statement is soliciting proxies to elect our Nominee. Shareholders who vote on the enclosed BLUE proxy card will also have the opportunity to vote for the candidates who have been nominated by the Company other than Richard P. Johnston. Shareholders will therefore be able to vote for the total number of directors up for election at the Annual Meeting. Under applicable proxy rules we are required either to solicit proxies only for our Nominee, which could result in limiting the ability of shareholders to fully exercise their voting rights with respect to the Company's nominees, or to solicit for our Nominee while also allowing shareholders to vote for fewer than all of the Company's nominees, which enables a shareholder who desires to vote for our Nominee to also vote for certain of the Company's nominees. The names, backgrounds and qualifications of the Company's nominees, and other information about them, can be found in the Company's proxy statement. There is no assurance that any of the Company's nominees will serve as directors if our Nominee is elected.

### QUORUM; BROKER NON-VOTES; DISCRETIONARY VOTING

A quorum is the minimum number of shares of Common Stock that must be represented at a duly called meeting in person or by proxy in order to legally conduct business at the meeting. For the Annual Meeting, the presence, in person or by proxy, of the holders of at least 16,906,107 shares of Common Stock, which represents a majority of the 33,812,213 shares of Common Stock outstanding as of the Record Date, will be considered a quorum allowing votes to be taken and counted for the matters before the shareholders.

Abstentions are counted as present and entitled to vote for purposes of determining a quorum. Shares represented by "broker non-votes" also are counted as present and entitled to vote for purposes of determining a quorum. However, if you hold your shares in street name and do not provide voting instructions to your broker, your shares will not be voted on any proposal on which your broker does not have discretionary authority to vote (a "broker non-vote"). Under current NYSE rules, your broker will not have discretionary authority to vote your shares at the Annual Meeting on the proposals relating to the election of directors, the advisory vote on executive compensation and the approval of the Performance Bonus Plan, but will have discretionary authority to vote your shares on the proposal regarding the ratification of the Company's independent auditor.

If you are a shareholder of record, you must deliver your vote by mail or attend the Annual Meeting in person and vote in order to be counted in the determination of a quorum.

If you are a beneficial owner, your broker will vote your shares pursuant to your instructions, and those shares will count in the determination of a quorum. Brokers do not have discretionary authority to vote on any of the matters to be presented at the Annual Meeting. Accordingly, unless you vote via proxy card or provide instructions to your broker, your shares of Common Stock will not count for purposes of attaining a quorum.

#### VOTES REQUIRED FOR APPROVAL

**Election of Directors** According to the Company's proxy statement, the nine nominees for election as directors who receive the greatest number of votes cast will be elected as directors. With respect to the election of directors, neither an abstention nor a broker non-vote will count as a vote cast "for" or "against" a director nominee. Therefore, abstentions and broker non-votes will have no direct effect on the outcome of the election of directors.

**Other Proposals** According to the Company's proxy statement, Proposal No. 2, to ratify the appointment of the independent registered public accounting firm, is a non-binding proposal, but its approval requires the affirmative vote of the holders of a majority of the Common Stock represented in person or by proxy at the Annual Meeting. Abstentions will act as a vote "Against" Proposal No. 2, while broker non-votes, if any, will have no effect on Proposal No. 2. Even if the selection is ratified, the Audit Committee and the Board, in their discretion, may change the appointment at any time during the year if the Company determines that such a change would be in the best interests of the Company and its shareholders. Proposal No. 3 is a non-binding advisory vote to approve the Company's executive compensation, and its approval requires the affirmative vote of the holders of a majority of the Common Stock represented in person or by proxy at the Annual Meeting. Abstentions will act as a vote "Against" Proposal No. 3, while broker non-votes will have no effect on Proposal No. 3. Proposal No. 4, to approve the adoption of the Performance Bonus Plan, requires the affirmative vote of the holders of a majority of the Common Stock represented in person or by proxy at the Annual Meeting. Abstentions will act as a vote "Against" Proposal No. 4, while broker non-votes will have no effect on Proposal No. 4. If you sign and submit your BLUE proxy card without specifying how you would like your shares voted, your shares will be voted in accordance with GAMCO's recommendations specified herein and in accordance with the discretion of the persons named on the BLUE proxy card with respect to any other matters that may be voted upon at the Annual Meeting.

#### REVOCAION OF PROXIES

Shareholders of the Company may revoke their proxies at any time prior to exercise by attending the Annual Meeting and voting in person (although attendance at the Annual Meeting will not in and of itself constitute revocation of a proxy) or by delivering a written notice of revocation. The delivery of a subsequently dated proxy which is properly completed will constitute a revocation of any earlier proxy. The revocation may be delivered to GAMCO at the address set forth on the back cover of this Proxy Statement or to the Company at 1293 South Main Street, Akron, Ohio 44301 or any other address provided by the Company. Although a revocation is effective if delivered to the Company, we request that either the original or photostatic copies of all revocations be mailed to GAMCO at the address set forth on the back cover of this Proxy Statement so that we will be aware of all revocations and can more accurately determine if and when proxies have been received from the holders of record on the Record Date of a majority of the outstanding shares of Common Stock. Additionally, we may use this information to contact shareholders who have revoked their proxies in order to solicit later dated proxies for the election of the Nominee.

IF YOU WISH TO VOTE FOR THE ELECTION OF THE NOMINEE TO THE BOARD, PLEASE SIGN, DATE AND RETURN PROMPTLY THE ENCLOSED BLUE PROXY CARD IN THE POSTAGE-PAID ENVELOPE PROVIDED.

#### SOLICITATION OF PROXIES

The solicitation of proxies pursuant to this Proxy Statement is being made by GAMCO. It is anticipated that the Participants and certain staff members of GAMCO will participate in the solicitation of proxies in support of our Nominee set forth in this Proxy Statement. Such staff members will receive no additional consideration if they assist in the solicitation of proxies. Solicitations of proxies may be made in person, by telephone, by email, through the internet, by mail and by facsimile. Although no precise estimate can be made at the present time, it is estimated that the total expenditures in furtherance of, or in connection with, the solicitation of shareholders will not exceed \$25,000.

Costs related to this solicitation of proxies, including expenditures for attorneys, accountants, public relations and financial advisors, proxy solicitors, advertising, printing, transportation and related expenses will be borne by GAMCO. To the extent legally permissible, GAMCO will seek reimbursement from the Company for those expenses if any of our Nominees is elected. GAMCO does not currently intend to submit the question of such reimbursement to a vote of the shareholders.

#### ADDITIONAL PARTICIPANT INFORMATION

The Nominee, GAMCO and Mr. Gabelli are participants in this solicitation. The principal business of GAMCO, a New York corporation, is acting as an investment manager providing discretionary managed account services for employee benefit plans, private investors, endowments, foundations and others. GAMCO is an investment adviser registered under the Advisers Act. Mr. Gabelli is the controlling shareholder, Chief Executive Officer and a director of GGCP, Inc. and Chairman and Chief Executive Officer of GAMCO Investors, Inc. Mr. Gabelli is also a member of GGCP Holdings LLC and the controlling shareholder of Teton Advisors, Inc.

The address of the principal office of each of GAMCO and Mr. Gabelli is One Corporate Center, Rye, New York 10