

AMERICAN APPAREL, INC  
Form 10-K  
April 01, 2014  
Table of Contents

---

---

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

---

FORM 10-K

---

(Mark One)  
 Annual report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934  
For the fiscal year ended December 31, 2013  
or  
 Transition report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934  
For the transition period from \_\_\_\_\_ to \_\_\_\_\_  
Commission File Number 001-32697

---

American Apparel, Inc.  
(Exact name of registrant as specified in its charter)

---

Delaware  
(State of Incorporation)  
747 Warehouse Street  
Los Angeles, California 90021-1106  
(Address of principal executive offices) (Zip code)  
Registrant's telephone number, including area code: (213) 488-0226

20-3200601  
(I.R.S. Employer Identification No.)

Securities registered pursuant to Section 12(b) of the Act:  
Common Stock, par value \$0.0001 per share  
(Title of Each Class) NYSE MKT  
(Name of Each Exchange on Which Registered)  
Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No   
Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No   
Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No   
Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and

post such files). Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K   
Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definitions of "large accelerated filer", "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act:

Large accelerated filer

Accelerated filer

Non-accelerated filer  (Do not check if a smaller reporting company)

Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes  No

The aggregate market value of the voting and non-voting common equity held by non-affiliates of the registrant as of June 28, 2013 was approximately \$115,070,051 based upon the closing price of the common stock on such date as reported by the NYSE MKT.

The number of shares of the registrant's common stock issued and outstanding as of March 31, 2014 was approximately 175,108,823 and 173,377,302.

#### DOCUMENTS INCORPORATED BY REFERENCE

Portions of the proxy statement for the registrant's 2014 Annual Meeting of Stockholders (the "2014 Proxy Statement"), to be filed within 120 days of the end of the fiscal year ended December 31, 2013, are incorporated by reference into Part III herein. If the 2014 Proxy Statement is not filed in the 120-day period, the Items comprising the Part III information will be filed as an amendment to this Form 10-K not later than the end of the 120-day period. Except with respect to the information specifically incorporated by reference in Part III of this Form 10-K, the 2014 Proxy Statement is not deemed to be filed as part of this Form 10-K.

---

Table of Contents

**SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS**

This Annual Report on Form 10-K, including the documents incorporated by reference herein, contains forward-looking statements within the “safe harbor” provisions of the Private Securities Litigation Reform Act of 1995. All statements in this Annual Report on Form 10-K other than statements of historical fact are “forward-looking statements” for purposes of these provisions. Statements that include the use of terminology such as “may,” “will,” “expects,” “believes,” “plans,” “estimates,” “potential,” or “continue,” or the negative thereof or other and similar expressions are forward-looking statements. In addition, in some cases, you can identify forward-looking statements by words or phrases such as “trend,” “potential,” “opportunity,” “believe,” “comfortable,” “expect,” “anticipate,” “current,” “intention,” “es,” “position,” “assume,” “outlook,” “continue,” “remain,” “maintain,” “sustain,” “seek,” “achieve,” and similar expressions. Any statements that refer to projections of our future financial performance, our anticipated growth and trends in our business, our goals, strategies, focuses and plans, and other characterizations of future events or circumstances, including statements expressing general expectations or beliefs, whether positive or negative, about future operating results or the development of our products, and any statement of assumptions underlying any of the foregoing are forward-looking statements. Forward-looking statements in this report may include, without limitation, statements about:

- our future financial condition, results of operations, our plans and our prospects, expectations, goals and strategies for future growth, operating improvements and cost savings and the timing of any of the foregoing; our ability to make our debt service payments and remain in compliance or achieve compliance with financial covenants under our financing arrangements and obtain appropriate waivers or amendments with respect to any noncompliance;
- our liquidity and projected cash flows;
- our plan to make continued investments in advertising and marketing;
- our growth, expansion and acquisition prospects and strategies, the success of such strategies, and the benefits we believe can be derived from such strategies;
- the outcome of investigations, enforcement actions and litigation matters, including exposure, which could exceed expectations;
- our intellectual property rights and those of others, including actual or potential competitors, our personnel, consultants, and collaborators;
- operations outside the United States;
- trends in raw material costs and other costs both in the industry and specific to the Company;
- the supply of raw materials and the effects of supply shortages on our financial condition, results of operations and cash flows;
- economic and political conditions;
- overall industry and market performance;
- the impact of accounting pronouncements;
- our ability to regain and maintain compliance with the listing requirements of NYSE MKT, LLC;
- our ability to improve manufacturing efficiency at our production facilities;
- our ability to improve efficiency and control costs at our distribution facility located in La Mirada, California and successful operation of that facility;
- management's goals and plans for future operations; and
- other assumptions described in this Annual Report on Form 10-K underlying or relating to any forward-looking statements.

The forward-looking statements in this report speak only as of the date of this report and caution should be taken not to place undue reliance on any such forward-looking statements, which are qualified in their entirety by this cautionary statement. Forward-looking statements are subject to numerous assumptions, events, risks, uncertainties and other factors, including those that may be outside of our control and that change over time. As a result, actual results and/or the timing of events could differ materially from those expressed in or implied by the forward-looking statements and future results could differ materially from



Table of Contents

historical performance. Such assumptions, events, risks, uncertainties and other factors include, among others, those described under Part I, Item 1A and elsewhere in this report, as well as in other reports and documents we file with the United States Securities and Exchange Commission (the "SEC") and include, without limitation, the following:

- our ability to generate or obtain from external sources sufficient liquidity for operations and debt service;
- our financial condition, operating results and projected cash flows;
- consequences of our significant indebtedness, including our relationships with our lenders and our ability to comply with our debt agreements and generate cash flow to service our debt;
- our ability to generate cash flow to service our debt and the risk of acceleration of borrowings thereunder as a result of noncompliance;
- disruptions in the global financial markets;
- our ability to regain and maintain compliance with the exchange rules of NYSE MKT, LLC;
- adverse changes in our credit ratings and any related impact on financial costs and structure;
- continued compliance with U.S. and foreign government regulations, legislation and regulatory environments, including environmental, immigration, labor and occupational health and safety laws and regulations;
- loss of U.S. import protections or changes in duties, tariffs and quotas and other risks associated with international business including disruption of markets and foreign supply sources, changes in import and export laws, currency restrictions, and currency exchange rate fluctuations;
- the highly competitive and evolving nature of our business in the U.S. and internationally;
- changes in the level of consumer spending or preferences or demand for our products;
- our ability to pass on the added cost of raw materials and labor to customers;
- our ability to attract customers to our stores;
- the availability of store locations at appropriate terms and our ability to identify locations and negotiate new store leases effectively and to open new stores and expand internationally;
- loss or reduction in sales to our wholesale or retail customers or financial nonperformance by our wholesale customers;
- risks that our suppliers or distributors may not timely produce or deliver our products;
- changes in the cost of materials and labor, including increases in the price of raw materials in the global market and increases in minimum wages;
- our ability to effectively carry out and manage our strategy, including growth and expansion both in the U.S. and internationally;
- technological changes in manufacturing, wholesaling, or retailing;
- our ability to successfully implement our strategic, operating, financial and personnel initiatives;
  - changes in key personnel, our ability to hire and retain key personnel, and our relationship with our employees;
- our ability to maintain the value and image of our brand and protect our intellectual property rights;
- our ability to improve manufacturing efficiency at our production facilities;
- our ability to operate our distribution facility located in La Mirada, California without further unanticipated costs or, negative sales impacts, including the ability to achieve, as and when planned, labor cost reductions;
- location of our facilities in the same geographic area;
- risks associated with our foreign operations and foreign supply sources, such as disruption of markets, changes in import and export laws, currency restrictions, and currency exchange rate fluctuations;
- the risk, including costs and timely delivery issues associated therewith, that information technology systems changes may disrupt our supply chain or operations and could impact our cash flow and liquidity, and our ability to upgrade our information technology infrastructure and other risks associated with the systems that operate our online retail operations;
- our ability to effectively manage inventory levels;
- our ability to renew leases at existing locations on economic terms;

Table of Contents

risks associated with the recent downturn in apparel spending in the United States;  
litigation and other inquiries and investigations, including the risks that we, our officers, or directors in cases where indemnification applies, will not be successful in defending any proceedings, lawsuits, disputes, claims or audits, and that exposure could exceed expectations or insurance coverages;  
tax assessments by domestic or foreign governmental authorities, including import or export duties on our products and the applicable rates for any such taxes or duties;  
the adoption of new accounting standards or changes in interpretations of accounting principles;  
• seasonality and fluctuations in comparable store sales and wholesale net sales, and associated margins;  
general economic conditions, including increases in interest rates, geopolitical events, other regulatory changes and inflation or deflation;  
disruptions due to severe weather or climate change; and  
disruptions due to earthquakes, flooding, tsunamis or other natural disasters.

All forward-looking statements included in this document are made as of the date hereof, based on information available to us as of the date hereof, and we assume no obligation to update any forward-looking statement.

---

Table of Contents

American Apparel, Inc.

ANNUAL REPORT ON FORM 10-K  
FOR THE YEAR ENDED DECEMBER 31, 2013

TABLE OF CONTENTS

	PART I	<u>6</u>
Item 1.	<u>Business</u>	<u>6</u>
Item 1A.	<u>Risk Factors</u>	<u>13</u>
Item 2.	<u>Properties</u>	<u>24</u>
Item 3.	<u>Legal Proceedings</u>	<u>29</u>
Item 4.	Mine Safety Disclosures	<u>32</u>
	PART II	<u>32</u>
Item 5.	<u>Market for Registrant’s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities</u>	<u>32</u>
Item 6.	<u>Selected Financial Data</u>	<u>34</u>
Item 7.	<u>Management’s Discussion and Analysis of Financial Condition and Results of Operation</u>	<u>35</u>
Item 7A.	<u>Quantitative and Qualitative Disclosures and Market Risks</u>	<u>56</u>
Item 8.	<u>Financial Statements</u>	<u>60</u>
Item 9.	<u>Changes in and Disagreements with Accountants on Accounting and Financial Disclosures</u>	<u>105</u>
Item 9A.	<u>Controls and Procedures</u>	<u>105</u>
Item 9B.	Other Information	<u>107</u>
	PART III	<u>108</u>
Item 10.	<u>Directors, Executive Officers and Corporate Governance</u>	<u>108</u>
Item 11.	<u>Executive Compensation</u>	<u>108</u>
Item 12.	<u>Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters</u>	<u>108</u>
Item 13.	<u>Certain Relationships and Related Transactions and Director Independence</u>	<u>108</u>

Item 14.	<u>Principal Accountant Fees and Services</u>	<u>108</u>
	PART IV	<u>109</u>
Item 15.	<u>Exhibits and Financial Statement Schedules</u>	<u>109</u>

---



Table of Contents

PART I

Item 1. Business

Unless the context indicates otherwise, when we refer to “we”, “us”, “our”, “American Apparel” or the “Company” in this Form 10-K, we are referring to American Apparel, Inc. and its subsidiaries on a consolidated basis. Our year ends on December 31 and references to fiscal 2013, fiscal 2012 and fiscal 2011 refer to the years ended December 31, 2013, 2012 and 2011, respectively. In addition, all amounts in this Form 10-K are presented in thousands, except for per share items and unless otherwise specified.

Overview

We are a vertically integrated manufacturer, distributor, and retailer of branded fashion basic apparel and accessories for women, men, children and babies. We are based in downtown Los Angeles, California. As of February 28, 2014, we had approximately 10,000 employees and operated 246 retail stores in 20 countries: the United States, Canada, Mexico, Brazil, United Kingdom, Ireland, Austria, Belgium, France, Germany, Italy, Netherlands, Spain, Sweden, Switzerland, Israel, Australia, Japan, South Korea, and China. We also operate an e-commerce website with 12 different localized online stores in seven languages that serves customers from 30 countries worldwide at [www.americanapparel.com](http://www.americanapparel.com). In addition, American Apparel operates a leading wholesale business that supplies high quality T-shirts and other casual wear to distributors and the imprintable industry.

We conduct our primary apparel manufacturing operations out of an 800,000 square foot facility in the warehouse district of downtown Los Angeles, California. The facility houses our executive offices, as well as cutting, sewing and warehousing operations. We conduct knitting operations in Los Angeles and Garden Grove, California, which produce a majority of the fabric we use in our products. We also operate dye houses that currently provide dyeing and finishing services for nearly all of the raw fabric used in production. We operate a fabric dyeing and finishing facility in Hawthorne, California. We also operate a cutting, sewing and garment dyeing and finishing facility located in South Gate, California. We operate a fabric dyeing and finishing facility located in Garden Grove, California, which also includes cutting, sewing and knitting operations. Since 2013 we have conducted our warehousing and distribution operations out of La Mirada, California.

Because we manufacture domestically and are vertically integrated, we believe this enables us to more quickly respond to customer demand and to changing fashion trends and to closely monitor product quality. Our products are noted for their quality and fit, and together with our distinctive branding these attributes have differentiated our products in the marketplace. “American Apparel®” is a registered trademark of American Apparel (USA), LLC. American Apparel was founded in 1998. Since inception, we have operated a wholesale business that supplies high quality T-shirts and other casual wear to distributors and the imprintable industry. In October 2003, we opened our first retail store in Los Angeles. In 2004, we began our online retail operations, and opened our first retail stores in Canada and Europe. Since 2005, we have opened stores in Asia, Australia, Israel, Latin America, and have further expanded throughout the United States, Canada, Europe, and Asia. All of our retail stores sell the Company's apparel products directly to consumers.

Business Segments

We report the following four operating segments: U.S. Wholesale, U.S. Retail, Canada, and International. We believe this method of segment reporting reflects both the way our business segments are managed and the way the performance of each segment is evaluated. The U.S. Wholesale segment consists of our wholesale operations of sales of undecorated apparel products to distributors and third party screen printers in the United States, as well as our online consumer sales to U.S. customers. The U.S. Retail segment consists of our retail store operations in the United States, which were comprised of 139 retail stores as of December 31, 2013. The Canada segment consists of our retail, wholesale and online consumer operations in Canada. As of December 31, 2013, the retail operations in the Canada segment were comprised of 32 retail stores. The International segment consists of our retail, wholesale and online consumer operations outside of the United States, and Canada. As of December 31, 2013, the retail operations in the International segment were comprised of 77 retail stores in the following 18 countries: the United Kingdom, Ireland, Austria, Belgium, France, Germany, Italy, the Netherlands, Spain, Sweden, Switzerland, Israel, Australia, Brazil,

Mexico, Japan, South Korea, and China.

The results of the respective business segments exclude corporate expenses, which consist of shared overhead costs. These costs are presented separately and generally include information technology, human resources, accounting and finance, executive management and legal. Financial information by segment, together with certain geographical information, for the fiscal years ended December 31, 2013, 2012 and 2011 is included in Note 17 - Business Segment and Geographic Area Information to our consolidated financial statements under Part II, Item 8.

## Table of Contents

### Core Business Strengths

American Apparel has relied on a number of core business strengths that we believe have contributed to our past success and will contribute to our future growth:

#### Design Vision

American Apparel's design vision and aesthetic are intended to appeal to young, metropolitan adults by providing them with a core line of iconic, timeless styles which are offered year-round in a wide variety of colors at reasonable prices. Since our founding, American Apparel has operated with the belief that there is a large potential market among young adults, for well-designed, high-quality fashion essentials. Led by Dov Charney, our founder and chief executive officer, our in-house creative team has carefully developed the product line based on this core belief.

#### Advertising and Branding

American Apparel attracts customers through internally-developed, edgy, high-impact, visual advertising campaigns which use print, outdoor, in-store, and electronic communication vehicles. These advertising campaigns communicate a distinct brand image that differentiates us from our competitors and seek to establish a connection with our customers. Our retail stores are an important part of the American Apparel branding and convey a modern, internationalist lifestyle. At various times, we have also drawn attention to the "Made in USA" nature of our products and the "Sweatshop Free" environment in which our garments are produced.

### Speed to Market

Our vertically integrated business model, with manufacturing and various other elements of our business processes centered in downtown Los Angeles, allows us to play a role in originating and defining new and innovative trends in fashion, while enabling us to quickly respond to market and customer demand for classic styles and new products. For our wholesale operations, being able to fulfill orders of any size with quick turn-around allows American Apparel to capture business. The ability to swiftly respond to the market means that our retail operations can deliver on-trend apparel in a timely manner and maximize sales of popular styles by replenishing product that would have otherwise sold out.

### Quality

American Apparel prides itself on its use of quality fabrics with quality construction. We have an active quality control department that oversees the in-house production of fabric at our knitting facilities, the outside knitting contractors who work to our strict specifications, and the cutting, sewing, dyeing and finishing of our garments at our Los Angeles area facilities. Because cutting and sewing operations are conducted mostly in-house, we believe we have the ability to exercise greater control over clothing manufacturing than competitors who use contract sewing facilities.

### Broad Appeal

While our marketing and products initially targeted young, metropolitan adults in the U.S., the clean, simple styles and quality of our garments creates a product that appeals to various demographics around the world. We believe that our product appeal has been augmented by, and should continue to benefit from, the growing trends toward casual attire and higher quality apparel.

### Growth Strategy

We have developed a growth strategy that is designed to capitalize on our core business strengths. The principal elements contributing to the success of this growth strategy are:

#### Store Expansion

Our long-term growth strategy and the success of our business depends in part on opening new American Apparel retail stores, the renewal of existing store leases on favorable terms that meet our financial targets, the remodeling of existing stores in a timely manner and the operation of these stores in a cost-efficient manner. We opened nine new stores and closed twelve stores in 2013. Over the long term, we plan to expand our presence in the U.S. and increase our store footprint in markets throughout Europe and Asia.

We evaluate potential store sites based on traffic patterns, co-tenancies, average sales per square foot achieved by neighboring stores, lease economics, demographic characteristics and other factors considered important regarding the

specific location.

**New Merchandise Introduction**

As we have expanded beyond our original product offering of T-shirts, we have increased the variety of products available to our growing customer base. We have strategically expanded our product offerings to include denim, sweaters, jackets and

7

---

Table of Contents

accessories, to name a few such categories. We also intend to judiciously introduce new merchandise to complement our existing products in order to attract new customers and increase the frequency of customer visits and the size of customer purchases.

**Web Business Refinement**

Our website operation represents a growth opportunity for American Apparel as it has the potential to not only increase online sales but also in-store sales. Improvements to the online shopping experience have contributed to our financial growth. In order to remain competitive, we intend to continue refining our online stores with improved functionality, personalized offers, increased service levels and visually optimized content as well as expanding our web presence in more countries and channels. We currently operate 12 e-commerce stores in seven languages that serve customers from 30 countries around the world.

**Continue In-Sourcing Manufacturing Activities**

We believe that having certain elements of our production process in-house affords us the opportunity to exert higher quality control while simultaneously lowering production costs. In the past we have made strategic acquisitions to consolidate our manufacturing operations and continue to produce high quality products. We may pursue strategic opportunities to further consolidate our operations while maintaining production in the United States; however, we have no such strategic opportunities identified and will not make any such strategic investments until we see a substantial improvement in our financial performance and financial condition.

**New Distribution Center**

In June 2012 we entered into a new operating lease agreement for a new distribution center located in La Mirada, California and fully transitioned our distribution operations into this new facility during 2013. Related to these efforts, we installed the High Jump warehouse management system for all distribution activities. Although we incurred significant transition costs and implementation delays associated with this transition, we believe that the new distribution center will contribute to processing efficiencies and effectiveness and will reduce operating expenses and cost of sales as it offers an improved distribution platform to scale both retail and wholesale sales channels. The transition to the new distribution center was successfully completed during the fourth quarter of 2013. The center is now fully operational, and labor costs have been reduced.

**Enhance Information Systems Infrastructure**

We successfully completed the first phase of an enterprise resources planning (“ERP”) system in 2008. This phase included the conversion of our systems for manufacturing and warehouse operations, inventory management and control and wholesale operations. After this first successful implementation, from 2009 through 2013, we have been upgrading and consolidating the financial accounting and control systems for our U.S., European and Canadian operations.

In 2011 we completed the implementation of workforce and labor scheduling optimization systems in all of our retail and manufacturing locations.

In 2012, we upgraded our production forecasting and allocation systems and as a result, enhanced our forecasting accuracy with Logility's demand planning solution.

From 2010 through 2013, we have been installing sales conversion tracking devices and radio frequency identification (RFID) at our stores and as of the end of 2013, achieved full implementation. We believe that these systems will enhance sales through improvements in stock positions and replenishment activities.

Additionally, during 2012, we replaced our web and e-commerce systems with Oracle's ATG Web Commerce application for our U.S. online store. As of the end of 2013, we have implemented this system for our Canada, United Kingdom, Europe (Euro zone countries), Australia, Hong Kong and Singapore online stores. We intend to implement this system to our remaining online stores by the middle of 2014. The new system offers a complete e-commerce software platform that speeds response times and enables us to deliver a personalized customer buying experience. In conjunction with the implementation of the Oracle ATG Web Commerce application, we replaced our existing payment processing system with new electronic payment services from CyberSource. In addition, we implemented a payment fraud detection solution. We intend to complete the upgrade of our payment processing system by the middle of 2014.

During 2012 and 2013 we successfully completed the virtualization of over 300 servers, including all our key servers. We plan to complete the virtualization of our servers and move our data center to an off-site location during 2014. We believe that this not only maximizes our server resources but will also enhance system performance and enable faster uptime in a disaster recovery situation.

8

---

## Table of Contents

### Execution of the Strategy

The execution of our growth strategy and internal initiatives may result in material additional costs.

Store expansion initiatives will require the opening of new retail locations and additional retail personnel. Investments in additional sales personnel to service new geographic territories will also be necessary to grow our wholesale distribution channel. Both of these initiatives will increase our occupancy and payroll expenses.

New merchandise introductions will require expenditures to design new products in existing and new categories, as well as incremental manufacturing costs associated with new products.

To support these and other initiatives, ongoing infrastructure investments may be required. In the intermediate term, this may include expenditures for machinery and equipment, upgraded information systems and additions to our management team.

In order to reduce the impact of these additional costs, we will continue to identify ways to improve the efficiency of our current manufacturing operations and enhance other operating processes.

### Manufacturing Operations

We conduct all of our manufacturing operations in the Los Angeles metropolitan area, and principally at our cutting and sewing facility in downtown Los Angeles. We also have knitting, garment dyeing, cutting and sewing operations at our South Gate and Garden Grove, California facilities.

Purchased yarn is sent to knitters to be knit into “greige” fabric, which is fabric that is not dyed or processed. We operate circular and flat knitting machines, which use jersey, piqué, fleece and ribbing to produce fabric using cotton and cotton/polyester yarns. We also utilize third-party commissioned knitters. As of December 31, 2013, our knitting facilities knit approximately 63% of the total greige fabric used in our garments and had approximately 84 employees. Knitted greige fabric produced by our Los Angeles and Garden Grove facilities, or by other commissioned knitters, is batched for bleaching and dyeing. The greige fabric is then transported to our dyeing and finishing facilities or other commissioned dye houses. In some cases, dyed fabric is transferred to subcontractors for fabric laundering.

As of December 31, 2013, our dyeing and finishing facilities in the Los Angeles metropolitan area dye approximately 99% of the dyed fabric used in our garments and had approximately 226 employees. Most fabric is shipped to our primary manufacturing facility in downtown Los Angeles, where it is inspected and then cut on manual and automated cutting tables, and subsequently sewn into finished garments. Approximately 19% of our fabric is purchased directly from third parties, along with all trims. Garments are sewn by teams of sewing operators typically ranging from ten to thirty operators, depending on the complexity of a particular garment. Each sewing operator performs a different sewing operation on a garment before passing it to the next operator. Sewing operators are compensated on a modified piece-rate basis. Quality control personnel inspect finished garments for defects and reject any defective product. We also manufacture certain hosiery products in-house at the downtown Los Angeles facility, where we do knitting and inspection. Washing, boarding and packaging is performed at our South Gate facility. As of December 31, 2013, approximately 3,835 employees were directly involved in the cutting, sewing, and hosiery operations at the downtown Los Angeles facility, as well as our South Gate and Garden Grove facilities.

We purchase yarn, certain fabrics and other raw materials from a variety of vendors during the course of a year. The inputs that we use are produced competitively by a large number of potential suppliers.

### Retail

As of December 31, 2013, our retail operations consisted of 248 retail stores in 20 countries, including the United States, Canada, Mexico, Brazil, United Kingdom, Ireland, Austria, Belgium, Germany, France, Italy, the Netherlands, Spain, Sweden, Switzerland, Israel, Australia, Japan, South Korea and China. Our retail operations principally target young adults aged 18 to 35 via our unique assortment of fashionable clothing, accessories and compelling in-store experience. We have established a reputation with our customers who are culturally sophisticated, creative, and independent-minded. Our product offerings include basic apparel and accessories for men and women, as well as apparel for children. Stores average approximately 2,500-3,000 square feet of selling space. Our stores are primarily located in large metropolitan areas, emerging neighborhoods, and select university communities.

We strive to instill enthusiasm and dedication in our store managers and sales associates through regular communication with the stores.

9

---



## Table of Contents

### Wholesale

Our wholesale operations sell to over a dozen authorized distributors and approximately 10,000 screen printers and advertising specialty companies. These screen printers and advertising specialty companies decorate our blank product with corporate logos, brands and other images. Our wholesale customers sell imprinted sportswear and accessories to a highly diversified range of end-consumers, including corporations, sporting venues, concert promoters, athletic leagues, and educational institutions, among others. In order to better serve customers, we allow customers to order products by the piece, by the dozen, or in full case quantities. We also, to a lesser extent, fulfill custom and private-label orders. We do not have any major customers that account for ten percent or more of our total consolidated net sales.

To serve our wholesale customers, we operate a call center out of our Los Angeles headquarters. The call center is staffed with approximately 50 customer service representatives initiating sales calls, answering incoming phone calls, emails and faxes, and assisting customers in placing orders, checking stock levels, looking for price quotes or requesting adjustments. During the second half of 2012, we moved one of our call centers from Neuss, Germany to Montreal, Canada.

While we operate primarily on a “make-to-stock” basis, manufacturing and maintaining a sufficient inventory of products to meet demand, our in-house manufacturing capacity also allows us to fulfill orders rapidly. Credit approved orders to be shipped by ground service are generally shipped the same day if the order is received before 7:30 pm Eastern time while those to be shipped by air are generally shipped the same day when received by 6:30 pm Eastern time. The majority of our wholesale and internet customer orders are processed within these parameters. For these reasons, we do not typically maintain a large backlog of orders.

### Online Consumer Sales

We currently have 12 different online stores in the United States, Canada, the United Kingdom, Continental Europe, Switzerland, Japan, South Korea, Australia, Mexico, Brazil, Singapore and Hong Kong. All online stores can be accessed at [www.americanapparel.com](http://www.americanapparel.com).

### Brand, Advertising, and Marketing

Our advertising and direct marketing initiatives have been developed to elevate brand awareness, facilitate customer acquisition and retention and support key growth strategies. Our in-house creative team works to create edgy, high-impact, provocative ads which are produced year-round and are sometimes featured in leading national and local lifestyle publications, on billboards, and on specialty online websites. We maintain a photo studio at our headquarters. Content for our website and online store are also generated in-house. While the primary intent of this advertising is to support our retail and online e-commerce operations, the wholesale business also benefits from the greater overall brand awareness generated by this advertising.

For our wholesale operations, we utilize industry trade shows to expand and enhance customer relationships, exhibit product offerings and share new promotions with customers. We participate in approximately two dozen trade shows annually. We also produce print catalogs of our wholesale products, designed to be of the standard of high-end consumer retail catalogs with attractive models, appealing photographs and a clear display of products.

### Product Development

We employ an in-house staff of designers and creative professionals to develop updated versions of timeless, iconic styles. Led by our chief executive officer, Dov Charney, this team takes its inspiration from classic styles of the past, as well as the latest emerging fashion trends. Our design team will often continue to update or renew a style long after its launch.

### Intellectual Property

Our trademarks and service marks, and certain other trademarks, have been registered, or are the subject of pending trademark applications with the United States Patent and Trademark Office and with the registries of many foreign countries and/or are protected by common law. In the United States, we are the registered owner of the “American Apparel®,” “Classic Girl®,” “Standard American®,” “Classic Baby®” and “Sustainable Edition®” trademarks, among others.

We have

licensed certain logos and designs from third-parties for use in products featuring those logos and designs, but there is no

licensed intellectual property which accounts for a material portion of our products or revenues.

10

---

## Table of Contents

### Competition

The specialty retail, online retail and wholesale apparel businesses are each highly competitive. The apparel industry is characterized by rapid shifts in fashion, consumer demand, and competitive pressures, resulting in both price and demand volatility. We believe that our emphasis on quality fashion essentials mitigates these factors.

Our retail operations compete on the basis of store location, the breadth, quality, style, and availability of merchandise, the level of customer service offered, and the price of goods for similar brand name quality. While we believe that the fit and quality of our garments as well as the broad variety of colors and styles of casual fashion essentials that we offer help differentiate us, we compete against a wide variety of smaller, independent specialty stores, as well as department stores and national and international specialty chains. Companies that operate in this space include, but are not limited to: The Gap, Urban Outfitters, H&M, Uniqlo and Forever 21. Many of these companies have greater financial, marketing, and other resources when compared to American Apparel.

The wholesale business competes with numerous wholesale companies based on the quality, fashion, availability, and price of our wholesale product offering. These companies include Gildan Activewear, HanesBrands, Russell Athletic and Fruit of the Loom. Many of these companies have greater name recognition than American Apparel in the wholesale market. Many of these companies also have greater financial and other resources when compared to American Apparel.

Along with the competitive factors noted above, other key competitive factors for American Apparel's online e-commerce operations include the success or effectiveness of customer mailing lists, social media acceptance, advertising response rates, merchandise delivery, web site design and web site availability. The online e-commerce operations compete against numerous web sites, many of which may have a greater volume of web traffic, and greater financial, marketing, and other resources.

### Seasonality

We experience seasonality in our operations. Historically, sales during the third and fourth fiscal quarters have generally been the highest, with sales during the first fiscal quarter the lowest. This reflects the combined impact of the seasonality of the wholesale and retail segments. Generally, our retail segment has not experienced the same pronounced sales seasonality as other retailers.

### Employees

As of December 31, 2013, we employed a work force of approximately 10,000 employees worldwide. To ensure our long-term success, we must attract, hire, develop, and retain skilled manufacturing, retail, sales, creative, and administrative employees, as well as executives. Competition for such employees can be intense.

We view our employees as long-term investments and adhere to a philosophy of providing employees with good working conditions in a technology-driven environment which allows us to attain improved efficiency, while promoting employee loyalty. We provide a compensation structure and benefits package for manufacturing employees that includes above-market wages, company-subsidized health insurance, free massage, free parking, as well as other benefits. We also provide for a well-lit working environment that is properly ventilated and heated or cooled in our manufacturing facilities. We believe these factors are key elements in achieving our desire to be an "employer of choice" in the Los Angeles area. None of our employees are covered by a collective bargaining agreement. We believe that our relations with our employees are excellent. We make diligent efforts to comply with all employment and labor regulations, including immigration laws, in the many jurisdictions in which we conduct operations. See "Risk Factors—We are subject to customs, advertising, consumer protection, zoning and occupancy and labor and employment laws that could require us to modify our current business practices and incur increased costs." and "Risk Factors—Litigation exposure could exceed expectations and have a material adverse effect on our financial condition and results of operations." in Part I, Item 1A.

### Information Technology

We are committed to utilizing technology to enhance our competitive position. Our information systems provide data for production, merchandising, distribution, retail stores and financial systems. Our core business systems, which consist of both purchased and, to a much lesser degree, internally developed software, are accessed over a company-wide network providing corporate employees with access to key business applications. We dedicate a significant portion of our information technology resources to web services, which include the operation of our

corporate website at [www.americanapparel.net](http://www.americanapparel.net) and our online retail site at [www.americanapparel.com](http://www.americanapparel.com).

To support continued growth, we have initiated a strategic review of our information systems. We implemented an ERP system that replaced, enhanced and integrated many elements of our existing information systems. In 2013, we completed a financial system consolidation for our Canadian, Japan and Australian operations; replaced our web and e-commerce systems with Oracle's ATG Web Commerce application for our Canada, United Kingdom, Europe (Euro countries), Australia, Hong Kong

Table of Contents

and Singapore online stores; and installed the High Jump warehouse management system for all distribution activities at our La Mirada distribution center.

Environmental Regulation

Our operations are subject to various environmental and occupational health and safety laws and regulations. Because we monitor, control and manage environmental issues, we believe we are in compliance in all material respects with the regulatory requirements of those jurisdictions in which our facilities are located. In line with our commitment to the environment as well as to the health and safety of our employees, we will continue to make expenditures to comply with these requirements, and do not believe that compliance will have a material adverse effect on our business. See "Risk Factors - Current environmental laws, or laws enacted in the future, may harm our business." in Part I, Item 1A.

Available Information

We will make available on our website, [www.americanapparel.net](http://www.americanapparel.net), under "Investor Relations" free of charge, our annual reports on Form 10-K, as well as the latest quarterly reports on Form 10-Q, the latest reports on Form 8-K, the latest proxy statements and amendments to those documents as soon as reasonably practicable after we electronically file or furnish such materials to the SEC. You can also obtain copies of these materials at prescribed rates by writing to the Public Reference Section of the SEC at 100 F Street, N.E., Washington, D.C. 20549. You can obtain information on the operation of the public reference facilities by calling the SEC at 1-800-SEC-0330. The SEC also maintains a website at [www.sec.gov](http://www.sec.gov) that makes available reports, proxy statements and other information regarding American Apparel that we file electronically with it. By referring to our corporate website, [www.americanapparel.net](http://www.americanapparel.net), and our online retail website, [www.americanapparel.com](http://www.americanapparel.com), we do not incorporate these websites or their contents into this Form 10-K.

Table of Contents

Item 1A. Risk Factors

We have substantial indebtedness, which could have adverse consequences to us, and we may not be able to generate sufficient cash flow to fund our liquidity needs, including servicing our indebtedness.

We currently have substantial indebtedness. Our level of indebtedness has important consequences to us and to you and your investment. For example, our level of indebtedness may:

require us to dedicate a substantial portion of our cash flow from operations to pay interest and principal on our debt, which would reduce the funds available to use for operations, investments, future business opportunities and other general corporate purposes;

make it more difficult for us to satisfy our debt obligations, and any failure to comply with such obligations, including financial and other restrictive covenants, could result in an event of default or an inability to borrow under the agreements governing such indebtedness;

in the case of a default or an event of default, as applicable, lead to, among other things, cross-defaults with our other indebtedness, an acceleration of our indebtedness or foreclosure on the assets securing our indebtedness, which could have a material adverse effect on our business or financial condition;

limit our ability to obtain additional financing, or to sell assets to raise funds, if needed, for working capital, capital expenditures, expansion plans and other investments, which may limit our ability to implement our business strategy;

result in higher interest expense if interest rates increase on our floating rate borrowings;

place us at a competitive disadvantage relative to others in the industry as it is not common for companies involved in the retail apparel business to operate with such high leverage;

heighten our vulnerability to downturns in our business, the industry or in the general economy and limit our flexibility in planning for or reacting to changes in our business and the retail industry; or

reduce our ability to carry out our plans to expand our store base, product offerings and sales channels.

Our ability to service our indebtedness is dependent on our ability to generate cash from internal operations sufficient to make required payments on such indebtedness, which is, to a significant extent, subject to general economic, financial, competitive, legislative, regulatory and other factors that are beyond our control, some of which factors are further described in this “Risk Factors” section. We are permitted by the terms of our indebtedness, including our senior secured notes and the Capital One Credit Facility (as defined below), to incur additional indebtedness, subject to the restrictions therein. We have experienced negative cash flows from operating activities in the past, and our business may not generate sufficient cash flow from operations to enable us to service our indebtedness or to fund our other liquidity needs. Such event could have a material adverse effect on us and we may need to take various actions, which also could have material adverse consequences to us, including seeking to refinance all or a portion of our indebtedness, seeking additional debt or equity financing or reducing or delaying capital expenditures, strategic acquisitions or investments, and we may not be able to do so on commercially reasonable terms or at all.

The terms of our indebtedness contain various covenants that may limit our business activities, and our failure to comply with these covenants could have material adverse consequences to us.

The terms of our indebtedness contain, and our future indebtedness may contain, various restrictive covenants that limit our management's discretion in operating our business. In particular, these agreements include, or may include, covenants relating to limitations on:

dividends on, and redemptions and repurchases of, capital stock;

payments on subordinated debt;

liens and sale-leaseback transactions;

loans and investments;

debt and hedging arrangements;

mergers, acquisitions and asset sales;

transactions with affiliates;

disposals of assets;

changes in business activities conducted by us and our subsidiaries; and

capital expenditures, including to fund future store openings.

Under the Capital One Credit Facility, we were in violation of certain covenants for the twelve consecutive fiscal months ended September 30, 2013 and December 31, 2013, and we anticipated a violation for the twelve months ended March 31, 2014.

On November 14, 2013, we entered into a third amendment to the Capital One Credit Facility, which among other things, waived the obligation to maintain a minimum fixed charge coverage ratio and a maximum leverage ratio for the twelve consecutive fiscal month period ending September 30, 2013. As a condition to the waiver, we agreed to a one percentage point increase in the interest rate to either LIBOR plus 4.5% or the bank's prime rate plus 3.5% (at our option) and limitations on

Table of Contents

amounts available to be borrowed, consisting of the imposition of a reserve against the line that gradually reduced the total borrowing capacity to \$47,500 and certain amendments to the borrowing base calculation.

On March 25, 2014, we entered into a fifth amendment to the Capital One Credit Facility which, effective upon its receipt of at least \$25,000 of net proceeds from a financing prior to April 15, 2014, among other things: waives the obligation to maintain the minimum fixed charge coverage and maximum leverage ratios for the three month periods ended December 31, 2013 and March 31, 2014; resets for future periods the fixed charge coverage ratio, the maximum leverage ratio and the maximum capital expenditures allowed; adds a minimum EBITDA covenant; increases the interest rate payable under the credit agreement by 0.5% per annum to either LIBOR plus 5.0% or the bank's prime rate plus 4.0% (at our option); and increases the fees payable upon early termination.

Under the indenture governing our senior secured notes, a special interest trigger event occurred as of December 31, 2013 because our consolidated total net leverage ratio, as calculated under the indenture, exceeded 4.50 to 1.00. As a result, interest on the senior secured notes now accrues at a rate of 15% annum, with the interest in excess of 13% per annum payable in-kind for any interest payment date prior to April 15, 2018 and in cash for any interest payment date thereafter. The additional 2% per annum of interest accrues retroactively from the issue date of the senior secured notes. Similarly, because of the special interest trigger event, the interest rate on the Lion Loan Agreement also increased from 18% to 20% per annum with the additional 2% payable retroactively from the date of the loan agreement. Interest under the loan agreement is payable in cash or, to the extent permitted by our other debt agreements, in-kind. We are currently paying the interest under the Lion Loan Agreement in cash as the terms of our other debt agreements do not currently permit payment in-kind.

In addition, our credit agreements contain, and any future credit agreements or loan agreements may contain, certain financial and maintenance covenants, including covenants relating to our capital expenditures, fixed charge coverage, borrowing availability and leverage, some of which may be tied to consolidated EBITDA, in each case as defined in the applicable debt agreements.

Such restrictive and other covenants could limit our ability to respond to market conditions, to provide for unanticipated capital requirements or to take advantage of business or acquisition opportunities.

In addition, our failure to comply with the various covenants under our indebtedness could have material adverse consequences to us. Such failure may result in our being unable to borrow under our revolving credit facility, which we utilize to access our working capital, and as a result may adversely affect our ability to finance our operations or pursue our expansion plans. Our debt agreements contain cross-default or cross-acceleration provisions by which non-compliance with covenants, or the acceleration of other indebtedness of at least a specified outstanding principal amount, could also constitute an event of default under such debt agreements. Accordingly, such a failure could result in the acceleration of all of our outstanding debt, and may adversely affect our ability to obtain financing that may be necessary to effectively operate our business and grow the business going forward. In addition, substantially all of our assets are used to secure our indebtedness, including loans under our credit agreements, our senior secured notes and certain equipment leasing agreements. In the event of a default on these agreements, substantially all of our assets could be subject to liquidation by the creditors, which liquidation could result in no assets being left for the stockholders after the creditors receive their required payment. In such an event, we would be required to seek alternative sources of liquidity, and there can be no assurance that any alternative source of liquidity would be available on terms acceptable to us, or at all.

Fluctuations in our results of operations from quarter to quarter could have a disproportionate effect on our overall financial condition and results of operations.

We experience seasonal fluctuations in revenues and operating income. Historically, sales during the third and fourth fiscal quarters have generally been the highest, with sales during the first fiscal quarter being the lowest. Any factors that harm our third or fourth quarter operating results, including adverse weather or unfavorable economic conditions, could have a disproportionate effect on our results of operations for the entire fiscal year.

In order to prepare for our peak selling season, we must produce and keep in stock more merchandise than we would carry at other times of the year. Any unanticipated decrease in demand for our products during our peak selling season could require us to sell excess inventory at a substantial markdown, which could reduce our net sales and gross profit.



A variety of factors affect comparable store sales, including fashion trends, competition, current economic conditions, pricing, inflation, the timing of release of new merchandise and promotional events, changes in our merchandise mix, the success of marketing programs, timing and level of markdowns and weather conditions. These factors may cause our comparable store sales results to differ materially from prior periods and from our expectations, which could cause a decrease in our earnings.

Table of Contents

Significant fluctuations in exchange rates between the U.S. dollar and foreign currencies may adversely affect our revenues, operating income, net income and earnings per share, as well as future cash flows.

We face exposure to adverse movements in foreign currency exchange rates as a result of our international operations. These exposures may change over time, and they could have a material adverse impact on our financial results and cash flows. An increase in the value of the U.S. dollar relative to foreign currencies could make our products more expensive and therefore potentially less competitive in foreign markets. Conversely, lowering our price in local currency may result in lower U.S.-based revenue. A decrease in the value of the U.S. dollar relative to foreign currencies could increase the cost of local operating expenses.

Our stock price may be volatile.

Our stock price may fluctuate substantially as a result of quarter to quarter variations in our actual or anticipated financial results or the financial results of other companies in the retail and apparel industries. In addition, the stock market has experienced price and volume fluctuations that have affected the market price of many retail and other stocks and that have often been unrelated or disproportionate to the operating performance of these companies. Failure to meet the expectations of investors, security analysts or credit rating agencies in one or more future periods could reduce the market price of our common stock and cause our credit ratings to decline. In addition, the fluctuation of our stock price also could cause us to fail to meet listing standards on the NYSE MKT if our stock price trades at a low price per share for a substantial period of time and we fail to effect a reverse split of our shares.

If we are unable to maintain the listing of the common stock on the NYSE MKT or any other securities exchange, it may be more difficult for you to sell your securities.

The common stock is currently traded on the NYSE MKT. On February 28, 2014, we received a letter from NYSE MKT indicating that we are not in compliance with the continued listing standards of NYSE MKT set forth in Section 1003(a)(iv) of the NYSE MKT LLC Company Guide. In order to maintain its listing, we have submitted a plan of compliance by addressing how we intend to regain compliance with Section 1003(a)(iv) of the Company Guide by April 15, 2014. If the plan is accepted, we may be able to continue our listing but will be subject to periodic review by NYSE MKT. If the plan is not accepted or if we do not make progress consistent with the plan by April 15, 2014, NYSE MKT will initiate delisting proceedings as appropriate. No assurance can be given that we will regain compliance with those listing requirements or that we will continue to meet the listing requirements of NYSE MKT in the future. If for any reason the NYSE MKT should delist the common stock, and we are unable to obtain listing on another national securities exchange, we could face significant material adverse consequences, including:

- limited availability of market quotations for our securities;
- limited amount of news and analyst coverage;
- decreased ability to issue additional securities or obtain additional financing in the future; and
- a determination that the common stock is a “penny stock,” if the securities sell for a substantial period of time at a low price per share which would require brokers trading in the common stock to adhere to more stringent rules, possibly resulting in a reduced level of trading activity in the secondary trading market for the common stock.

There will be a substantial number of shares of our common stock available for issuance or sale in the future that would result in dilution to existing public stockholders, may increase the volume of common stock available for sale in the open market and may cause a decline in the market price of our common stock.

Dov Charney and our warrant-holders currently own or have the right to acquire a substantial number of shares of our common stock. As of December 31, 2013, Mr. Charney owned 47.2 million shares of our common stock and has the contractual right to receive, upon the satisfaction of certain performance conditions or stock price thresholds, up to an additional 25.0 million shares of our common stock. We also have outstanding warrants exercisable to purchase an aggregate of 21.6 million shares of our common stock. Mr. Charney and Lion Capital LLP (“Lion”) also have certain registration rights with respect to their shares of common stock (in the case of Lion, the shares underlying its warrants).

As of December 31, 2013 assuming (i) issuance in full of the shares of common stock that Mr. Charney has a right to purchase or receive as described above, (ii) exercise in full of the warrants described above (including new warrants issuable to Lion if such shares are issued to Mr. Charney), (iii) exercise in full of currently outstanding employee options to purchase, vesting of unvested restricted stock awards, including issuance of contingent employee restricted

stock awards and options, with respect to a total of 25.0 million shares of common stock and (iv) no other issuances of common stock or securities convertible, exercisable or exchangeable for common stock, the percentage ownership of stockholders other than Mr. Charney, the Investors (as defined below), and holders of outstanding warrants as described above would be reduced from approximately 45% to approximately 30%.

Table of Contents

Voting control by our executive officers, directors, lenders and other affiliates may limit your ability to influence the outcome of director elections and other matters requiring stockholder approval.

As of March 31, 2014, Mr. Charney beneficially owned approximately 27% of our outstanding common stock and Lion beneficially owned approximately 12% of our outstanding common stock. Mr. Charney and Lion also have the right to acquire additional beneficial ownership under certain circumstances as described above.

In addition, Mr. Charney and Lion are parties to an investment agreement pursuant to which Lion has the right to designate up to two directors on our Board of Directors and a board observer (or, if we increase our board size to 12, up to three directors and no board observers), subject to maintaining certain minimum ownership thresholds of common stock or shares of common stock issuable under Lion's warrants. The investment agreement also restricts us from increasing the size of our Board of Directors to more than 10 directors (or 13 directors in the event we elect to increase the size of our Board of Directors to 12 directors as described above). The two Lion designees on our board of directors and Lion's board observer resigned on March 30, 2011. Lion retains its ability to re-designate directors to our board of directors and a board observer.

Mr. Charney and Lion also are parties to an investment voting agreement which provides that, for so long as Lion has the right to designate any person or persons to the Board of Directors, Mr. Charney will vote his shares of common stock in favor of Lion's designees, and Lion will vote its shares of common stock in favor of Mr. Charney and each other designee of Mr. Charney, in each case subject to Mr. Charney maintaining certain minimum ownership thresholds of common stock.

This concentration of share ownership and agreements may adversely affect the trading price for the common stock because investors often perceive disadvantages in owning stock in companies with controlling stockholders. Also, some or all of our significant stockholders, if they were to act together, would be able to control our management and affairs and matters requiring stockholder approval, including the election of directors and the approval of significant corporate transactions, such as mergers, consolidations or the sale of substantially all of our assets. Consequently, this concentration of ownership may have the effect of delaying or preventing a change of control, including a merger, consolidation or other business combination involving us, or discouraging a potential acquirer from making a tender offer or otherwise attempting to obtain control, even if that change of control would benefit our other stockholders and may prevent our stockholders from realizing a premium over the current market price for their shares of common stock. Furthermore, our significant stockholders may also have interests that differ from yours and may vote their shares of common stock in a way with which you disagree and which may be adverse to your interests.

Purchases of retail apparel merchandise are generally discretionary and economic conditions may cause a decline in consumer spending which could adversely affect our business and financial performance.

Our operations and performance depend significantly on worldwide economic conditions and their impact on levels of consumer spending, particularly in discretionary areas such as fashion apparel. Our business and financial performance, including our sales and the collection of our accounts receivable, may be adversely affected by any future decreases in economic activity in the markets we serve that could potentially cause a decline in consumer spending, including a reduction in the availability of credit, increased unemployment levels, higher fuel and energy costs, rising interest rates, adverse conditions in the housing markets, financial market volatility, recession, decreased access to credit, reduced consumer confidence in future economic conditions and political conditions, acts of terrorism, consumer perceptions of personal well-being and security and other macroeconomic factors affecting consumer spending behavior. A decrease in consumer discretionary spending as a result of economic conditions may decrease the demand for our products. In addition, reduced consumer spending may cause us to lower prices, or drive us to offer additional products at promotional prices, any of which would have a negative impact on gross profit. Our ability to meet customers' demands depends, in part, on our ability to obtain timely and adequate delivery of materials, parts and components from our suppliers. Global financial conditions may materially and adversely affect the ability of our suppliers to obtain financing for significant purchases and operations. If certain key suppliers were to become capacity constrained or insolvent as a result of the financial crisis, it could result in a reduction or interruption in supplies or a significant increase in the price of supplies and adversely impact consumer purchases and our financial results. As a consequence, our operating results for a particular period are difficult to predict, and, therefore, prior results are not necessarily indicative of results to be expected in future periods. Any of the foregoing effects

could have a material adverse effect on our business, results of operations, and financial condition and could adversely affect our stock price.

If we are unable to gauge fashion trends and react to changing consumer preferences in a timely manner, our sales will decrease.

Our success is largely dependent upon our ability to gauge the fashion tastes of our customers and to provide merchandise that satisfies customer demand in a timely manner. The retail apparel business fluctuates according to changes in consumer preferences dictated, in part, by fashion and season. To the extent we misjudge the market for our merchandise or the products suitable for our market, our sales will be adversely affected. Merchandise misjudgments could have a material adverse effect

Table of Contents

on our image with our customers and on our operating results. Fluctuations in the apparel retail market affect the inventory owned by apparel retailers, since merchandise usually must be manufactured in advance of the season and frequently before fashion trends are evidenced by customer purchases. In addition, the cyclical nature of the retail apparel business requires us to carry a significant amount of inventory, especially prior to peak selling seasons when we build up our inventory levels. As a result, we will be vulnerable to demand and pricing shifts and to suboptimal selection and timing of merchandise production. If sales do not meet expectations, too much inventory may lower planned margins. Our brand image may also suffer if customers believe we are no longer able to offer the latest fashion. The occurrence of these events could adversely affect our financial results by decreasing sales.

Our failure to adequately protect our trademarks and other intellectual property rights could diminish the value of our brand and reduce demand for our merchandise.

Our trademarks and service marks, and certain other intellectual property, have been registered, or are the subject of pending applications with the United States Patent and Trademark Office and with the registries of many foreign countries and/or are protected by common law. Our products are noted for their quality and fit, and our edgy, distinctive branding has differentiated us in the marketplace. As such, the trademark and variations thereon are valuable assets that are critical to our success. We intend to continue to vigorously protect our trademark and brand against infringement, but we may not be successful in doing so. In addition, the laws of certain foreign countries may not protect proprietary rights to the same extent as do the laws of the United States. The unauthorized reproduction or other misappropriation of our trademark would diminish the value of our brand, which could reduce demand for our products or the prices at which we can sell our products.

If we fail to maintain the value and image of our brand, our sales are likely to decline.

Our success depends on the value and image of our brand. Our name is integral to our business as well as to the implementation of our strategies for expanding our business. Maintaining, promoting and positioning our brand depend largely on the success of our marketing and merchandising efforts and our ability to provide a consistent, high quality customer experience. Our brand could be adversely affected if we fail to achieve these objectives or if our public image or reputation or those of our senior personnel were to be tarnished by negative publicity. Any of these events could result in decreases in sales.

Our ability to attract customers to our stores depends heavily on the success of the shopping areas in which they are located.

In order to generate customer traffic, we locate many of our stores in prominent locations within successful shopping areas. Net sales at these stores are partly dependent on the volume of traffic in those shopping areas. Our stores benefit from the ability of a shopping area's other tenants to generate consumer traffic in the vicinity of our stores and the continuing popularity of the shopping areas. We cannot control the availability or cost of appropriate locations within existing or new shopping areas, competition with other retailers for prominent locations or the success of individual shopping areas. In addition, factors beyond our control impact shopping area traffic, such as economic conditions nationally or in a particular area, competition from internet retailers, changes in consumer demographics in a particular market, the closing or decline in popularity of other stores in the shopping areas where our stores are located, deterioration in the financial conditions of the operators of the shopping areas or developers and consumer spending levels. A significant decrease in shopping area traffic could have a material adverse effect on our financial condition or results of operations. Furthermore, in pursuing our growth strategy, we will be competing with other retailers for prominent locations within the same successful shopping areas. If we are unable to secure these locations or unable to renew store leases on acceptable terms as they expire from time-to-time we may not be able to continue to attract the number or quality of customers we normally have attracted or would need to attract to sustain our projected growth. All these factors may also impact our ability to meet our growth targets and could have a material adverse effect on our financial condition or results of operations.

Our growth strategy relies in part on the opening of new stores, the remodeling of existing stores and expanding our business internationally, which may strain our resources, adversely impact the performance of our existing store base and delay or prevent successful penetration into international markets.

Our growth strategy and the success of our business depends in part on the opening of new retail stores, both domestically and internationally, the renewal of existing store leases on terms that meet our financial targets, the

remodeling of existing stores in a timely manner, and the operation of these stores in a cost-efficient manner. Successful implementation of this portion of our growth strategy depends on a number of factors including, but not limited to, our ability to:

- identify and obtain suitable store locations and negotiate acceptable leases for these locations;
- complete store design and remodeling projects on time and on budget;
- manage and expand our infrastructure to accommodate growth;
- generate sufficient operating cash flows or secure adequate capital on commercially reasonable terms to fund our expansion plan and remain in compliance with the capital expenditure covenant and other relevant covenants in our credit facilities that may limit our ability to fund such expansion plans;
- manage inventory effectively to meet the needs of new and existing stores on a timely basis;

Table of Contents

• avoid construction delays and cost overruns in connection with the build-out of new stores;  
• hire, train and retain qualified store managers and sales people.  
• gain acceptance from foreign customers;  
• manage foreign exchange risks effectively;  
• address existing and changing legal, regulatory and political environments in target foreign markets; and  
• manage international growth, if any, in a manner that does not unduly strain our financial, operating and management resources.

Our plans to expand our store base and to remodel certain existing stores may not be successful and the implementation of these plans may not result in an increase in our revenues even though they increase our costs. Additionally, new stores that we open may place increased demands on our existing financial, operational, managerial and administrative resources, which could cause us to operate less effectively.

Our ability to obtain real estate to open new stores in desirable locations depends upon the availability of real estate that meets our criteria, which includes, among other items, projected foot traffic, square footage, customer demographics and whether we are able to negotiate lease terms that meet our operating budget. In addition, we must be able to effectively renew our existing store leases from time to time. Failure to secure real estate in desirable locations on economically beneficial terms or to renew leases on existing store locations on economically beneficial terms could have a material adverse effect on our results of operations.

Further, our ability to fund expansion in the future and other capital expenditures will depend on our ability to generate sufficient cash from internal operations (after taking into account our debt service obligations and subject to the covenants in our debt agreements) or to access financing, which ability is, to a significant extent, subject to general economic, financial, competitive, legislative, regulatory and other factors that are beyond our control and which financing may not be available on commercially reasonable terms or at all.

Furthermore, it is possible that by opening a new store in an existing market, we could adversely affect the previously existing stores in that market by drawing away traffic from the previously existing stores. Our new stores may not be immediately profitable and, as such, we may incur losses until these stores become profitable. Any failure to successfully open and operate new stores would adversely affect our results of operations.

We anticipate that we will incur significant costs related to starting up and maintaining additional foreign operations. Costs may include, and will not be limited to, setting up foreign offices and hiring experienced management. These increased demands may cause us to operate our business less effectively, which in turn could cause deterioration in the performance of our stores. Furthermore, our ability to conduct business in international markets may be affected by legal, regulatory, political and economic risks.

Our plans to expand our product offerings and sales channels may not be successful, and implementation of these plans may divert our operational, managerial and administrative resources, which could impact our competitive position.

Our ability to grow our existing brand and develop or identify new growth opportunities depends in part on our ability to appropriately identify, develop and effectively execute strategies and initiatives. Failure to effectively identify, develop and execute strategies and initiatives may lead to increased operating costs without offsetting benefits and could have a material adverse effect on our results of operations. These plans involve various risks discussed elsewhere in these risk factors, including:

• implementation of these plans may be delayed or may not be successful;  
• if our expanded product offerings and sales channels fail to maintain and enhance our distinctive brand identity, our brand image may be diminished and our sales may decrease;  
• implementation of these plans may divert management's attention from other aspects of our business and place a strain on our management, operational and financial resources, as well as our information systems.

In addition, our ability to successfully carry out our plans to expand our product offerings may be affected by, among other things, economic and competitive conditions, changes in consumer spending patterns and changes in consumer preferences and fashion trends. Our expansion plans could be delayed or abandoned, could cost more than anticipated and could divert resources from other areas of our business; any of which could impact our competitive position and reduce our revenue and profitability.



We depend on key personnel, and our ability to grow and compete will be harmed if we do not retain the continued services of such personnel, or we fail to identify, hire and retain additional qualified personnel.

We depend on the efforts and skills of our management team and other key personnel, and the loss of services of one or more members of this team, each of whom have substantial experience in the apparel industry, could have an adverse effect on our business. Our senior officers closely supervise all aspects of our business, in particular the design and production of

Table of Contents

merchandise and the operation of our stores. If we are unable to hire and retain qualified management or if any member of our management leaves, such departure could have an adverse effect on our operations and could adversely affect our ability to design new products and to maintain and grow the distribution channels for our products. In particular, we believe we have benefited substantially from the leadership and strategic guidance of Dov Charney. The loss of Dov Charney would be particularly harmful as he is considered intimately connected to our brand identity and is the principal driving force behind our core concepts, designs and growth strategy.

Our ability to anticipate and effectively respond to changing fashion trends depends in part on our ability to attract and retain key personnel in our design, merchandising and marketing areas, and other functions. In addition, if we experience material growth, we will need to attract and retain additional qualified personnel. The market for qualified and talented design and marketing personnel in the apparel industry is intensely competitive, and we cannot be sure that we will be able to attract and retain a sufficient number of qualified personnel in future periods. If we are unable to attract or retain qualified personnel as needed, our growth will be hampered and our operating results could be materially adversely affected.

Unionization of employees at our facilities could result in increased risk of work stoppages and high labor costs. Our employees are not party to any collective bargaining agreement or union. If employees at our manufacturing or distribution facilities were to unionize, our relationship with our employees could be adversely affected. We would also face an increased risk of work stoppages and higher labor costs. Accordingly, unionization of our employees could have a material adverse impact on our operating costs and financial condition and could force us to raise prices on our products, curtail operations and/or relocate all or a portion of our operations overseas.

Cost increases in, or shortages of, the materials or labor used to manufacture our products could negatively impact our business and financial condition.

The manufacture of our products is labor intensive and utilizes raw materials supplied by third parties. An important part of American Apparel branding and marketing is that our products are made in the United States. The Federal Trade Commission has stated that for a product to be called “Made in USA”, or claimed to be of domestic origin without qualifications or limits on the claim, the product must be “all or virtually all” made in the United States. The term “United States” includes the 50 states, the District of Columbia, and the U.S. territories and possessions. “All or virtually all” means that all significant parts and processing that go into the product must be of U.S. origin. That is, the product should contain no - or negligible - foreign content. We meet the Federal Trade Commission’s “Made in USA” standard and from the knitting process to the final sewing of a garment, all of the processes are conducted in the United States, either directly by us in our knitting, manufacturing, dyeing and finishing facilities located in Los Angeles or through commission knitters, dyers and sewers in the Los Angeles metropolitan area and other regions in the United States. If the cost of labor materially increases, our financial results could be materially adversely affected and our ability to compete against companies with lower labor costs could be hampered. Material increases in labor costs in the United States could also force us to move all or a portion of our manufacturing overseas, which could adversely affect our brand identity.

Similarly, increases in the prices of raw materials or the prices we pay to the suppliers of the raw materials used in the manufacturing of our products, and shortages in such materials, could have a material adverse effect on our financial condition and results of operations. For example, the price of yarn and the cost of certain related fabrics has historically fluctuated. Such shortages may result in an increase in our manufacturing costs and could result in a material adverse effect on our financial condition and results of operations, and we are unable to predict whether we will be able to successfully pass on the added cost of raw materials to our wholesale and retail customers. In addition, increases in the cost of, or shortages in, our raw material inputs could adversely affect our ability to compete. Further, we could be forced to seek to offset any increased raw material costs by relocating all or a portion of our manufacturing overseas to locations with lower labor costs.

Our manufacturing operations are located and will be located in higher-cost geographic locations, placing us at a possible disadvantage to competitors that have a higher percentage of their manufacturing operations overseas. Despite the general industry-wide migration of manufacturing operations to lower-cost locations, such as Central America, the Caribbean Basin and Asia, our textile manufacturing operations are still located in the United States, which is a higher-cost location relative to these offshore locations. In addition, our competitors generally source or

produce a greater portion of their textiles from regions with lower costs than we, which also places us at a cost disadvantage. Our competitor's lower costs of production may allow them to offer their products at a lower price than our selling prices for similar products. This could force us to lower our margins or to compete more vigorously with non-price competitive strategies to preserve our margins and sales volume.

Our reliance on operational facilities located in the same vicinity makes our business susceptible to disruptions or adverse conditions affecting the location of our facilities.

## Table of Contents

We conduct all of our manufacturing operations in the Los Angeles metropolitan area. Specifically, we operate principally out of an 800,000 square foot facility in downtown Los Angeles, which houses our executive offices, as well as our cutting and sewing operations. Our distribution operations are located in La Mirada, California. We also operate the following: a knitting facility in Los Angeles, California; a cutting, sewing, garment dyeing and finishing facility in South Gate, California; a fabric dyeing and finishing facility in Hawthorne, California; as well as a cutting, sewing, fabric dyeing and finishing facility in Garden Grove, California. As a result of geographic concentration, our operations are susceptible to local and regional factors, such as accidents, system failures, economic and weather conditions, natural disasters, and demographic and population changes, as well as other unforeseen events and circumstances.

Southern California is particularly susceptible to earthquakes. Any significant interruption in the operation of any of these facilities could reduce our ability to receive and process orders and provide products and services to our stores and customers, which could result in lost sales, canceled sales and a loss of loyalty to our brand. Furthermore, if there were a major earthquake, we may have to cease operations for a significant portion of time due to possible damage to our factory or inability to deliver products to our distribution center.

The process of upgrading our information technology infrastructure may disrupt our operations.

We are increasingly dependent on information systems to operate our website, process transactions, respond to customer inquiries, manage inventory and production, purchase, sell and ship goods on a timely basis and maintain cost-efficient operations. We have performed an evaluation of our information technology systems and requirements and have implemented upgrades to our information technology systems supporting the business. These upgrades involve replacing legacy systems with successor systems, making changes to legacy systems or acquiring new systems with new functionality. There are inherent risks associated with replacing and changing these systems, including accurately capturing data and system disruptions. We may experience operational problems with our information systems as a result of system failures, viruses, computer “hackers” or other causes. Any material disruption or slowdown of our systems, including a disruption or slowdown caused by our failure to successfully upgrade our systems could cause information, including data related to customer orders, to be lost or delayed which could—especially if the disruption or slowdown occurred during the holiday season—result in delays in the delivery of merchandise to our stores and customers or lost sales, which could reduce demand for our merchandise and cause our sales to decline. Moreover, we may not be successful in developing or acquiring technology that is competitive and responsive to the needs of our customers and might lack sufficient resources to make the necessary investments in technology to compete with our competitors. Accordingly, if changes in technology cause our information systems to become obsolete, or if our information systems are inadequate to handle our growth, we could lose customers.

A failure in our Internet operations could significantly disrupt our business and lead to reduced sales and reputational damage.

Our online retail operations accounted for approximately 10% of net sales for the year ended December 31, 2013 and are subject to numerous risks that could have a material adverse effect on our operational results. Risks to online revenue include, but are not limited to, the following:

- changes in consumer preferences and buying trends relating to Internet usage;

- changes in required technology interfaces;

- web site downtime;

- difficulty in recreating the in-store experience on our website; and

- risks related to the failure of the systems that operate the web sites and their related support systems, including computer viruses, theft of customer information, telecommunication failures and electronic break-ins and similar disruptions.

Our failure to successfully respond to these risks and uncertainties could reduce Internet sales and damage our brand's reputation.

Failure to protect the integrity and security of our information systems and our customers' information could materially, adversely affect our results of operations, damage our reputation and expose us to litigation.

Our operations, including sales through our e-commerce website and retail stores, involve the collection, storage and transmission of customers' credit card information and personal identification data, as well as employee information

and non-public company data. The costs associated with maintaining the security of such information, including increased investments in technology, the costs of compliance with consumer protection laws, and costs resulting from consumer fraud or a malicious breach of our information systems, could materially adversely affect our results of operations. If the security of the customer data stored on our servers or transmitted by our networks were breached, our reputation may be materially adversely affected, which could negatively impact our sales results, and we may be subject to litigation. To date, we have not experienced a significant security breach.

Table of Contents

We operate in the highly competitive retail and apparel industries and our market share may be adversely impacted at any time by the significant number of competitors in our industries that may compete more effectively than we can. The apparel industry is characterized by rapid shifts in fashion, consumer demand and competitive pressures, resulting in both price and demand volatility. The retail apparel industry, in general, and the imprintable apparel market, specifically, is fragmented and highly competitive. Prices of certain products we manufacture, particularly T-shirts, are determined based on market conditions, including the price of raw materials. There can be no assurance that we will be able to compete successfully in the future. We compete with national and local department stores, specialty and discount store chains, independent retail stores and Internet businesses that market similar lines of merchandise. Many of our competitors are, and many of our potential competitors may be, larger, have substantially greater name recognition than we do and have greater financial, marketing and other resources and, therefore, may be able to adapt to changes in customer requirements more quickly, devote greater resources to the marketing and sale of their products, generate greater national brand recognition or adopt more aggressive pricing policies than we can. We also face competition in European, Asian and Canadian markets from established regional and national chains. Our success in these markets depends on determining a sustainable profit formula to build brand loyalty and gain market share in these challenging retail environments. If our international business is not successful our results of operations could be adversely affected.

The wholesale business competes with numerous wholesale companies based on the quality, fashion, availability, and price of our wholesale product offerings. Many of these companies have greater name recognition than American Apparel in the wholesale market. Many of these companies also have greater financial and other resources when compared to American Apparel. If we cannot successfully compete with these companies, our results of operations could be adversely affected.

Elimination or scaling back of U.S. import protections would weaken an important barrier to the entry of foreign competitors who produce their merchandise in lower labor cost locations. This could place us at a disadvantage to those competitors.

Our products are subject to foreign competition. Foreign producers of apparel often have significant labor cost advantages, which can enable them to sell their products at relatively lower prices. However, foreign competitors have faced significant U.S. government import restrictions in the form of tariffs and quotas. The extent of import protection afforded to domestic apparel producers has been, and is likely to remain, subject to political considerations, and is therefore unpredictable. Given the number of foreign low cost producers, the substantial elimination or scaling back of the import protections that protect domestic apparel producers such as American Apparel could have a material adverse effect on our business and the financial condition and results of operation.

Because we utilize foreign suppliers and sell into foreign markets, we are subject to numerous risks associated with international business that could increase our costs or disrupt the supply of our products, resulting in a negative impact on our business and financial condition.

Our international operations subject us to risks, including:

- economic and political instability;
- restrictive actions by foreign governments;
- greater difficulty enforcing intellectual property rights and weaker laws protecting intellectual property rights;
- changes in import duties or import or export restrictions;
- fluctuations in currency exchange rates, which could negatively affect profit margins;
- timely shipping of product;
- complications complying with the laws and policies of the United States affecting the exportation of goods, including duties, quotas, and taxes; and
- complications in complying with trade and foreign tax laws.

These and other factors beyond our control could disrupt the supply of our products, influence the ability of our suppliers to export our products cost-effectively or at all, inhibit our suppliers' ability to procure certain materials and increase our expenses, any of which could harm our business, financial condition and results of operations.

We rely heavily on immigrant labor, and changes in immigration laws or enforcement actions or investigations under such laws could significantly adversely affect our labor force, manufacturing capabilities, operations and financial

results.

We rely heavily on immigrant labor. Adverse changes to existing laws and regulations applicable to employment of immigrants, enforcement requirements or practices under those laws and regulations, and inspections or investigations by immigration authorities or the prospects or rumors of any of the foregoing, even if no violations exist, could negatively impact the availability and cost of personnel and labor to us. As a result, we could experience very substantial turnover of employees on short or no notice, which could result in manufacturing and other delays. We may also have difficulty attracting or hiring

21

---

Table of Contents

new employees in a timely manner, resulting in further delays. These delays could materially adversely affect our revenues and costs and our ability to compete. If we are not able to continue to attract and retain sufficient employees, our manufacturing capabilities, operations and financial results would be adversely affected.

We are subject to customs, advertising, consumer protection, zoning and occupancy and labor and employment laws that could require us to modify our current business practices and incur increased costs.

We are subject to numerous regulations, including customs, truth-in-advertising, consumer protection and zoning and occupancy laws and ordinances that regulate retailers generally and/or govern the importation, promotion and sale of merchandise and the operation of retail stores and warehouse facilities. We also are subject to numerous federal and state labor laws, such as minimum wage laws and other laws relating to employee benefits. If these regulations were to change or were violated by our management, employees, suppliers, buying agents or trading companies, the costs of certain goods could increase, or we could experience delays in shipments of our goods, be subject to fines or penalties, or suffer reputational harm, which could reduce demand for our merchandise and hurt our business and results of operations. In addition, changes in federal and state minimum wage laws and other laws relating to employee benefits could cause us to incur additional wage and benefits costs, which could adversely affect our profitability. We are currently defending five wage and hour suits. Should these matters be decided against us, we could incur substantial liability, experience an increase in similar suits, and suffer reputational harm. We are unable to predict the financial outcome of these matters at this time, and any views we form as to the viability of these claims or the financial exposure in which they could result may change. No assurance can be made that these matters will not result in material financial exposure, which together with the potential for similar suits and reputational harm, could have a material adverse effect upon our financial condition and results of operations. See the section entitled "Item 3. Legal Proceedings" for a more detailed discussion of our pending litigation.

Legal requirements are frequently changed and subject to interpretation, and we are unable to predict the ultimate cost of compliance with these requirements or their effect on our operations. We may be required to make significant expenditures or modify our business practices to comply with existing or future laws and regulations, which may increase our costs and materially limit our ability to operate our business.

Current environmental laws, or laws enacted in the future, may harm our business.

We are subject to federal, state and local laws, regulations and ordinances that govern activities or operations that may have adverse environmental effects (such as emissions to air, discharges to water, and the generation, handling, storage and disposal of solid and hazardous wastes). We are also subject to laws, regulations and ordinances that impose liability for the costs of clean up or other remediation of contaminated property, including damages from spills, disposals or other releases of hazardous substances or wastes, in certain circumstances without regard to fault. Certain of our operations routinely involve the handling of chemicals and wastes, some of which are or may become regulated as hazardous substances. Our product design and procurement operations must comply with new and future requirements relating to the materials composition of our products. If we fail to comply with the rules and regulations regarding the use and sale of such regulated substances, we could be subject to liability. The costs and timing of costs under environmental laws are difficult to predict.

As is the case with manufacturers in general, if a release of hazardous substances occurs on or from our properties or any associated offsite disposal locations, or if contamination from prior activities is discovered at any of our properties, we may be held liable. The amount of such liability could be material.

Litigation exposure could exceed expectations and have a material adverse effect on our financial condition and results of operations.

We are subject to regulatory inquiries, investigations, claims and suits. We are currently defending a consolidated putative shareholder class action, two consolidated shareholder derivative actions proceeding in federal and state court, respectively, five wage and hour suits, and numerous employment related claims and suits. In the event one or more of these matters are decided against us, we may incur substantial liability, experience an increase in similar suits or suffer reputational harm. We are unable to predict the financial outcome that could result from these matters at this time and any views we form as to the viability of these claims or the financial exposure in which they could result could change from time to time as the matters proceed through their course, as facts are established and various judicial determinations are made. No assurance can be made that these matters will not result in material financial



exposure, which together with the potential for similar suits and reputational harm, could have a material adverse effect upon our financial condition and results of operations. See the section entitled “Item 3. Legal Proceedings” for a more detailed discussion of American Apparel's pending litigation.

We are currently being audited by government tax agencies regarding our operating activities in previous periods which may result in an assessment of a material amount, the payment of which may adversely impact our financial conditions and operations.

Table of Contents

As of December 31, 2013, we are being audited by Government agencies in various jurisdictions in regards to sales, VAT, income, and other taxes and customs duties for certain previous years. In connection with one such audit, the German customs authority has issued retroactive assessments on our imports totaling €3,634 or \$5,003 at the December 31, 2013 exchange rates. Although we believe that we properly assess and remit all required sales, VAT, income, and other taxes and customs duties in Germany and other applicable jurisdictions, no assurance can be made that these matters will not have a material adverse effect on our financial condition and results of operations. In particular, disruptions in our operations in Germany as a result of customs enforcement actions or otherwise could have a material adverse effect on our E.U. business and operations.

Third party failure to deliver merchandise to stores and customers could result in lost sales or reduced demand for our merchandise.

The efficient operation of our stores and wholesale business depends on the timely receipt of merchandise from our distribution centers. Independent third party transportation companies deliver a substantial portion of our merchandise to our stores. These shippers may not continue to ship our products at current pricing or terms. These shippers may employ personnel represented by labor unions. Disruptions in the delivery of merchandise or work stoppages by employees or contractors of these third parties could delay the timely receipt of merchandise, which could result in canceled sales, a loss of loyalty to our brand and excess inventory. There can be no assurance that such stoppages or disruptions will not occur in the future. Any failure by these third parties to respond adequately to our distribution needs would disrupt our operations and could have a material adverse effect on our financial condition and results of operations.

Timely receipt of merchandise by our stores and our customers may also be affected by factors such as inclement weather, natural disasters and acts of terrorism. We may respond by increasing markdowns or initiating marketing promotions, which would decrease our gross profits and net income.

We have potentially adverse exposure to credit risks on our wholesale sales.

We are exposed to the risk of financial non-performance by our customers, primarily in our wholesale business. Sales to wholesale customers represented approximately 28% of our net sales for the year ended December 31, 2013. Our extension of credit involves considerable use of judgment and is based on an evaluation of each customer's financial condition and payment history. We monitor our credit risk exposure by periodically obtaining credit reports and updated financials of our customers. We maintain an allowance for doubtful accounts for potential credit losses based upon historical trends and other available information. However, delays in collecting or the inability to collect on sales to significant customers or a group of customers could have a material adverse effect on our results of operations.

Table of Contents

Item 2. Properties

The following table sets forth the location and use of each of American Apparel's principal non-retail properties, which are all leased each of which is used in connection with all of our operating segments, with the exception of our foreign offices,

which are used solely in connection with our Canada and International segments respectively:

Los Angeles, California	Headquarters, Sewing, Cutting and Warehousing
Los Angeles, California	Knitting Facility
Hawthorne, California	Fabric Dyeing and Finishing Facility
South Gate, California	Cutting, Sewing, Garment Dyeing and Finishing Facility
Garden Grove, California	Cutting, Sewing, Knitting, Fabric Dyeing and Finishing Facility
La Mirada, California	Distribution Center
Montreal, Quebec	Offices
London, England	Offices
Tokyo, Japan	Offices
Seoul, South Korea	Offices

All of our retail stores are leased, well maintained and in good operating condition. Our retail stores are typically leased for a term of five to ten years with renewal options for an additional five to ten years. Most of these leases provide for base rent, as well as maintenance and common area charges, real estate taxes and certain other expenses. Selling space of opened stores will sometimes change due to store renovations that modify space utilization, use of staircases, the configuration of cash registers, and other factors. As well, a number of our store locations have undergone expansions in the past several years. Among our retail operations, we also operate seven concession locations as of December 31, 2013.

Table of Contents

The following tables set forth American Apparel's existing retail stores by geographic region, as of December 31, 2013:

## Domestic Locations (139)

Arizona (2)		Florida (7)	Massachusetts (3)
Scottsdale		Boca Raton	Boston—
Tucson		Miami Beach—	Back Bay
		Lincoln Road	Newbury Street
		Sunset Drive	Cambridge
California (38)		Washington Ave.	
Arcadia	Manhattan Beach	Orlando	
Berkeley	Palo Alto	St. Augustine	Michigan (3)
Camarillo	Pasadena	Wellington	Ann Arbor
Claremont	Rancho Cucamonga		East Lansing
Commerce	San Diego—		Royal Oak
Costa Mesa	Fashion Valley	Georgia (2)	
Gilroy	Hillcrest	Atlanta—	
Huntington Beach	Pacific Beach	Lenox Mall	Minnesota (2)
Irvine Spectrum	San Francisco—	Little Five Points	Bloomington
Los Angeles—	China Gate		Minneapolis
Canoga Park	Haight Ashbury	Hawaii (1)	
Echo Park	Union Street	Honolulu—	Missouri (1)
Factory Store	Santa Barbara	Ala Moana	Kansas City
Hollywood	Santa Clara		
Little Tokyo	Santa Cruz	Illinois (7)	Nevada (3)
Los Feliz	Santa Monica—	Chicago—	Las Vegas—
Melrose	Main Street	Belmont & Clark	Boca Park
Robertson	Third Street Promenade	Gold Coast	Miracle Mile
Westwood Village	Studio City	Lincoln Park	Premium Outlets
West Hollywood	Venice	State St.	
Malibu	Ventura	Wicker Park	New Jersey (4)
		Evanston	Cherry Hill
		Schaumburg	Edison
			Hoboken
			Paramus
Colorado (2)		Louisiana (1)	
Boulder		New Orleans	
Denver			
Connecticut (2)			
New Haven		Maryland (4)	
South Norwalk		Annapolis	
		Baltimore	
		Bethesda	
District of Columbia (2)		Silver Spring	
Georgetown			
Lincoln Square			



Table of Contents

Domestic Locations (139) (cont'd.)

New York (25)	Pennsylvania (4)	Oregon (4)	Washington (3)
Brooklyn—	King of Prussia	Eugene	Seattle—
Bond Street	Philadelphia—	Portland—	Capitol Hill
Carroll Gardens	Sansom Common	Hawthorne Blvd.	Downtown Seattle
Court Street	Walnut Street	Stark Street	University Way
Nassau Avenue	Pittsburgh—	Tigard	
Park Slope	Shadyside		
Williamsburg		Wisconsin (2)	
Central Valley	South Carolina (1)	Madison	
Garden City	Charleston	Milwaukee	
Manhattan—			
Bleecker Street	Tennessee (2)		
Chelsea	Memphis		
Columbia University	Nashville		
Columbus Circle			
FIT	Texas (7)		
Flatiron	Austin—		
Gramercy Park	Congress Ave		
Harlem	Guadalupe Street		
Hell's Kitchen	Dallas—		
Lower Broadway	Mockingbird		
Lower East Side	NorthPark Center		
Noho	Houston		
Soho	Round Rock		
Tribeca	San Antonio—		
Upper East Side	La Cantera		
Upper West Side			
White Plains			
North Carolina (1)	Utah (1)		
Charlotte—	Salt Lake City		
SouthPark Mall			
Ohio (3)	Vermont (1)		
Cincinnati	Burlington		
Cleveland			
Columbus	Virginia (1)		
	Richmond		



Table of Contents

Canada (32)

Alberta (4)

Calgary—

17th Avenue

Market Mall

Edmonton—

82nd Avenue

West Edmonton Mall

British Columbia (6)

Burnaby

Kelowna

Vancouver—

Granville

South Granville

West 4th Street

Victoria

Manitoba (1)

Winnipeg

Nova Scotia (1)

Halifax

Ontario (12)

Kingston

London

Ottawa—

Rideau Centre

Thornhill

Toronto—

Bloor Street

Queen Street

Sherway Gardens

Yonge & Dundas

Yonge & Eglinton

Yorkdale Shopping Centre

Vaughan

Waterloo

Quebec (7)

Laval

Montreal—

Cours Mont-Royal

Mont-Royal Est

St-Denis

Ste-Catherine West

Pointe-Claire

Quebec—

Westmount

Saskatchewan (1)

Saskatoon





Table of Contents

## International Locations (77)

## Europe (57)

Austria (1)	Germany (10)	United Kingdom (22)	Spain (1)
Vienna	Berlin—	Birmingham	Barcelona
	Bayreuther Strasse	Brighton	
Belgium (1)	Münzstrasse	Bristol	Sweden (2)
Antwerp	Düsseldorf	Glasgow	Stockholm—
	Frankfurt	Leeds	Götgatan
France (12)	Hamburg—	Liverpool	Kungsgatan
Aix-en-Provence	Jungfernstieg	London—	
Lyon	Schanzenstrasse	Camden High Street	Switzerland (2)
Paris—	Köln	Carnaby Street	Zurich—
Marais	Munich—	Covent Garden	Josefstrasse
Vielle du Temple	Sendlinger Strasse	Kensington High Street	Rennweg
Beaurepaire	Oberhausen	King's Cross	
Avenue Victor Hugo	Stuttgart	Oxford Street	
Saint-Germain		Portobello Road	
Saint-Honore (2)	Ireland (1)	Selfridges	
Galleries Lafayette	Dublin	Shoreditch	
La Defense		Stanstead	
Toulouse	Italy (2)	Stratford	
	Milan	Westfield	
	Rome	Manchester (3)	
		Nottingham	
	Netherlands (3)		
	Amsterdam—		
	Bijenkorf		
	Noordermarkt		
	Utrechtsestraat		
Asia (12)		Other International (8)	
China (3)	South Korea (5)	Israel (1)	Australia (5)
Beijing—	Busan	Tel Aviv	Adelaide
Nali Mall	Seoul—		Melbourne
PVG	Chungdam	Mexico (1 )	Myer Melbourne
Joy City	Hong Dae	Mexico City—	Myer Sydney
	Kangnam	Polanco	Sydney
	Myung-dong		
Japan (4)		Brazil (1)	
Osaka—		São Paulo	
Shinsaibashi			
Tokyo—			
Daikanyama			
Shibuya (2)			



Table of Contents

Item 3. Legal Proceedings

We are subject to various claims and contingencies in the ordinary course of business, including those related to litigation, business transactions, employee-related matters and taxes, and others. When we are aware of a claim or potential claim, we assess the likelihood of any loss or exposure. If it is probable that a loss will result and the amount of the loss can be reasonably estimated, we will record a liability for the loss. In addition to the estimated loss, the recorded liability includes probable and estimable legal costs associated with the claim or potential claim. There is no assurance that such matters will not materially and adversely affect our business, financial position, and results of operations or cash flows.

Individual Actions

On February 7, 2006, Sylvia Hsu, a former employee of American Apparel, filed a Charge of Discrimination with the Los Angeles District Office of the Equal Employment Opportunity Commission (“EEOC”) (Hsu v. American Apparel: Charge No. 480- 2006-00418), alleging that she was subjected to sexual harassment by a co-worker and constructively discharged as a result of the sexual harassment and a hostile working environment. On March 9, 2007, the EEOC expanded the scope of its investigation to other employees of American Apparel who may have been sexually harassed. On August 9, 2010, the EEOC issued a written determination finding that reasonable cause exists to believe we discriminated against Ms. Hsu and women, as a class, on the basis of their female gender, by subjecting them to sexual harassment. No finding was made on the issue of Ms. Hsu's alleged constructive discharge. In August 2013 the parties entered into a Conciliation Agreement providing for an immaterial compensatory payment to Ms. Hsu and our agreement to comply with our Policy on Sexual Harassment and Sexual Discrimination, which Policy was reviewed by the EEOC, and take certain administrative measures relating thereto. The Conciliation Agreement remains in effect for three years.

On November 5, 2009, Guillermo Ruiz, a former employee of American Apparel, filed suit against us on behalf of putative classes of all current and former non-exempt California employees (Guillermo Ruiz, on behalf of himself and all others similarly situated v. American Apparel, Inc., Case Number BC425487) in the Superior Court of the State of California for the County of Los Angeles, alleging we failed to pay certain wages due for hours worked, to provide meal and rest periods or compensation in lieu thereof and to pay wages due upon termination to certain of our employees. The complaint further alleges that we failed to comply with certain itemized employee wage statement provisions and violations of unfair competition law. The plaintiff is seeking compensatory damages and economic and/or special damages in an unspecified amount, premium pay, wages and penalties, injunctive relief and restitution, and reimbursement for attorneys' fees, interest and the costs of the suit.

On June 21, 2010, Antonio Partida, a former employee of American Apparel, filed suit against us on behalf of putative classes of current and former non-exempt California employees (Antonio Partida, on behalf of himself and all others similarly situated v. American Apparel (USA), LLC, Case No. 30-2010-00382719-CU-OE-CXC) in the Superior Court of the State of California for the County of Orange, alleging we failed to pay certain wages for hours worked, to provide meal and rest periods or compensation in lieu thereof, and to pay wages due upon separation. The complaint further alleges that we failed to timely pay wages, unlawfully deducted wages and failed to comply with certain itemized employee wage statement provisions and violations of unfair competition law. The plaintiff is seeking compensatory damages and economic and/or special damages in an unspecified amount, premium pay, wages and penalties, injunctive relief and restitution, and reimbursement of attorneys' fees, interest and the costs of the suit.

On or about December 2, 2010, Emilie Truong, a former employee of American Apparel, filed suit against us on behalf of putative classes of current and former non-exempt California employees (Emilie Truong, individually and on behalf of all others similarly situated v. American Apparel, Inc. and American Apparel LLC, Case No. BC450505) in the Superior Court of the State of California for the County of Los Angeles, alleging we failed to timely provide final paychecks upon separation. Plaintiff is seeking unspecified premium wages, attorneys' fees and costs, disgorgement of profits, and an injunction against the alleged unlawful practices.

On or about February 9, 2011, Jessica Heupel, a former retail employee filed suit on behalf of putative classes of current and former non-exempt California employees (Jessica Heupel, individually and on behalf of all others similarly situated v. American Apparel Retail, Inc., Case No. 37-2011-00085578-CU-OE-CTL) in the Superior Court of the State of California for the County of San Diego, alleging we failed to pay certain wages for hours worked, to

provide meal and rest periods or compensation in lieu thereof, and to pay wages due upon separation. The plaintiff is seeking monetary damages as follows: (1) for alleged meal and rest period violations; (2) for alleged failure to timely pay final wages, as well as for punitive damages for the same; and (3) unspecified damages for unpaid minimum wage and overtime. In addition, Plaintiff seeks premium pay, wages and penalties, injunctive relief and restitution, and reimbursement of attorneys' fees, interest and the costs of the suit. This matter is now proceeding in arbitration. On or about September 9, 2011, Anthony Heupel, a former retail employee initiated arbitration proceedings on behalf of putative classes of current and former non-exempt California employees, alleging we failed to pay certain wages for hours worked, to provide meal and rest periods or compensation in lieu thereof, and to pay wages due upon separation. The plaintiff is seeking monetary damages in an amount in excess of \$3,600, as follows: (1) for alleged meal and rest period violations; (2) for alleged failure to timely pay final wages, as well as for punitive damages for the

Table of Contents

same; and (3) unspecified damages for unpaid minimum wage and overtime. In addition, Plaintiff seeks premium pay, wages and penalties, injunctive relief and restitution, and reimbursement of attorneys' fees, interest and the costs of the suit.

We do not have insurance coverage for the above matters. Each of the aforementioned wage and hour cases have been proceeding in arbitration. All of these cases have been settled on an aggregate and class-wide basis for a payment by us in the total amount of \$875, most of which will be paid to class members and to their attorneys. Certain class members have opted out of the settlement and so may proceed with individual claims. Also, the settlement is subject to and conditional upon approval of the arbitrator, and if the arbitrator approves, one or more of the California Superior Courts. There is no guarantee that such approvals will be obtained.

Additionally, we are currently engaged in other employment-related claims and other matters incidental to our business. We believe that all such claims against us are without merit or not material, and we intend to vigorously dispute the validity of the plaintiffs' claims. While the ultimate resolution of such claims cannot be determined, based on information at this time, we believe, but we cannot provide assurance that, the amount, and ultimate liability, if any, with respect to these actions will not materially affect our business, financial position, results of operations, or cash flows. Should any of these matters be decided against us, we could not only incur liability but also experience an increase in similar suits and suffer reputational harm.

**Derivative Matters**

Two shareholder derivative lawsuits (Case No. CV106576 GAF (JCx) and Case No. CV107518 RSWL (FFMx)) were filed in the United States District Court for the Central District of California which were subsequently consolidated for all purposes into a case entitled *In re American Apparel, Inc. Shareholder Derivative Litigation*, Lead Case No. CV106576 (the "Federal Derivative Action"). Plaintiffs in the Federal Derivative Action allege a cause of action for breach of fiduciary duty arising out of (i) our alleged failure to maintain adequate accounting and internal control policies and procedures; (ii) our alleged violation of state and federal immigration laws in connection with the previously disclosed termination of over 1,500 employees following an Immigration and Customs Enforcement inspection; and (iii) our alleged failure to implement controls sufficient to prevent a sexually hostile and discriminatory work environment. We do not maintain any direct exposure to loss in connection with these shareholder derivative lawsuits. Our status as a "Nominal Defendant" in the actions reflects the fact that the lawsuits are maintained by the named plaintiffs on behalf of American Apparel and that plaintiffs seek damages on our behalf. We filed a motion to dismiss the Federal Derivative Action which was granted with leave to amend on July 31, 2012. Plaintiffs did not amend the complaint and subsequently filed a motion to dismiss each of their claims, with prejudice, for the stated purpose of taking an immediate appeal of the Court's July 31, 2012 order. On October 16, 2012, the Court granted the Plaintiffs' motion to dismiss and entered judgment accordingly. On November 12, 2012, Plaintiffs filed a Notice of Appeal to the Ninth Circuit Court of Appeals where the case is currently pending.

Four shareholder derivative lawsuits (Case No. BC 443763, Case No. BC 443902, Case No. BC 445094, and Case No. BC 447890) were filed in fall of 2010 in the Superior Court of the State of California for the County of Los Angeles, which were subsequently consolidated for all purposes into a case entitled *In re American Apparel, Inc. Shareholder Derivative Litigation*, Lead Case No. BC 443763 (the "State Derivative Action").

Three of the matters comprising the State Derivative Action allege causes of action for breach of fiduciary duty arising out of (i) our alleged failure to maintain adequate accounting and internal control policies and procedures; and (ii) our alleged violation of state and federal immigration laws in connection with the previously disclosed termination of over 1,500 employees following an Immigration and Customs Enforcement inspection. The fourth matter alleges seven causes of action for breach of fiduciary duty, unjust enrichment, abuse of control, gross mismanagement, and waste of corporate assets also arising out of the same allegations. On April 12, 2011, the Court issued an order granting a stay (which currently remains in place) of the State Derivative Action on the grounds that the case is duplicative of the Federal Derivative Action, as well as the Federal Securities Action currently pending in the United States District Court for the Central District of California (see below).

Both the Federal Derivative Action and State Derivative Actions are covered under our Directors and Officers Liability insurance policy, subject to a deductible and a reservation of rights.



Table of Contents

Other Proceedings

Four putative class action lawsuits, (Case No. CV106352 MMM (RCx), Case No. CV106513 MMM (RCx), Case No. CV106516 MMM (RCx), and Case No. CV106680 GW (JCGx)) were filed in the United States District Court for the Central District of California in the Fall of 2010 against American Apparel and certain of our officers and executives on behalf of American Apparel shareholders. On December 3, 2010, the four lawsuits were consolidated for all purposes into a case entitled In re American Apparel, Inc. Shareholder Litigation, Lead Case No. CV106352 MMM (JCGx) (the “Federal Securities Action”). The lead plaintiff filed a consolidated class action complaint on April 29, 2011 on behalf of shareholders who purchased our common stock between November 28, 2007 and August 17, 2010. The lead plaintiff alleges two causes of action for violations of Section 10(b) and 20(a) of the 1934 Act, and Rule 10b-5 promulgated under Section 10(b), arising out of alleged misrepresentations contained in our press releases, public filings with the SEC, and other public statements relating to (i) the adequacy of our internal and financial control policies and procedures; (ii) our employment practices; and (iii) the effect that the dismissal of over 1,500 employees following an Immigration and Customs Enforcement inspection would have on us. Plaintiff seeks damages in an unspecified amount, reasonable attorneys' fees and costs, and equitable relief as the Court may deem proper. We filed two motions to dismiss the Federal Securities Action which the court granted with leave to amend. Plaintiffs filed a Second Amended Complaint on February 15, 2013. We filed a motion to dismiss the complaint on March 15, 2013. The hearing on the motion was held on June 3, 2013, at which time, the Court took the matter under submission. On August 8, 2013, the court issued its final order granting the motion to dismiss in regards to certain claims. Defendants answered the complaint's remaining claims on September 27, 2013. On November 6, 2013, the Court issued an order staying the case pending ongoing settlement discussions between the parties. Plaintiff filed an unopposed Motion for Preliminary Approval of the settlement on December 16, 2013. The settlement, if approved, would result in a payment by our insurance carrier of \$4,800. The Federal Securities Action is covered under our Directors and Officers Liability insurance policy, subject to a deductible and a reservation of rights.

Should any of the above matters (i.e., the Federal Derivative Action, the State Derivative Action, or the Federal Securities Action) be decided against us in an amount that exceeds our insurance coverage, or if liability is imposed on grounds which fall outside the scope of our insurance coverage, we could not only incur a substantial liability, but also experience an increase in similar suits and suffer reputational harm. We are unable to predict the financial outcome of these matters at this time, and any views formed as to the viability of these claims or the financial exposure which could result may change from time to time as the matters proceed through their course. However, no assurance can be made that these matters, either individually or together with the potential for similar suits and reputational harm, will not result in a material financial exposure, which could have a material adverse effect upon our financial condition, results of operations, or cash flows.

The Company has previously disclosed an arbitration filed by the Company on February 17, 2011, related to cases filed in the Supreme Court of New York, County of Kings (Case No. 5018-1) and Superior Court of the State of California for the County of Los Angeles (Case Nos. BC457920 and BC460331) against American Apparel, Dov Charney and certain members of the Board of Directors asserting claims of sexual harassment, assault and battery, impersonation through the internet, defamation and other related claims. The Company settled one of these cases with no monetary liability to the Company. In another case, the arbitrator ruled that both American Apparel and the plaintiff had established certain claims and damages against one another resulting in a net inconsequential amount awarded to the plaintiff. The Company is awaiting the arbitrator's ruling on the outstanding attorney's fees issue in this case. The Company cannot provide assurances that, the amount and ultimate liability, if any, with respect to the remaining actions will not materially affect the Company's business, financial position, results of operations, or cash flows.





Table of Contents

## Item 4. Mine Safety Disclosures

Not applicable.

## PART II

## Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

## (a) Market Information

The principal market on which our common stock is traded is the NYSE MKT. Our common stock is traded under the symbol APP.

The following table sets forth the range of high and low sales prices for our common stock and for the periods indicated:

	Common Stock	
	High	Low
2012		
Fourth Quarter	\$ 1.61	\$ 0.83
Third Quarter	1.70	0.82
Second Quarter	1.09	0.75
First Quarter	1.21	0.63
2013		
Fourth Quarter	\$ 1.52	\$ 1.01
Third Quarter	2.09	1.23
Second Quarter	2.20	1.76
First Quarter	2.40	1.00

## (b) Holders

On March 31, 2014 there were 1,250 record holders and approximately 9,036 beneficial holders of our common stock.

## (c) Dividends

As a public company, we have not paid any cash dividends. We intend to continue to retain earnings for use in the operation and expansion of our business and therefore do not anticipate paying any cash dividends in the foreseeable future. In addition, restrictions imposed by our debt agreements significantly restrict us from making dividends or distributions to stockholders.

## (d) Authorization of Common Stock

On June 21, 2011 the Company's stockholders approved an amendment to the Company's Amended and Restated Certificate of Incorporation to increase the number of authorized shares of the Common Stock from 120,000 to 230,000 with par value of \$0.0001 per share.

## (e) Securities Authorized for Issuance Under Equity Compensation Plans

See Note 14, Share-Based Compensation to the consolidated financial statements included in Part II, Item 8, Financial Statements and Supplementary Data, of this Annual Report on Form 10-K.

## (f) Recent Sales of Unregistered Securities

None.

## (g) Stock Price Performance Graph

The graph below compares the cumulative total return of our common stock from December 31, 2009 through December 31, 2013 with the cumulative total return of companies comprising the Dow Jones Industrial Average, the Dow Jones U.S. Retail Index, and the S&P500. The graph plots the growth in value of an initial investment of \$100 in each of our common stock, the Dow Jones Industrial Average, the Dow Jones U.S. Retail Index, and the S&P500 over the indicated time periods, assuming reinvestment of all dividends, if any, paid on the securities. We have not paid any cash dividends and, therefore, the cumulative



Table of Contents

total return calculation for us is based solely upon stock price appreciation and not upon reinvestment of cash dividends. The stock price performance shown on the graph is not necessarily indicative of future price performance.

Dates	American Apparel	Dow Jones U.S. Retail	Dow Jones Industrial	S&P 500
December 31, 2008	100.00	100.00	100.00	100.00
December 31, 2009	155.78	127.75	118.82	123.45
December 30, 2010	83.42	147.91	131.92	139.24
December 31, 2011	36.18	156.29	139.21	139.23
December 31, 2012	50.75	188.34	149.31	157.90
December 31, 2013	117.59	255.28	188.88	204.63

Table of Contents

## Item 6. Selected Financial Data

The selected historical financial data presented below under the heading “Consolidated Statement of Operations Data” and “Per Share Data” for the years ended December 31, 2013, 2012 and 2011 and the selected historical financial data presented below under the heading “Consolidated Balance Sheet Data” as of December 31, 2013 and 2012 have been derived from, and are qualified by reference to, our audited consolidated financial statements included elsewhere in this Annual Report on Form 10-K. The selected historical financial data presented below under the heading “Consolidated Statement of Operations Data” and “Per Share Data” for the years ended December 31, 2010 and 2009 and the selected historical financial data presented below under the heading “Consolidated Balance Sheet Data” as of December 31, 2011, 2010 and 2009 have been derived from, and are qualified by reference to, our audited consolidated financial statements which are not included in this Annual Report on Form 10-K.

The data set forth below should be read in conjunction with “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our audited consolidated financial statements and the related notes thereto included elsewhere in this Annual Report on Form 10-K.

	Year Ended December 31,				
	2013	2012	2011	2010	2009
	(In Thousands Except Per Share Data)				
Consolidated Statements of Operations Data:					
Net sales	\$633,941	\$617,310	\$547,336	\$532,989	\$558,775
Gross profit	\$320,885	\$327,383	\$294,900	\$279,909	\$319,912
(Loss) income from operations	\$(29,295 )	\$962	\$(23,293 )	\$(50,053 )	\$24,415
Net (loss) income	\$(106,298 )	\$(37,272 )	\$(39,314 )	\$(86,315 )	\$1,112
Per Share Data:					
Net (loss) earnings per common share - basic	\$(0.96 )	\$(0.35 )	\$(0.42 )	\$(1.21 )	\$0.02
Net (loss) earnings per common share - diluted	\$(0.96 )	\$(0.35 )	\$(0.42 )	\$(1.21 )	\$0.01
Weighted average number of common shares outstanding:					
Basic	110,326	105,980	92,599	71,626	71,026
Diluted	110,326	105,980	92,599	71,626	76,864
Consolidated Balance Sheets Data:					
Total assets	\$333,752	\$328,212	\$324,721	\$327,950	\$327,579
Working capital <sup>(1)</sup>	\$74,261	\$80,022	\$97,013	\$3,379	\$121,423
Total long-term debt less current maturities <sup>(2)</sup>	\$218,921	\$112,856	\$98,868	\$5,597	\$71,372
Stockholders’ (deficit) equity	\$(77,404 )	\$22,084	\$48,130	\$75,024	\$157,341

(1) Excludes fair value of warrants of \$20,954, \$17,241, \$9,633, and \$993 as of December 31, 2013, 2012, 2011 and 2010, respectively.

(2) Includes capital leases.

Table of Contents

Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations

You should read the following discussion together with Part II, Item 6 “Selected Financial Data” and our audited consolidated financial statements and the related notes thereto included in Part II, Item 8 “Financial Statements and Supplementary Data.” In addition to historical consolidated financial information, this discussion contains forward-looking statements that reflect our plans, estimates and beliefs. Actual results could differ from these expectations as a result of factors including those described under Item 1A “Risk Factors” and “Special Note Regarding Forward-Looking Statements” in Part I and elsewhere in this Annual Report on Form 10-K. In addition, all dollar and share amounts in this Form Item 7 are presented in thousands, except for per share items and unless otherwise specified.

Overview

We are a vertically integrated manufacturer, distributor, and retailer of branded fashion basic apparel and accessories for women, men, children and babies. We are based in downtown Los Angeles, California. As of February 28, 2014, we had approximately 10,000 employees and operated 246 retail stores in 20 countries, including the United States, Canada, Mexico, Brazil, United Kingdom, Ireland, Austria, Belgium, France, Germany, Italy, Netherlands, Spain, Sweden, Switzerland, Israel, Australia, Japan, South Korea, and China. We currently operate 12 e-commerce stores in seven languages that serve customers from 30 countries worldwide at [www.americanapparel.com](http://www.americanapparel.com). In addition, American Apparel operates a leading wholesale business that supplies high quality T-shirts and other casual wear to distributors and the imprintable industry

We conduct our primary apparel manufacturing operations out of an 800,000 square foot facility in the warehouse district of downtown Los Angeles, California. The facility houses our executive offices, as well as cutting, sewing and warehousing operations. We conduct knitting operations in Los Angeles and Garden Grove, California, which produce a majority of the fabric we use in our products. We also operate dye houses that currently provide dyeing and finishing services for nearly all of the raw fabric used in production. We operate a fabric dyeing and finishing facility in Hawthorne, California. We also operate a cutting, sewing and garment dyeing and finishing facility located in South Gate, California. We operate a fabric dyeing and finishing facility located in Garden Grove, California, which also includes cutting, sewing and knitting operations. Since 2013 we have conducted our warehousing and distribution operations out of La Mirada, California.

Because we manufacture domestically and are vertically integrated, we believe this enables us to more quickly respond to customer demand and to changing fashion trends and to closely monitor product quality. Our products are noted for their quality and fit, and together with our distinctive branding these attributes have differentiated our products in the marketplace. “American Apparel®” is a registered trademark of American Apparel (USA), LLC. We report the following four operating segments: U.S. Wholesale, U.S. Retail, Canada, and International. We believe this method of segment reporting reflects both the way our business segments are managed and the way the performance of each segment is evaluated. The U.S. Wholesale segment consists of our wholesale operations and our online consumer operations in the United States. The U.S. Retail segment consists of our retail store operations in the United States, which were comprised of 139 retail stores as of December 31, 2013. The Canada segment consists of our retail, wholesale and online consumer operations in Canada. As of December 31, 2013, the retail operations in the Canada segment were comprised of 32 retail stores. The International segment consists of our retail, wholesale and online consumer operations outside of the United States and Canada. As of December 31, 2013, the retail operations in the International segment comprised 77 retail stores in the following 18 countries: the United Kingdom, Ireland, Austria, Belgium, France, Germany, Italy, the Netherlands, Spain, Sweden, Switzerland, Israel, Australia, Brazil, Mexico, Japan, South Korea, and China.

The results of the respective business segments exclude unallocated corporate expenses, which consist of our shared overhead costs. These costs are presented separately and generally include corporate costs such as human resources, legal, finance, information technology, accounting, and executive management.



Table of Contents

The following table details, by segment, the change in retail store count during the years ended December 31, 2013, 2012 and 2011:

## Stores Opened by Year

	United States	Canada	International	Total
Stores open as of December 31, 2010	157	40	76	273
2011				
Opened	1	—	4	5
Closed	(15	) (3	) (11	) (29
Stores open as of December 31, 2011	143	37	69	249
2012				
Opened	1	—	9	10
Closed	(4	) (2	) (2	) (8
Stores open as of December 31, 2012	140	35	76	251
2013				
Opened	3	—	6	9
Closed	(4	) (3	) (5	) (12
Stores open as of December 31, 2013	139	32	77	248

## Comparable Store Sales

The table below shows the increase (decrease) in comparable store sales for our retail and online stores, by quarter, for the years ended December 31, 2013, 2012, and 2011 and the number of retail stores included in the comparison at the end of each period. Comparable store sales are defined as the percentage change in sales for stores that have been open for more than twelve full months. Remodeled and expanded stores are excluded from the determination of comparable stores for the following twelve month period if the remodel or expansion results in a change of greater than 20% of selling square footage. Closed stores are excluded from the base of comparable stores following their last full month of operation.

In calculating constant currency amounts, we convert the results of our foreign operations both in the current period and the prior year comparable period using the weighted-average foreign exchange rate for the prior comparable period to achieve a consistent basis for comparison.

	For the Quarter Ended				Full year
	March 31	June 30	September 30	December 31	
2013 <sup>(1)</sup>	8%	7%	2%	(3)%	3%
Number of Stores	238	237	237	235	
2012	14%	16%	20%	11%	15%
Number of Stores	243	244	242	238	
2011	(5)%	1%	3%	8%	2%
Number of Stores	249	248	244	241	

<sup>(1)</sup> Comparable store sales results include the impact of online store sales and has been adjusted to exclude impact of extra leap-year day in 2012.



## Table of Contents

### Executive Summary

#### Results of Operations

Net sales for the year ended December 31, 2013 increased \$16,631, or 2.7%, to \$633,941 from \$617,310 reported for the year ended December 31, 2012 due to higher sales at our U.S. Wholesale and U.S. Retail segments.

Net sales at our U.S. Wholesale segment increased by \$15,896, or 8.6%, driven by higher sales order volume from existing and new customers. We improved our service levels through better inventory planning, which helped facilitate new account generation as well as grow business with our existing client roster. The launch of a new and expanded wholesale catalog and the addition of new products to our wholesale offering attracted a more diversified customer base. We continue our focus on increasing our customer base by targeting direct sales, particularly to third party screen printers. Online consumer net sales increased primarily as a result of the implementation of a new e-commerce platform in late 2012, which improved web store functionality, as well as a result of targeted online advertising and promotion efforts.

Net sales at our U.S. Retail segment increased \$6,125, or 3.1%, due to a 3% increase in comparable store sales as a result of continued strength in product offerings and targeted strategic promotions.

Net sales at our Canada and International segments decreased \$5,390, or 2.3%, due primarily to store closures and the negative impact of foreign currency fluctuations.

Gross margin for the year ended December 31, 2013 was 50.6% compared to 53.0% for the year ended December 31, 2012. The decrease in the gross margin was primarily due to higher distribution costs and promotions associated with our retail operation and increased production costs associated with our manufacturing operation. See Changes in Supply Chain Operation below.

Operating expenses include selling, general and administrative costs, and retail store impairment charges, and as a percentage of sales was approximately 55.2% in 2013 and 52.9% in 2012. Excluding the effects of depreciation, amortization, impairment charges and share-based compensation expenses between the two periods, operating expenses as a percentage of sales increased from 47.2% to 49.5%. The increase was primarily attributable to incremental costs associated with the transition to our new distribution center in La Mirada, California. See Changes in Supply Chain Operation below.

Loss from operations was \$29,295 for the year ended December 31, 2013 as compared to income from operations of \$962 for the year ended December 31, 2012. Higher sales volume was offset by lower gross margins and an increase in our operating expenses as discussed above.

Net loss for the year ended December 31, 2013 was \$106,298 as compared to \$37,272 for the year ended December 31, 2012 primarily as a result of a loss on extinguishment of debt related to our April 2013 refinancing and added costs associated with our distribution center. For the year ended December 31, 2013, we recognized a loss on extinguishment of debt of \$32,101 related to our April debt refinancing. For the year ended December 31, 2012, we recognized a gain on extinguishment of debt of \$11,588. See Results of Operations for further details.

#### Changes in Supply Chain Operation

The transition to our new distribution center in La Mirada, California had a significant negative impact on our earnings and cash flow in 2013. We incurred incremental distribution costs associated with these transition activities and recorded additional cost of sales of approximately \$3,027 and selling expenses of approximately \$11,847 in our statement of operations for the year ended December 31, 2013. The issues related to the transition primarily relate to improper system design and integration and inadequate training and staffing. These issues caused processing inefficiencies that required us to employ additional staff in order to meet customer demand. In addition, although we are unable to quantify the impact, we believe the disruption caused by the cut-over to the new distribution center had a negative impact on sales. The transition was successfully completed during the fourth quarter of 2013. The center is now fully operational and labor costs have been reduced.

#### Liquidity Trends

We generate cash primarily through the sale of products manufactured by us at our retail stores and through our wholesale operations. Primary uses of cash are for the purchase of raw materials, payroll for our manufacturing and

retail employees, retail store operating expenses and rent for retail stores.

As of December 31, 2013, we had approximately \$8,676 in cash and \$6,268 of availability for additional borrowings under our asset-backed revolving credit facility with Capital One Business Credit Corp. ("Capital One" and such facility, the "Capital One Credit Facility") and our credit agreement with Bank of Montreal ("the Bank of Montreal Credit Agreement"). Additionally, we had \$43,526 outstanding on a \$50,000 asset-backed revolving credit facility under our Capital One Credit Facility and \$443

Table of Contents

outstanding on a C\$5,000 (Canadian dollars) revolving credit facility under the Bank of Montreal Credit Agreement, which was reduced to C\$2,000 (Canadian dollars) effective February 28, 2014. Amounts outstanding under the Bank of Montreal Credit Agreement were repaid, and on March 31, 2014 expired by its terms. See Note 7, Revolving Credit Facilities and Current Portion of Long-Term Debt and Note 8, Long-Term Debt to our consolidated financial statements under Part II, Item 8.

As of February 28, 2014, we had approximately \$4,878 in cash and \$3,299 of availability for additional borrowings under the Capital One Credit Facility and Bank of Montreal Credit Agreement.

On April 4, 2013, we closed a private offering of \$206,000 aggregate principal amount of our 13% Senior Secured Notes (the "Notes") due April 15, 2020 at 97% of par and also entered into a new \$35,000 asset-backed revolving credit facility with Capital One maturing on April 4, 2018, subject to a January 15, 2018 maturity under certain circumstances. Subsequently, on July 5, 2013, we entered into an amendment to the credit agreement governing our credit facility with Capital One, pursuant to which the total commitment under the credit facility was raised to \$50,000. Interest on the Notes approximating \$13,500 per payment period (in 2014), is payable semi-annually, in arrears, on April 15 and October 15 of each year, beginning on October 15, 2013. We used the net proceeds from the offering of the notes, together with borrowings under the new credit facility to repay and terminate our credit agreement with Crystal Financial LLC ("Crystal") and our loan agreement with Lion. The notes and the new credit facility are our senior secured obligations and are guaranteed, on a senior secured basis, by our domestic restricted subsidiaries, subject to some exceptions. See Notes 7 and 8 to our consolidated financial statements under Part II, Item 8.

During the third quarter of 2013, we determined it was probable that a special interest trigger event under the indenture governing the Notes would occur as of December 31, 2013 and accrued interest on the Notes at 15% retroactive to April 4, 2013, representing an additional 2% interest, which additional interest is payable in kind until April 15, 2018 and in cash on subsequent interest dates. We recorded \$3,044 in additional interest expense related to the special interest trigger event for the year ended December 31, 2013. We will pay in-kind the additional 2% interest retroactive to the issue date of the Notes on the next interest payment date, April 15, 2014.

Under the Capital One Credit Facility, we were in violation of certain covenants for the twelve consecutive fiscal months ended September 30, 2013 and December 31, 2013, and we anticipated a violation for the twelve months ended March 31, 2014.

On November 14, 2013, we entered into a third amendment to the Capital One Credit Facility, which among other things, waived the obligation to maintain a minimum fixed charge coverage ratio and a maximum leverage ratio for the twelve consecutive fiscal month period ending September 30, 2013. As a condition to the waiver, we agreed to a one percentage point increase in the interest rate to either LIBOR plus 4.5% or the bank's prime rate plus 3.5% (at our option) and limitations on amounts available to be borrowed, consisting of the imposition of a reserve against the line that gradually reduced the total borrowing capacity to \$47,500 and certain amendments to the borrowing base calculation. In addition, we paid a waiver fee of \$75.

On March 25, 2014, we entered into a fifth amendment to the Capital One Credit Facility which, effective upon its receipt of at least \$25,000 of net proceeds from a financing prior to April 15, 2014, among other things: waives the obligation to maintain the minimum fixed charge coverage and maximum leverage ratios for the three month periods ended December 31, 2013 and March 31, 2014; resets for future periods the fixed charge coverage ratio, the maximum leverage ratio and the maximum capital expenditures allowed; adds a minimum EBITDA covenant; increases the interest rate payable under the credit agreement by 0.5% per annum to either LIBOR plus 5.0% or the bank's prime rate plus 4.0% (at our option); and increases the fees payable upon early termination.

On May 22, 2013 we entered into a loan agreement with Lion (the "Lion Loan Agreement") in a principal amount of \$4,500. On November 29, 2013, the Lion Loan Agreement was amended to increase the amount we borrowed by \$5,000 and to make certain other technical amendments. The term loans under the Lion Loan Agreement mature on October 4, 2018 and bear interest at an initial interest rate of 18% per annum, which interest rate increased to 20% per annum due to the occurrence of a special interest trigger event under our Notes. Interest under the loan agreement is payable in cash or, to the extent permitted by our other debt agreements, in-kind.

On March 31, 2014, we completed a public offering of approximately 61,645 shares of our common stock at \$0.50 per share for net proceeds of approximately \$28,500. As a result of this offering, our common stock issued and outstanding were 175,109 and 173,377 shares. Additionally, our underwriters have a 30 day option to acquire up to an additional 8,500 shares of our common stock at \$0.50 per share.

#### Management Plan

We continue to develop initiatives intended to either increase sales, reduce costs or improve liquidity. In the fourth quarter of 2013 and continuing into January of 2014, significant reductions were made in payroll and related costs associated with

Table of Contents

manufacturing and administrative overheads. We also instituted a program in the first quarter of 2014 to limit capital expenditures. Additionally, we intend to continue to drive productivity improvements from our new distribution center, further reduce inventories, reduce store labor costs, and evaluate further consolidation of administrative and manufacturing functions. Efforts to identify additional ways to reduce costs and improve productivity are ongoing. Some of our key initiatives in 2013 include:

Completed RFID implementation – From 2010 through 2013, we enhanced our stores by installing sales conversion tracking device and radio frequency identification (RFID) tracking systems. As of the end of 2013, we completed the enhancement of our stores by installing sales conversion tracking device and radio frequency identification (RFID) tracking systems at all of our stores worldwide. We believe that these systems will enhance sales through improvements in stock positions and replenishment activities.

New e-commerce platform – During the third quarter of 2012 we implemented a new online store platform for our U.S. online stores that resulted in functional improvements to our website and fulfillment processes and will allow us to tailor the look and feel of the online store to enhance the customer online shopping experience. The new store platform will also enable faster deployment of online stores to new international regions. As of the end of 2013, we have implemented this system for our Canada, United Kingdom, Europe (Euro zone countries), Australia, Hong Kong and Singapore online stores. We intend to implement this system to our remaining online stores by the middle of 2014. The new system offers a complete e-commerce software platform that speeds response times and enables us to deliver a personalized customer buying experience and we believe that these improvements will contribute to our continued financial growth as our website has the potential to not only increase online sales but also in-store sales. In conjunction with the implementation of the Oracle ATG Web Commerce application discussed above, we replaced our existing payment processing system with new electronic payment services from CyberSource. In addition, we implemented a payment fraud detection solution. We intend to complete the upgrade of our payment processing system by the middle of 2014.

In addition to completing the implementation of the Oracle ATG Web Commerce application for our retail online stores, we intent to roll-out a new business-to-business online platform for our wholesale channel in 2014. The new system will improve distributors' ability to place sales order and will be mobile optimized, which we believe will enhance the shopping experience for our distributors.

During 2012 and 2013 we successfully completed the virtualization of over 300 servers, including all our key servers. We plan to complete the virtualization of our servers and move our data center to an off-site location during 2014. We believe that this not only maximizes our server resources but will also enhance system performance and enable faster uptime in a disaster recovery situation.

New distribution center - In June 2012 we entered into a new operating lease agreement for a new distribution center located in La Mirada, California and fully transitioned our distribution operations into this new facility during 2013. Related to these efforts, we installed the High Jump warehouse management system for all distribution activities. Although we incurred significant transition costs and implementation delays associated with this transition, we believe that the new distribution center will contribute to processing efficiencies and effectiveness and will reduce operating expenses and cost of sales as it offers an improved distribution platform to scale both retail and wholesale sales channels. The transition to the new center was successfully completed during the fourth quarter of 2013. The center is now fully operational and labor costs have been reduced.

Although we have made significant improvements under this plan, there can be no assurance that further planned improvement will be successful.

Table of Contents

## Results of Operations

Year Ended December 31, 2013 compared to Year Ended December 31, 2012

(Amounts in thousands)

	For the Years Ended December 31,					
	2013	% of net sales	2012	% of net sales		
U.S. Wholesale	\$201,251	31.7	% \$185,355	29.6	%	
U.S. Retail	205,011	32.3	% 198,886	32.2	%	
Canada	60,134	9.5	% 63,669	10.3	%	
International	167,545	26.4	% 169,400	27.9	%	
Total net sales	633,941	100.0	% 617,310	100.0	%	
Cost of sales	313,056	49.4	% 289,927	47.0	%	
Gross profit	320,885	50.6	% 327,383	53.0	%	
Selling expenses	241,683	38.1	% 227,447	36.8	%	
General and administrative expenses	106,957	16.9	% 97,327	15.8	%	
Retail store impairment	1,540	0.2	% 1,647	0.3	%	
(Loss) income from operations	(29,295 )	(4.6	)% 962	0.2	%	
Interest expense	39,286		41,559			
Foreign currency transaction loss	1		120			
Unrealized loss on change in fair value of warrants	3,713		4,126			
Loss (gain) on extinguishment of debt	32,101		(11,588 )			
Other expense	131		204			
Loss before income tax	(104,527 )		(33,459 )			
Income tax provision	1,771		3,813			
Net loss	\$(106,298 )		\$(37,272 )			

U.S. Wholesale: Total net sales for the U.S. Wholesale segment increased \$15,896, or 8.6%, to \$201,251 for the year ended December 31, 2013 as compared to \$185,355 for the year ended December 31, 2012.

Wholesale net sales, excluding online consumer net sales, increased \$10,071, or 6.7%, to \$159,682 for the year ended December 31, 2013 as compared to \$149,611 for the year ended December 31, 2012 due to higher sales order volume. This increase was attributed to the continued strength of our existing and new product offerings. Additionally, in early 2013, we released an expanded wholesale catalog, and as new styles were added, released quarterly updates to the catalog. We continue our focus on increasing our customer base by targeting direct sales, particularly sales to third party screen printers.

Online consumer net sales increased \$5,825, or 16.3%, to \$41,569 for the year ended December 31, 2013 as compared to \$35,744 for the year ended December 31, 2012 primarily due to certain targeted promotional efforts and improved merchandising of the web store and as a result of the implementation of a new e-commerce platform in late 2012, which improved web store functionality.

U.S. Retail: Net sales for the U.S. Retail segment increased \$6,125, or 3.1%, to \$205,011 for the year ended December 31, 2013 as compared to \$198,886 for the year ended December 31, 2012. Net sales growth was generated by the continued strength of our product offerings and targeted strategic promotions which contributed to a 3%, or \$5,270, increase in our comparable store sales. Additionally, new stores contributed \$4,037 in net sales. These increases were partially offset by \$2,035 of lower warehouse sales in 2013 as compared to 2012 and a decrease of \$1,861 as a result of store closures.

Canada: Total net sales for the Canada segment decreased \$3,535, or 5.6%, to \$60,134 for the year ended December 31, 2013 as compared to \$63,669 for the year ended December 31, 2012 due primarily to lower sales in the

retail sales channel as a result of store closures. Additionally, the impact of foreign currency changes contributed to the sales decrease: holding foreign currency exchange rates constant to those prevailing in the comparable period in 2012, total revenue for the current period would have been approximately \$61,948, or 2.7% lower when compared to 2012.

Table of Contents

Retail net sales decreased by \$3,336, or 6.9%, to \$45,163 in 2013 as compared to \$48,499 in 2012 due to \$1,140 lower sales as a result of the closure of three stores and the negative impact of foreign currency fluctuation. Holding foreign currency exchange rates constant to those prevailing in fiscal 2012, retail sales for 2013 would have been approximately \$46,526, or 4.1% lower when compared to 2012.

Wholesale net sales decreased \$914, or 7.0%, to \$12,092 in 2013 as compared to \$13,006 in 2012, largely as a result of foreign currency fluctuation and lower sales volume from smaller customers. Holding foreign currency exchange rates constant to those prevailing in the comparable period in 2012, total wholesale net sales for the Canada segment for 2013 would have been approximately \$12,457, or 4.2% lower when compared to 2012.

Online consumer net sales increased \$715, or 33.0%, to \$2,879 in 2013 as compared to \$2,164 to 2012. This increase was primarily a result of targeted promotion efforts and email advertising campaigns. Holding foreign currency exchange rates constant to those prevailing in the comparable period in 2012, total revenue for the Canada segment for 2013 would have been approximately \$2,965, or 37.1% higher when compared to 2012.

International: Total net sales for the International segment decreased \$1,855, or 1.1%, to \$167,545 for the year ended December 31, 2013 as compared to \$169,400 for the year ended December 31, 2012 as a result of the negative impact of foreign currency fluctuation. Holding foreign currency exchange rates constant to those prevailing in the comparable period in 2012, total revenue for the International segment for 2013 would have been approximately \$170,084, or 0.4% higher when compared to 2012.

Retail net sales decreased \$221, or 0.2%, to \$141,517 for the year ended December 31, 2013 as compared to \$141,738 for the year ended December 31, 2012 as a result of the negative impact of foreign currency fluctuation. Holding foreign currency exchange rates constant to those prevailing in the comparable period in 2012, retail sales for 2013 would have been approximately \$143,601, or 1.3% higher when compared to the same period last year. Higher sales of \$1,274 from new stores were partially offset by \$610 of lower sales from store closures.

Wholesale net sales decreased \$1,385, or 13.5%, to \$8,893 in 2013 as compared to \$10,278 in 2012, primarily as a result of a decrease in wholesale sales in the U.K. Holding foreign currency exchange rates constant to those prevailing in the comparable period in 2012, sales for the current period would have been approximately \$8,741, or 15.0% lower during 2013 when compared to 2012.

Online consumer net sales decreased \$249, or 1.4%, to \$17,135 in 2013 as compared to \$17,384 in 2012, primarily as a result of changes in foreign currency exchange rates. Holding foreign currency exchange rates constant to those prevailing in the comparable period in 2012, sales for the current period would have been approximately \$17,742, or 2.1% higher when compared to 2012.

Changes in supply chain operation: The transition to our new distribution center in La Mirada, California had a significant negative impact on our earnings and cash flow. For the year ended December 31, 2013, we incurred incremental distribution costs associated with these transition activities and recorded additional cost of sales of approximately \$3,027 and selling expenses of approximately \$11,847 for a total charge of \$14,874 in our statement of operations for the year ended December 31, 2013. These issues caused processing inefficiencies that required us to employ additional staff in order to meet customer demand. In addition, although we are unable to quantify the impact, we believe the disruption caused by the cut-over to the new distribution center had a negative impact on sales. The transition was successfully completed during the fourth quarter of 2013. The center is now fully operational and labor costs have been reduced.

Gross margin: Gross margin for the year ended December 31, 2013 was 50.6% compared to 53.0% for the year ended December 31, 2012. The decrease in gross margin was due to higher distribution costs and promotions associated with our retail operation and increased production costs associated with our manufacturing operation. See Changes in Supply Chain Operation above.

Selling expenses: Selling expenses increased \$14,236, or 6.3%, to \$241,683 for the year ended December 31, 2013 as compared to \$227,447 for the year ended December 31, 2012. As a percentage of sales, selling expenses increased to 38.1% in 2013 from 36.8% in 2012.

The increase in selling expenses was primarily due to approximately \$11,847 higher distribution labor and rent costs at our U.S. Wholesale operations associated with the changes to our supply chain operations as discussed above. This was partially offset by \$5,996 lower payroll and rent costs at our Canadian operations as a result of the closure of our



warehouse in Montreal, Canada. Additionally, we incurred higher rent expense of \$2,827 at our U.S. Retail and International segments primarily related to new stores and lease renewals, higher travel and related expenses of \$964 as we completed our RFID implementation and make other store improvements, and higher supplies expenses of \$2,760 associated with our RFID implementation activities. The increases were partly offset by lower advertising and marketing expenses of \$2,300.

41

---

Table of Contents

General and administrative expenses: General and administrative expenses increased \$9,630, or 9.9%, to \$106,957 for the year ended December 31, 2013 as compared to \$97,327 for the year ended December 31, 2012. As a percentage of sales, general and administrative expenses increased to 16.9% in 2013 from 15.8% in 2012. The increase in general and administrative expenses was primarily due to higher computer software licensing related costs of \$3,109 associated with the recent improvements to our online store stores and other software upgrades, higher equipment lease expenses of \$3,181 and higher depreciation and amortization expenses of \$2,584 consistent with increased capital expenditures.

Retail store impairment charges: For the years ended December 31, 2013 and 2012, we recorded impairment charges relating to retail stores of \$1,540 and \$1,647, respectively.

Interest expense: Interest expense decreased \$2,273 to \$39,286 for the year ended December 31, 2013 from \$41,559 for the year ended December 31, 2012, primarily due to lower average interest rates on our outstanding debt. Interest expense for the year ended December 31, 2013 relates primarily to interest on our Notes and our credit agreement with Lion that was terminated in April 2013 ("the Lion Credit Agreement"). For the year ended December 31, 2013, amortization of debt discount and deferred financing cost was \$4,325 and interest paid in cash was \$18,948.

Unrealized loss on change in fair value of warrants: We recorded a loss of \$3,713 and loss of \$4,126 in fair value of warrants for the years ended December 31, 2013 and 2012, respectively associated with the fair value measurements of the Lion and SOF warrants. See Note 13, Stockholders' Equity to our consolidated financial statements under Part II, Item 8.

Loss (gain) on extinguishment of debt: During the year ended December 31, 2013, we recorded a loss on extinguishment of debt of \$32,101 relating to the termination of our credit agreements with Crystal and Lion in April 2013. During the year ended December 31, 2012, we recorded a gain on extinguishment of debt pertaining to an amendment to the Lion Credit Agreement of approximately \$11,588. See Note 7, Revolving Credit Facilities and Current Portion of Long-Term Debt and Note 8, Long-Term Debt to our consolidated financial statements under Part II, Item 8.

Income tax provision: The provision for income tax decreased to \$1,771 for the year ended December 31, 2013 as compared to \$3,813 for the year ended December 31, 2012. Although we incurred a loss from operations on a consolidated basis for the year ended December 31, 2013, some of our foreign domiciled subsidiaries reported income from operations and are taxed on a stand-alone reporting basis. In 2013 and 2012, we recorded valuation allowances against a majority of our deferred tax assets, including 100% of the U.S. deferred tax assets and certain foreign deferred tax assets. We recognized no tax benefits on our loss before income taxes in 2013 and 2012. See Note 11, Income Taxes to our consolidated financial statements under Part II, Item 8.

Table of Contents

Year Ended December 31, 2012 compared to Year Ended December 31, 2011

(Amounts in thousands)

	For the Years Ended December 31,					
	2012	% of net sales	2011	% of net sales		
U.S. Wholesale	\$185,355	30.0	% \$158,628	29.0	%	
U.S. Retail	198,886	32.2	% 174,837	31.9	%	
Canada	63,669	10.3	% 61,865	11.3	%	
International	169,400	27.4	% 152,006	27.8	%	
Total net sales	617,310	100.0	% 547,336	100.0	%	
Cost of sales	289,927	47.0	% 252,436	46.1	%	
Gross profit	327,383	53.0	% 294,900	53.9	%	
Selling expenses	227,447	36.8	% 209,841	38.3	%	
General and administrative expenses	97,327	15.8	% 104,085	19.0	%	
Retail store impairment	1,647	0.3	% 4,267	0.8	%	
Income (loss) from operations	962	0.2	% (23,293	) (4.3	)%	
Interest expense	41,559		33,167			
Foreign currency transaction loss	120		1,679			
Unrealized loss (gain) on change in fair value of warrants and purchase rights	4,126		(23,467	)		
(Gain) loss on extinguishment of debt	(11,588	)	3,114			
Other expense (income)	204		(193	)		
Loss before income taxes	(33,459	)	(37,593	)		
Income tax provision	3,813		1,721			
Net loss	\$(37,272	)	\$(39,314	)		

U.S. Wholesale: Total net sales for the U.S. Wholesale segment increased \$26,727, or 16.8%, to \$185,355 for the year ended December 31, 2012 as compared to \$158,628 for the year ended December 31, 2011.

Wholesale net sales, excluding online consumer net sales, increased \$17,476, or 13.2%, to \$149,611 for the year ended December 31, 2012 as compared to \$132,135 for the year ended December 31, 2011, driven by higher sales order volume from a significant number of existing and new customers. We improved our service levels through better inventory planning, which helped facilitate new account generation as well as grow business with our existing client roster. The launch of a new wholesale catalog and the addition of new products to our wholesale offering attracted a more diversified customer base. We continue our focus on increasing our customer base by targeting direct sales, particularly to third party screen printers.

Online consumer net sales increased \$9,251, or 34.9%, to \$35,744 for the year ended December 31, 2012 as compared to \$26,493 for the year ended December 31, 2011, as a result of targeted online advertising and promotion efforts and implementation of a new e-commerce platform, which improved web store functionality.

U.S. Retail: Net sales for the U.S. Retail segment increased \$24,049 or 14%, to \$198,886 for the year ended December 31, 2012 as compared to \$174,837 for the year ended December 31, 2011. Net sales growth was generated by a stronger inventory position in high volume categories, improvements to distribution operations, strategic promotions to drive volume in key basics, success in new women's and unisex fashion, including women's denim, and improved presentation of our floor sets. Throughout the period, improvements to logistics and the speed of allocation helped to support a buying strategy that is faster and more proactive.

Comparable store sales for the year ended December 31, 2012 increased by \$24,233, or 15%, while warehouse sales consisting primarily of discounted merchandise contributed an incremental \$4,288 increase from 2011 to 2012. The sales increase was partially offset by a \$1,710 sales decrease as a result of a reduction in the number of stores in

operation from 143 at December 31, 2011 to 140 stores at December 31, 2012.

Canada: Net sales for the Canada segment increased \$1,804, or 3%, to \$63,669 for the year ended December 31, 2012 as compared to \$61,865 for the year ended December 31, 2011. The increase is primarily due to higher net sales in the wholesale

Table of Contents

channel. Holding foreign currency exchange rates constant to those prevailing in the comparable period in fiscal 2011, total net sales for the Canada segment for 2012 would have been approximately \$64,357, or 4% higher when compared to the same period last year.

Retail net sales for the year ended December 31, 2012 was \$48,499 and was essentially unchanged from the prior year. Comparable store sales for the year ended December 31, 2012 increased by \$2,747, or 6%. Since December 31, 2011, the number of retail stores in the Canada segment in operation decreased from 37 to 35. Holding foreign currency exchange rates constant to those prevailing in fiscal 2011, total retail net sales for the Canada segment for 2012 would have been approximately \$49,023, or 1% higher when compared to the same period last year.

Wholesale net sales increased \$1,514, or 13%, to \$13,006 for the year ended December 31, 2012 as compared to \$11,492 for the year ended December 31, 2011. The increase in net sales is due to better focus on key customers and an improved pricing strategy. Holding foreign currency exchange rates constant to those prevailing in the comparable period in 2011, total wholesale net sales for the Canada segment for 2012 would have been approximately \$13,147, or 14% higher when compared to the same period last year.

Online consumer net sales increased \$318, or 17%, to \$2,164 for the year ended December 31, 2012 as compared to \$1,846 for the year ended December 31, 2011. Foreign currency effects were minimal.

International: Total net sales for the International segment increased \$17,394, or 11.4%, to \$169,400 for the year ended December 31, 2012 as compared to \$152,006 for the year ended December 31, 2011. The increase is due to higher sales in the retail and online sales channels. Holding foreign currency exchange rates constant to those prevailing in the comparable period in 2011, total revenue for the International segment for 2012 would have been approximately \$176,131, or 16% higher when compared to the same period last year.

Retail net sales increased \$14,870, or 12%, to \$141,738 for the year ended December 31, 2012 as compared to \$126,868 for the year ended December 31, 2011. The change is mainly due to higher sales in the U.K. of \$7,655, Japan of \$6,159 and Australia of \$2,478 offset by lower sales in Continental Europe of \$1,269 primarily due to the closure of two stores during 2012. Comparable store sales for the year ended December 31, 2012 increased by \$17,026, or 15% as compared to the year ended December 31, 2011. Since December 31, 2011, the number of retail stores in the International segment increased from 69 to 76 at December 31, 2012. Holding foreign currency exchange rates constant to those prevailing in the comparable period in 2011, retail net sales for 2012 would have been approximately \$147,349, or 16% higher when compared to the same period last year.

Wholesale net sales decreased \$128, or 1%, to \$10,278 for the year ended December 31, 2012 as compared to \$10,406 for the year ended December 31, 2011. The decrease is due to unfavorable exchange rates. Holding foreign currency exchange rates constant to those prevailing in the comparable period in 2011, sales for the current period would have been approximately \$10,802, or 4% higher during 2012 when compared to the same period last year.

Online consumer net sales increased \$2,652 or 18%, to \$17,384 for the year ended December 31, 2012 as compared to \$14,732 for the year ended December 31, 2011. Holding foreign currency exchange rates constant to those prevailing in the comparable period in 2011, sales for the current period would have been approximately \$17,980, or 22% higher when compared to the same period last year.

Gross margin: Gross margin as a percentage of net sales was 53% and 53.9% for the years ended December 31, 2012 and 2011, respectively. The decrease in gross margin was due to the net sales impact of planned promotional activities and the effect of warehouse type clearance sales as part of our overall inventory reduction strategy, as well as reduced production in connection with our inventory turn improvement efforts.

Selling expenses: Selling expenses increased \$17,606, or 8%, to \$227,447 for the year ended December 31, 2012 from \$209,841 for the year ended December 31, 2011. The increase was a result of improving sales. Additionally, we increased our spending on print, outdoor and online advertising to \$22,114 for the year ended December 31, 2012 from \$15,194 for the comparable period in 2011 in order to continue the sales momentum. As a percentage of sales, selling expenses decreased to 36.8% for the year ended December 31, 2012 from 38.3% for the year ended December 31, 2011.

General and administrative expenses: General and administrative expenses decreased \$6,758, or 6%, to \$97,327 for the year ended December 31, 2012 as compared to \$104,085 for the year ended December 31, 2011. As a percentage of sales, general and administrative expenses decreased to 15.8% during the year ended December 31, 2012 from

19.0% during the year ended December 31, 2011. The decrease in general and administrative expenses was primarily due a \$6,482 reduction in professional fees (primarily consulting, accounting and legal related fees), a decrease of \$1,878 in medical benefit costs in the U.S., a decrease of \$1,694 in depreciation and amortization expenses and certain other items, offset by an increase of \$3,033 in share-based compensation expense and \$2,284 higher salaries, wages and bonus expenses.

Table of Contents

Retail store impairment charges: At December 31, 2012, we performed a recoverability test and an impairment test of our long lived assets at our retail stores and we recorded impairment charges relating primarily to certain retail store leasehold improvements of \$1,647 and \$4,267 for the years ended December 31, 2012 and 2011, respectively.

Interest expense: Interest expense increased \$8,392 to \$41,559 for the year ended December 31, 2012 from \$33,167 for the year ended December 31, 2011 primarily due to a higher average balance of debt outstanding and higher interest rates related to our credit agreement with Crystal ("the Crystal Credit Agreement"). Interest expense for the year ended December 31, 2012 relates primarily to interest on the Lion Credit Agreement and Crystal Credit Agreement. For the year ended December 31, 2012, amortization of debt discount and deferred financing cost was \$10,261 and interest paid in cash was \$10,954.

Foreign currency transaction loss: Foreign currency transaction loss was \$120 for the year ended December 31, 2012, as compared to a loss of \$1,679 for the year ended December 31, 2011. The change related to a lower valuation of the U.S. dollar relative to functional currencies used by our subsidiaries.

Unrealized (gain) loss on change in fair value of warrants and purchase rights: We recorded a \$4,126 loss in fair value of warrants for the year ended December 31, 2012 associated with the fair value measurements of the Lion and SOF warrants. We recorded a \$23,467 gain in the fair value of warrants and purchase rights for the year ended December 31, 2011 associated with the fair value measurement of purchase rights to an investor group and Mr. Charney, and additional warrants to Lion at December 31, 2011. There were no purchase rights outstanding in 2012. See Note 13, Stockholders' Equity to our consolidated financial statements under Part II, Item 8.

(Gain) loss on extinguishment of debt: During the year ended December 31, 2012, we recorded a gain on extinguishment of debt relating to an amendment to the Lion Credit Agreement of approximately \$11,588. During the year ended December 31, 2011, we recorded a loss on extinguishment of debt pertaining to an amendment to the Lion Credit Agreement of approximately \$3,114. See Note 8, Long-Term Debt to our consolidated financial statements under Part II, Item 8.

Income tax provision: The provision for income tax increased to \$3,813 for the year ended December 31, 2012 as compared to \$1,721 for the year ended December 31, 2011. We have recorded valuation allowances against a majority of our deferred tax assets, including 100% of the U.S. deferred tax assets and certain foreign deferred tax assets. Similarly, we recognized no tax benefits on our loss before income taxes in 2012. See Note 11, Income Taxes to our consolidated financial statements under Part II, Item 8.

Liquidity and Capital Resources

Summary

As of December 31, 2013, we had approximately \$8,676 in cash and \$6,268 of availability for additional borrowings under the Capital One Credit Facility and Bank of Montreal Credit Agreement. Additionally, we had \$43,526 outstanding out of \$50,000 of commitments under the Capital One Credit Facility and \$443 outstanding on the C\$2,000 (Canadian dollars) Bank of Montreal Credit Agreement, which was reduced from C\$11,000 (Canadian dollars) effective February 28, 2014. Amounts outstanding under the Bank of Montreal Credit Agreement were repaid, and on March 31, 2014 expired by its terms. See Note 7, Revolving Credit Facilities and Current Portion of Long-Term Debt and Note 8, Long-Term Debt to our consolidated financial statements under Part II, Item 8.

As of February 28, 2014, we had approximately \$4,878 in cash and \$3,299 of availability for additional borrowings under the Capital One Credit Facility and Bank of Montreal Credit Agreement.

On April 4, 2013, we closed a private offering of \$206,000 aggregate principal amount of our Senior Secured Notes due April 15, 2020 at 97% of par and also entered into a new \$35,000 asset-backed revolving credit facility with Capital One maturing on April 4, 2018, subject to a January 15, 2018 maturity under certain circumstances.

Subsequently, on July 5, 2013, we entered into an amendment to the Capital One Credit Facility increasing the total commitment to \$50,000. Interest on the Notes approximating \$13,500 per payment period (in 2014), is payable semi-annually, in arrears, on April 15 and October 15 of each year, beginning on October 15, 2013. We used the net proceeds from the offering of the Notes, together with borrowings under the new credit facility, to repay and terminate our credit agreement with Crystal Financial LLC and our loan agreement with Lion Capital LLP. The notes and the new credit facility are our senior secured obligations and are guaranteed, on a senior secured basis, by our domestic

restricted subsidiaries, subject to some exceptions.

During the third quarter ended September 30, 2013, we determined it was probable that a special interest trigger event under the indenture governing the Notes would occur as of the December 31, 2013 measurement date, and accrued interest on the Notes at 15% retroactive to April 4, 2013 representing an additional 2% interest, which additional interest is payable in kind until April 15, 2018 and in cash on subsequent interest dates. We recorded \$3,044 in additional interest expense related to the

45

---



Table of Contents

special interest trigger event for the year ended December 31, 2013. We will pay in kind the additional 2% interest retroactive to the issue date of the Notes on the next interest payment date, April 15, 2014.

Under the Capital One Credit Facility, we were in violation of certain covenants for the twelve consecutive fiscal months ended September 30, 2013 and December 31, 2013, and we anticipated a violation for the twelve months ended March 31, 2014.

On November 14, 2013, we entered into a third amendment to the Capital One Credit Facility, which among other things, waived the obligation to maintain a minimum fixed charge coverage ratio and a maximum leverage ratio for the twelve consecutive fiscal month period ending September 30, 2013. As a condition to the waiver, we agreed to a one percentage point increase in the interest rate to either LIBOR plus 4.5% or the bank's prime rate plus 3.5% (at our option) and limitations on amounts available to be borrowed, consisting of the imposition of a reserve against the line that gradually reduced the total borrowing capacity to \$47,500 and certain amendments to the borrowing base calculation. In addition, we paid a waiver fee of \$75.

On March 25, 2014, we entered into a fifth amendment to the Capital One Credit Facility which, effective upon its receipt of at least \$25,000 of net proceeds from a financing prior to April 15, 2014, among other things: waives the obligation to maintain the minimum fixed charge coverage and maximum leverage ratios for the three month periods ended December 31, 2013 and March 31, 2014; resets for future periods the fixed charge coverage ratio, the maximum leverage ratio and the maximum capital expenditures allowed; adds a minimum EBITDA covenant; increases the interest rate payable under the credit agreement by 0.5% per annum to either LIBOR plus 5.0% or the bank's prime rate plus 4.0% (at our option); and increases the fees payable upon early termination.

On May 22, 2013 we entered into the Lion Loan Agreement in a principal amount of \$4,500. On November 29, 2013, the Lion Loan Agreement was amended to increase the amount we borrowed by \$5,000 and to make certain other technical amendments. The term loans under the Lion Loan Agreement mature on October 4, 2018 and bear interest at an initial interest rate of 18% per annum, which interest rate increased to 20% per annum due to the occurrence of a special interest trigger event under our Notes. Interest under the loan agreement is payable in cash or, to the extent permitted by our other debt agreements, in-kind.

On March 31, 2014, we completed a public offering of approximately 61,645 shares of our common stock at \$0.50 per share for net proceeds of approximately \$28,500. As a result of this offering, our common stock issued and outstanding were 175,109 and 173,377 shares. Additionally, our underwriters have a 30 day option to acquire up to an additional 8,500 shares of our common stock at \$0.50 per share.

Over the past years, our operations have been funded through a combination of borrowings from related and unrelated parties, bank and other debt, lease financing, proceeds from the exercise of purchase rights and issuance of common stock. As discussed under Management Plan above, we continue to develop initiatives intended to either increase sales, reduce costs or improve liquidity. In the fourth quarter of 2013 and continuing into January of 2014, significant reductions were made in payroll and related costs associated with manufacturing and administrative overheads. We also instituted a program in the first quarter of 2014 to limit capital expenditures. Additionally, we intend to continue to drive productivity improvements from our new distribution center, further reduce inventories, reduce store labor costs, and evaluate further consolidation of administrative and manufacturing functions. Efforts to identify additional ways to reduce costs and improve productivity are ongoing.

Our principal liquidity requirements are for working capital interest payments, capital expenditures and to fund operations. We fund our liquidity requirements primarily through cash on hand, cash flow from operations and borrowings under our credit facilities. Our credit agreements have from time to time contained covenants requiring us to meet specified targets for measures related to earnings, limits on capital expenditures, minimum fixed charge coverage ratios and maximum leverage ratios, and our inability to achieve such targets or to obtain a waiver of compliance would negatively impact the availability of credit under those credit facilities or result in an event of default.

We believe that we have sufficient financing commitments to meet funding requirements for the next twelve months.

Table of Contents

## Cash Flow Overview

Cash Flow Overview for the years ended December 31, 2013, 2012 and 2011 is as follows (dollars in thousands):

	2013	2012	2011
Net cash (used in) provided by:			
Operating activities	\$(12,723 )	\$23,589	\$2,305
Investing activities	(25,147 )	(24,853 )	(10,759 )
Financing activities	34,228	4,214	12,582
Effect of foreign exchange rate changes on cash	(535 )	(390 )	(1,491 )
Net (decrease) increase in cash	\$(4,177 )	\$2,560	\$2,637
Year Ended December 31, 2013			

Cash used in operating activities was \$12,723. This was a result of a net loss of \$106,298 as a result of a decrease in our gross profit rate, the impact to our cost of sales and operating expenses from the transition to our new distribution facility, and higher computer software and store supply expenses as we continue to improve both our online and retail stores. These were offset by non-cash expenses of \$85,764 and a decrease in working capital requirements of \$7,811. Non-cash expenses during the year relate primarily to loss on extinguishment of debt from our April 2013 refinancing, depreciation, amortization and impairment charges, the fair value of our warrant liability, stock-based compensation expense, and non-cash interest expense from the amortization of deferred financing costs and loan discounts and from the accrual for paid-in-kind interest.

The decrease in working capital requirements was primarily due to a \$11,764 increase in accrued expenses as a result of accrued interest related to the Notes and timing of deferred revenue related to recent promotional activities.

Additionally, inventory decreased \$3,715 as a result of our efforts to reduce inventory levels. These decreases in working capital requirements were offset by a \$6,063 increase in prepaid expenses related primarily to higher prepaid software maintenance fees and higher prepaid store supplies. Additionally, other assets increased \$4,393 due primarily to an increase in deferred financing costs related to our April 2013 refinancing and higher deposits related to our workers compensation program.

Cash used in investing activities was \$25,147. This was primarily related to \$27,054 in capital expenditures as we continue to make improvements to our existing stores and open new stores, invest in equipment and software for our new distribution center, and continue to invest in our manufacturing equipment, computer software and website development. During this period, six new retail stores were opened in the International segment.

Cash provided by financing activities was \$34,228. This consisted primarily of proceeds of \$199,820 from issuance of the Notes and \$39,794 in borrowings from our Capital One and Bank of Montreal revolving credit facilities. The net proceeds from the offering of the Notes, together with borrowings under the new credit facility were used to repay and terminate the outstanding amounts with Lion Capital of \$144,149 and with Crystal Financial of \$66,411.

## Year Ended December 31, 2012

Cash provided by operating activities was \$23,589. This was a result of a net loss of \$37,272 offset by non-cash expenses of \$56,608 and a decrease in working capital of \$4,253.

Non-cash expenses during the year relate primarily to depreciation, amortization and impairment charges, a decrease in the fair value of our warrant liability, stock-based compensation expense, and non-cash interest expense from the amortization of deferred financing costs and loan discounts and from the accrual for paid-in-kind interest. These non-cash charges were offset by a gain on extinguishment of debt.

The decrease in working capital was primarily due to a decrease in inventories of \$13,949. The decrease in inventory is due to a year-over-year 20% decrease in units as a result of improvements in our sales and improvements in inventory planning. This was partially offset by an increase in other assets of \$8,455 as a result of higher deposits required for our self-insured workers compensation policy.

Cash used in investing activities was \$24,853. This consisted primarily of \$21,607 in capital expenditures and \$3,720 in restricted cash used as collateral to secure our standby letters of credit associated with the worker's compensation self-insurance program and other liabilities. Net investments in property and equipment in the U.S. Wholesale segment consisted mostly of expenditures for manufacturing equipment and computer hardware and software. We upgraded our production forecasting and allocation systems and significantly enhanced our online web store

capabilities with a new back office web platform. We also

47

---

## Table of Contents

invested in our new distribution center in La Mirada, California. Net investments in the U.S. Retail segment were primarily to upgrade and remodel certain existing stores. Additionally, we continued implementing radio frequency identification (RFID) tracking systems at our stores. As of the end of February 2013, we had implemented RFID systems at approximately 213 stores worldwide.

Cash provided by financing activities was \$4,214. This consisted primarily of proceeds from borrowings of \$28,451 under the new revolving credit facility and \$29,987 for a term loan, both under the Crystal Credit Agreement, partially offset by the repayment of the previous revolving credit facility for \$48,324 with BofA. Borrowings are primarily used to fund our operating and working capital needs.

Year Ended December 31, 2011

Cash provided by operating activities was \$2,305. This was a result of non-cash expenses of \$43,278 offset by a net loss of \$39,314 and an increase in working capital requirements of \$1,659.

Non-cash expenses include depreciation, amortization, loss on disposal of property and equipment, foreign exchange transaction gain, allowance for inventory shrinkage and obsolescence, change in fair value of warrant liability, loss on extinguishment of debt, accrued interest-in-kind, impairment charges, stock-based compensation, bad debt expense, deferred income taxes, and deferred rent.

The increase in working capital was due primarily to an increase in inventory of \$6,771. Although our unit inventory levels declined 7% at December 31, 2011 compared to December 31, 2010, the increase in yarn and fabric prices beginning in 2010, and continuing throughout the first half of 2011, resulted in an increase to the cost of our inventory, despite overall reductions to the other direct costs in our manufacturing processes. In addition, our production planning and scheduling methodology calls for maintaining normal production levels throughout the year, regardless of seasonality in demand. This approach allows us to have efficient inventory levels in stock and to be well positioned in anticipation of key selling seasons.

Cash used by investing activities was \$10,759 and related primarily to capital expenditures. Net investments in property and equipment were \$3,638 for the U.S. Wholesale segment, \$4,889 for the U.S. Retail segment, \$407 for the Canada segment and \$2,136 for the International segment. During this period, four new retail stores were opened in the International segment. Investments in the U.S. Wholesale segment consisted mostly of expenditures for manufacturing equipment, computer hardware and software. Investments in the U.S. Retail segment were primarily to upgrade and remodel certain existing stores.

Cash provided by financing activities was \$12,582. This consisted primarily of proceeds of \$21,710 from the sale of common stock and purchase rights and \$3,100 in proceeds from a sale-leaseback financing transaction for manufacturing equipment, partially offset by the repayment of \$6,874 under our revolving credit facilities.

### Debt Agreements and Other Capital Resources

Capital One Credit Facility - On April 4, 2013, we replaced our credit facility with Crystal with a new \$35,000 asset-based revolving facility with Capital One. Subsequently, on July 5, 2013, we entered into an amendment to the credit agreement with Capital One, pursuant to which the total commitment under the credit facility was raised to \$50,000. The additional commitment was made under substantially the same terms as the existing facility. The Capital One Credit Facility matures on April 4, 2018, subject to a January 15, 2018 maturity if excess availability is less than \$15,000 at the time of notice to Capital One of a determination by the Company that an Applicable High Yield Discount Obligation ("AHYDO") redemption will be required pursuant to Section 3.01(e) of the indenture governing the Notes. Borrowings under the Capital One Credit Facility bore interest equal to LIBOR plus 3.5% or the bank's prime rate plus 2.5% (at the Company's option) and were subject to maintenance of specified borrowing base requirements and covenants.

Under the Capital One Credit Facility, we were in violation of certain covenants for the twelve consecutive fiscal months ended September 30, 2013 and December 31, 2013, and we anticipated a violation for the twelve months

ended March 31, 2014.

On November 14, 2013, we entered into a third amendment to the Capital One Credit Facility, which among other things, waived the obligation to maintain a minimum fixed charge coverage ratio and a maximum leverage ratio for the twelve consecutive fiscal month period ending September 30, 2013. As a condition to the waiver, we agreed to a one percentage point increase in the interest rate to either LIBOR plus 4.5% or the bank's prime rate plus 3.5% (at our option) and limitations on amounts available to be borrowed, consisting of the imposition of a reserve against the line that gradually reduced the total borrowing capacity to \$47,500 and certain amendments to the borrowing base calculation. In addition, we paid a waiver fee of \$75.

On March 25, 2014, we entered into a fifth amendment to the Capital One Credit Facility which, effective upon its receipt of at least \$25,000 of net proceeds from a financing prior to April 15, 2014, among other things: waives the obligation to maintain

48

---

Table of Contents

the minimum fixed charge coverage and maximum leverage ratios for the three month periods ended December 31, 2013 and March 31, 2014; resets for future periods the fixed charge coverage ratio, the maximum leverage ratio and the maximum capital expenditures allowed; adds a minimum EBITDA covenant; increases the interest rate payable under the credit agreement by 0.5% per annum to either LIBOR plus 5.0% or the bank's prime rate plus 4.0% (at our option); and increases the fees payable upon early termination.

The Capital One Credit Facility is secured by a lien on substantially all of the assets of our domestic subsidiaries and equity interests in certain of our foreign subsidiaries, subject to some exceptions. The amount available for additional borrowings on December 31, 2013 was \$4,179. See Financial Covenants below and Note 7, Revolving Credit Facilities and Current Portion of Long-Term Debt to our consolidated financial statements under Part II, Item 8.

Bank of Montreal Credit Facility - On December 31, 2013, our wholly-owned Canadian subsidiaries, entered into a fourth amendment to the Bank of Montreal Credit Agreement that reduced the existing revolving credit facility amount from C\$11,000 (Canadian dollars) to C\$5,000 (Canadian dollars) and extended the maturity date to February 28, 2014. On February 28, 2014, the revolving credit facility commitment was further reduced to C\$2,000 (Canadian dollars) and the maturity set to March 31, 2014. Amounts outstanding under the Bank of Montreal Credit Agreement were repaid, and on March 31, 2014 expired by its terms.

The Bank of Montreal Credit Agreement bore interest at 7.0% (the bank's prime rate at 3.0% as of December 31, 2013 plus 4.0% per annum) payable monthly. This line of credit was secured by a lien on the accounts receivable, inventory and certain other tangible assets of the CI Companies. Our available borrowing capacity was \$2,089 on December 31, 2013. See Financial Covenants below and Note 7, Revolving Credit Facilities and Current Portion of Long-Term Debt to our consolidated financial statements under Part II, Item 8.

Senior Secured Notes due 2020 - On April 4, 2013, we issued the Notes in an aggregate principal amount of \$206,000. The Notes will mature on April 15, 2020. The Notes were issued at 97% of par value with an interest rate at issuance of 13% per annum, subject to adjustment. Interest on the Notes approximating \$13,500 per payment period (in 2014), is payable semi-annually, in arrears, on April 15 and October 15 of each year, beginning on October 15, 2013.

A "special interest trigger event" is deemed to have occurred under the indenture governing the Notes if our net leverage ratio for the year ended December 31, 2013 is greater than 4.50 to 1.00. Upon the occurrence of a special interest trigger event, interest on the Notes accrues at the rate of 15% per annum, retroactive to April 4, 2013, with the interest in excess of 13% per annum payable (i) in the case of any interest payment date prior to April 15, 2018, by adding such excess interest to the principal amount of the Notes on the interest payment date, and (ii) for any interest payment date on or after April 15, 2018, in cash.

During the third quarter of 2013, we determined it was probable that a special interest trigger event under the indenture governing the Notes would occur as of December 31, 2013, and we accrued interest on the Notes at 15% retroactive to April 4, 2013, representing an additional 2% interest, which is payable-in kind until April 15, 2018 and in cash on subsequent interest payment dates. We recorded \$3,044 in additional interest expense for the special interest trigger event for the year ended December 31, 2013. We will pay in-kind the additional 2% interest retroactive to the issue date of the Notes on the next interest payment date, April 15, 2014.

On or after April 15, 2017, we may redeem some or all of the Notes at a premium decreasing ratably to zero as specified in the indenture, plus accrued and unpaid interest to, but not including, the redemption date. Prior to April 15, 2017, we may redeem up to 35% of the aggregate principal amount of the Notes with the net cash proceeds of certain equity offerings at a redemption price of 113% of the aggregate principal amount of the redeemed notes plus accrued and unpaid interest to, but not including, the redemption date. In addition, at any time prior to April 15, 2017 we may redeem some or all of the Notes by paying a premium, plus accrued and unpaid interest to, but not including, the redemption date. If we experience certain change of control events, the holders of the Notes will have the right to require us to purchase all or a portion of the Notes at a price in cash equal to 101% of the principal amount of such Notes, plus accrued and unpaid interest to, but not including, the date of purchase. In addition, we are required to use the net proceeds of certain asset sales, if not used for specified purposes, to purchase some of the Notes at 100% of the principal amount, plus accrued and unpaid interest to, but not including, the date of purchase. On each interest payment date after April 4, 2018, we will be required to redeem, for cash, a portion of each Note then outstanding equal to the amount necessary to prevent such Note from being treated as an "applicable high yield discount obligation"

within the meaning of the Internal Revenue Code. The redemption price will be 100% of the principal amount plus accrued and unpaid interest thereon on the date of redemption.

The Notes are guaranteed, jointly and severally, on a senior secured basis by our existing and future domestic restricted subsidiaries. See Financial Covenants below and Note 8, Long-Term Debt to our consolidated financial statements under Part II, Item 8.

Table of Contents

Crystal Credit Facility - On April 4, 2013, we replaced our existing revolving credit facility and term loan with Crystal Financial LLC ("Crystal" and the "Crystal Credit Agreement", respectively), with a new asset-based revolving credit agreement with Capital One.

All amounts owed under the Crystal credit facility were repaid with the net proceeds from the offering of the Notes and the new credit facility.

The difference between the net carrying amount of the Crystal loans of \$60,533 (which includes the outstanding balance, accrued but unpaid interest, and unamortized financing cost immediately prior to the date of the extinguishment) and the cash paid to Crystal of \$66,411 (which includes a \$2,400 early termination fee) was recorded as a \$5,878 loss on early extinguishment of debt in our statement of operations for the year ended December 31, 2013. See Note 7, Revolving Credit Facilities and Current Portion of Long-Term Debt to our consolidated financial statements under Part II, Item 8.

Lion Loan Agreement - On May 22, 2013 we entered into the Lion Loan Agreement in a principal amount of \$4,500. On November 29, 2013, the Lion Loan Agreement was amended to increase the amount we borrowed by \$5,000 and to make certain other technical amendments. The term loans under the Lion Loan Agreement mature on October 4, 2018 and bear interest at an initial interest rate of 18% per annum, which interest rate increased to 20% per annum due to the occurrence of a special interest trigger event under our Notes. Interest under the loan agreement is payable in cash or, to the extent permitted by our other debt agreements, in-kind.

Lion Credit Agreement - On April 4, 2013, we repaid and terminated the outstanding obligations under the Lion Credit Agreement with a portion of the proceeds of the issuance of the Notes and entry into the Capital One Credit Facility. The difference between the net carrying amount of the Lion debt of \$117,926 (which includes the principal, accrued but unpaid interest, unamortized discount and unamortized financing cost immediately prior to the date of extinguishment) and the cash paid to Lion of \$144,149 was recorded in our statement of operations for the year ended December 31, 2013 as a \$26,223 loss on the early extinguishment of this debt. See Note 8, Long-Term Debt to our consolidated financial statements under Part II, Item 8.

Lion Warrants - As of December 31, 2013, Lion held warrants to purchase 21,606 shares of our common stock, with an exercise price of \$0.75 per share. These warrants expire on February 18, 2022. The estimated fair value of \$20,954 at December 31, 2013 is recorded as a current liability in our consolidated balance sheets under Part II, Item 8.

The Lion Warrants also contain certain anti-dilution protections in favor of Lion providing for proportional adjustment of the warrant price and, under certain circumstances, the number of shares of our common stock issuable upon exercise of the Lion Warrant, in connection with, among other things, stock dividends, subdivisions and combinations and the issuance of additional equity securities at less than fair market value, as well as providing for the issuance of additional warrants to Lion in the event of certain equity sales or debt for equity exchanges. See Note 13, Stockholders' Equity to our consolidated financial statements under Part II, Item 8.

On March 31, 2014, as a result of the public offering of our common shares as discussed below, we estimate that Lion received the right to purchase approximately 2,900 shares of our common stock under their existing warrants and the exercise price of all of Lion's warrants will be adjusted to approximately \$0.66 per share. Such adjustments were required by the terms of the existing Lion warrants.

Sale of Common Shares - On March 31, 2014, we completed a public offering of approximately 61,645 shares of our common stock at \$0.50 per share for net proceeds of approximately \$28,500. As a result of this offering, our common stock issued and outstanding were 175,109 and 173,377 shares. Additionally, our underwriters have a 30 day option to acquire up to an additional 8,500 shares of our common stock at \$0.50 per share.

Investor Purchase Rights - On April 26, 2011 and in connection with the February 18, 2011 amendment to the Lion Credit Agreement, we entered into a purchase and investment agreement with a group of investors ("Investors") and sold approximately 15,777 shares of common stock at a price of \$0.90 per share and purchase rights to acquire additional shares of common stock for the aggregate net cash purchase price of approximately \$12,417. The purchase rights gave the Investors the right to purchase up to an aggregate of approximately 27,443 additional shares of common stock at a price of \$0.90 per share.

We also entered into a purchase agreement with Dov Charney that, among other things, allowed Mr. Charney to purchase 778 initial shares and up to 1,556 additional shares of common stock on the same terms as the purchase



agreement with the Investors ("Charney Purchase Rights").

In July 2011, the Investors exercised their purchase rights and acquired 8,407 shares of our common stock for \$0.90 per share. These transactions resulted in \$6,593 in aggregate proceeds, net of transaction costs.

In October 2011, the remaining 19,036 Investor Purchase Rights and the 1,556 Charney Purchase Rights expired without being exercised. See Note 13, Stockholders' Equity to our consolidated financial statements under Part II, Item 8.

50

---

Table of Contents

Related Party Debt and Sale of Stock to CEO

Related-Party Debt - On March 24, 2011, we entered into an agreement with Mr. Charney, which canceled our \$4,688 promissory notes payable to Mr. Charney in exchange for 4,223 shares of our common stock at a price of \$1.11 per share, with 50% of these shares issued at closing and the remaining shares issuable to Mr. Charney only if prior to March 24, 2014, the closing sale price of our common stock exceeds \$3.50 for 30 consecutive trading days or there is a change of control of American Apparel.

Sale of Common Stock to CEO - On July 7, 2011, we sold 778 shares of our common stock to Dov Charney, pursuant to his purchase agreement described above, at \$0.90 per share, for total proceeds of \$700. On March 24, 2011, we entered into an agreement to sell to Mr. Charney approximately 1,802 shares of our common stock at a price of \$1.11 per share for proceeds of \$2,000.

See Notes 12 and 13, Related Party Transactions and Stockholders' Equity to our consolidated financial statements under Part II, Item 8.

Table of Contents

## Summary of Debt

The following is an overview of our total debt as of December 31, 2013 (dollars in thousands):

Description of Debt	Lender Name	Interest Rate	December 31, 2013	Covenant Violations
Revolving credit facility	Capital One Leverage Finance Corp.	(1) 30-day LIBOR of 0.167% plus 4.5% plus unused facility fee of 0.5%; or (2) bank's prime rate of 3.25% plus 3.5% plus unused facility fee of 0.5%;	\$43,526	Yes <sup>(1)</sup>
Revolving credit facility (Canada)	Bank of Montreal	Bank's prime rate of 3% plus 4%;	443	No
Senior Secured Notes, net of discount and including 2% interest paid in kind		15.0%	203,265	No
Term loan including interest paid-in-kind	Lion	20.0%	9,865	No
Other			411	
Capital lease obligations	25 individual leases ranging between \$2-\$3,832	from 0.4% to 23.5%	7,162	N/A
Cash overdraft			3,993	N/A
Total debt including cash overdraft			\$268,665	

<sup>(1)</sup> Violations were waived in connection with Amendment No. 5 to the Capital One Credit Facility. See Note 7, Revolving Credit Facilities and Current Portion of Long-Term Debt to our consolidated financial statements under Part II, Item 8.

## Financial Covenants

Our credit agreements, the Lion Loan Agreement and the indenture under which our Notes were issued contain certain restrictive covenants. Significant covenants are summarized below.

Capital One Credit Facility - We are required to maintain a minimum fixed charge coverage ratio of not less than 1.00 to 1.00 and we are also required to not exceed certain maximum leverage ratio thresholds, both determined at the end of each fiscal quarter. Additionally, our domestic subsidiaries are subject to an annual limitation of certain specified capital expenditure amounts as determined at the end of each fiscal year.

Among other provisions, the Capital One Credit Facility requires that we maintain a lockbox arrangement and contains certain subjective acceleration clauses. In addition, Capital One may at its discretion, adjust the advance restriction and criteria for eligible inventory and accounts receivable. The Capital One Credit Facility contains cross-default provisions whereby an event of default under the Bank of Montreal Credit Agreement, the indenture governing the Notes or other indebtedness, in each case of an amount greater than a specified threshold, would cause an event of default under the Capital One Credit Facility.

On November 14, 2013, we entered into a third amendment to the Capital One Credit Facility, which among other things, waived the obligation to maintain a minimum fixed charge coverage ratio and a maximum leverage ratio for the twelve consecutive fiscal month period ending September 30, 2013. As a condition to the waiver, we agreed to a one percentage point increase in the interest rate to either LIBOR plus 4.5% or the bank's prime rate plus 3.5% (at our option) and limitations on amounts available to be borrowed, consisting of the imposition of a reserve against the line that gradually reduced the total borrowing capacity to \$47,500 and certain amendments to the borrowing base calculation. In addition, we paid a waiver fee of \$75.

On March 25, 2014, we entered into a fifth amendment to the Capital One Credit Facility which, effective upon our receipt of at least \$25,000 of net proceeds from a financing prior to April 15, 2014, among other things: waives the obligation to maintain the minimum fixed charge coverage and maximum leverage ratios for the three month periods ended December 31, 2013 and March 31, 2014; resets for future periods the fixed charge coverage ratio, the maximum leverage ratio and the maximum capital expenditures allowed; adds a minimum EBITDA covenant; increases the interest rate payable under the credit agreement by 0.5% per annum; and increases the fees payable upon early termination.

Bank of Montreal Credit Agreement - Significant covenants in the Bank of Montreal Credit Agreement include a fixed charge coverage ratio and a restriction on our Canadian subsidiaries from entering into operating leases that would lead to payments

Table of Contents

under such leases totaling more than C\$8,500 (Canadian dollars) in any fiscal year. The credit agreement also requires our Canadian subsidiaries to maintain minimum excess availability of 5% of the revolving credit commitment under the facility. As of December 31, 2013, we were in compliance with the required financial covenants of the Bank of Montreal Credit Agreement. Outstanding amounts under the Bank of Montreal Credit Agreement was repaid and on March 31, 2014 expired by its terms.

Senior Secured Notes due 2020 - The indenture governing our Notes imposes certain limitations on our ability to, among other things and subject to a number of important qualifications and exceptions, incur additional indebtedness or issue disqualified capital stock or preferred stock (with respect to restricted subsidiaries), grant liens, make payments in respect of our capital stock or certain indebtedness, enter into transactions with affiliates, create dividend and other payment restrictions affecting subsidiaries, merge or consolidate with any other person, sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of our assets or adopt a plan of liquidation. We must annually report to the trustee on compliance with such limitations. The indenture also contains cross-default provisions whereby a payment default or acceleration of any indebtedness in an aggregate amount greater than a specified threshold would cause an event of default with respect to the Notes. As of December 31, 2013, we were in compliance with the required covenants of the Senior Notes Indenture.

Lion Loan Agreement - The Lion Loan Agreement contains restrictive covenants that incorporate by reference several of the covenants contained in the indenture governing our Notes, including covenants restricting our ability to incur additional indebtedness or issue disqualified capital stock or preferred stock (with respect to restricted subsidiaries), grant liens, make payments in respect of our capital stock or certain indebtedness, enter into transactions with affiliates, create dividend and other payment restrictions affecting subsidiaries, merge or consolidate with any other person, sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of our assets or adopt a plan of liquidation. The Lion Loan Agreement also contains cross-default provisions whereby a payment default or acceleration of any indebtedness in an aggregate amount greater than a specified threshold would cause an event of default. As of December 31, 2013, we were in compliance with the required covenants of the Lion Loan Agreement.

#### Off-Balance Sheet Arrangements and Contractual Obligations

Our material off-balance sheet contractual commitments are operating lease obligations and certain letters of credit. These items were excluded from the balance sheet in accordance with GAAP.

Operating lease commitments consist principally of leases for our retail stores, manufacturing facilities, distribution center and corporate office. These leases frequently include options, which permit us to extend the terms beyond the initial fixed lease term. As appropriate, we intend to negotiate lease renewals as the leases approach expiration.

Issued and outstanding letters of credit were \$1,230 at December 31, 2013, related primarily to workers' compensation insurance and store leases. We also have capital lease obligations, which consist principally of leases for our manufacturing equipment.

#### Contractual Obligations Summary

The following table summarizes our contractual commitments as of December 31, 2013, which relate to future minimum payments due under non-cancelable licenses, leases, revolving credit facilities, long-term debt and advertising commitments. Future minimum rental payment on operating lease obligations presented below do not include any related property insurance, taxes, maintenance or other related costs required by operating leases.

Operating lease rent expenses, including some related real estate taxes and maintenance costs, are included in the cost of sales and general and administrative expenses in our consolidated financial statements and amounted to approximately \$79,794 for the year ended December 31, 2013.

Contractual Obligations	Total	Payments due by period			
		Less than 1 year	1-3 years	4-5 years	More than 5 years
Long-term debt (1)	\$219,320	\$—	\$—	\$—	\$219,320
Current debt	44,042	44,042	—	—	—
	8,755	2,616	6,121	18	—

Capital lease obligations, including interest

Operating lease obligations	291,277	74,161	115,494	69,690	31,932
Advertising commitments	2,450	2,450	—	—	—
Self-insurance reserves	18,412	6,494	6,027	3,195	2,696
Total contractual obligations	\$584,256	\$129,763	\$127,642	\$72,903	\$253,948

(1) Excludes unamortized discount of \$5,779 at December 31, 2013 and estimates of future cash and paid-in-kind interest related to the Notes and Lion Loan Agreement.

## Table of Contents

### Seasonality

We experience seasonality in our operations. Historically, sales during the third and fourth fiscal quarters have generally been the highest, with sales during the first fiscal quarter the lowest. This reflects the combined impact of the seasonality of our wholesale and retail sales channels.

### Critical Accounting Estimates and Policies

Complete descriptions of our significant accounting policies are outlined in Note 2, Summary of Significant Accounting Policies to our consolidated financial statements under Item 8—Financial Statements and Supplementary Data. The preparation of financial statements in conformity with generally accepted accounting principles in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and reported amounts of revenues and expenses during the reporting period. Management bases its estimates on historical experience and on various other assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources.

Our critical estimates and policies include:

- revenue recognition;
- inventory valuation, obsolescence;
- fair value calculations including, derivative liabilities such as the Lion warrants;
- valuation and recoverability of long-lived assets including the values assigned to acquired intangible assets, goodwill, and property and equipment;
- income taxes;
- accruals for the outcome of current litigation; and
- self-insurance liabilities.

In general, estimates are based on historical experience, on information from third party professionals and on various other sources and assumptions that are believed to be reasonable under the facts and circumstances at the time such estimates are made. On a continual basis, management reviews its estimates utilizing currently available information, changes in facts and circumstances, historical experience and reasonable assumptions. After such reviews, and if deemed appropriate, those estimates are adjusted. Actual results may vary from these estimates and assumptions under different and/or future circumstances. Our management considers an accounting estimate to be critical if:

- it requires assumptions to be made that were uncertain at the time the estimate was made; and
- changes in the estimate, or the use of different estimating methods that could have been selected, could have a material impact on our consolidated results of operations or financial condition.

### Revenue Recognition

We recognize product sales when title and risk of loss have transferred to the customer, there is persuasive evidence of an arrangement, the sales price is fixed or determinable and collectability is reasonably assured. Wholesale product sales are recorded at the time the product is either picked up by or shipped to the customer. Online product sales are recorded at the time the products are received by the customers. Retail store sales are recorded as revenue upon the sale of product to retail customers. Our net sales represent gross sales invoiced to customers, less certain related charges for discounts, returns, and other promotional allowances and are recorded net of sales or value added tax. Allowances provided for these items are presented in the consolidated financial statements primarily as reductions to sales and cost of sales (see Sales Returns and Allowances discussed below for further information).

We recognize revenues from gift cards, gift certificates and store credits as they are redeemed for product. Prior to redemption, we maintain an unearned revenue liability for gift cards, gift certificates and store credits until we are released from such liability or when we determine that some portion of gift cards will not be redeemed. See Gift Cards below.

### Sales Returns and Allowances

We analyze sales returns in order to make reasonable estimates of product returns based upon historical experience. Estimates for sales returns are based on a variety of factors including actual returns based on expected return data communicated to us by our customers. Accordingly, we believe that our historical returns analysis is an accurate basis for our allowance for sales returns. We regularly review the factors that influence our estimates and, if necessary, make adjustments when we believe that actual product returns and credits may differ from established reserves. If actual or expected future returns and claims are



## Table of Contents

significantly greater or lower than the allowance for sales returns established, we would record a reduction or increase to net revenues in the period in which we made such determination.

### Shipping and Handling Costs

Shipping and handling costs consist primarily of freight expenses incurred to transport products to our retail stores and distribution center, and to our wholesale and online retail customers. These costs are included in cost of sales.

Amounts billed to customers for shipping are included in net sales.

### Gift Cards

Upon issuance of a gift card a liability is established for the cash value. The liability is relieved and net sales are recorded upon redemption by the customer. Over time, some portion of gift cards is not redeemed ("breakage"). We determine breakage income for gift cards based on historical redemption patterns. Breakage income is recorded as a credit to selling expenses, which is a component of operating expenses in the consolidated statements of operations. Currently, we record breakage when gift cards remain unredeemed after two years. Our gift cards, gift certificates and store credits do not have expiration dates.

We do not believe there is a reasonable likelihood that there will be a material change in the future estimates or assumptions we use to calculate breakage.

### Trade Receivables and Allowance for Doubtful Accounts

Accounts receivable primarily consists of trade receivables, including amounts due from credit card companies, net of allowances. On a periodic basis, we evaluate our trade receivables and establish an allowance for doubtful accounts.

We perform on-going credit evaluations of our customers and adjust credit limits based upon payment history and the customer's current credit worthiness, as determined by our review of their current credit information. Payments from customers are continuously monitored. We maintain an allowance for doubtful accounts, which is based upon historical experience as well as specific customer collection issues that have been identified. If the financial condition of customers were to deteriorate, resulting in an impairment of their ability to make payments, additional allowances may be required.

### Inventories

Inventories are stated at the lower of cost or market. Cost is primarily determined on the first-in, first-out ("FIFO") method. We identify potential excess and slow-moving inventories by evaluating turn rates, inventory levels and other factors. Excess quantities are identified through evaluation of inventory aging, review of inventory turns and historical sales experiences.

We have evaluated the current level of inventories considering historical sales and other factors and, based on this evaluation, we record adjustments to cost of goods sold to reflect inventories at net realizable value. These adjustments are estimates, which could vary significantly, either favorably or unfavorably, from actual results if future economic conditions, customer demand or competition differ from expectations.

### Long-Lived Assets

We follow the provisions of ASC 360 "Property, Plant and Equipment", which requires evaluation of the need for an impairment charge relating to long-lived assets whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. The estimated future undiscounted cash flows associated with the asset are compared to the asset's carrying amount to determine if a write down to a new depreciable basis is required. If required, an impairment charge is recorded based on an estimate of future discounted cash flows.

We consider the following to be some examples of important indicators that may trigger an impairment review:

(i) significant under-performance or losses of retail stores relative to expected historical or projected future operating results; (ii) significant changes in the manner or use of the assets or in our overall strategy with respect to the manner or use of the acquired assets or changes in our overall business strategy; (iii) significant negative industry or economic trends; (iv) increased competitive pressures; (v) a significant decline in our stock price for a sustained period of time; and (vi) regulatory changes.

We evaluate acquired assets and our retail stores for potential impairment indicators at least annually and more frequently upon the occurrence of events that could impact prior conclusions. Judgment regarding the existence of impairment indicators is based on market conditions and operational performance of our businesses. Future events

could cause us to conclude that impairment indicators exist, and therefore long lived assets could be impaired. Such evaluations are significantly impacted by estimates of future revenues, costs and expenses and other factors. A significant change in cash flows in the future could result in an impairment of long lived assets.

**Income Taxes**

We recognize deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the financial statements. Deferred tax assets and liabilities are determined based on the differences between the financial

## Table of Contents

statements and tax basis of assets and liabilities using the enacted tax rates in effect for the year in which the differences are expected to reverse. The effect of a change in tax rates on deferred tax assets and liabilities is recognized in income in the period that includes the enactment date.

We record net deferred tax assets to the extent we believe these assets will more likely than not be realized. During the years ended December 31, 2013 and 2012, we recorded a valuation allowance against deferred tax assets of \$120,694 and \$77,578. In making such determination, we consider all available positive and negative evidence, including future reversals of existing taxable temporary differences, projected future taxable income, tax planning strategies and recent financial operations. In the event we were to determine that we would be able to realize our deferred income tax assets in the future in excess of their net recorded amount, we would make an adjustment to the valuation allowance.

### Contingencies

Certain conditions may exist as of the date the consolidated financial statements are issued, which may result in a loss but which will only be resolved when one or more future events occur or fail to occur. We assess such contingent liabilities, and such assessment inherently involves an exercise of judgment. In assessing loss contingencies related to legal proceedings or governmental assessments that are pending against us or unasserted claims that may result in such proceedings, we evaluate the perceived merits of these matters as well as the merits of the amount of relief sought or expected to be sought.

If the assessment of a contingency indicates that it is probable that a material loss has been incurred and the amount of the liability can be estimated, then the estimated liability is accrued in our consolidated financial statements. If the assessment indicates that a potentially material loss contingency is not probable but is reasonably possible, or is probable but cannot be estimated, then the nature of the contingent liability, and an estimate of the range of possible losses, if determinable and material, is disclosed. Associated legal fees are expensed as incurred.

Loss contingencies considered remote are generally not disclosed unless they involve guarantees, in which case the guarantees are disclosed.

There can be no assurance that such matters will not materially and adversely affect our business, financial position, and results of operations or cash flows.

In making these determinations, we assess the likelihood of any adverse judgments or outcomes to these matters as well as potential ranges of probable losses. We determine the amount of reserves needed, if any, for each individual issue based on our knowledge and experience and discussions with legal counsel. The required reserves may change in the future due to new developments in each matter, the ultimate resolution of each matter, or changes in approach, such as a change in settlement strategy. There is no assurance that such matters will not materially and adversely affect our business, financial position, and results of operations or cash flows. See Notes 15 and 18, Commitments and Contingencies and Litigation to our consolidated financial statements under Part II, Item 8.

### Self-Insurance Liabilities

We maintain self-insurance programs for our estimated commercial general liability, workers' compensation, and employees medical risks. Under these programs, we maintain insurance coverage for losses in excess of specified per-occurrence amounts. Estimated costs under these programs, including incurred but not reported claims, are recorded as expense based upon historical experience, trends of paid and incurred claims, deductibles, and other actuarial assumptions. If actual claim trends under these programs, including the severity or frequency of claims, differ from our estimates, our financial results may be significantly impacted.

### Other Matters

#### Accounting Standards Updates

Accounting standards updates effective after December 31, 2013, are not expected to have a material effect on our consolidated financial statements.

### Item 7A. Quantitative and Qualitative Disclosures about Market Risks (amounts in thousands)

Our exposure to market risk is limited to interest rate risk associated with our credit facilities and foreign currency exchange risk associated with our foreign operations.

#### Interest Rate Risk

Based on our interest rate exposure on variable rate borrowings at December 31, 2013, a 1% increase in average interest rates on our borrowings would increase future interest expense by approximately \$37 per month. We determined this amount based on approximately \$43,969 of variable rate borrowings at December 31, 2013. We are currently not using any interest rate collars or hedges to manage or reduce interest rate risk. As a result, any increase in interest rates on the variable rate

Table of Contents

borrowings would increase interest expense and reduce net income. Our primary exposure to variable interest rates is through the effect of fluctuations in LIBOR on the interest rate under the Capital One Credit Agreement.

Foreign Currency Risk

The majority of our operating activities are conducted in U.S. dollars. Approximately 36.1% of our net sales for the year ended December 31, 2013 were denominated in foreign currencies. Nearly all of our production costs and material costs are denominated in U.S. dollars although the majority of the yarn is sourced from outside the United States. If the U.S. dollar were to appreciate by 10% against other currencies it could have a significant adverse impact on our earnings. Since an appreciated U.S. dollar makes goods produced in the United States relatively more expensive to overseas customers, other things being equal, we would have to lower our retail margin in order to maintain sales volume overseas. A lower retail margin overseas would adversely affect net income assuming sales volume remains the same. Functional currencies of our foreign operations consist of the Canadian dollar for operations in Canada, the Australian dollar for operations in Australia, the pound Sterling for operations in the U.K., the Euro for operations in the European Union, the Franc for operations in Switzerland, the New Israeli Shekel for operations in Israel, the Yen for the operations in Japan, the Won for operations in South Korea, the Renminbi or Hong Kong dollar for operations in China, the Real for operations in Brazil and the Peso for operations in Mexico, as well as other local currencies for other foreign operations.

Inflation

Inflation affects the cost of raw materials, goods and services used in our operations. The largest of these are the cost of yarn and fabric. In addition, high oil costs can affect the cost of all raw materials and components. The competitive environment can limit our ability to recover higher costs resulting from inflation by raising prices. Although we cannot precisely determine the effects of inflation on our business, we believe that the effects on revenues and operating results have not been significant, except for the impact of the dramatic increase in yarn prices in 2010 and part of 2011. We do not believe that inflation has had a material impact on our results of operations for the periods presented, except for the higher prices we paid for yarn and fabrics in the first part of 2011. We are unable to predict if we will be able to successfully pass on the added cost of any future raw material cost increases by further increasing the price of our products to our wholesale and retail customers.

Table of Contents

American Apparel, Inc.

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS  
AND FINANCIAL STATEMENT SCHEDULE

	Page
Consolidated Financial Statements	
<u>Report of Independent Registered Public Accounting Firm</u>	<u>59</u>
<u>Consolidated Balance Sheets as of December 31, 2013 and 2012</u>	<u>60</u>
<u>Consolidated Statements of Operations and Comprehensive Loss For the Years ended December 31, 2013, 2012 and 2011</u>	<u>61</u>
<u>Consolidated Statements of Stockholders' (Deficit) Equity For the Years Ended December 31, 2013, 2012 and 2011</u>	<u>62</u>
<u>Consolidated Statements of Cash Flows For the Years Ended December 31, 2013, 2012 and 2011</u>	<u>63</u>
<u>Notes to Consolidated Financial Statements For the Years Ended December 31, 2013, 2012, and 2011</u>	<u>65</u>
Financial Statement Schedule	
<u>Schedule II—Valuation and Qualifying Accounts</u>	<u>103</u>
<u>Report of Independent Registered Public Accounting Firm on Internal Controls over Financial Reporting</u>	<u>105</u>

Table of Contents

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Audit Committee of the  
Board of Directors and Stockholders of  
American Apparel, Inc.

We have audited the accompanying consolidated balance sheets of American Apparel, Inc. and Subsidiaries (the “Company”) as of December 31, 2013 and 2012, and the related consolidated statements operations and comprehensive loss, stockholders’ (deficit) equity and cash flows for the years ended December 31, 2013, 2012, and 2011. Our audits also included the financial statement schedule as of and for the years listed in the index at Item 15. These consolidated financial statements and financial statement schedule are the responsibility of the Company’s management. Our responsibility is to express an opinion on these consolidated financial statements and financial statement schedule based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the consolidated financial position of American Apparel, Inc. and Subsidiaries as of December 31, 2013 and 2012, and the consolidated results of its operations and its cash flows for the years ended December 31, 2013, 2012, and 2011 in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, the related financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole presents fairly, in all material respects, the information set forth therein.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), American Apparel, Inc. and Subsidiaries internal control over financial reporting as of December 31, 2013, based on the criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated April 1, 2014 expressed an unqualified opinion on the effectiveness of the Company’s internal control over financial reporting.

Very truly yours,

/s/ Marcum LLP

Marcum LLP  
Melville, NY  
April 1, 2014





Table of Contents

## Item 8. Financial Statements and Supplementary Data

## American Apparel, Inc. and Subsidiaries

## Consolidated Balance Sheets

(Amounts and shares in thousands, except per share amounts)

	December 31,	
	2013	2012
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash	\$8,676	\$12,853
Trade accounts receivable, net of allowances of \$2,229 and \$2,085 at December 31, 2013 and 2012, respectively	20,701	22,962
Restricted cash	—	3,733
Prepaid expenses and other current assets	15,636	9,589
Inventories, net	169,378	174,229
Income taxes receivable and prepaid income taxes	306	530
Deferred income taxes, net of valuation allowance	599	494
Total current assets	215,296	224,390
PROPERTY AND EQUIPMENT, net	69,303	67,778
DEFERRED INCOME TAXES, net of valuation allowance	2,426	1,261
OTHER ASSETS, net	46,727	34,783
<b>TOTAL ASSETS</b>	<b>\$333,752</b>	<b>\$328,212</b>
<b>LIABILITIES AND STOCKHOLDERS' (DEFICIT) EQUITY</b>		
<b>CURRENT LIABILITIES</b>		
Cash overdraft	\$3,993	\$—
Revolving credit facilities and current portion of long-term debt	44,042	60,556
Accounts payable	38,290	38,160
Accrued expenses and other current liabilities	50,018	41,516
Fair value of warrant liability	20,954	17,241
Income taxes payable	1,742	2,137
Deferred income tax liability, current	1,241	296
Current portion of capital lease obligations	1,709	1,703
Total current liabilities	161,989	161,609
LONG-TERM DEBT, net of unamortized discount of \$5,779 and \$27,929 at December 31, 2013 and 2012, respectively	213,468	110,012
CAPITAL LEASE OBLIGATIONS, net of current portion	5,453	2,844
DEFERRED TAX LIABILITY	536	262
DEFERRED RENT, net of current portion	18,225	20,706
OTHER LONG-TERM LIABILITIES	11,485	10,695
<b>TOTAL LIABILITIES</b>	<b>411,156</b>	<b>306,128</b>
<b>COMMITMENTS AND CONTINGENCIES</b>		
<b>STOCKHOLDERS' (DEFICIT) EQUITY</b>		
Preferred stock, \$0.0001 par value per share, authorized 1,000 shares; none issued	—	—
Common stock, \$0.0001 par value per share, authorized 230,000 shares; 113,469 shares issued and 111,330 shares outstanding at December 31, 2013 and 110,111 shares issued and 107,181 shares outstanding at December 31, 2012	11	11
Additional paid-in capital	185,472	177,081
Accumulated other comprehensive loss	(4,306	) (2,725 )

Edgar Filing: AMERICAN APPAREL, INC - Form 10-K

Accumulated deficit	(256,424	)	(150,126	)
Less: Treasury stock, 304 shares at cost	(2,157	)	(2,157	)
TOTAL STOCKHOLDERS' (DEFICIT) EQUITY	(77,404	)	22,084	
TOTAL LIABILITIES AND STOCKHOLDERS' (DEFICIT) EQUITY	\$333,752		\$328,212	

See accompanying notes to consolidated financial statements.

60

---

Table of Contents

American Apparel, Inc. and Subsidiaries  
 Consolidated Statements of Operations and Comprehensive Loss  
 (Amounts and shares in thousands, except per share amounts)

	Years Ended December 31,		
	2013	2012	2011
Net sales	\$633,941	\$617,310	\$547,336
Cost of sales	313,056	289,927	252,436
Gross profit	320,885	327,383	294,900
Selling expenses	241,683	227,447	209,841
General and administrative expenses (including related party charges of \$1,016, \$1,090 and \$919 for the years ended December 31, 2013, 2012 and 2011, respectively)	106,957	97,327	104,085
Retail store impairment	1,540	1,647	4,267
(Loss) income from operations	(29,295	) 962	(23,293
Interest expense	39,286	41,559	33,167
Foreign currency transaction loss	1	120	1,679
Unrealized loss (gain) on change in fair value of warrants and purchase rights	3,713	4,126	(23,467
Loss (gain) on extinguishment of debt	32,101	(11,588	) 3,114
Other expense (income)	131	204	(193
Loss before income taxes	(104,527	) (33,459	) (37,593
Income tax provision	1,771	3,813	1,721
Net loss	\$(106,298	) \$(37,272	) \$(39,314
Basic and diluted loss per share	\$(0.96	) \$(0.35	) \$(0.42
Weighted average basic and diluted shares outstanding	110,326	105,980	92,599
Net loss (from above)	\$(106,298	) \$(37,272	) \$(39,314
Other comprehensive (loss) income item:			
Foreign currency translation, net of tax	(1,581	) 631	(188
Other comprehensive (loss) income, net of tax	(1,581	) 631	(188
Comprehensive loss	\$(107,879	) \$(36,641	) \$(39,502

See accompanying notes to consolidated financial statements.

Table of Contents

American Apparel, Inc. and Subsidiaries  
 Consolidated Statements of Stockholders' (Deficit) Equity  
 (Amounts in thousands)

	Number of Common Shares Issued	Par Value Amount	Treasury Stock	Additional Paid-in Capital	Accumulated Other Comprehensive (Loss) Income	Accumulated Deficit	Total Stockholders' (Deficit) Equity
BALANCE, January 1, 2011	79,192	\$8	\$(2,157 )	\$153,881	\$ (3,168 )	\$(73,540 )	\$75,024
Share-based compensation, net	801	—	—	7,107	—	—	7,107
Conversion of debt to equity	2,113	—	—	4,688	—	—	4,688
Sale of common stock, net of fees	26,764	3	—	9,292	—	—	9,295
Reclassification of warrants from equity to debt	—	—	—	(11,339 )	—	—	(11,339 )
Reclassification of purchase rights upon exercise	—	—	—	2,857	—	—	2,857
Net loss	—	—	—	—	—	(39,314 )	(39,314 )
Foreign currency translation, net of tax	—	—	—	—	(188 )	—	(188 )
BALANCE, December 31, 2011	108,870	11	(2,157 )	166,486	(3,356 )	(112,854 )	48,130
Share-based compensation, net	1,241	—	—	10,595	—	—	10,595
Net loss	—	—	—	—	—	(37,272 )	(37,272 )
Foreign currency translation, net of tax	—	—	—	—	631	—	631
BALANCE, December 31, 2012	110,111	11	(2,157 )	177,081	(2,725 )	(150,126 )	22,084
Share-based compensation, net	3,358	—	—	8,391	—	—	8,391
Net loss	—	—	—	—	—	(106,298 )	(106,298 )
Foreign currency translation, net of tax	—	—	—	—	(1,581 )	—	(1,581 )
BALANCE, December 31, 2013	113,469	\$11	\$(2,157 )	\$185,472	\$ (4,306 )	\$(256,424 )	\$(77,404 )

See accompanying notes to consolidated financial statements.

Table of Contents

American Apparel, Inc. and Subsidiaries  
 Consolidated Statements of Cash Flows  
 (Amounts in thousands)

	For the Years ended December 31,		
	2013	2012	2011
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Cash received from customers	\$636,049	\$615,342	\$542,930
Cash paid to suppliers, employees and others	(627,910)	(580,685)	(534,497)
Income taxes paid	(2,033)	(10)	(866)
Interest paid	(18,948)	(10,954)	(5,535)
Other	119	(104)	273
Net cash (used in) provided by operating activities	(12,723)	23,589	2,305
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Capital expenditures	(27,054)	(21,607)	(11,070)
Proceeds from sale of fixed assets	173	474	311
Restricted cash	1,734	(3,720)	—
Net cash used in investing activities	(25,147)	(24,853)	(10,759)
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>			
Cash overdraft	3,993	(1,921)	(1,407)
Repayments of expired revolving credit facilities, net	(28,513)	(48,324)	(6,874)
Borrowings under current revolving credit facilities, net	39,794	28,451	—
(Repayments) borrowings of term loans and notes payable	(20,466)	29,987	(13)
Repayment of Lion term loan	(144,149)	—	—
Issuance of Senior Secured Notes	199,820	—	—
Payment of debt issuance costs	(11,909)	(5,226)	(1,881)
Net proceeds from issuance of common stock and purchase rights	—	—	21,710
Payment of payroll statutory tax withholding on share-based compensation associated with issuance of common stock	(2,623)	(393)	(759)
Proceeds from equipment lease financing	—	4,533	3,100
Repayment of capital lease obligations	(1,719)	(2,893)	(1,294)
Net cash provided by financing activities	34,228	4,214	12,582
<b>EFFECT OF FOREIGN EXCHANGE RATE CHANGES ON CASH</b>	(535)	(390)	(1,491)
<b>NET (DECREASE) INCREASE IN CASH</b>	(4,177)	2,560	2,637
CASH, beginning of period	12,853	10,293	7,656
CASH, end of period	\$8,676	\$12,853	\$10,293

See accompanying notes to consolidated financial statements.

Table of Contents

	Years Ended December 31,		
	2013	2012	2011
<b>RECONCILIATION OF NET LOSS TO NET CASH (USED IN) PROVIDED BY OPERATING ACTIVITIES</b>			
Net loss	\$(106,298 )	\$(37,272 )	\$(39,314 )
Depreciation and amortization of property and equipment and other assets	26,076	22,989	24,980
Retail store impairment	1,540	1,647	4,267
Loss on disposal of property and equipment	241	102	80
Share-based compensation expense	8,451	10,580	6,814
Unrealized loss (gain) on change in fair value of warrants and purchase rights	3,713	4,126	(23,467 )
Amortization of debt discount and deferred financing costs	4,325	10,261	9,024
Loss (gain) on extinguishment of debt	32,101	(11,588 )	3,114
Accrued interest paid-in-kind	9,949	20,344	18,711
Foreign currency transaction loss	1	120	1,679
Allowance for inventory shrinkage and obsolescence	116	(1,331 )	(1,652 )
Bad debt expense	1,512	99	996
Deferred income taxes	(168 )	154	701
Deferred rent	(2,093 )	(895 )	(1,969 )
<b>Changes in cash due to changes in operating assets and liabilities:</b>			
Trade accounts receivables	596	(2,067 )	(5,402 )
Inventories	3,715	13,949	(6,771 )
Prepaid expenses and other current assets	(6,063 )	(1,829 )	1,770
Other assets	(4,393 )	(8,455 )	(5,075 )
Accounts payable	2,287	1,779	3,944
Accrued expenses and other liabilities	11,764	(4,223 )	9,701
Income taxes receivable / payable	(95 )	5,099	174
Net cash (used in) provided by operating activities	\$(12,723 )	\$23,589	\$2,305
<b>NON-CASH INVESTING AND FINANCING ACTIVITIES</b>			
Property and equipment acquired and included in accounts payable	\$1,576	\$3,778	\$1,323
Property and equipment acquired under capital lease	4,213	—	—
Reclassification of Lion Warrant from equity to debt	—	—	11,339
Conversion of debt to equity	—	—	4,688
Issuance of warrants and purchase rights at fair value	—	—	6,387
Exercise of purchase rights	\$—	\$—	\$2,857

See accompanying notes to consolidated financial statements.

Table of Contents

American Apparel, Inc. and Subsidiaries

Notes to Consolidated Financial Statements

(Amounts and Shares in thousands, except per share amounts)

For the Years Ended December 31, 2013, 2012 and 2011

Note 1. Organization and Business

American Apparel, Inc. and its subsidiaries (collectively "the Company") is a vertically-integrated manufacturer, distributor, and retailer of branded fashion basic apparel products and designs, manufactures and sells clothing and accessories for women, men, children and babies. The Company sells its products through the wholesale distribution channel supplying t-shirts and other casual wear to distributors and screen printers, as well as direct to customers through its retail stores located in the United States, and internationally. In addition, the Company operates an online retail e-commerce website. At December 31, 2013, the Company operated a total of 248 retail stores in 20 countries: the United States, Canada and 18 other countries.

Liquidity and Management's Plan

As of December 31, 2013, the Company had approximately \$8,676 in cash and \$6,268 of availability for additional borrowings under the credit facility with Capital One Business Credit Corp. ("Capital One" and such facility the "Capital One Credit Facility") and the Company's credit agreement with Bank of Montreal ("the Bank of Montreal Credit Agreement") (as defined in Note 7). Additionally, the Company had \$43,526 outstanding on a \$50,000 asset-backed revolving credit facility (increased from \$35,000 to \$50,000 on July 5, 2013) under the Capital One Credit Facility and \$443 outstanding on the C\$5,000 (Canadian dollars) revolving credit facility under the Bank of Montreal Credit Agreement. On February 28, 2014 the Bank of Montreal Credit Agreement was reduced to C\$2,000. Amounts outstanding were repaid, and the agreement expired by its own terms on March 31, 2014.

On February 28, 2014, the Company had approximately \$4,878 in cash and \$3,299 of availability for additional borrowings under the Capital One Credit Facility and Bank of Montreal Credit Agreement.

On April 4, 2013, the Company closed a private offering of \$206,000 aggregate principal amount of its Senior Secured Notes due April 15, 2020 (the "Notes") at 97% of par and also entered into a new \$35,000 asset-backed revolving credit facility with Capital One maturing on April 4, 2018, subject to a January 15, 2018 maturity under certain circumstances. Subsequently, on July 5, 2013, the Company entered into an amendment to the Capital One Credit Facility, pursuant to which the total commitment under the credit facility was raised to \$50,000. Interest on the Notes approximating \$13,500 per payment period (in 2014), is payable semi-annually, in arrears, on April 15 and October 15 of each year, beginning on October 15, 2013. The Company used the net proceeds from the offering of the Notes, together with borrowings under the new credit facility, to repay and terminate its credit agreement with Crystal Financial LLC ("Crystal") and its loan agreement with Lion Capital LLP ("Lion"). The notes and the new credit facility are the Company's senior secured obligations and are guaranteed, on a senior secured basis, by the Company's domestic restricted subsidiaries, subject to some exceptions.

During the third quarter of 2013, the Company determined it was probable that a special interest trigger event under the indenture governing the Notes would occur as of December 31, 2013 and accrued interest on the Notes at 15% retroactive to April 4, 2013 representing an additional 2% interest, which additional interest is payable in-kind until April 15, 2018 and in cash on subsequent interest dates. The Company recorded \$3,044 in additional interest expense for the special interest trigger event for the year ended December 31, 2013. The company will pay in-kind the additional 2% interest retroactive to the issue date of the Notes on the next interest payment date, April 15, 2014. Under the Capital One Credit Facility, the Company was in violation of certain covenants for the twelve consecutive fiscal months ended September 30, 2013 and December 31, 2013, and anticipated a violation for the twelve months ended March 31, 2014.

On November 14, 2013, the Company entered into a third amendment to the Capital One Credit Facility, which among other things, waived the obligation to maintain a minimum fixed charge coverage ratio and a maximum leverage ratio for the twelve consecutive fiscal month period ending September 30, 2013. As a condition to the waiver, the Company agreed to a one percentage point increase in the interest rate to either LIBOR plus 4.5% or the bank's prime rate plus 3.5% (at the Company's option) and limitations on amounts available to be borrowed, consisting of the imposition of a reserve against the line that gradually reduced the total borrowing capacity to

\$47,500 and certain amendments to the borrowing base calculation. In addition, the Company paid a waiver fee of \$75.

On March 25, 2014, the Company entered into a fifth amendment to the Capital One Credit Facility which, effective upon its receipt of at least \$25,000 of net proceeds from a financing prior to April 15, 2014, among other things: waives the obligation to maintain the minimum fixed charge coverage and maximum leverage ratios for the three month periods ended December 31, 2013 and March 31, 2014; resets for future periods the fixed charge coverage ratio, the maximum leverage ratio and the maximum capital expenditures allowed; adds a minimum EBITDA covenant; increases the interest rate payable under the credit



## Table of Contents

agreement by 0.5% per annum to either LIBOR plus 5.0% or the bank's prime rate plus 4.0% (at the Company's option); and increases the fees payable upon early termination.

On May 22, 2013 the Company entered into a loan agreement with Lion (the "Lion Loan Agreement") in a principal amount of \$4,500. On November 29, 2013, the Lion Loan Agreement was amended to increase the amount we borrowed by \$5,000 and to make certain other technical amendments. The term loans under the Lion Loan Agreement mature on October 4, 2018 and bear interest at an initial interest rate of 18% per annum, which interest rate increased to 20% per annum due to the occurrence of a special interest trigger event under the Notes. Interest under the loan agreement is payable in cash or, to the extent permitted by the Company's other debt agreements, in-kind.

On March 31, 2014, the Company completed a public offering of approximately 61,645 shares of its common stock at \$0.50 per share for net proceeds of approximately \$28,500. As a result of this offering, common stock issued and outstanding were 175,109 and 173,377 shares, respectively. Additionally, the underwriters have a 30 day option to acquire up to an additional 8,500 shares of the Company's common stock at \$0.50 per share.

The Company believes that it has sufficient financing commitments to meet funding requirements for the next twelve months.

The Company's transition to its new distribution center in La Mirada, California has had a significant negative impact on the Company's earnings and cash flow in 2013. For the year ended December 31, 2013, the Company incurred incremental distribution costs associated with these transition activities of approximately \$14,874. All such costs have been charged to cost of sales and operating expense in the accompanying statements of operations. The issues surrounding the transition primarily relate to improper system design and integration and inadequate training and staffing. These issues caused processing inefficiencies that required the Company to employ additional staffing, among other things, in order to meet customer demand. The transition was successfully completed during the fourth quarter of 2013. The center is now fully operational and labor costs have been reduced.

The Company continues to develop other initiatives intended to either increase sales, reduce costs or improve liquidity. In the fourth quarter of 2013 and continuing into January of 2014, significant reductions were made in payroll and related costs associated with manufacturing and administrative overheads. The Company also instituted a program in the first quarter of 2014 to limit capital expenditures. Additionally, the Company intends to continue to drive productivity improvements from its new distribution center, reduce inventories, reduce store labor costs, and evaluate further consolidation of administrative and manufacturing functions. Efforts to identify additional ways to reduce costs and improve productivity are ongoing.

Although the Company has made significant improvements under this plan, the Company's cash flows are dependent upon meeting future sales growth projections and reducing certain expenses. There can be no assurance that planned improvements will be successful.

### Note 2. Summary of Significant Accounting Policies

#### Principles of Consolidation and Basis of Presentation

The consolidated financial statements include the accounts of American Apparel, Inc. and its wholly-owned subsidiaries. All intercompany accounts and transactions have been eliminated upon consolidation. Certain reclassifications have been made to the prior year consolidated financial statements and related footnotes to conform them to the 2013 presentation.

#### Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America ("GAAP") requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and reported amounts of revenues and expenses during the reporting period. Management bases its estimates on historical experience and on various assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. The most complex and subjective estimates include: inventory valuation and obsolescence; valuation and recoverability of long-lived assets, including the values assigned to goodwill and property and equipment; fair value calculations, including derivative liabilities such as warrants; contingencies, including accruals for the outcome of current litigation and assessments and self-insurance; income taxes, including uncertain

tax positions and recoverability of deferred income taxes; and cash flow projections in assessing future performance related to financial standards requiring a prospective analysis in valuing and classifying assets and liabilities. On a regular basis, management reviews its estimates utilizing currently available information, changes in facts and circumstances, historical experience and reasonable assumptions. After such reviews, and if deemed appropriate, those estimates are adjusted. Actual results could differ from the estimates.

## Table of Contents

### Restricted Cash

Restricted cash primarily represented cash collateral on standby letters of credit. The standby letters of credit are predominantly used as collateral for the Company's workers' compensation program. See Note 16.

### Concentration of Credit Risk

Financial instruments which potentially subject the Company to credit risk consist primarily of cash (the amounts of which may, at times, exceed Federal Deposit Insurance Corporation limits on insurable amounts) and trade accounts receivable, relating substantially to the Company's U.S. Wholesale segment. The Company mitigates its cash risk by investing through major financial institutions. The Company had approximately \$7,374 and \$8,265 held in foreign banks at December 31, 2013, and 2012, respectively.

The Company mitigates its risks related to trade receivables by performing on-going credit evaluations of its customers and adjusts credit limits based upon payment history and the customer's current credit worthiness, as determined by the review of their current credit information. The Company also maintains an insurance policy for certain customers based on a customer's credit rating and established limits. Collections and payments from customers are continuously monitored. One customer, in the U.S. Wholesale segment, accounted for 14.2% and 15.1% of the Company's total accounts receivables as of December 31, 2013 and 2012, respectively. The Company maintains an allowance for doubtful accounts, which is based upon historical experience and specific customer collection issues that have been identified. While bad debt expenses have historically been within expectations and allowances established, the Company cannot guarantee that it will continue to experience the same credit loss rates that it has in the past.

### Fair Value Measurements

The Company's financial instruments are primarily composed of cash, restricted cash, accounts receivable (including credit card receivables), accounts payable, revolving credit borrowings, its senior secured notes, term loans and warrants. The fair value of cash, restricted cash, accounts receivable and accounts payable closely approximates their carrying value due to their short maturities and variable rates. The fair value of fixed-rate borrowings not based on quoted prices is estimated using a discounted cash flow analysis.

The valuation techniques utilized are based upon observable and unobservable inputs. Observable inputs reflect market data obtained from independent sources, while unobservable inputs reflect internal market assumptions. These two types of inputs create the following fair value hierarchy:

Level 1 – Quoted prices in active markets for identical assets or liabilities.

Level 2 – Observable inputs other than Level 1 prices such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the related asset or liabilities.

Level 3 – Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of assets or liabilities.

Wherever possible, the Company utilizes observable market inputs (quoted market prices) when measuring fair value. For fair value measurements categorized within Level 3 of the fair value hierarchy, the Company's accounting and finance department determine valuation policies and procedures. Their determinations are approved by the Chief Financial Officer.

As of December 31, 2013, there were no transfers in or out of Level 2 and Level 3 from other levels.

The fair value of fixed rate borrowings not based on quoted prices are estimated using a projected discounted cash flow analysis based on unobservable inputs including interest payments, principal payments and discount rate, and is classified within Level 3 of the valuation hierarchy. An increase or decrease in the stock price and the discount rate assumption can significantly decrease or increase the fair value of the fixed rate borrowings. See Note 9.

The fair value of each warrant was estimated using the Binomial Lattice option valuation model. Significant observable and unobservable inputs include stock price, exercise price, annual risk free rate, term, and expected volatility, and were classified within Level 3 of the valuation hierarchy. An increase or decrease in these inputs could significantly increase or decrease the fair value of the warrant. See Notes 9 and 13.

The fair value of indefinite-lived assets, which consists exclusively of goodwill, is measured in connection with the Company's annual goodwill impairment test. The fair value of the reporting unit to which goodwill has been assigned,

is determined using a projected discounted cash flow analysis based on unobservable inputs including gross profit, discount rate, working capital requirements, capital expenditures, depreciation and terminal value assumptions, and are classified within Level 3 of the valuation hierarchy. An increase or decrease in the discount rate assumption and/or the terminal value assumption, in isolation, can have a significant effect on the fair value of the reporting unit. See Goodwill and Other Intangible Assets below.

67

---

## Table of Contents

Retail stores that have indicators of impairment and whose carrying value of assets are greater than their related projected undiscounted future cash flows, are measured for impairment by comparing the fair value of the assets against their carrying value. Fair value of the assets is estimated using a projected discounted cash flow analysis based on unobservable inputs including gross profit and discount rate, and is classified within Level 3 of the valuation hierarchy. The key assumptions used in the estimates of projected cash flows were sales, gross margin and payroll costs. These forecasts are based on historical trends and take into account recent developments, as well as the Company's plans and intentions. An increase or decrease in the discount rate assumption and/or projected cash flows, in isolation, can significantly decrease or increase the fair value of the assets, which would have an effect on the impairment recorded. See Impairment of Long-Lived Assets below.

### Goodwill and Other Intangible Assets

Goodwill represents the excess of the purchase price over the fair value of identifiable net assets of companies acquired. Goodwill and other intangible assets acquired in a business combination and determined to have an indefinite useful life are not amortized, but are instead tested for impairment at least annually. The Company's annual impairment test date is December 31.

Based on the qualitative assessment provisions of ASC 350 "Intangibles-Goodwill and Other", the Company determined that based on an analysis of qualitative factors, the fair value of the reporting unit was more likely than not greater than its carrying amount, and therefore, a quantitative calculation of the reporting unit's fair value was not needed. The Company has not historically had any goodwill impairment.

Other intangible assets consist of deferred financing costs (amortized over the term of the applicable debt facility) and key money, broker and finder fees and lease rights (amortized over the life of the respective lease).

### Impairment of Long-Lived Assets

The Company evaluates long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. The estimated future undiscounted cash flows associated with the asset are compared to the asset's carrying amount to determine if a write down to a new depreciable basis is required. If required, an impairment charge is measured by the difference between the carrying value and the estimated fair value of the assets, with such estimated fair values generally determined using the discounted future cash flows of the assets using a rate that approximates the Company's weighted average cost of capital. The Company considers the following to be some examples of important indicators that may trigger an impairment review:

(i) significant under-performance or losses of retail stores relative to expected historical or projected future operating results; (ii) significant changes in the manner or use of the assets or in the Company's overall strategy with respect to the manner or use of the acquired assets or changes in the Company's overall business strategy; (iii) significant negative industry or economic trends; (iv) increased competitive pressures; (v) a significant decline in the Company's stock price for a sustained period of time; and (vi) regulatory changes. The Company evaluates acquired assets and its retail stores for potential impairment indicators at least annually and more frequently upon the occurrence of events that could impact prior conclusions.

The key assumptions used in management's estimates of projected cash flow at its retail stores deal largely with forecasts of sales levels, gross margins, and payroll costs. These forecasts are typically based on historical trends and take into account recent developments as well as management's plans and intentions. Any material change in manufacturing costs or a raw material costs could significantly impact projected future cash flows of retail stores and these factors are considered in evaluating impairment. Other factors, such as increased competition or a decrease in the desirability of the Company's products, could lead to lower projected sales levels, which would adversely impact cash flows. A significant change in cash flows in the future could result in an impairment of long lived assets.

### Web Site Development

The Company capitalizes applicable costs incurred during the application and infrastructure website development stage and expenses costs incurred during the planning and operating stage. As of December 31, 2013 and 2012, the carrying value of the Company's capitalized website development costs were \$2,805 and \$2,242, respectively, and were included in property and equipment in the accompanying consolidated balance sheets.

### Self-Insurance Liabilities

The Company self-insures a significant portion of expected losses under workers' compensation and healthcare benefits programs. Estimated costs under the workers' compensation program, including incurred but not reported claims, are recorded as expense based upon historical experience, trends of paid and incurred claims, and other actuarial assumptions. If actual claim trends under these programs, including the severity or frequency of claims, differ from the Company's estimates, its financial results may be significantly impacted. The Company's estimated self-insurance liabilities are classified in its balance sheets as accrued expenses or other long-term liabilities based upon whether they are expected to be paid during or beyond the Company's normal operating cycle of 12 months from the date of its consolidated financial statements. Estimated costs under

## Table of Contents

the Company's healthcare program are based on estimated losses for claims incurred, but not paid at the end of the period. Funding is made directly to the providers and/or claimants by the insurance company.

### Income Taxes

The Company recognizes deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the financial statements. Deferred tax assets and liabilities are determined based on the differences between the financial statements and tax basis of assets and liabilities using the enacted tax rates in effect for the year in which the differences are expected to reverse. The effect of a change in tax rates on deferred tax assets and liabilities is recognized in income in the period that includes the enactment date. For the years ended December 31, 2013, 2012 and 2011, the Company recorded a valuation allowance against deferred tax assets of \$120,694, \$77,578 and \$73,773. For all years presented, the Company recorded a valuation allowance against substantially all deferred tax assets. In the event the Company determines that it will be able to realize deferred income tax assets in the future, it will make an adjustment to the valuation allowance.

The Company records net deferred tax assets to the extent it believes these assets will be realized using a more likely than not standard. In making such determination, the Company considers all available positive and negative evidence, including future reversals of existing taxable temporary differences, projected future taxable income, tax planning strategies and recent financial operations.

Management makes judgments as to the interpretation of tax laws that might be challenged upon an audit and cause changes to previous estimates of tax liabilities. In management's opinion, adequate provisions for income taxes have been made for all years. If actual taxable income by tax jurisdiction varies from estimates, additional allowances or reversals of reserves may be necessary.

The Company accounts for uncertain tax positions in accordance with ASC 740-“Income Taxes”. Gross unrecognized tax benefits are included in other long-term liabilities in the accompanying consolidated balance sheets. The Company accrues interest and penalties, if incurred, on unrecognized tax benefits as components of the income tax provision in the accompanying consolidated statements of operations.

### Contingencies

Certain conditions may exist at the date the consolidated financial statements are issued, which may result in a loss to the Company but which will only be resolved when one or more future events occur or fail to occur. The Company assesses such contingent liabilities, and such assessment inherently involves an exercise of judgment. In assessing loss contingencies related to legal proceedings or governmental assessments that are pending against the Company or unasserted claims that may result in such proceedings, the Company evaluates the perceived merits of these matters as well as the merits of the amount of relief sought or expected to be sought.

If the assessment of a contingency indicates that it is probable that a material loss has been incurred and the amount of the liability can be estimated, then the estimated liability is accrued in the Company's consolidated financial statements. If the assessment indicates that a potentially material loss contingency is not probable but is reasonably possible, or is probable but cannot be estimated, then the nature of the contingent liability, and an estimate of the range of possible losses, if determinable and material, is disclosed. Associated legal fees are expensed as incurred. Loss contingencies considered remote are generally not disclosed unless they involve guarantees, in which case the guarantees would be disclosed.

There can be no assurance that such matters will not materially and adversely affect the Company's business, financial position, and results of operations or cash flows.

In making these determinations, the Company assesses the likelihood of any adverse judgments or outcomes to these matters as well as potential ranges of probable losses. Management determines the amount of reserves needed, if any, for each individual issue based on its knowledge and experience and discussions with legal counsel. The required reserves may change in the future due to new developments in each matter, the ultimate resolution of each matter, or changes in approach, such as a change in settlement strategy. The Company currently does not believe, based upon information available, that these matters will have a material adverse effect on its consolidated financial position, results of operations or cash flows. There can be no assurance that such matters will not materially and adversely affect the Company's business, financial position, and results of operations or cash flows. See Notes 15 and 18, Commitments and Contingencies and Litigation.

Revenue Recognition

The Company recognizes product sales when title and risk of loss have transferred to the customer, there is persuasive evidence of an arrangement, the sales price is fixed or determinable and collectability is reasonably assured.

Wholesale product sales are recorded at the time the product is either picked up by or shipped to the customer. Online product sales are recorded at the time the product is received by the customer. Retail store sales are recorded as revenue upon the sale of product to retail customers.



## Table of Contents

The Company's net sales represent gross sales invoiced to customers, less certain related charges for discounts, returns, and other promotional allowances, and are recorded net of sales or value added tax. Allowances provided for these items are presented in the consolidated financial statements primarily as reductions to sales and cost of sales (see Sales Returns and Allowances below for further information).

The Company recognizes revenue from gift cards, gift certificates and store credits as they are redeemed for product or when it is determined that some portion of gift cards will not be redeemed. See Gift Cards below.

### Sales Returns and Allowances

The Company analyzes sales returns in order to make reasonable estimates of product returns for its wholesale, online and retail store sales based upon historical experience. Estimates for sales returns are based on a variety of factors including actual returns based on expected return data communicated to the Company by its customers. Accordingly, the Company believes that its historical returns analysis is an accurate basis for its allowance for sales returns. The Company regularly reviews the factors that influence its estimates and, if necessary, makes adjustments when it believes that actual product returns and credits may differ from established reserves. If actual or expected future returns and claims are significantly greater or lower than the allowance for sales returns established, the Company would record a reduction or increase to net revenues in the period in which it made such determination.

### Shipping and Handling Costs

Shipping and handling costs consist primarily of freight expenses incurred to transport products to the Company's retail stores and distribution center, and to its wholesale and online retail customers. These costs are included in cost of sales. Amounts billed to customers for shipping are included in net sales.

### Gift Cards

Upon issuance of a gift card a liability is established for the cash value. The liability is relieved and net sales are recorded upon redemption by the customer. Over time, some portion of gift cards is not redeemed ("breakage"). The Company determines breakage income for gift cards based on historical redemption patterns. Breakage income is recorded as a credit to selling expenses, which is a component of operating expenses in the consolidated statements of operations. Currently, the Company records breakage when gift cards remain unredeemed after two-years. The Company's gift cards, gift certificates and store credits do not have expiration dates. See Note 6.

The Company does not believe there is a reasonable likelihood that there will be a material change in the future estimates or assumptions used to calculate breakage.

### Trade Receivables and Allowance for Doubtful Accounts

Accounts receivable primarily consists of trade receivables, including amounts due from credit card companies, net of allowances. On a periodic basis, the Company evaluates its trade receivables and establishes an allowance for doubtful accounts.

The Company performs on-going credit evaluations of its customers and adjust credit limits based upon payment history and the customer's current credit worthiness, as determined by its review of current credit information. Payments from customers are continuously monitored. The Company maintains an allowance for doubtful accounts, which is based upon historical experience as well as specific customer collection issues that have been identified. If the financial condition of customers were to deteriorate, resulting in an impairment of their ability to make payments, additional allowances may be required.

### Deferred Rent, Rent Expense and Tenant Allowances

The Company occupies its retail stores, corporate office, manufacturing, and distribution center under operating leases generally with terms of one to ten years. Some leases contain renewal options for periods ranging from five to fifteen years under substantially the same terms and conditions as the original leases but with rent adjustments based on various factors specific to each agreement. Many of the store leases require payment of a specified minimum rent, a contingent rent based on a percentage of the store's net sales in excess of a specified threshold, plus defined escalating rent provisions. The Company recognizes its minimum rent expense on a straight-line basis over the term of the lease (including probable lease renewals), plus the construction period prior to occupancy of the retail location, using a mid-month convention. Also included in rent expense are payments of real estate taxes, insurance and certain common area and maintenance costs in addition to the future minimum operating lease payments. Certain lease agreements provide for the Company to receive lease inducements or tenant allowances from landlords to assist in the financing of

certain property. These inducements are recorded as a component of deferred rent and amortized as a reduction of rent expense over the term of the related lease.

70

---

## Table of Contents

### Advertising, Promotion and Catalog

The Company expenses the production costs of advertising the first time the advertising takes place. Advertising, promotion and catalog expenses for the years ended December 31, 2013, 2012 and 2011 amounted to \$19,814, \$22,114, and \$15,194 respectively, and are included in selling expenses in the accompanying consolidated statements of operations. The Company has cooperative advertising arrangements with certain vendors in its U.S. wholesale segment. For the years ended December 31, 2013, 2012 and 2011, cooperative advertising expenses were not significant.

### Share-Based Compensation

The Company recognizes compensation expense on a straight-line basis net of forfeitures over the vesting period for all share-based awards granted. The Company determines the fair value of restricted stock awards based on the market value at the grant date. The Company uses the Black-Scholes option pricing model to determine the fair value of stock option awards at the grant date. The Company calculates the expected volatility using the historical volatility over the most recent period equal to the expected term and evaluates the extent to which available information indicate that future volatility may differ from historical volatility. The risk-free rates for the expected terms of the stock options are based on the U.S. Treasury yield curve in effect at the time of the grant. Due to the lack of historical information, the Company determines the expected term of its stock option awards by using the simplified method, which assumes each vesting tranche of the award has a term equal to the midpoint between when the award vests and when the award expires. Estimated forfeitures are zero, as to date, actual forfeitures have been insignificant. The expected dividend yield is zero as the Company has not paid or declared any cash dividends on its Common Stock. Based on these valuations, the Company recognized share-based compensation expense of \$8,451, \$10,580, and \$6,814 for the years ended December 31, 2013, 2012 and 2011, respectively.

### Preferred Stock

At December 31, 2013 and 2012, the Company was authorized to issue 1,000 shares of preferred stock with a par value of \$0.0001 with such designations, voting and other rights and preferences as may be determined from time to time by the Board of Directors. There were no shares issued or outstanding at December 31, 2013 and 2012. Shares may be issued in one or more series.

### Earnings per Share

The Company presents earnings per share ("EPS") utilizing a dual presentation of basic and diluted EPS. Basic EPS includes no dilution and is computed by dividing net (loss) income available to common stockholders by the weighted average number of common shares outstanding for the period. Diluted EPS includes the potential dilution that could occur if securities or other contracts to issue common stock were exercised or converted into common stock.

The Company had common stock under various options, warrants and other agreements at December 31, 2013, 2012 and 2011. The weighted average effects of 46,684, 53,478 and 49,270 shares at December 31, 2013, 2012 and 2011, respectively, were excluded from the calculations of net loss per share for the years ended December 31, 2013, 2012 and 2011, because their impact would have been anti-dilutive. See Note 13.

### Comprehensive Loss

Comprehensive loss represents the change in stockholders' equity resulting from transactions other than stockholder investments and distributions. Accumulated other comprehensive loss includes changes in equity that are excluded from the Company's net loss, specifically, unrealized gains and losses on foreign currency translation adjustments and is presented in the consolidated statements of stockholders' equity. The Company presents the components of comprehensive loss within the consolidated statements of operations and comprehensive loss.

### Accounting Standards Updates

Accounting standards updates effective after December 31, 2013, are not expected to have a material effect on the Company's consolidated financial statements.

### Subsequent Events

The Company has evaluated events that occurred subsequent to December 31, 2013 and through the date the financial statements were issued.



Table of Contents

## Note 3. Inventories

The following table presents the components of inventories at December 31, 2013 and 2012:

	2013	2012
Raw materials	\$ 23,199	\$ 22,301
Work in process	2,596	2,197
Finished goods	146,361	152,384
	172,156	176,882
Less: Reserve for inventory shrinkage and obsolescence	(2,778	) (2,653
	\$ 169,378	\$ 174,229

Inventories are stated at the lower of cost or market. Cost is primarily determined on the first-in, first-out (FIFO) method. The cost elements of inventories include materials, labor and overhead. For the years ended December 31, 2013, 2012 and 2011, no one supplier provided more than 10% of the Company's raw material purchases.

The Company identifies potentially excess and slow-moving inventories by evaluating turn rates, inventory levels and other factors and provides reserves for lower of cost or market reserves for such identified excess and slow-moving inventories. At December 31, 2013 and 2012, the Company had a lower of cost or market reserve for excess and slow-moving inventories of \$1,951 and \$2,140, respectively.

The Company establishes a reserve for inventory shrinkage for each of its retail locations and its warehouse. The reserve is based on the historical results of physical inventory cycle counts. The Company has a reserve for inventory shrinkage in the amount of \$827 and \$513 at December 31, 2013 and 2012, respectively.

## Note 4. Property and Equipment

The following table presents the components of property and equipment at December 31, 2013 and 2012:

	2013	2012
Machinery and equipment	\$ 58,069	\$ 50,180
Furniture and fixtures	46,749	42,430
Computers and software	45,402	37,556
Automobiles and light trucks	1,334	1,167
Leasehold improvements	95,886	86,623
Buildings	547	587
Construction in progress	1,353	5,293
	249,340	223,836
Less: Accumulated depreciation and amortization	(180,037	) (156,058
Total	\$ 69,303	\$ 67,778

Property and equipment is recorded on the basis of cost and is depreciated over the estimated used useful lives of fixed assets. The useful lives of the Company's major classes of assets are as follows:

Machinery and equipment	5 to 7 years
Furniture and fixtures	3 to 5 years
Computers and software	3 to 5 years
Automobiles and light trucks	3 to 5 years
Leasehold improvements	Shorter of lease term or useful life
Buildings	25 years

Depreciation is provided on a straight-line basis over the estimated useful lives of the related assets. The costs of normal maintenance and repairs are charged to expense in the year incurred. Expenditures which significantly improve or extend the life of an asset are capitalized and depreciated over the asset's remaining useful life. Amortization of leasehold improvements

Table of Contents

is computed using the straight-line method over the shorter of the estimated useful lives of the related assets or the lease term. Upon sale or disposition, the related cost and accumulated depreciation are removed from the Company's financial statements and the resulting gain or loss, if any, is reflected in income from operations. Property plant and equipment acquired are recorded as construction in progress until placed in-service, at which time the asset is reclassified to the appropriate asset category and depreciation commences. For the years ended December 31, 2013, 2012, and 2011, depreciation and amortization expense relating to property and equipment was \$26,076, \$22,989 and \$24,980, respectively. At December 31, 2013 and 2012, property and equipment includes \$15,115 and \$16,415, for machinery and equipment held under capital leases, respectively. Accumulated amortization for these capital leases at December 31, 2013 and 2012 was \$12,252 and \$12,093.

The Company identified indicators of impairment present at certain retail stores within its U.S. Retail, Canadian and International segments, specifically related to under-performance or operating losses relative to expected historical or projected future operating results. The Company performed a recoverability test on these stores, and for the stores which failed the test, measured and recorded an impairment charge as applicable. The key assumptions used in the estimates of projected cash flows utilized in both the test and measurement steps of the impairment analysis were sales, gross margins, and payroll costs. These forecasts were based on historical trends and take into account recent developments as well as the Company's plans and intentions. Based upon the results of the discounted cash flow analysis, the Company recorded an impairment charge, primarily on certain retail store leasehold improvements, of \$1,540, \$1,647 and \$4,267 for the years ended December 31, 2013, 2012, and 2011, respectively.

#### Note 5. Goodwill, Intangible Assets and Other Assets

Goodwill of \$1,906 is assigned to the U.S. Wholesale segment and is related to the acquisition of American Apparel Dyeing & Finishing, Inc. on June 2, 2005 and American Apparel Garment and Dyeing, Inc. on May 9, 2008.

Based on the quantitative assessment provisions of ASC 350 "Intangibles-Goodwill and Other", the Company determined that the fair value of the reporting unit was more likely than not greater than its carrying amount. For the years ended December 31, 2013, 2012 and 2011, the Company had no goodwill impairment.

The following table presents the net carrying amounts of definite and indefinite lived intangible assets and other assets at December 31, 2013 and 2012:

	2013	2012
Deferred financing costs	\$10,275	\$4,101
Broker and finder fees	1,779	1,486
Lease rights	187	213
Key money on store leases	1,652	2,244
Gross amortizable intangible assets	13,893	8,044
Accumulated amortization	(2,361)	(2,048)
Total net amortizable intangible assets	11,532	5,996
Goodwill	1,906	1,906
Workers compensation deposit	16,124	14,624
Lease security deposits	9,013	8,117
Restricted cash	2,078	—
Other	6,074	4,140
Total	\$46,727	\$34,783

Deferred financing costs represent costs incurred in connection with the issuance of certain indebtedness and were capitalized as deferred costs and are being amortized over the term of the related indebtedness. The Company incurred related amortization expense of \$1,895, \$2,287, and \$1,634, for the years ended December 31, 2013, 2012 and 2011, respectively, which is recorded to interest expense.

Lease rights are costs incurred to acquire the right to lease a specific property. A majority of the Company's lease rights are related to premiums paid to landlords. Lease rights are recorded at cost and are amortized over the term of the respective leases.

Key money is the amount of funds paid to a landlord or tenant to acquire the rights of tenancy under a commercial property lease for a certain property. Key money represents the "right to lease" with an automatic right of renewal. This

right can be subsequently sold by the Company or can be recovered should the landlord refuse to allow the automatic right of renewal to be exercised. Key money is amortized over the respective lease terms.

Table of Contents

Aggregate amortization expense of intangible assets and other assets (excluding deferred financing costs) is included in operating expenses in the consolidated statements of operations for the years ended December 31, 2013, 2012 and 2011 and was approximately \$456, \$472, and \$752, respectively.

The following table presents the estimated amortization expense of deferred financing costs, broker and finder fees, lease rights and key money for each of the five succeeding years as of December 31, 2013:

	Amount
2014	\$2,119
2015	2,013
2016	1,901
2017	1,877
2018 and thereafter	3,622

## Note 6. Accrued Expenses and Other Current Liabilities

The following table presents the components of accrued expenses and other current liabilities as of December 31, 2013 and 2012:

	2013	2012
Compensation, bonuses and related taxes	\$10,170	\$11,524
Accrued interest	6,064	520
Workers' compensation and other self-insurance reserves (Note 16)	6,383	5,288
Sales, value and property taxes	3,868	4,751
Gift cards and store credits	7,391	5,964
Loss contingencies	1,177	752
Accrued vacation	1,603	1,055
Deferred revenue	1,258	590
Deferred rent	3,363	2,997
Other	8,741	8,075
Total accrued expenses	\$50,018	\$41,516

## Note 7. Revolving Credit Facilities and Current Portion of Long-Term Debt

The following table presents revolving credit facilities and current portion of long-term debt as of December 31, 2013 and 2012:

	2013	2012
Revolving credit facility (Capital One), maturing April 2018	\$43,526	\$—
Revolving credit facility (Crystal), replaced in April 2013	—	26,113
Term loan (Crystal), replaced in April 2013	—	30,000
Revolving credit facility (Bank of Montreal), maturing March 2014	443	4,387
Current portion of long-term debt (Note 8)	73	56
Total revolving credit facilities and current portion of long-term debt	\$44,042	\$60,556

The Company incurred interest charges of \$39,286, \$41,559 and \$33,167 for the years ended December 31, 2013, 2012 and 2011, respectively, for all outstanding borrowings. The interest charges subject to capitalization for the years ended December 31, 2013, 2012 and 2011 were not significant.



Table of Contents

## Revolving Credit Facility - Capital One

On April 4, 2013, the Company and its domestic subsidiaries replaced the credit facility with Crystal with a new \$35,000 asset-based revolving facility with Capital One. On July 5, 2013, the Company entered into an amendment to the credit agreement with Capital One, pursuant to which the total commitment under the credit facility was raised to \$50,000. The additional commitment was made under substantially the same terms as the existing facility.

The Capital One Credit Facility matures on April 4, 2018, subject to a January 15, 2018 maturity if excess availability is less than \$15,000 at the time of notice to Capital One of a determination by the Company that an Applicable High Yield Discount Obligation ("AHYDO") redemption will be required pursuant to Section 3.01(e) of the indenture governing the Notes. See Note 8, Long-Term Debt. Borrowings under the Capital One Credit Facility bear interest equal to LIBOR plus 4.5% or the bank's prime rate plus 3.5% (at the Company's option) and are subject to maintenance of specified borrowing base requirements and covenants. The Capital One Credit Facility is secured by a lien on substantially all of the assets of the Company's domestic subsidiaries and equity interests in certain of the Company's foreign subsidiaries, subject to some exceptions. As of December 31, 2013, the Company had \$1,230 of outstanding letters of credit secured against the Capital One Credit Facility. The amount available for additional borrowings on December 31, 2013 was \$4,179.

Among other provisions, the Capital One Credit Facility requires that the Company maintain a lockbox arrangement and contains certain subjective acceleration clauses. In addition, Capital One may at its discretion, adjust the advance restriction and criteria for eligible inventory and accounts receivable. The Capital One Credit Facility contains cross-default provisions whereby an event of default under the Bank of Montreal Credit Agreement, under the indenture governing the Notes or other indebtedness, in each case of an amount greater than a specified threshold, would cause an event of default under the Capital One Credit Facility.

The Company is required to maintain a minimum fixed charge coverage ratio of not less than 1.00 to 1.00 and is also required to not exceed certain maximum leverage ratio thresholds, both determined as at the end of each fiscal quarter. Additionally, the Company's domestic subsidiaries are subject to an annual limitation of certain specified capital expenditure amounts as determined at the end of each fiscal year.

Under the Capital One Credit Facility, the Company was in violation of certain covenants for the twelve consecutive fiscal months ended September 30, 2013 and December 31, 2013, and anticipated a violation for the twelve months ended March 31, 2014.

On November 14, 2013, the Company entered into a third amendment to the Capital One Credit Facility, which among other things, waived the obligation to maintain a minimum fixed charge coverage ratio and a maximum leverage ratio for the twelve consecutive fiscal month period ending September 30, 2013. As a condition to the waiver, the Company agreed to a one percentage point increase in the interest rate to either LIBOR plus 4.5% or the bank's prime rate plus 3.5% (at the Company's option) and limitations on amounts available to be borrowed, consisting of the imposition of a reserve against the line that gradually reduced the total borrowing capacity to \$47,500 and certain amendments to the borrowing base calculation. In addition, the Company paid a waiver fee of \$75.

On March 25, 2014, the Company entered into a fifth amendment to the Capital One Credit Facility which, effective upon its receipt of at least \$25,000 of net proceeds from a financing prior to April 15, 2014, among other things: waives the obligation to maintain the minimum fixed charge coverage and maximum leverage ratios for the three month periods ended December 31, 2013 and March 31, 2014; resets for future periods the fixed charge coverage ratio, the maximum leverage ratio and the maximum capital expenditures allowed; adds a minimum EBITDA covenant; increases the interest rate payable under the credit agreement by 0.5% per annum to either LIBOR plus 5.0% or the bank's prime rate plus 4.0% (at the Company's option); and increases the fees payable upon early termination.

## Revolving Credit Facility - Bank of Montreal

On December 31, 2013, the Company's wholly-owned Canadian subsidiaries, entered into a fourth amendment to the Bank of Montreal Credit Agreement that reduced the existing revolving credit facility amount from C\$11,000 (Canadian dollars) to C\$5,000 (Canadian dollars) and extended the maturity date to February 28, 2014. On February 28, 2014, the revolving credit facility commitment was further reduced to C\$2,000 (Canadian dollars) and the

maturity set to March 31, 2014. Additionally, the Company paid an extension fee of \$10 plus certain legal fees. Outstanding amounts under the Bank of Montreal Credit Agreement was repaid, and on March 31, 2014 expired by its terms.

The Bank of Montreal Credit Agreement bore interest at 7.0% (the bank's prime rate at 3.0% as of December 31, 2013 plus 4.0% per annum) payable monthly. This line of credit was secured by a lien on the Canadian subsidiaries' accounts receivable, inventory and certain other tangible assets. Available borrowing capacity at December 31, 2013 was \$2,089.

The Bank of Montreal Credit Agreement contained a fixed charge coverage ratio and restricts the Company's Canadian subsidiaries from entering into operating leases above a specified threshold. Additionally, the Bank of Montreal Credit

Table of Contents

Agreement imposed a minimum excess availability covenant, which required the Company's Canadian subsidiaries to maintain at all times minimum excess availability of 5.0% of the revolving credit commitment under the facility. The Bank of Montreal Credit Agreement contained cross-default provisions with the Capital One Credit Facility and the Notes, whereby an event of default occurring thereunder would cause an event of default under the Bank of Montreal Credit Agreement.

As of December 31, 2013, the Company was in compliance with all required financial covenants of the Bank of Montreal Credit Agreement.

**Revolving Credit Facility and Term Loan - Crystal**

On April 4, 2013, the Company replaced its existing revolving credit facility and term loan with Crystal (the "Crystal Credit Agreement"), with a new asset-based revolving credit agreement with Capital One.

In connection with the termination of the Crystal Credit Agreement, the Company paid an early termination fee of \$2,400. The difference between the net carrying amount of the Crystal loans of \$60,533 (which includes the outstanding balance, accrued but unpaid interest, and unamortized financing cost immediately prior to the date of the extinguishment) and the cash paid to Crystal of \$66,411, which includes the early termination fee, was recorded as a \$5,878 loss on early extinguishment of debt in the statement of operations for the year ended December 31, 2013.

On March 13, 2012, the Company replaced its revolving credit facility of \$75,000 with Bank of America with an \$80,000 senior credit facility with Crystal and other lenders. The Crystal Credit Agreement called for the \$80,000 to be allocated between an asset based revolving credit facility of \$50,000 and term loan of \$30,000. In connection with the financing from Crystal, the Company entered into an amendment to the Lion Credit Agreement. See Notes 8 and 13.

**Note 8. Long-Term Debt**

The following table presents the components of long-term debt as of December 31, 2013 and 2012:

	2013		2012	
Senior secured notes due 2020	\$ 203,265	(a)	\$ —	
Long-term debt with Lion, replaced in April 2013	—		109,680	(b)
Long-term debt with Lion, maturing October 2018	9,865	(c)	—	
Other	411		388	
Total long-term debt	213,541		110,068	
Current portion of debt	(73)	)	(56)	)
Long-term debt, net of current portion	\$ 213,468		\$ 110,012	

(a) Includes accrued interest paid-in-kind of \$3,044 of and net of unamortized discount of \$5,779 at December 31, 2013.

(b) Includes accrued interest paid-in-kind of \$16,469 and net of unamortized discount of \$27,929 at December 31, 2012.

(c) Includes accrued interest paid-in-kind of \$365 at December 31, 2013.

**Senior Secured Notes due 2020**

On April 4, 2013, the Company issued the Notes in an aggregate principal amount of \$206,000. The Notes mature on April 15, 2020. The Notes were issued at 97% of par value with an interest rate at issuance of 13% per annum, subject to adjustment. Interest on the Notes approximating \$13,500 per payment period (in 2014), is payable semi-annually, in arrears, on April 15 and October 15 of each year, beginning on October 15, 2013.

A "special interest trigger event" is deemed to have occurred under the indenture governing the Notes if the Company's net leverage ratio for the year ended December 31, 2013 is greater than 4.50 to 1.00. Upon the occurrence of a special interest trigger event, interest on the Notes accrues at the rate of 15% per annum, retroactive to April 4, 2013, with the interest in excess of 13% per annum payable (i) in the case of any interest payment date prior to April 15, 2018, by adding such excess interest to the principal amount of the Notes on the interest payment date, and (ii) for any interest payment date on or after April 15, 2018, in cash.

During the third quarter of 2013, the Company determined it was probable that a special interest trigger event under the indenture governing the Notes would occur as of December 31, 2013 and accrued interest on the Notes at 15%

retroactive to April 4, 2013 representing an additional 2% interest, which additional interest is payable in kind until April 15, 2018 and in cash on subsequent interest dates. The Company recorded \$3,044 in additional interest expense for the special interest trigger

76

---

Table of Contents

event for the year ended December 31, 2013. The company will pay in-kind the additional 2% interest retroactive to the issue date of the notes on the next interest payment date, April 15, 2014.

On or after April 15, 2017, the Company may, at its option, redeem some or all of the Notes at a premium decreasing ratably to zero as specified in the indenture, plus accrued and unpaid interest to, but not including, the redemption date. Prior to April 15, 2017, the Company may, at its option, redeem up to 35% of the aggregate principal amount of the Notes with the net cash proceeds of certain equity offerings at a redemption price of 113% of the aggregate principal amount of the redeemed notes plus accrued and unpaid interest to, but not including, the redemption date. In addition, at any time prior to April 15, 2017 the Company may, at its option, redeem some or all of the Notes by paying a "make whole" premium, plus accrued and unpaid interest to, but not including, the redemption date. If the Company experiences certain change of control events, the holders of the Notes will have the right to require the Company to purchase all or a portion of the Notes at a price in cash equal to 101% of the principal amount of such Notes, plus accrued and unpaid interest to, but not including, the date of purchase. In addition, the Company is required to use the net proceeds of certain asset sales, if not used for specified purposes, to purchase some of the Notes at 100% of the principal amount, plus accrued and unpaid interest to, but not including, the date of purchase. On each interest payment date after April 4, 2018, the Company will be required to redeem, for cash, a portion of each Note then outstanding equal to the amount necessary to prevent such Note from being treated as an "applicable high yield discount obligation" within the meaning of the Internal Revenue Code. The redemption price will be 100% of the principal amount plus accrued and unpaid interest thereon on the date of redemption.

The Notes are guaranteed, jointly and severally, on a senior secured basis by the Company's existing and future domestic subsidiaries. The Notes and the related guarantees are secured by a first-priority lien on the Company's and its domestic subsidiaries' assets (other than the Credit Facility Priority Collateral, as defined below, subject to some exceptions and permitted liens). The Notes and the related guarantees also are secured by a second-priority lien on all of Company's and its domestic subsidiaries' accounts receivable, inventory, cash, and certain other assets (collectively, the "Credit Facility Priority Collateral"), subject to certain exceptions and permitted liens. The Notes and the guarantees, respectively, rank equal in right of payment with the Company's and its domestic subsidiaries' senior indebtedness, including indebtedness under the Capital One Credit Facility, before giving effect to collateral arrangements.

The Notes impose certain limitations on the ability of the Company and its domestic subsidiaries to, among other things, and subject to a number of important qualifications and exceptions, incur additional indebtedness or issue disqualified capital stock or preferred stock (with respect to restricted subsidiaries), grant liens, make payments in respect of their capital stock or certain indebtedness, enter into transactions with affiliates, create dividend or other payment restrictions affecting subsidiaries, merge or consolidate with any other person, sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its assets or adopt a plan of liquidation. The Company must annually report to the trustee on compliance with such limitations. The Notes also contain cross-default provisions whereby a payment default or acceleration of any indebtedness in an aggregate amount greater than a specified threshold would cause an event of default with respect to the Notes. As of December 31, 2013, the Company was in compliance with the required covenants of the Notes.

**Lion Loan Agreement**

On May 22, 2013 the Company entered into a loan agreement with Lion (the "Lion Loan Agreement") in a principal amount of \$4,500. On November 29, 2013, the Lion Loan Agreement was amended to increase the amount we borrowed by \$5,000 and to make certain other technical amendments. The term loans under the Lion Loan Agreement mature on October 4, 2018 and bear interest at an initial interest rate of 18% per annum, which interest rate increased to 20% per annum due to the occurrence of a special interest trigger event under the Notes. Interest under the loan agreement is payable in cash or, to the extent permitted by the Company's other debt agreements, in-kind.

**Lion Credit Agreement**

On April 4, 2013, the Company repaid and terminated its previous outstanding obligations with Lion Capital LLP with a portion of the proceeds of the financing transactions. The difference between the net carrying amount of the Lion debt of \$117,926 (which includes the principal, accrued but unpaid interest, unamortized discount and unamortized financing cost immediately prior to the date of extinguishment) and the cash paid to Lion of \$144,149 was recorded

in the statement of operations for the year ended December 31, 2013 as a \$26,223 loss on the early extinguishment of debt.

Note 9. Fair Value of Financial Instruments

The fair value of the Company's financial instruments are measured on a recurring basis. The carrying amount reported in the accompanying consolidated balance sheets for cash, accounts receivable, accounts payable and accrued expenses approximates fair value because of the short-term maturity of those instruments. The carrying amount for borrowings from Capital One and Bank of Montreal approximates fair value because of the variable market interest rate charged to the Company for these borrowings. The fair value of the Notes was calculated based on the quoted market price of the Notes. The fair value of the

Table of Contents

Lion Loan Agreement was estimated using a discounted cash flow analysis and a yield rate that was estimated using yield rates for publicly traded debt instruments of comparable companies with similar features. The fair value of each warrant was estimated using the Binomial Lattice option valuation model.

The Company did not have any assets or liabilities categorized as Level 1 as of December 31, 2013.

The following table presents carrying amounts and fair values of the Company's financial instruments as of December 31, 2013 and 2012:

		December 31, 2013	
		Carrying Amount	Fair Value
Senior Secured Notes due 2020, net of discount of \$5,779 and including interest paid-in-kind of \$3,044	Level 2 Liability	\$203,265	\$191,065
Lion Loan due 2018 including interest paid-in-kind of \$365	Level 3 Liability	9,865	9,773
Lion Warrant	Level 3 Liability	—	(a) 20,954
		\$213,130	\$221,792
		December 31, 2012	
		Carrying Amount	Fair Value
Long-term debt with Lion, net of discount of \$27,929 and including interest paid-in-kind of \$16,469	Level 3 Liability	\$109,680	\$105,792
Lion Warrant	Level 3 Liability	—	(a) 17,222
SOF Warrant	Level 3 Liability	—	(a) 19
		\$109,680	\$123,033

(a) No cost is associated with these liabilities (see Note 13).

The following summarizes the activity of Level 3 inputs measured on a recurring basis for the years ended December 31, 2013, 2012 and 2011:

Fair Value Measurements Using Significant Unobservable Inputs (Level 3)

	Warrants	Purchase Rights	Total
Balance at January 1, 2011	\$993	\$—	\$993
Additions (see Note 13)	22,547	15,605	38,152
Exercises	—	(2,857)	(2,857)
Realized loss	—	(3,188)	(3,188)
Adjustment resulting from change in fair value recognized in earnings	(13,907)	(9,560)	(23,467)
Balance at January 1, 2012	9,633	—	9,633
Adjustment resulting from change in fair value recognized in earnings	4,126	—	4,126
Gain on extinguishment of debt (see Note 8)	3,482	—	3,482
Balance at January 1, 2013	17,241	—	17,241
Adjustment resulting from change in fair value recognized in earnings	3,713	—	3,713
Balance at December 31, 2013	\$20,954	\$—	\$20,954

Realized loss is the difference between the net proceeds received and the fair value of the purchase rights acquired related to the April 26, 2011 Investor Purchase Agreement (see Note 13). The realized loss is recorded in unrealized (gain) loss on change in fair value of warrants and purchase rights in the accompanying consolidated statements of operations.

Adjustment resulting from change in fair value is the amount of total gains or losses for the period attributable to the change in unrealized gains or losses relating to liabilities held at the reporting date. The unrealized gain or loss is recorded in unrealized (gain) loss on change in fair value of warrants and purchase rights in the accompanying consolidated statements of operations.





Table of Contents

## Note 10. Capital Lease Obligations

The Company leases certain equipment under capital lease arrangements expiring at various times through 2017. The assets and liabilities under capital leases are recorded at the lower of the present values of the minimum lease payments or the fair values of the assets. The interest rates pertaining to these capital leases range from 0.4% to 23.5% (average interest rate is 14.1%).

Minimum future payments under these capital leases at December 31, 2013 are:

Year Ending December 31,		
2014		\$2,616
2015		3,097
2016		3,024
2017		18
2018 and thereafter		—
Total future minimum lease payments		8,755
Less: Amount representing interest		(1,593 )
Net minimum lease payments		7,162
Current portion		1,709
Long-term portion		\$5,453

## Note 11. Income Taxes

The Company's net loss before income taxes includes the following components for the years ended December 31, 2013, 2012 and 2011:

	2013	2012	2011
United States	\$(107,637 )	\$(38,365 )	\$(37,876 )
Foreign	3,110	4,906	283
	\$(104,527 )	\$(33,459 )	\$(37,593 )

The following table presents the federal and state income tax provision (benefit) for the years ended December 31, 2013, 2012 and 2011:

	2013	2012	2011
Current:			
Federal	\$—	\$—	\$—
State	200	134	228
Foreign	2,024	3,446	879
	2,224	3,580	1,107
Deferred:			
Federal	(402 )	—	—
State	—	—	—
Foreign	(51 )	233	614
	(453 )	233	614
Income tax provision	\$1,771	\$3,813	\$1,721

Table of Contents

The following table presents a reconciliation of taxes at the U.S. federal statutory rate and the effective tax rate for the years ended December 31:

	2013	2012	2011
Taxes at the statutory federal tax rate of 35%	(36,585	) (11,711	) (13,158
State tax, net of federal benefit	(4,059	) 4,913	(18
Change in valuation allowance	42,771	5,123	21,794
Foreign taxes	10	(618	) 533
Unrealized loss (gain) on warrants and purchase rights	1,299	4,809	(8,213
Other	(1,665	) 1,297	783
Total income tax provision	1,771	3,813	1,721

Deferred income taxes reflect the net tax effects of (a) temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes, and b) operating losses and tax credit carryforwards.

The following table presents the tax effects of significant items comprising the Company's deferred taxes as of December 31:

	2013	2012
Deferred tax assets:		
Allowance for doubtful accounts	\$831	\$778
Deferred rent	7,295	7,773
Accrued liabilities and workers' compensation	16,134	12,409
Inventories	6,877	6,731
Federal and California tax credits	12,067	12,067
Net operating loss carryforward	62,052	36,111
Deferred gift card income	2,379	1,866
Fixed assets	5,723	870
Foreign tax credits	9,296	8,335
Other comprehensive income	—	29
Other	1,833	848
Total gross deferred tax assets	124,487	87,817
Less valuation allowance	(120,694	) (77,578
Net deferred tax assets	3,793	10,239
Deferred tax liabilities:		
Prepaid expenses	(1,432	) (1,004
Unrealized (gain) loss on warrants and purchase rights	—	(8,003
Other	(1,113	) (35
Total gross deferred tax liabilities	(2,545	) (9,042
Net deferred tax assets and liabilities	\$1,248	\$1,197

At December 31, 2013, the Company had net operating loss carryforwards of approximately \$163,455 expiring beginning in 2030, state net operating loss carryforwards of approximately \$113,747, expiring beginning in 2020 and foreign net operating loss carryforwards of \$8,000 with expiration dates starting in 2014 (certain foreign loss carryforwards do not expire). The Company performed an analysis and determined it is more likely than not that an ownership change has not occurred through December 31, 2013 pursuant to §382 of the I.R.C. and, accordingly, the federal net operating loss carryforwards through such date are not subject to an annual Section 382 limitation. As a result of the March 31, 2014 public offering of the Company's common shares, there may have been an ownership change pursuant to §382 of the I.R.C.; however, an analysis has not yet been completed. See Note 13.

The California state tax credits of \$11,800 carryover for ten years. Management determined that it is more likely than not that the state tax credits are not realizable due to the Company's inability to generate future tax liabilities and accordingly has provided a full valuation allowance against the unused California credit carryforwards.

The Company accounts for its uncertain tax positions in accordance with ASC 740-10.



Table of Contents

The following table presents a reconciliation of the beginning and ending amount of unrecognized tax benefits:

	2013	2012	2011
Gross unrecognized tax benefits at January 1	\$—	\$2,163	\$1,311
Increases for tax positions in prior periods	—	—	852
Decreases for tax positions in prior period	—	(2,163	) —
Gross unrecognized tax benefits at December 31	\$—	\$—	\$2,163

Included in the balance of unrecognized tax benefits at December 31, 2013, 2012 and 2011 are \$0, \$0, and \$1,329, respectively, of tax benefits that, if recognized, would affect the effective tax rate.

The Company is currently open to audit under the statute of limitations by the Internal Revenue Service ("IRS") for the calendar years ended December 31, 2010 through December 31, 2013. The IRS is currently auditing the Company's tax return for the year ended December 31, 2011. The Company completed an audit with the IRS through December 31, 2010. The Company's state and foreign tax returns are open to audit under similar statute of limitations for the calendar years ended December 31, 2008 through 2013.

The Company agreed to a settlement with the Canadian Revenue Agency ("CRA") for audit of the years ended December 31, 2005 through December 31, 2007 representing \$830 in additional tax interest and penalty. As a result, the Company's unrecognized tax benefits were decreased by \$552 for the year ended December 31, 2012.

The Company does not provide for U.S. Federal income taxes on the undistributed earnings (\$34,075 at December 31, 2013) of its controlled foreign corporations which are considered permanently invested outside of the United States. Undistributed cash at controlled foreign corporations, which remains permanently reinvested at December 31, 2013 was \$3,109. Determination of the amount of U.S. income tax liability that would be incurred is not practicable because of the complexities associated with its hypothetical calculation, but would be substantially eliminated as the Company has U.S. net operating losses of approximately \$163,455 at December 31, 2013 and U.S. tax credits of approximately \$9,296 available to utilize to offset the tax effect of repatriation.

#### Note 12. Related Party Transactions

See Note 8, Long-Term Debt for a description of loans made by Lion to the Company and Note 13, Stockholders' Equity for a description of the warrants issued by the Company to Lion and a purchase agreement, dated April 27, 2011, between Mr. Charney and the Company.

#### Personal Guarantees by the Company's CEO

As of December 31, 2013, the CEO of the Company has personally guaranteed the obligations of American Apparel under seven property leases aggregating \$17,465 in obligations. Additionally, the CEO of the Company has personally guaranteed the obligations of the Company with two vendor aggregating \$1,000.

#### Lease Agreement Between the Company and Related Parties

The Company is party to an operating lease, expiring in November 2016 for its knitting facility with a related company ("American Central Plaza, LLC"), which is partially owned by the CEO and the Chief Manufacturing Officer ("CMO") of the Company. The Company's CEO holds an 18.75% ownership interest in American Central Plaza, LLC, while the CMO holds a 6.25% interest. The remaining members of American Central Plaza, LLC are not affiliated with the Company. Rent expense (including property taxes and insurance payments) related to this lease was \$778, \$830 and \$622 for the years ended December 31, 2013, 2012 and 2011, respectively.

#### Payments to Morris Charney

Morris Charney, ("Mr. M. Charney"), is the father of the Company's CEO and serves as a director of American Apparel Canada Wholesale Inc. and a director of American Apparel Canada Retail Inc. Day to day operations of these two Canadian subsidiaries are handled by management and other employees of these subsidiaries, none of whom performs any policy making functions for the Company. Management of American Apparel sets the policies for American Apparel and its subsidiaries as a whole. Mr. M. Charney does not perform any policy making functions for the Company or any of its subsidiaries. Instead, Mr. M. Charney only provides architectural consulting services primarily for stores located in Canada and, in limited cases, in the U.S. Mr. M. Charney was paid architectural consulting and director fees amounting to \$238, \$260 and \$297 for the years ended December 31, 2013, 2012 and 2011, respectively.



## Table of Contents

### Registration Rights

Pursuant to a registration rights agreement between the Company and Dov Charney, entered into in connection with the 2006 reverse merger between American Apparel, Inc. and Endeavor Acquisition Corp, Mr. Charney has both demand and piggyback registration rights relating to the shares of the Company's common stock that he received from that transaction.

### Employment Agreement with the Company's CEO

In March 2012 the Company's Board of Directors approved a three-year employment agreement with Mr. Charney commencing on April 1, 2012 that will automatically extend for successive one-year periods unless earlier terminated by the Company. The agreement provides for, among other things, a minimum annual base compensation of \$800 plus performance bonuses and the right to receive 7,500 shares of the Company's common stock, subject to performance hurdles and other terms, and conditions as described in the agreement. See Note 13.

### Bonus to the Company's CEO

For the years ended December 31, 2013, 2012 and 2011, the Company recorded \$406, \$1,003 and \$754, respectively, in CEO bonus in operating expenses in the consolidated statements of operations.

### Note 13. Stockholders' (Deficit) Equity

#### Authorization of Common Stock

On June 21, 2011 the Company's stockholders approved an amendment to the Company's Amended and Restated Certificate of Incorporation to increase the number of authorized shares of the Common Stock from 120,000 to 230,000.

On March 31, 2014, the Company completed a public offering of approximately 61,645 shares of its common stock at \$0.50 per share for net proceeds of approximately \$28,500. As a result of this offering, common stock issued and outstanding were 175,109 and 173,377 shares. Additionally, the underwriters have a 30 day option to acquire up to an additional 8,500 shares of the Company's common stock at \$0.50 per share.

#### Common Stock Warrants

##### Lion Warrants

As of December 31, 2013, Lion held warrants (the "Lion Warrants") to purchase 21,606 shares of the Company's common stock, with an exercise price of \$0.75 per share. These warrants expire on February 18, 2022.

The Lion Warrants, as amended, contain certain anti-dilution protections in favor of Lion providing for proportional adjustment of the warrant price and, under certain circumstances, the number of shares of the Company's common stock issuable upon exercise of the Lion Warrant, in connection with, among other things, stock dividends, subdivisions and combinations and the issuance of additional equity securities at less than fair market value, as well as providing for the issuance of additional warrants to Lion in the event of certain equity sales or debt for equity exchanges.

The fair value for the warrants at December 31, 2013 and 2012 were estimated using the Binomial Lattice option valuation model. The fair value of the warrants at December 31, 2011 was estimated using the Monte Carlo simulation valuation model. The calculations as of December 31, 2013 assumed a contractual remaining term of 8.25 years, exercise price of \$0.75, stock price of \$1.23, interest rate of 2.7%, volatility of 70.84% and no dividends. As of December 31, 2013 and 2012, the fair value of the Lion Warrants were estimated to be \$20,954 and \$17,222, respectively, and in accordance with ASC 815-40 "Derivatives and Hedging - Contracts in Entity's Own Equity", was recorded as a liability in the accompanying consolidated balance sheets.

On March 13, 2012, in connection with the new credit agreement with Crystal Financial, LLC, the Company entered into an amendment to the Lion Credit Agreement (see Note 8), which required that the warrants issued to Lion be amended to, among other things, extend the term of the warrants to February 18, 2022 and add a provision pursuant to which, if American Apparel did not meet a certain quarterly EBITDA amount, the exercise price of the warrants would be reduced by \$0.25 (a one-time adjustment for the first violation of such covenant; subsequent violations would not result in further adjustment). As of March 31, 2012, the Company did not meet the EBITDA requirement, and, as a result, the exercise price of the existing Lion warrants was reduced by \$0.25 to \$0.75 per share.

On March 31, 2014, as a result of the public offering of the Company's common shares as discussed above, the Company estimated that Lion received the right to purchase approximately 2,900 shares of the Company's common stock under their existing warrants and the exercise price of all of Lion's warrants will be adjusted to approximately \$0.66 per share. Such adjustments were required by the terms of the existing Lion warrants.

Table of Contents

## SOF Warrants

On December 19, 2013, warrants held by SOF Investments, L.P. ("SOF") to purchase 1,000 of the Company's shares with the exercise price of \$2.148 per share expired.

The fair value for the warrants at December 31, 2012 was estimated using the Binomial Lattice option valuation model. The calculations as of December 31, 2012 assumed a contractual remaining term of 1.0 year, exercise price of \$2.148, stock price of \$1.01, interest rate of 0.16%, volatility of 50.82% and no dividends. As of December 31, 2012, the fair value of the warrants were estimated to be \$19, respectively, and in accordance with ASC 815-40, was recorded as a liability in the accompanying consolidated balance sheets.

The following table summarizes common stock warrants issued, forfeited, expired and outstanding (shares in thousands):

	Number of Shares	Weighted Average Exercise Price	Weighted Average Contractual Life (Years)
Outstanding - January 1, 2011	17,000	\$ 2.05	5.1
Issued (1)	41,366	1.14	—
Forfeited (2)	(35,760 )	1.63	—
Expired	—	—	—
Outstanding - December 31, 2011	22,606	1.05	6.0
Issued (1)	44,212	0.90	—
Forfeited (2)	(44,212 )	1.03	—
Expired	—	—	—
Outstanding - December 31, 2012	22,606	0.81	8.8
Issued (1)	—	—	—
Forfeited (2)	—	—	—
Expired	(1,000 )	2.15	—
Outstanding - December 31, 2013	21,606	\$ 0.75	8.2

Fair value - December 31, 2013 \$20,954

(1) Issued shares at December 31, 2011 include issuances and repriced shares.

(2) Represents repriced shares.

## Common Stock and Purchase Rights

On April 26, 2011 and in connection with the February 18, 2011 amendment to the Lion Credit Agreement, the Company entered into a purchase and investment agreement with a group of investors ("Investors") and sold approximately 15,777 shares of common stock at a price of \$0.90 per share and purchase rights to acquire additional shares of common stock for the aggregate net cash purchase price of approximately \$12,417. The purchase rights gave the Investors the right to purchase up to approximately 27,443 additional shares of common stock at a price of \$0.90 per share.

In connection with the purchase agreement with the Investors, the Company entered into a purchase agreement with Mr. Charney that, among other things, allowed Mr. Charney to purchase from the Company 778 shares of common stock at \$0.90 per share, generating net proceeds of \$700, and granted to Mr. Charney a right to purchase up to 1,556 additional shares of common stock on substantially the same terms as the purchase agreement with the Investors (the "Charney Purchase Rights").

The Investor Purchase Rights and Charney Purchase Rights (collectively, the "Purchase Rights") had a fair value of \$15,605 at the date of the agreement. The Company recorded the Purchase Rights as a liability since they met the classification requirements for liability accounting in accordance with the ASC 815-40. The fair value was calculated using the Monte Carlo simulation pricing model, and assumed a stock price of \$1.58, exercise price of \$0.90, volatility of 99.08%, annual risk free rate of 0.11% and a term of 0.5 years. Net proceeds of \$12,417 were allocated entirely to the Purchase Rights. The difference between the net proceeds received and the fair value of the purchase rights



aggregating \$3,188 were recorded in unrealized (gain) loss on change in fair value of warrants and purchase rights in the consolidated statements of operations.

In July 2011, the Investors exercised their purchase rights and acquired 8,407 shares of the Company's common stock for \$0.90 per share, generating net proceeds of \$6,593. The fair value of these exercised rights aggregated \$2,857, which was reclassified in accordance with ASC 815-40 from a liability to stockholders' equity. As a result of the exercise of their purchase rights, the Investors have one remaining demand registration right with respect to their shares, subject to the terms and conditions of the relevant purchase agreement.

Table of Contents

In October 2011, the remaining 19,036 Investor Purchase Rights and the 1,556 Charney Purchase Rights expired without being exercised.

The following table summarizes Purchase Rights issued, forfeited and expired (shares in thousands):

	Number of Shares	Weighted Average Exercise Price	Weighted Average Contractual Life (Years)
Outstanding - January 1, 2011	—	\$—	—
Issued	28,999	0.90	0.5
Forfeited	—	—	—
Exercised	(8,407	) 0.90	—
Expired	(20,592	) 0.90	—
Outstanding - December 31, 2011	—	\$—	—

#### The Company's CEO Anti-Dilution Rights

As a condition to the Investors purchasing the shares and as a result of the July 2011 exercises of the Investor Purchase Rights, the Company provided Mr. Charney with certain anti-dilution rights (the "Charney Anti-Dilution Rights"). The Charney Anti-Dilution Rights provided that Mr. Charney has a right to receive from the Company, subject to the satisfaction of certain average volume weighted closing price targets, and other terms and conditions set forth in the agreement, up to approximately 20,416 shares of the Company's common stock as anti-dilution protection. On October 16, 2012, the Company and Mr. Charney entered into an amendment to the anti-dilution provisions contained in the Purchase Agreement with Mr. Charney dated as of April 27, 2011. The amendment extended by one year the measurement periods for Mr. Charney's anti-dilution protection provisions and reduced the length of the corresponding stock price target periods from 60 days to 30 days. The fair value of these awards of \$13,192 was determined under the Monte Carlo simulation pricing model. The calculation was based on the exercise price of \$0, the stock price of \$1.3, annual risk free rate of 0.45%, volatility of 90.46% and a term of 3.5 years.

As amended, each of the shares associated with the anti-dilution provision is issuable in three equal installments, one per each measurement period set forth below, subject to meeting the applicable average volume weighted closing price ("VWAP") for 30 consecutive trading days, calculated as set forth in the purchase agreement with Mr. Charney as follows: (i) for the measurement period from April 16, 2012 to and including April 15, 2014, if the VWAP of the common stock during a period of 30 consecutive trading days exceeds \$3.25 per share; (ii) for the measurement period from but not including April 16, 2014 to and including April 15, 2015, if the VWAP of the common stock during a period of 30 consecutive trading days exceeds \$4.25 per share; and (iii) for the measurement period from but not including April 16, 2015 to and including April 15, 2016, the VWAP of the common stock during a period of 30 consecutive trading days exceeds \$5.25 per share.

The Company considered the shares to be awards with market conditions under ASC 718 "Stock Based Compensation," ("ASC 718"). The related service and amortization period for the shares occurs in three probability-weighted terms of 0.9, 1.8 and 2.7 years corresponding to the three measurement periods above. These awards expire after completion of each respective measurement period. See Note 14.

#### Sale of Common Stock to the Company's CEO

On July 7, 2011, the Company sold 778 shares of the Company's common stock to Mr. Charney at \$0.90 per share for total proceeds of \$700.

On March 24, 2011, the Company sold to Mr. Charney 1,802 shares of common stock at a price of \$1.11 per share in cash, for approximately \$2,000.

Also on March 24, 2011, the three promissory notes issued by two subsidiaries of the Company to Mr. Charney, which as of March 24, 2011 had an aggregate outstanding balance of \$4,688, including principal and accrued and unpaid interest (to but not including March 24, 2011), were canceled in exchange for an issuance by the Company to Mr. Charney of an aggregate of 4,223 shares of common stock at a price of \$1.11 per share, with 50% of such shares being issued on March 24, 2011 and the remaining shares issuable to Mr. Charney only if prior to March 24, 2014, (1) the closing sale price of common stock exceeds \$3.50 for 30 consecutive trading days or (2) there is a change of

control of the Company. On March 24, 2014, the Company determined that it did not meet the closing share price target and the remaining shares expired unissued.

84

---

Table of Contents

## Earnings Per Share

The Company presents earnings per share (“EPS”) utilizing a dual presentation of basic and diluted EPS. Basic EPS includes no dilution and is computed by dividing net loss available to common stockholders by the weighted average number of common shares outstanding for the period. Diluted EPS includes the potential dilution that could occur if securities or other contracts to issue common stock were exercised or converted into common stock.

The Company had common stock under various options, warrants and other agreements at December 31, 2013, 2012 and 2011. The weighted average effects of 46,684, 53,478 and 49,270 shares at December 31, 2013, 2012 and 2011, respectively, were excluded from the calculations of net loss per share for the years ended December 31, 2013 and 2012, because their impact would have been anti-dilutive.

A summary of the potential stock issuances under various options, warrants and other agreements that could have a dilutive effect on the shares outstanding as of December 31, 2013 and 2012 are as follows:

	2013	2012	2011
SOF Warrants	—	1,000	1,000
Lion Warrants	21,606	21,606	21,606
Shares issuable to Mr. Charney based on market conditions (1)	20,416	20,416	20,416
Contingent shares issuable to Mr. Charney based on market conditions (2)	2,112	2,112	2,112
Contingent shares issuable to Mr. Charney based on performance factors (3)	—	5,000	—
Employee options & restricted shares	2,550	3,344	4,136
	46,684	53,478	49,270

(1) Included Charney Anti-Dilution Rights pursuant to the April 26, 2011 Investor Purchase Agreement

(2) Pursuant to the March 24, 2011 conversion of debt to equity

(3) Pursuant to Mr. Charney's employment agreement commencing April 1, 2012

The table above does not include additional warrants that may be issuable to Lion pursuant to the anti-dilution provisions under the Lion Credit Agreement such as in the event anti-dilutive shares are issued to Mr. Charney pursuant to the Charney Anti-Dilution Rights.

## Note 14. Share-Based Compensation

Plan Description - On June 21, 2011 the Company's Board of Directors and stockholders approved the American Apparel, Inc. 2011 Omnibus Stock Incentive Plan (the “2011 Plan”). The 2011 Plan authorizes the granting of a variety of incentive awards, the exercise or vesting of which would allow up to an aggregate of 10,000 shares of the Company's common stock to be acquired by the holders of such awards. The Board amended the 2007 Performance Equity Plan (“2007 Plan”) to provide that as of the July 11, 2011 effective date of registration of the 2011 Plan shares, no new awards shall be made under the 2007 Plan, and any and all shares that would otherwise become available for issuance under the terms of the 2007 Plan by reason of the expiration, cancellation, forfeiture or termination of an outstanding award under such plan shall again be available for grant under the 2011 Plan as of the date of such expiration, cancellation, forfeiture or termination.

On June 25, 2013, the Company's Board of Directors and stockholders approved amendments to the 2011 Plan to increase the maximum number of shares reserved under the 2011 Plan to 17,500 shares and increase the number of shares that may be awarded to any one participant during any calendar year to 3,000 shares. The purpose of the 2011 Plan is to provide an incentive to selected employees, directors, independent contractors, and consultants of the Company or its affiliates, and provides that the Company may grant options, stock appreciation rights, restricted stock, and other stock-based and cash-based awards. As of December 31, 2013, there were approximately 13,416 shares available for future grants under the 2011 Plan.

Table of Contents

Restricted Share Awards - The following table summarizes shares of restricted stock that were granted, vested, forfeited and outstanding (shares in thousands):

	Number of Restricted Shares	Weighted Average Grant Date Fair Value	Weighted Average Remaining Vesting Period (in years)
Non-vested - January 1, 2011	5,050	\$ 1.53	3.9
Granted	1,006	0.88	
Vested	(2,668)	) 1.38	
Forfeited	(202)	) 1.53	
Non-vested - December 31, 2011	3,186	\$ 1.45	2.7
Granted	1,418	0.93	
Vested	(1,783)	) 1.23	
Forfeited	(177)	) 1.13	
Non-vested - December 31, 2012	2,644	\$ 1.33	1.3
Granted	963	1.75	
Vested	(1,650)	) 1.42	
Forfeited	(107)	) 1.60	
Non-vested - December 31, 2013	1,850	\$ 1.46	0.9

Vesting of the restricted share awards to employees may be either immediately upon grant or over a period of three to five years of continued service by the employee in equal annual installments. Vesting is immediate in the case of members of the Board of Directors. Share-based compensation is recognized over the vesting period based on the grant-date fair value. As of December 31, 2013, the weighted average remaining amortization period was 0.9 years.

Stock Option Awards - The following table summarizes stock options granted, forfeited, expired and outstanding (shares in thousands):

	Number of Shares	Weighted Average Exercise Price	Weighted Average Contractual Remaining Life (Years)	Aggregate Intrinsic Value
Outstanding - January 1, 2011	1,000	\$ 1.75	9.8	
Granted	700	0.82		
Forfeited	(750)	) 1.75		
Expired	—	—		
Outstanding - December 31, 2011	950	\$ 1.06	9.5	
Granted	—	—		
Forfeited	—	—		
Expired	(250)	) 1.75		
Outstanding - December 31, 2012	700	\$ 0.82	8.8	
Granted	—	—		
Forfeited	—	—		
Expired	—	—		
Outstanding - December 31, 2013	700	\$ 0.82	7.8	
Vested (exercisable) - December 31, 2013	525	\$ 0.82	7.8	\$—
Non-vested - December 31, 2013	175	\$ 0.82	7.8	\$—

Share-Based Compensation Expense - During the years ended December 31, 2013, 2012 and 2011, the Company recorded share-based compensation expense of \$8,451, \$10,580 and \$6,814, respectively, related to its share-based compensation awards that are expected to vest. No amounts have been capitalized. As of December 31, 2013, unrecorded compensation cost related to non-vested awards was \$5,062, which is expected to be recognized through

2016.

86

---

Table of Contents

CEO Anti-Dilution Rights - On October 16, 2012, the Company and Mr. Charney entered into an amendment to Mr. Charney's anti-dilution rights (see Note 13). As the amendment lengthened the requisite service period, the Company will recognize the unrecorded compensation cost from the original award of \$2,738 over its remaining service period and recognize the incremental compensation cost as a result of the modification of \$6,854 over the requisite service period of the modified award. During the year ended December 31, 2013, 2012 and 2011, the Company recorded share-based compensation expense (included in the above) associated with Mr. Charney's certain anti-dilution rights of \$6,459, \$5,440 and \$3,055, respectively. As of December 31, 2013, unrecorded compensation cost was \$1,984, which is expected to be recognized through 2015.

CEO Performance-Based Award - Pursuant to an employment agreement with Mr. Charney commencing on April 1, 2012, the Company provided to the CEO rights to 7,500 shares of the Company's stock (see Note 12). The shares vest in three equal installments, one per each measurement period, only upon the achievement of certain EBITDA targets for each of fiscal 2012, 2013 and 2014. For the fiscal 2012 measurement period, the Company achieved the target EBITDA and Mr. Charney received 2,500 shares on June 25, 2013. For the fiscal 2013 measurement period, the Company did not achieve the target EBITDA and as a result, the Company recorded an adjustment of \$703 to reverse previously recorded share-based compensation related to unvested shares. For the fiscal 2014 measurement period, based on currently available information, the Company does not believe that the target EBITDA will be achieved and as a result, the Company recorded an adjustment of \$469 to reverse previously recorded share-based compensation related to unvested shares. As of December 31, 2013, there was no unrecorded compensation cost related to this grant. The grant date fair value of the award was based on the share price of \$0.75. During the year ended December 31, 2013 and 2012, the Company recorded share-based compensation expense of \$(703) and \$2,578, respectively.

## Non-Employee Directors

On January 2, 2014, October 1, 2013, July 1, 2013 and April 1, 2013, the Company issued a quarterly stock grant to each non-employee director for services performed of approximately 8, 8, 5 and 5 shares of common stock, based on grant date fair values of \$1.21, \$1.28, \$1.88 and \$2.10 per share, respectively. Additionally, Messrs. Danzinger and Igelman each received an additional 23 shares for services performed during the second half of 2011. For the year ended December 31, 2011, a \$75 cash award was paid to five non-employee directors in lieu of the annual stock grant. The share-based compensation is reflected in operating expenses in the accompanying consolidated statements of operations.

## Note 15. Commitments and Contingencies

## Operating Leases

The Company conducts retail operations under operating leases, which expire at various dates through November 2023. The Company's primary manufacturing facilities and executive offices are currently under a long-term lease which expires on July 31, 2019. Future minimum rental payments (excluding real estate tax and maintenance costs) for retail locations and other leases that have initial or non-cancelable lease terms in excess of one year at December 31, 2013 are as follows:

	Amount
2014	\$74,161
2015	63,599
2016	51,895
2017	41,293
2018	28,397
Thereafter	31,932
Total	\$291,277

Operating lease rent expense (including some real estate taxes and maintenance costs) and leases on a month to month basis were approximately \$79,794, \$77,390, and \$78,138, for the years ended December 31, 2013, 2012, and 2011, respectively. The Company did not incur any significant contingent rent during the same periods. Rent expense is allocated to cost of sales (for production-related activities) and selling expenses (primarily for retail stores) in the accompanying consolidated statements of operations.

Sales Tax

The Company sells its products through its wholesale business, retail stores and the internet. The Company operates these channels separately and accounts for sales and use tax accordingly. The Company is periodically audited by state taxing authorities and it is possible they may disagree with the Company's method of assessing and remitting these taxes. The

87

---



## Table of Contents

Company believes that it properly assesses and remits all applicable state sales taxes in the applicable jurisdictions and has accrued \$0 and \$289 as of December 31, 2013 and 2012, respectively, for state sales tax contingencies.

### Customs and duties

The Company is being audited by German customs authorities for the years ended December 31, 2009 through December 31, 2011. In connection with the audit, German customs authorities have issued retroactive assessments on the Company's imports totaling \$5,003 at the December 31, 2013 exchange rates (assessment was issued in Euros). The size of the retroactive assessments are largely due to member countries of the European Union ("E.U.") limited right to impose retaliatory duties on certain imports of U.S. origin goods into the E.U., based upon the World Trade Organization's ("WTO") Dispute Settlement procedures and the related WTO arbitrator rulings brought into place as a result of EU complaint against the U.S. "Continued Dumping and Subsidy Offset Act of 2000" (the "CDSOA") usually referred to as "the Byrd Amendment". Consequently, German customs authorities are attempting to impose a substantially higher tariff rate than the original rate that the Company had paid on the imports, approximately doubling the amount of the tariff that the Company would have to pay.

The Company believes that it has valid arguments to challenge the merit of the German customs assessment and has filed litigation in German courts to contest such assessment. However, as the appeals as to the assessment are not decided, the Company is unable to reasonably estimate the financial outcome of the matter at this time and it cannot predict whether the outcome will be favorable or unfavorable to the Company, or if the Company will be required to advance material amounts during the pendency of the litigation, and accordingly has not recorded a provision for this matter. No assurance can be made that this matter will not result in a material financial exposure in connection with the audit, which could have a material effect on the Company's financial condition, results of operations or cash flows.

### New York Stock Exchange Compliance

The common stock is currently traded on the NYSE MKT. On February 28, 2014, the Company received a letter from NYSE MKT indicating that it was not in compliance with the continued listing standards of NYSE MKT set forth in Section 1003(a)(iv) of the NYSE MKT LLC Company Guide. In order to maintain its listing, the Company has submitted a plan of compliance by addressing how it intends to regain compliance with Section 1003(a)(iv) of the Company Guide by April 15, 2014. If the plan is accepted, the Company may be able to continue its listing but will be subject to periodic review by NYSE MKT. If the plan is not accepted or if the Company does not make progress consistent with the plan by April 15, 2014, NYSE MKT will initiate delisting proceedings as appropriate. No assurance can be given that the Company will regain compliance with those listing requirements or that it will continue to meet the listing requirements of NYSE MKT in the future.

### Advertising

At December 31, 2013 the Company had approximately \$2,450, in open advertising commitments, which primarily relate to print advertisements in various newspapers, magazines, as well as outdoor advertising and other advertisements. The majority of these commitments are expected to be paid during the remainder of 2014.

### Note 16. Workers' Compensation and Other Self-Insurance Reserves

The Company uses a combination of third-party insurance and/or self-insurance for a number of risks including workers' compensation, medical benefits provided to employees, and general liability claims. General liability costs relate primarily to litigation that arises from store operations. Self-insurance reserves include estimates of both filed claims carried at their expected ultimate settlement value and claims incurred but not yet reported. The Company's estimated claim amounts are discounted using a rate of 1.03% with a duration that approximates the duration of the Company's self-insurance reserve portfolio. As of December 31, 2013 the undiscounted liability amount was \$15,809. The Company's liability reflected on the accompanying consolidated balance sheets represents an estimate of the ultimate cost of claims incurred as of the balance sheet dates. In estimating this liability, the Company utilizes loss development factors based on Company-specific data to project the future development of incurred losses. Loss estimates are adjusted based upon actual claim settlements and reported claims. These projections are subject to a high degree of variability based upon future inflation rates, litigation trends, legal interpretations, benefit level changes and claim settlement patterns. Although the Company does not expect the amounts ultimately paid to differ significantly from its estimates, self-insurance reserves could be affected if future claim experience differs significantly from the

historical trends and the assumptions applied.

The workers' compensation liability is based on estimate of losses for claims incurred, but not paid at the end of the period. Funding is made directly to the providers and/or claimants by the insurance company. To guarantee performance under the workers' compensation program, as of the both December 31, 2013 and 2012, the Company had issued standby letters of credit in the amounts of \$450 with insurance companies being the beneficiaries, through a bank, and cash deposits of \$16,124 and \$14,624, respectively, in favor of insurance company beneficiaries. At December 31, 2013, the Company recorded a total reserve of \$15,356, of which \$3,871 is included in accrued expenses and \$11,485 is included in other long-term liabilities on

88

---

Table of Contents

the accompanying consolidated balance sheets. At December 31, 2012, the Company recorded a total reserve of \$14,472, of which, \$3,778 is included in accrued expenses and \$10,694 is included in other long-term liabilities on the accompanying consolidated balance sheets. These reserves for potential losses on existing claims are believed to be for potential losses which are probable and reasonably estimable.

The Company self-insures its health insurance benefit obligations while the claims are administered through a third party administrator. The medical benefit liability is based on estimated losses for claims incurred, but not paid at the end of the period. Funding is made directly to the providers and/or claimants by the insurance company. At December 31, 2013 and 2012, the Company's total reserve of \$2,512 and \$1,510 was included in accrued expenses in the accompanying consolidated balance sheets.

Note 17. Business Segment and Geographic Area Information

The Company reports the following four operating segments: U.S. Wholesale, U.S. Retail, Canada, and International. The Company believes this method of segment reporting reflects both the way its business segments are managed and the way the performance of each segment is evaluated. U.S. Wholesale segment consists of the Company's wholesale operations of sales of undecorated apparel products to distributors and third party screen printers in the United States, as well as the Company's online consumer sales to U.S. customers. U.S. Retail segment consists of the Company's retail operations in the United States, which comprised 139 retail stores operating in the United States as of December 31, 2013. Canada segment includes retail, wholesale and online consumer operations in Canada. As of December 31, 2013, the retail operations in the Canada segment comprised 32 retail stores. The International segment includes retail, wholesale and online consumer operations outside of the United States and Canada. As of December 31, 2013, the retail operations in the International segment comprised 77 retail stores operating in 18 countries outside of the United States and Canada. All of the Company's retail stores sell the Company's apparel products directly to consumers.

The Company's management evaluates performance based on a number of factors; however, the primary measures of performance are net sales and income or loss from operations of each business segment, as these are the key performance indicators reviewed by management. Operating income or loss for each segment does not include unallocated corporate general and administrative expenses, interest expense and other miscellaneous income/expense items. Corporate general and administrative expenses include, but are not limited to: human resources, legal, finance, information technology, accounting, executive compensation and various other corporate level expenses.

Table of Contents

The following table represents key financial information of the Company's reportable segments before unallocated corporate expenses:

	For the Year Ended December 31, 2013				
	U.S. Wholesale	U.S. Retail	Canada	International	Consolidated
Wholesale net sales	159,682	—	12,092	8,893	180,667
Retail net sales	—	205,011	45,163	141,517	391,691
Online consumer net sales	41,569	—	2,879	17,135	61,583
Total net sales to external customers	201,251	205,011	60,134	167,545	633,941
Gross profit	49,877	131,912	34,720	104,376	320,885
Income (loss) from segment operations	11,981	(2,731	) 3,684	3,916	16,850
Depreciation and amortization	7,418	12,420	1,853	4,385	26,076
Capital expenditures	10,115	11,204	1,167	4,568	27,054
Retail store impairment	—	642	144	754	1,540
Deferred rent expense (benefit)	81	(1,678	) (375	) (121	) (2,093
					)
	For the Year Ended December 31, 2012				
	U.S. Wholesale	U.S. Retail	Canada	International	Consolidated
Wholesale net sales	\$149,611	\$—	\$13,006	\$10,278	\$172,895
Retail net sales	—	198,886	48,499	141,738	389,123
Online consumer net sales	35,744	—	2,164	17,384	55,292
Total net sales to external customers	185,355	198,886	63,669	169,400	617,310
Gross profit	53,195	130,498	37,500	106,190	327,383
Income (loss) from segment operations	27,893	4,197	(57	) 10,670	42,703
Depreciation and amortization	6,322	10,909	1,543	4,215	22,989
Capital expenditures	9,791	6,626	1,607	3,583	21,607
Retail store impairment	—	243	130	1,274	1,647
Deferred rent expense (benefit)	523	(706	) (197	) (515	) (895
					)
	For the Year Ended December 31, 2011				
	U.S. Wholesale	U.S. Retail	Canada	International	Consolidated
Wholesale net sales	\$132,135	\$—	\$11,492	\$10,406	\$154,033
Retail net sales	—	174,837	48,527	126,868	350,232
Online consumer net sales	26,493	—	1,846	14,732	43,071
Total net sales to external customers	158,628	174,837	61,865	152,006	547,336
Gross profit	44,000	117,228	35,799	97,873	294,900
Income (loss) from segment operations	23,500	(4,659	) (3,695	) 7,340	22,486
Depreciation and amortization	7,757	10,492	1,567	5,164	24,980
Capital expenditures	3,638	4,889	407	2,136	11,070
Retail store impairment	—	558	808	2,901	4,267
Deferred rent expense (benefit)	257	(1,662	) (121	) (443	) (1,969
					)



Table of Contents

Reconciliation of reportable segments consolidated income (loss) from operations for the years ended December 31, 2013, 2012 and 2011 to the consolidated loss before income taxes is as follows:

	2013	2012	2011
Income from operations of reportable segments	\$16,850	\$42,703	\$22,486
Unallocated corporate expenses	(46,145 )	(41,741 )	(45,779 )
Interest expense	39,286	41,559	33,167
Foreign currency transaction loss	1	120	1,679
Unrealized loss (gain) on change in fair value of warrant and purchase rights	3,713	4,126	(23,467 )
Loss (gain) on extinguishment of debt	32,101	(11,588 )	3,114
Other expense (income)	131	204	(193 )
Consolidated loss before income taxes	\$(104,527 )	\$(33,459 )	\$(37,593 )

Net sales by each reportable segment's class of customer and geographic location of customer for the years ended December 31, 2013, 2012, and 2011 consist of the following:

	Years Ended December 31,		
	2013	2012	2011
Net sales by geographic location of customer:			
United States	\$406,262	\$384,241	\$333,464
Canada	60,134	63,669	61,865
Europe (excluding United Kingdom)	70,347	66,861	68,130
United Kingdom	44,153	47,694	40,039
South Korea	10,380	10,732	9,749
China	6,894	5,317	3,857
Japan	18,119	20,336	14,176
Australia	10,218	11,458	9,383
Other foreign countries	7,434	7,002	6,673
Total consolidated net sales	\$633,941	\$617,310	\$547,336
Long-lived assets—property and equipment, net by geographic location, is summarized as follows as of December 31,:			
		2013	2012
United States		\$53,424	\$50,551
Canada		3,913	5,079
Europe (excluding the United Kingdom)		4,741	3,987
United Kingdom		4,434	4,500
South Korea		344	433
China		291	358
Japan		750	1,097
Australia		846	1,057
Other foreign countries		560	716
Total consolidated long-lived assets		\$69,303	\$67,778
Identifiable assets by reportable segment:			
U.S. Wholesale		\$169,474	\$153,856
U.S. Retail		77,150	76,709
Canada		17,761	28,586
International		69,367	69,061
Total		\$333,752	\$328,212

Table of Contents

Foreign subsidiaries accounted for the following percentages of total assets and total liabilities as of December 31,:

	2013	2012	
Total assets	26.1	% 29.8	%
Total liabilities	6.8	% 10.9	%

## Note 18. Litigation

The Company is subject to various claims and contingencies in the ordinary course of business, including those related to litigation, business transactions, employee-related matters and taxes, and others. When the Company is aware of a claim or potential claim, it assesses the likelihood of any loss or exposure. If it is probable that a loss will result and the amount of the loss can be reasonably estimated, the Company will record a liability for the loss. In addition to the estimated loss, the recorded liability includes probable and estimable legal costs associated with the claim or potential claim. There is no assurance that such matters will not materially and adversely affect the Company's business, financial position, and results of operations or cash flows.

## Individual Actions

On February 7, 2006, Sylvia Hsu, a former employee of American Apparel, filed a Charge of Discrimination with the Los Angeles District Office of the Equal Employment Opportunity Commission ("EEOC") (Hsu v. American Apparel: Charge No. 480- 2006-00418), alleging that she was subjected to sexual harassment by a co-worker and constructively discharged as a result of the sexual harassment and a hostile working environment. On March 9, 2007, the EEOC expanded the scope of its investigation to other employees of American Apparel who may have been sexually harassed. On August 9, 2010, the EEOC issued a written determination finding that reasonable cause exists to believe the Company discriminated against Ms. Hsu and women, as a class, on the basis of their female gender, by subjecting them to sexual harassment. No finding was made on the issue of Ms. Hsu's alleged constructive discharge. In August 2013 the parties entered into a Conciliation Agreement providing for an immaterial compensatory payment to Ms. Hsu and the Company's agreement to comply with the Company's Policy on Sexual Harassment and Sexual Discrimination, which Policy was reviewed by the EEOC, and take certain administrative measures relating thereto. The Conciliation Agreement remains in effect for three years.

On November 5, 2009, Guillermo Ruiz, a former employee of American Apparel, filed suit against the Company on behalf of putative classes of all current and former non-exempt California employees (Guillermo Ruiz, on behalf of himself and all others similarly situated v. American Apparel, Inc., Case Number BC425487) in the Superior Court of the State of California for the County of Los Angeles, alleging the Company failed to pay certain wages due for hours worked, to provide meal and rest periods or compensation in lieu thereof and to pay wages due upon termination to certain of the Company's employees. The complaint further alleges that the Company failed to comply with certain itemized employee wage statement provisions and violations of unfair competition law. The plaintiff is seeking compensatory damages and economic and/or special damages in an unspecified amount, premium pay, wages and penalties, injunctive relief and restitution, and reimbursement for attorneys' fees, interest and the costs of the suit.

On June 21, 2010, Antonio Partida, a former employee of American Apparel, filed suit against the Company on behalf of putative classes of current and former non-exempt California employees (Antonio Partida, on behalf of himself and all others similarly situated v. American Apparel (USA), LLC, Case No. 30-2010-00382719-CU-OE-CXC) in the Superior Court of the State of California for the County of Orange, alleging the Company failed to pay certain wages for hours worked, to provide meal and rest periods or compensation in lieu thereof, and to pay wages due upon separation. The complaint further alleges that the Company failed to timely pay wages, unlawfully deducted wages and failed to comply with certain itemized employee wage statement provisions and violations of unfair competition law. The plaintiff is seeking compensatory damages and economic and/or special damages in an unspecified amount, premium pay, wages and penalties, injunctive relief and restitution, and reimbursement of attorneys' fees, interest and the costs of the suit.

On or about December 2, 2010, Emilie Truong, a former employee of American Apparel, filed suit against the Company on behalf of putative classes of current and former non-exempt California employees (Emilie Truong, individually and on behalf of all others similarly situated v. American Apparel, Inc. and American Apparel LLC, Case No. BC450505) in the Superior Court of the State of California for the County of Los Angeles, alleging the Company failed to timely provide final paychecks upon separation. Plaintiff is seeking unspecified premium wages, attorneys'

fees and costs, disgorgement of profits, and an injunction against the alleged unlawful practices.

On or about February 9, 2011, Jessica Heupel, a former retail employee filed suit on behalf of putative classes of current and former non-exempt California employees (Jessica Heupel, individually and on behalf of all others similarly situated v. American Apparel Retail, Inc., Case No. 37-2011-00085578-CU-OE-CTL) in the Superior Court of the State of California for the County of San Diego, alleging the Company failed to pay certain wages for hours worked, to provide meal and rest periods or compensation in lieu thereof, and to pay wages due upon separation. The plaintiff is seeking monetary damages as follows:

92

---



Table of Contents

(1) for alleged meal and rest period violations; (2) for alleged failure to timely pay final wages, as well as for punitive damages for the same; and (3) unspecified damages for unpaid minimum wage and overtime. In addition, Plaintiff seeks premium pay, wages and penalties, injunctive relief and restitution, and reimbursement of attorneys' fees, interest and the costs of the suit. This matter is now proceeding in arbitration. On or about September 9, 2011, Anthony Heupel, a former retail employee initiated arbitration proceedings on behalf of putative classes of current and former non-exempt California employees, alleging the Company failed to pay certain wages for hours worked, to provide meal and rest periods or compensation in lieu thereof, and to pay wages due upon separation. The plaintiff is seeking monetary damages in an amount in excess of \$3,600, as follows: (1) for alleged meal and rest period violations; (2) for alleged failure to timely pay final wages, as well as for punitive damages for the same; and (3) unspecified damages for unpaid minimum wage and overtime. In addition, Plaintiff seeks premium pay, wages and penalties, injunctive relief and restitution, and reimbursement of attorneys' fees, interest and the costs of the suit. The Company does not have insurance coverage for the above matters. Each of the aforementioned wage and hour cases have been proceeding in arbitration. All of these cases have been settled on an aggregate and class-wide basis for a payment by the Company in the total amount of \$875, most of which will be paid to class members and to their attorneys. Certain class members have opted out of the settlement and so may proceed with individual claims. Also, the settlement is subject to and conditional upon approval of the arbitrator, and if the arbitrator approves, one or more of the California Superior Courts. There is no guarantee that such approvals will be obtained.

Additionally, the Company is currently engaged in other employment-related claims and other matters incidental to the Company's business. The Company believes that all such claims against the Company are without merit or not material, and the Company intends to vigorously dispute the validity of the plaintiffs' claims. While the ultimate resolution of such claims cannot be determined, based on information at this time, the Company believes, but the Company cannot provide assurance that, the amount, and ultimate liability, if any, with respect to these actions will not materially affect the Company's business, financial position, results of operations, or cash flows. Should any of these matters be decided against the Company, the Company could not only incur liability but also experience an increase in similar suits and suffer reputational harm.

**Derivative Matters**

Two shareholder derivative lawsuits (Case No. CV106576 GAF (JCx) and Case No. CV107518 RSWL (FFMx)) were filed in the United States District Court for the Central District of California which were subsequently consolidated for all purposes into a case entitled *In re American Apparel, Inc. Shareholder Derivative Litigation*, Lead Case No. CV106576 (the "Federal Derivative Action"). Plaintiffs in the Federal Derivative Action allege a cause of action for breach of fiduciary duty arising out of (i) the Company's alleged failure to maintain adequate accounting and internal control policies and procedures; (ii) the Company's alleged violation of state and federal immigration laws in connection with the previously disclosed termination of over 1,500 employees following an Immigration and Customs Enforcement inspection; and (iii) the Company's alleged failure to implement controls sufficient to prevent a sexually hostile and discriminatory work environment. The Company does not maintain any direct exposure to loss in connection with these shareholder derivative lawsuits. The Company's status as a "Nominal Defendant" in the actions reflects the fact that the lawsuits are maintained by the named plaintiffs on behalf of American Apparel and that plaintiffs seek damages on the Company's behalf. The Company filed a motion to dismiss the Federal Derivative Action which was granted with leave to amend on July 31, 2012. Plaintiffs did not amend the complaint and subsequently filed a motion to dismiss each of their claims, with prejudice, for the stated purpose of taking an immediate appeal of the Court's July 31, 2012 order. On October 16, 2012, the Court granted the Plaintiffs' motion to dismiss and entered judgment accordingly. On November 12, 2012, Plaintiffs filed a Notice of Appeal to the Ninth Circuit Court of Appeals where the case is currently pending.

Four shareholder derivative lawsuits (Case No. BC 443763, Case No. BC 443902, Case No. BC 445094, and Case No. BC 447890) were filed in fall of 2010 in the Superior Court of the State of California for the County of Los Angeles which were subsequently consolidated for all purposes into a case entitled *In re American Apparel, Inc. Shareholder Derivative Litigation*, Lead Case No. BC 443763 (the "State Derivative Action").

Three of the matters comprising the State Derivative Action allege causes of action for breach of fiduciary duty arising out of (i) the Company's alleged failure to maintain adequate accounting and internal control policies and

procedures; and (ii) the Company's alleged violation of state and federal immigration laws in connection with the previously disclosed termination of over 1,500 employees following an Immigration and Customs Enforcement inspection. The fourth matter alleges seven causes of action for breach of fiduciary duty, unjust enrichment, abuse of control, gross mismanagement, and waste of corporate assets also arising out of the same allegations. On April 12, 2011, the Court issued an order granting a stay (which currently remains in place) of the State Derivative Action on the grounds that the case is duplicative of the Federal Derivative Action, as well as the Federal Securities Action currently pending in the United States District Court for the Central District of California (see below).

Table of Contents

Both the Federal Derivative Action and State Derivative Actions are covered under the Company's Directors and Officers Liability insurance policy, subject to a deductible and a reservation of rights.

Other Proceedings

Four putative class action lawsuits, (Case No. CV106352 MMM (RCx), Case No. CV106513 MMM (RCx), Case No. CV106516 MMM (RCx), and Case No. CV106680 GW (JCGx)) were filed in the United States District Court for the Central District of California in the Fall of 2010 against American Apparel and certain of the Company's officers and executives on behalf of American Apparel shareholders. On December 3, 2010, the four lawsuits were consolidated for all purposes into a case entitled In re American Apparel, Inc. Shareholder Litigation, Lead Case No. CV106352 MMM (JCGx) (the "Federal Securities Action"). The lead plaintiff filed a consolidated class action complaint on April 29, 2011 on behalf of shareholders who purchased the Company's common stock between November 28, 2007 and August 17, 2010. The lead plaintiff alleges two causes of action for violations of Section 10(b) and 20(a) of the 1934 Act, and Rule 10b-5 promulgated under Section 10(b), arising out of alleged misrepresentations contained in the Company's press releases, public filings with the SEC, and other public statements relating to (i) the adequacy of the Company's internal and financial control policies and procedures; (ii) the Company's employment practices; and (iii) the effect that the dismissal of over 1,500 employees following an Immigration and Customs Enforcement inspection would have on the Company. Plaintiff seeks damages in an unspecified amount, reasonable attorneys' fees and costs, and equitable relief as the Court may deem proper. The Company filed two motions to dismiss the Federal Securities Action which the court granted with leave to amend. Plaintiffs filed a Second Amended Complaint on February 15, 2013. The Company filed a motion to dismiss the complaint on March 15, 2013. The hearing on the motion was held on June 3, 2013, at which time, the Court took the matter under submission. On August 8, 2013, the court issued its final order granting the motion to dismiss in regards to certain claims. Defendants answered the complaint's remaining claims on September 27, 2013. On November 6, 2013, the Court issued an order staying the case pending ongoing settlement discussions between the parties. Plaintiff filed an unopposed Motion for Preliminary Approval of the settlement on December 16, 2013. The settlement, if approved, would result in a payment by the Company's insurance carrier of \$4,800. The Federal Securities Action is covered under the Company's Directors and Officers Liability insurance policy, subject to a deductible and a reservation of rights.

Should any of the above matters (i.e., the Federal Derivative Action, the State Derivative Action, or the Federal Securities Action) be decided against the Company in an amount that exceeds the Company's insurance coverage, or if liability is imposed on grounds which fall outside the scope of the Company's insurance coverage, the Company could not only incur a substantial liability, but also experience an increase in similar suits and suffer reputational harm. The Company is unable to predict the financial outcome of these matters at this time, and any views formed as to the viability of these claims or the financial exposure which could result may change from time to time as the matters proceed through their course. However, no assurance can be made that these matters, either individually or together with the potential for similar suits and reputational harm, will not result in a material financial exposure, which could have a material adverse effect upon the Company's financial condition, results of operations, or cash flows.

The Company has previously disclosed an arbitration filed by the Company on February 17, 2011, related to cases filed in the Supreme Court of New York, County of Kings (Case No. 5018-1) and Superior Court of the State of California for the County of Los Angeles (Case Nos. BC457920 and BC460331) against American Apparel, Dov Charney and certain members of the Board of Directors asserting claims of sexual harassment, assault and battery, impersonation through the internet, defamation and other related claims. The Company settled one of these cases with no monetary liability to the Company. In another case, the arbitrator ruled that both American Apparel and the plaintiff had established certain claims and damages against one another resulting in a net inconsequential amount awarded to the plaintiff. The Company is awaiting the arbitrator's ruling on the outstanding attorney's fees issue in this case. The Company cannot provide assurances that, the amount and ultimate liability, if any, with respect to the remaining actions will not materially affect the Company's business, financial position, results of operations, or cash flows.

Table of Contents

Note 19. Condensed Consolidating Financial Information

On April 4, 2013, American Apparel Inc. ("Parent") issued \$206,000 aggregate principal amount of its 13% Senior Secured Notes due 2020 (the "Notes") with a maturity date of April 15, 2020. The Notes are fully and unconditionally guaranteed, jointly and severally, on a senior secured basis by the Company's existing and future owned direct and indirect domestic subsidiaries, subject to certain customary automatic release provisions, including release of the subsidiary guarantor's guarantee upon the sale of all of such guarantor's equity interest or all or substantially all of its assets, designation of such guarantor as an unrestricted or immaterial subsidiary for purposes of the indenture and satisfaction of the defeasance or discharge provisions of the indenture. The following presents the condensed consolidating balance sheets as of December 31, 2013 and 2012, the condensed consolidating statements of operations for the years ended December 31, 2013, 2012 and 2011 and the condensed consolidating statements of cash flows for the years ended December 31, 2013, 2012 and 2011 of the Parent, the Company's material guarantor subsidiaries and the non-guarantor subsidiaries, and the elimination entries necessary to present the Company's financial statements on a consolidated basis. This condensed consolidating financial information should be read in conjunction with the accompanying consolidated financial statements of the Company.

Table of Contents

## Condensed Consolidating Balance Sheets

December 31, 2013

(Amounts in thousands)

	Parent	Combined Guarantor Subsidiaries	Combined Non-Guarantor Subsidiaries	Elimination Entries	Consolidated
<b>ASSETS</b>					
<b>CURRENT ASSETS</b>					
Cash	\$—	\$512	\$ 8,164	\$—	\$8,676
Trade accounts receivable, net	—	15,109	5,592	—	20,701
Intercompany accounts receivable, net	247,414	(224,181 )	(23,233 )	—	—
Inventories, net	—	129,716	39,736	(74 )	169,378
Other current assets	97	10,442	6,002	—	16,541
Total current assets	247,511	(68,402 )	36,261	(74 )	215,296
PROPERTY AND EQUIPMENT, net	—	53,424	15,879	—	69,303
INVESTMENTS IN SUBSIDIARIES	(94,161 )	18,158	—	76,003	—
OTHER ASSETS, net	9,282	27,934	11,937	—	49,153
<b>TOTAL ASSETS</b>	<b>\$162,632</b>	<b>\$31,114</b>	<b>\$ 64,077</b>	<b>\$75,929</b>	<b>\$333,752</b>
<b>LIABILITIES AND STOCKHOLDERS' (DEFICIT) EQUITY</b>					
<b>CURRENT LIABILITIES</b>					
Revolving credit facilities and current portion of long-term debt	\$—	\$43,586	\$ 456	\$—	\$44,042
Accounts payable	—	34,738	3,552	—	38,290
Accrued expenses and other current liabilities	5,952	28,344	15,722	—	50,018
Fair value of warrant liability	20,954	—	—	—	20,954
Other current liabilities	—	6,830	1,855	—	8,685
Total current liabilities	26,906	113,498	21,585	—	161,989
LONG-TERM DEBT, net	213,130	47	291	—	213,468
OTHER LONG-TERM LIABILITIES	—	29,711	5,988	—	35,699
<b>TOTAL LIABILITIES</b>	<b>240,036</b>	<b>143,256</b>	<b>27,864</b>	<b>—</b>	<b>411,156</b>
<b>STOCKHOLDERS' (DEFICIT) EQUITY</b>					
Common stock	11	100	492	(592 )	11
Additional paid-in capital	185,472	6,726	7,685	(14,411 )	185,472
Accumulated other comprehensive (loss) income	(4,306 )	(543 )	(671 )	1,214	(4,306 )
(Accumulated deficit) retained earnings	(256,424 )	(118,425 )	28,707	89,718	(256,424 )
Less: Treasury stock	(2,157 )	—	—	—	(2,157 )
<b>TOTAL STOCKHOLDERS' (DEFICIT) EQUITY</b>	<b>(77,404 )</b>	<b>(112,142 )</b>	<b>36,213</b>	<b>75,929</b>	<b>(77,404 )</b>
<b>TOTAL LIABILITIES AND STOCKHOLDERS' (DEFICIT) EQUITY</b>	<b>\$162,632</b>	<b>\$31,114</b>	<b>\$ 64,077</b>	<b>\$75,929</b>	<b>\$333,752</b>

Table of Contents

## Condensed Consolidating Balance Sheets

December 31, 2012

(Amounts in thousands)

	Parent	Combined Guarantor Subsidiaries	Combined Non-Guarantor Subsidiaries	Elimination Entries	Consolidated
<b>ASSETS</b>					
<b>CURRENT ASSETS</b>					
Cash	\$—	\$3,796	\$ 9,057	\$—	\$12,853
Trade accounts receivable, net	—	15,697	7,265	—	22,962
Intercompany accounts receivable, net	200,529	(169,818 )	(30,711 )	—	—
Inventories, net	—	125,988	49,493	(1,252 )	174,229
Other current assets	438	8,200	5,708	—	14,346
Total current assets	200,967	(16,137 )	40,812	(1,252 )	224,390
PROPERTY AND EQUIPMENT, net	—	50,551	17,227	—	67,778
INVESTMENTS IN SUBSIDIARIES	(50,773 )	17,766	—	33,007	—
OTHER ASSETS, net	204	25,607	10,233	—	36,044
<b>TOTAL ASSETS</b>	<b>\$150,398</b>	<b>\$77,787</b>	<b>\$ 68,272</b>	<b>\$31,755</b>	<b>\$328,212</b>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT)</b>					
<b>CURRENT LIABILITIES</b>					
Revolving credit facilities and current portion of long-term debt	\$—	\$56,156	\$ 4,400	\$—	\$60,556
Accounts payable	—	34,120	4,040	—	38,160
Accrued expenses and other current liabilities	1,679	24,137	15,700	—	41,516
Fair value of warrant liability	17,241	—	—	—	17,241
Other current liabilities	(286 )	1,778	2,644	—	4,136
Total current liabilities	18,634	116,191	26,784	—	161,609
LONG-TERM DEBT, net	109,680	6	326	—	110,012
OTHER LONG-TERM LIABILITIES	—	28,230	6,277	—	34,507
<b>TOTAL LIABILITIES</b>	<b>128,314</b>	<b>144,427</b>	<b>33,387</b>	<b>—</b>	<b>306,128</b>
<b>STOCKHOLDERS' EQUITY (EQUITY)</b>					
Common stock	11	100	492	(592 )	11
Additional paid-in capital	177,081	6,726	7,223	(13,949 )	177,081
Accumulated other comprehensive (loss) income	(2,725 )	(381 )	736	(355 )	(2,725 )
(Accumulated deficit) retained earnings	(150,126 )	(73,085 )	26,434	46,651	(150,126 )
Less: Treasury stock	(2,157 )	—	—	—	(2,157 )
<b>TOTAL STOCKHOLDERS' (DEFICIT) EQUITY</b>	<b>22,084</b>	<b>(66,640 )</b>	<b>34,885</b>	<b>31,755</b>	<b>22,084</b>
<b>TOTAL LIABILITIES AND STOCKHOLDERS' (DEFICIT) EQUITY</b>	<b>\$150,398</b>	<b>\$77,787</b>	<b>\$ 68,272</b>	<b>\$31,755</b>	<b>\$328,212</b>



Table of Contents

## Condensed Consolidating Statement of Operations and Comprehensive Loss

For the Year Ended December 31, 2013

(Amounts in thousands)

	Parent	Combined Guarantor Subsidiaries	Combined Non-Guarantor Subsidiaries	Elimination Entries	Consolidated
Net sales	\$—	\$462,732	\$ 227,680	\$(56,471 )	\$633,941
Cost of sales	—	285,947	84,938	(57,829 )	313,056
Gross profit	—	176,785	142,742	1,358	320,885
Selling expenses	—	143,379	98,304	—	241,683
General and administrative expenses	502	67,779	38,676	—	106,957
Retail store impairment	—	642	898	—	1,540
(Loss) income from operations	(502 )	(35,015 )	4,864	1,358	(29,295 )
Interest expense and other expense	63,992	10,622	618	—	75,232
Equity in loss (earnings) of subsidiaries	41,804	(95 )	—	(41,709 )	—
(Loss) income before income taxes	(106,298 )	(45,542 )	4,246	43,067	(104,527 )
Income tax provision	—	(202 )	1,973	—	1,771
Net (loss) income	\$(106,298 )	\$(45,340 )	\$ 2,273	\$43,067	\$(106,298 )
Other comprehensive (loss) income, net of tax	(1,581 )	(162 )	(1,407 )	1,569	(1,581 )
Comprehensive (loss) income	\$(107,879 )	\$(45,502 )	\$ 866	\$44,636	\$(107,879 )

## Condensed Consolidating Statement of Operations and Comprehensive Loss

For the Year Ended December 31, 2012

(Amounts in thousands)

	Parent	Combined Guarantor Subsidiaries	Combined Non-Guarantor Subsidiaries	Elimination Entries	Consolidated
Net sales	\$—	\$452,234	\$ 233,069	\$(67,993 )	\$617,310
Cost of sales	—	271,809	85,958	(67,840 )	289,927
Gross profit	—	180,425	147,111	(153 )	327,383
Selling expenses	—	126,492	100,955	—	227,447
General and administrative expenses	1,276	59,420	36,518	113	97,327
Retail store impairment	—	243	1,404	—	1,647
(Loss) income from operations	(1,276 )	(5,730 )	8,234	(266 )	962
Interest expense and other expense	23,975	9,629	817	—	34,421
Equity in loss (earnings) of subsidiaries	12,021	(1,057 )	—	(10,964 )	—
(Loss) income before income taxes	(37,272 )	(14,302 )	7,417	10,698	(33,459 )
Income tax provisions	—	133	3,680	—	3,813
Net (loss) income	\$(37,272 )	\$(14,435 )	\$ 3,737	\$10,698	\$(37,272 )
Other comprehensive income, net of tax	631	164	498	(662 )	631
Comprehensive (loss) income	\$(36,641 )	\$(14,271 )	\$ 4,235	\$10,036	\$(36,641 )



Table of Contents

## Condensed Consolidating Statement of Operations and Comprehensive Loss

For the Year Ended December 31, 2011

(Amounts in thousands)

	Parent	Combined Guarantor Subsidiaries	Combined Non-Guarantor Subsidiaries	Elimination Entries	Consolidated
Net sales	\$—	\$396,303	\$ 213,872	\$(62,839 )	\$547,336
Cost of sales	—	234,755	82,445	(64,764 )	252,436
Gross profit	—	161,548	131,427	1,925	294,900
Selling expenses	—	115,319	94,522	—	209,841
General and administrative expenses	2,668	69,624	31,793	—	104,085
Retail store impairment	—	558	3,709	—	4,267
(Loss) income from operations	(2,668 )	(23,953 )	1,403	1,925	(23,293 )
Interest and other expense	7,202	4,896	2,214	(12 )	14,300
Equity in loss (earnings) of subsidiaries	29,444	1,543	—	(30,987 )	—
(Loss) income before income taxes	(39,314 )	(30,392 )	(811 )	32,924	(37,593 )
Income tax provision	—	228	1,493	—	1,721
Net loss	\$(39,314 )	\$(30,620 )	\$( 2,304 )	\$32,924	\$(39,314 )
Other comprehensive (loss) income, net of tax	(188 )	214	(53 )	(161 )	(188 )
Comprehensive loss	\$(39,502 )	\$(30,406 )	\$( 2,357 )	\$32,763	\$(39,502 )

Table of Contents

Condensed Consolidating Statement of Cash Flows  
 For the Year Ended December 31, 2013  
 (Amounts in thousands)

	Parent	Combined Guarantor Subsidiaries	Combined Non-Guarantor Subsidiaries	Elimination Entries	Consolidated
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>					
Net cash (used in) provided by operating activities	\$(13,825 )	\$(16,811 )	\$ 17,913	\$—	\$(12,723 )
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>					
Capital expenditures	—	(21,319 )	(5,735 )	—	(27,054 )
Proceeds from sale of fixed assets	—	109	64	—	173
Restricted cash	—	3,265	(1,531 )	—	1,734
Net cash used in investing activities	—	(17,945 )	(7,202 )	—	(25,147 )
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>					
Cash overdraft	—	3,993	—	—	3,993
Repayments of expired revolving credit facilities, net	—	(28,513 )	—	—	(28,513 )
Borrowings (repayments) under current revolving credit facilities, net	—	43,579	(3,785 )	—	39,794
Repayments of term loans and notes payable	9,500	(29,953 )	(13 )	—	(20,466 )
Repayment of Lion term loan	(144,149 )	—	—	—	(144,149 )
Issuance of Senior Secured Notes	199,820	—	—	—	199,820
Payments of debt issuance costs	(10,540 )	(1,369 )	—	—	(11,909 )
Payment of statutory payroll tax withholding on stock-based compensation associated with issuance of common stock	(2,623 )	—	—	—	(2,623 )
Repayments of capital lease obligations	—	(1,662 )	(57 )	—	(1,719 )
Advances to/from affiliates	(38,183 )	45,397	(7,214 )	—	—
Net cash provided by (used in) financing activities	13,825	31,472	(11,069 )	—	34,228
EFFECT OF FOREIGN EXCHANGE RATE CHANGES ON CASH	—	—	(535 )	—	(535 )
NET DECREASE IN CASH	—	(3,284 )	(893 )	—	(4,177 )
CASH, beginning of period	—	3,796	9,057	—	12,853
CASH, end of period	\$—	\$512	\$ 8,164	\$—	\$8,676
<b>NON-CASH INVESTING AND FINANCING ACTIVITIES</b>					
Property and equipment acquired, and included in accounts payable	\$—	\$818	\$ 758	\$—	\$1,576
Property and equipment acquired under capital lease	—	4,213	—	—	4,213

Table of Contents

Condensed Consolidating Statement of Cash Flows  
 For the Year Ended December 31, 2012  
 (Amounts in thousands)

	Parent	Combined Guarantor Subsidiaries	Combined Non-Guarantor Subsidiaries	Elimination Entries	Consolidated
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>					
Net cash (used in) provided by operating activities	\$(584 )	\$15,181	\$ 8,992	\$—	\$23,589
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>					
Capital expenditures	—	(16,418 )	(5,189 )	—	(21,607 )
Proceeds from sale of fixed assets	—	414	60	—	474
Restricted cash	—	(3,265 )	(455 )	—	(3,720 )
Net cash used in investing activities	—	(19,269 )	(5,584 )	—	(24,853 )
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>					
Cash overdraft	—	(1,921 )	—	—	(1,921 )
Repayments of expired revolving credit facilities, net	—	(48,324 )	—	—	(48,324 )
Borrowings under current revolving credit facilities, net	—	26,113	2,338	—	28,451
Borrowings (repayments) of term loans and notes payable, net	—	30,000	(13 )	—	29,987
Payments of debt issuance costs	(231 )	(4,995 )	—	—	(5,226 )
Payment of statutory payroll tax withholding on stock-based compensation associated with issuance of common stock	(393 )	—	—	—	(393 )
Proceeds from equipment lease financing	—	4,533	—	—	4,533
(Repayments) proceeds of capital lease obligations	—	(2,979 )	86	—	(2,893 )
Advances to/from affiliates	1,208	5,167	(6,375 )	—	—
Net cash provided by (used in) financing activities	584	7,594	(3,964 )	—	4,214
EFFECT OF FOREIGN EXCHANGE RATE CHANGES ON CASH	—	—	(390 )	—	(390 )
NET INCREASE (DECREASE) IN CASH	—	3,506	(946 )	—	2,560
CASH, beginning of period	—	290	10,003	—	10,293
CASH, end of period	\$—	\$3,796	\$ 9,057	\$—	\$12,853
<b>NON-CASH INVESTING ACTIVITIES</b>					
Property and equipment acquired, and included in accounts payable	\$—	\$3,160	\$ 618	\$—	\$3,778



Table of Contents

Condensed Consolidating Statement of Cash Flows  
 For the Year Ended December 31, 2011  
 (Amounts in thousands)

	Parent	Combined Guarantor Subsidiaries	Combined Non-Guarantor Subsidiaries	Elimination Entries	Consolidated
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>					
Net cash used in operating activities	\$(3,949)	\$(7,139)	\$ 13,393	\$—	\$2,305
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>					
Capital expenditures	—	(8,527)	(2,543)	—	(11,070)
Proceeds from sale of fixed assets	—	249	62	—	311
Restricted cash	—	—	—	—	—
Net cash used in investing activities	—	(8,278)	(2,481)	—	(10,759)
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>					
Cash overdraft	—	(1,407)	—	—	(1,407)
Repayments of expired revolving credit facilities, net	—	(5,089)	(1,785)	—	(6,874)
Borrowings (repayments) of term loans and notes payable	—	—	(13)	—	(13)
Payments of debt issuance costs	(903)	(978)	—	—	(1,881)
Net proceeds from issuance of common stock and purchase rights	21,710	—	—	—	21,710
Payment of statutory payroll tax withholding on stock-based compensation associated with issuance of common stock	(759)	—	—	—	(759)
Proceeds from equipment lease financing	—	3,100	—	—	3,100
(Repayments) proceeds of capital lease obligations	—	(1,314)	20	—	(1,294)
Advances to/from affiliates	(16,099)	20,777	(4,678)	—	—
Net cash provided by (used in) financing activities	3,949	15,089	(6,456)	—	12,582
<b>EFFECT OF FOREIGN EXCHANGE RATE CHANGES ON CASH</b>	—	—	(1,491)	—	(1,491)
<b>NET INCREASE (DECREASE) IN CASH</b>	—	(328)	2,965	—	2,637
CASH, beginning of period	—	618	7,038	—	7,656
CASH, end of period	\$—	\$290	\$ 10,003	\$—	\$10,293
<b>NON-CASH INVESTING AND FINANCING ACTIVITIES</b>					
Property and equipment acquired, and included in accounts payable	\$—	\$1,255	\$ 68	\$—	\$1,323
Reclassification of Lion Warrant from equity to debt	11,339	—	—	—	11,339
Conversion of debt to equity	4,688	—	—	—	4,688
Issuance of warrants and purchase rights at fair value	6,387	—	—	—	6,387

Exercise of purchase rights	2,857	—	—	—	2,857
-----------------------------	-------	---	---	---	-------

Table of Contents

## Schedule II

## American Apparel, Inc. and Subsidiaries

## Valuation and Qualifying Accounts

(Amounts in thousands)

Description	Balance at Beginning of Year	Charged to Costs and Expenses	Deductions (Recoveries)	Other	Balance at End of Year
Allowance for trade accounts receivable:					
For the year ended December 31, 2013	\$2,085	\$1,512	\$—	\$(1,368)	) \$2,229
For the year ended December 31, 2012	\$2,195	\$99	\$—	\$(209)	) \$2,085
For the year ended December 31, 2011	\$2,630	\$996	\$—	\$(1,431)	) \$2,195

Description	Balance at Beginning of Year	Charged to Costs and Expenses	Deductions (Recoveries)	Other	Balance at End of Year
Reserve for inventory shrinkage and obsolescence:					
For the year ended December 31, 2013	\$2,653	\$912	\$—	\$(787)	) \$2,778
For the year ended December 31, 2012	\$3,932	\$690	\$—	\$(1,969)	) \$2,653
For the year ended December 31, 2011	\$5,853	\$(1,652)	) \$—	\$(269)	) \$3,932

Description	Balance at Beginning of Year	Increase in Allowance	Deductions to Allowance	Other	Balance at End of Year
Valuation allowance of deferred tax assets:					
For the year ended December 31, 2013	\$77,578	\$43,116	\$—	\$—	\$120,694
For the year ended December 31, 2012	\$73,773	\$4,720	\$(915)	) \$—	\$77,578
For the year ended December 31, 2011	\$51,979	\$21,794	\$—	\$—	\$73,773





Table of Contents

## Supplementary Financial Information

The following quarterly data are derived from the Company's consolidated statements of operations.

## QUARTERLY INFORMATION (unaudited)

(Amounts in thousands except per share amounts)

	Quarter Ended December 31, 2013	Quarter Ended September 30, 2013	Quarter Ended June 30, 2013	Quarter Ended March 31, 2013	Year Ended December 31, 2013
Fiscal 2013					
Net sales	\$ 169,102	\$ 164,543	\$ 162,236	\$ 138,060	\$ 633,941
Gross profit	\$ 79,507	\$ 84,640	\$ 83,870	\$ 72,868	\$ 320,885
Net loss	\$(20,770 )	\$(1,513 )	\$(37,504 )	\$(46,511 )	\$(106,298 )
Loss per share-basic and diluted	\$(0.19 )	\$(0.01 )	\$(0.34 )	\$(0.42 )	\$(0.96 )

	Quarter Ended December 31, 2012	Quarter Ended September 30, 2012	Quarter Ended June 30, 2012	Quarter Ended March 31, 2012	Year Ended December 31, 2012
Fiscal 2012					
Net sales	\$ 173,028	\$ 162,160	\$ 149,462	\$ 132,660	\$ 617,310
Gross profit	\$ 93,091	\$ 85,200	\$ 79,036	\$ 70,056	\$ 327,383
Net loss	\$ 4,903	\$(19,012 )	\$(15,272 )	\$(7,891 )	\$(37,272 )
Loss per share-basic and diluted	\$ 0.05	\$(0.18 )	\$(0.14 )	\$(0.07 )	\$(0.35 )

## Seasonality

The Company experiences seasonality in its operations. Historically, sales during the third and fourth fiscal quarters have generally been the highest, with sales during the first fiscal quarter the lowest. This reflects the combined impact of the seasonality of the wholesale and retail segments. Generally, the Company's retail segment has not experienced the same pronounced sales seasonality as other retailers.

Table of Contents

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosures

None.

Item 9A. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

As of the end of the period covered by this Annual Report on Form 10-K, we performed an evaluation under the supervision and with the participation of management, including our Chief Executive Officer and our Chief Financial Officer, of the design and effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) or 15d-15(e) under the Securities Exchange Act of 1934 as amended (the "Exchange Act"). Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded, as of the end of the period covered by this Annual Report that our disclosure controls and procedures were effective.

Management's Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as is defined in the Exchange Act. Internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of our financial reporting and the preparation of financial statements for external reporting purposes in accordance with GAAP.

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as is defined in the Exchange Act. Internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of our financial reporting and the preparation of financial statements for external reporting purposes in accordance with GAAP.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Our management conducted an evaluation, under the supervision and with the participation of our Chief Executive Officer and Chief Financial Officer, of the effectiveness of our internal control over financial reporting based on the framework in Internal Control-Integrated Framework (1992) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in 1992. Based on this evaluation, and the opinion expressed by our external auditor's attestation report, our management concluded that our internal controls over financial reporting were operating effectively as of December 31, 2013.

Based on the COSO criteria, management did not note control deficiencies that constituted a material weakness in our prior reported financial statements. A "material weakness" is a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is more than a reasonable possibility that a material misstatement of the Company's annual or interim financial statements will not be prevented or detected on a timely basis.

Changes in Internal Controls over Financial Reporting

There have been no changes in our internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) during the most recent fiscal quarter ended December 31, 2013 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Table of Contents

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM ON INTERNAL CONTROL OVER FINANCIAL REPORTING

To the Audit Committee of the  
Board of Directors and Shareholders of  
American Apparel, Inc.

We have audited American Apparel, Inc. and Subsidiaries' (the "Company") internal control over financial reporting as of December 31, 2013, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in 1992. The Company's management is responsible for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying "Management Annual Report on Internal Control over Financial Reporting". Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audit also included performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of the inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that degree of compliance with the policies or procedures may deteriorate.

In our opinion, American Apparel, Inc. and Subsidiaries' maintained, in all material aspects, effective internal control over financial reporting as of December 31, 2013, based on criteria established in Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in 1992.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets as of December 31, 2013 and 2012 and the related consolidated statements of operations and comprehensive loss, shareholders' (deficit) equity, and cash flows and the related financial statement

Edgar Filing: AMERICAN APPAREL, INC - Form 10-K

schedule for the years ended December 31, 2013, 2012, and 2011 of the Company and our report dated April 1, 2014 expressed an unqualified opinion on those financial statements and financial statement schedule.

/s/ Marcum LLP

Marcum LLP  
Melville, NY  
April 1, 2014

106

---

Table of Contents

Item 9B. Other Information  
Not applicable.

107

---

Table of Contents

PART III

Item 10. Directors, Executive Officers and Corporate Governance

The information required by this item will be included under the following captions in the 2014 Proxy Statement and is incorporated herein by reference: “Directors and Executive Officers,” “Corporate Governance and Board Matters” and “Section 16(a) Beneficial Ownership Reporting Compliance.”

Item 11. Executive Compensation

The information required by this item will be included under the following captions in the 2014 Proxy Statement and is incorporated herein by reference: “Process and Procedures for Determination of Executive and Director Compensation,” “Compensation of Directors,” “Director Compensation—Fiscal 2013,” “Compensation Discussion and Analysis,” “Compensation Committee Report on Executive Compensation,” “Compensation Committee Interlocks and Insider Participation,” “Summary Compensation Table,” and “Grants of Plan-Based Awards Table.”

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The information required by this item will be included under the following captions in the 2014 Proxy Statement and is incorporated herein by reference: “Equity Compensation Plan Information” and “Beneficial Ownership of Shares.”

Item 13. Certain Relationships and Related Transactions and Director Independence

The information required by this item will be included under the following captions in the 2014 Proxy Statement and is incorporated herein by reference: “Certain Relationships and Related Transactions” and “Corporate Governance and Board Matters.”

Item 14. Principal Accountant Fees and Services

The information required by this item will be included under the caption “Relationship with Independent Auditors” in the 2014 Proxy Statement and is incorporated herein by reference.

Table of Contents

PART IV

Item 15. Exhibits, Financial Statement Schedules

a. Documents filed as part of this Annual Report on Form 10-K:

1. Financial Statements: See “Index to Consolidated Financial Statements” in Part II, Item 8 of this Form 10-K.

2. Financial Statement Schedule: The following consolidated financial statement schedule of American Apparel, Inc. and its subsidiaries is included in Part II, Item 8:

Schedule II—Valuation and Qualifying Accounts

Schedules other than those listed above are omitted because of an absence of the conditions under which they are required or because the required information is shown in the consolidated financial statements and/or notes thereto.

b. Exhibits: The exhibits listed in the accompanying index to exhibits are filed or incorporated by reference as part of this Annual Report on Form 10-K.

In reviewing the agreements included as exhibits to this Annual Report on Form 10-K, please remember they are included to provide you with information regarding their terms and are not intended to provide any other factual or disclosure information about our or the other parties to the agreements. The agreements contain representations and warranties by each of the parties to the applicable agreement. These representations and warranties have been made solely for the benefit of the other parties to the applicable agreement and:

• should not in all instances be treated as categorical statements of fact, but rather as a way of allocating the risk to one of the parties if those statements prove to be inaccurate;

• have been qualified by disclosures that were made to the other party in connection with the negotiation of the applicable agreement, which disclosures are not necessarily reflected in the agreement;

• may apply standards of materiality in a way that is different from what may be viewed as material to you or other investors; and

• were made only as of the date of the applicable agreement or such other date or dates as may be specified in the agreement and are subject to more recent developments.

Accordingly, these representations and warranties may not describe the actual state of affairs as of the date they were made or at any other time. Additional information about our may be found elsewhere in this Annual Report on Form 10-K and in our other public filings, which are available without charge through the SEC’s website at <http://www.sec.gov>.

Table of Contents

Exhibit No.	Description
2.1	Acquisition Agreement, dated as of December 18, 2006 and amended and restated on November 7, 2007, by and among American Apparel, Inc., AAI Acquisition LLC, American Apparel, Inc., a California corporation, American Apparel, LLC, each of American Apparel Canada Wholesale Inc. and American Apparel Canada Retail Inc. (together the “CI companies”), Dov Charney, Sam Lim, and the stockholders of each of the CI companies (included as Annex A of the Definitive Proxy Statement (File No. 001-32697) filed November 28, 2007 and incorporated by reference herein).
3.1	Amended and Restated Certificate of Incorporation of American Apparel, Inc. (included as Exhibit 3.1 of the Current Report on Form 8-K (File No. 001-32697) filed December 18, 2007 and incorporated by reference herein).
3.2	Certificate of Amendment to the Amended and Restated Certificate of Incorporation of American Apparel, Inc. (included as Exhibit 3.1 of the Current Report on Form 8-K (File No. 001-32697) filed June 27, 2011 and incorporated by reference herein).
3.3	Bylaws of American Apparel, Inc. (included as Exhibit 4.1 of the Registration Statement on Form S-8 (File No. 333-175430) filed July 7, 2011 and incorporated by reference herein).
3.4	Certificate of Amendment to Certificate of Formation of American Apparel (USA), LLC (included as Exhibit 3.3 to Form 10-K (File No 001-32697) filed March 17, 2008 and incorporated by reference herein).
4.1	Specimen Common Stock Certificate (included as Exhibit 4.2 of the Current Report on Form 8-K (File No. 001-32697) filed December 18, 2007 and incorporated by reference herein).
4.2	Registration Rights Agreement, dated December 12, 2007, by and among American Apparel, Inc. and the stockholders listed on the signature page therein (included as Annex H of the Definitive Proxy Statement (File No. 001-32697) filed November 28, 2007 and incorporated by reference herein).
4.3	Lock-Up Agreement, dated December 12, 2007, between American Apparel, Inc. and Dov Charney (included as Annex D of the Definitive Proxy Statement (File No. 001-32697), filed November 28, 2007 and incorporated by reference herein).
4.4	Letter Agreement Re: Extension of Lock-Up Agreement, dated March 13, 2009, among Dov Charney, Lion Capital (Guernsey) II Limited and American Apparel, Inc. (included as Exhibit 10.5 of the Current Report on Form 8-K (File No 001-32697) filed March 16, 2009 and incorporated by reference herein).
4.5	Warrants to Purchase Shares of Common Stock of American Apparel, Inc., dated March 13, 2009, issued to Lion Capital (Guernsey) II Limited (included as Exhibit 10.3 of the Current Report on Form 8-K (File No 001-32697) filed March 13, 2009 and incorporated by reference herein).
4.6	Investment Agreement, dated March 13, 2009, between American Apparel, Inc. and Lion Capital (Guernsey) II Limited (included as Exhibit 10.2 of the Current Report on Form 8-K (File No 001-32697) filed March 16, 2009 and incorporated by reference herein).
4.7	Investment Voting Agreement, dated March 13, 2009, between American Apparel, Inc. and Lion Capital (Guernsey) II Limited (included as Exhibit 10.4 of the Current Report on Form 8-K (File No 001-32697)



filed March 16, 2009 and incorporated by reference herein).

4.8 Voting Agreement, dated as of February 18, 2011, between Dov Charney, an individual, and Lion/Hollywood L.L.C., in its capacity as a lender under the Lion Credit Agreement (included as Exhibit 10.2 of the Current Report on Form 8-K filed on February 22, 2011 and incorporated by reference herein).

4.9 Warrant to Purchase Shares of Common Stock of American Apparel, Inc., dated March 24, 2011, issued to Lion/Hollywood L.L.C (included as Exhibit 10.2 of the Current Report on Form 8-K filed on March 28, 2011 and incorporated by reference herein).

4.10 Amendment No. 1, dated March 24, 2011, to the Warrant to Purchase Shares of Common Stock of American Apparel, Inc., dated March 13, 2009 (included as Exhibit 10.3 of the Current Report on Form 8-K filed on March 28, 2011 and incorporated by reference herein).

4.11 Form of Voting Agreement, dated as of April 26, 2011, between Dov Charney and the other persons signatory thereto (included as Exhibit 10.3 of the Current Report on Form 8-K filed on April 28, 2011 and incorporated by reference herein).

110

---

Table of Contents

Exhibit No.	Description
4.12	Warrant to Purchase Shares of Common Stock of American Apparel, Inc., dated April 26, 2011, issued to Lion/Hollywood L.L.C. (included as Exhibit 10.6 of the Current Report on Form 8-K filed on April 28, 2011 and incorporated by reference herein).
4.13	Amendment No. 1, dated April 26, 2011, to the Warrant to Purchase Shares of Common Stock of American Apparel, Inc., dated March 24, 2011, issued to Lion/Hollywood L.L.C. (included as Exhibit 10.7 of the Current Report on Form 8-K filed on April 28, 2011 and incorporated by reference herein).
4.14	Amendment No. 2, dated April 26, 2011, to the Warrant to Purchase Shares of Common Stock of American Apparel, Inc., dated March 13, 2009, issued to Lion/Hollywood L.L.C. (included as Exhibit 10.8 of the Current Report on Form 8-K filed on April 28, 2011 and incorporated by reference herein).
4.15	Warrant to Purchase Shares of Common Stock of American Apparel, Inc., dated July 7, 2011, issued to Lion/Hollywood L.L.C. (included as exhibit 10.1 of the Current Report on Form 8-K (File No. 001-32697) filed July 13, 2011 and incorporated by reference herein).
4.16	Warrant to Purchase Shares of Common Stock of American Apparel, Inc., dated July 12, 2011, issued to Lion/Hollywood L.L.C. (included as exhibit 10.2 of the Current Report on Form 8-K (File No. 001-32697) filed July 13, 2011 and incorporated by reference herein).
4.17	Amendment No. 1, dated March 13, 2012, to the Warrant to Purchase Shares of Common Stock of of American Apparel, Inc., dated July 12, 2011 (included as exhibit 10.5 of the Current Report on Form 8-K (File No. 001-32697) filed March 19, 2012 and incorporated by reference herein).
4.18	Amendment No. 1, dated March 13, 2012, to the Warrant to Purchase Shares of Common Stock of of American Apparel, Inc., dated July 7, 2011 (included as exhibit 10.6 of the Current Report on Form 8-K (File No. 001-32697) filed March 19, 2012 and incorporated by reference herein).
4.19	Amendment No. 1, dated March 13, 2012, to the Warrant to Purchase Shares of Common Stock of of American Apparel, Inc., dated April 26, 2011 (included as exhibit 10.7 of the Current Report on Form 8-K (File No. 001-32697) filed March 19, 2012 and incorporated by reference herein).
4.20	Amendment No. 2, dated March 13, 2012, to the Warrant to Purchase Shares of Common Stock of of American Apparel, Inc., dated March 24, 2011 (included as exhibit 10.8 of the Current Report on Form 8-K (File No. 001-32697) filed March 19, 2012 and incorporated by reference herein).
4.21	Amendment No. 3, dated March 13, 2012, to the Warrant to Purchase Shares of Common Stock of of American Apparel, Inc., dated March 13, 2009 (included as exhibit 10.7 of the Current Report on Form 8-K (File No. 001-32697) filed March 19, 2012 and incorporated by reference herein).
4.22	Indenture, dated as of April 4, 2013, by and among the Company, the Guarantors and U.S. Bank National Association (included as exhibit 4.1 of the Current Report on Form 8-K (File No. 001-32697) filed April 9, 2013 and incorporated by reference herein).
4.23	Form of Note (included as exhibit 4.2 of the Current Report on Form 8-K (File No. 001-32697) filed April 9, 2013 and incorporated by reference herein).

Edgar Filing: AMERICAN APPAREL, INC - Form 10-K

- 4.24 Registration Rights Agreement, dated as of April 4, 2013, by and among the Company, the Guarantors and Cowen and Company, LLC and Sea Port Group Securities, LLC, as representatives of the initial purchasers (included as exhibit 4.3 of the Current Report on Form 8-K (File No. 001-32697) filed April 9, 2013 and incorporated by reference herein).
- 10.1 + American Apparel, Inc. 2011 Omnibus Stock Incentive Plan, as amended and restated as of June 25, 2013 (included as Annex A of the Definitive Proxy Statement (File No. 001-32697) filed on April 30, 2013 and incorporated by reference herein).
- 10.2 + Employment Agreement, dated March 22, 2012, between American Apparel, Inc. and Dov Charney (included as Exhibit 10.1 of Current Report on Form 8-K (File No. 001-32697) filed March 27, 2012 and incorporated by reference herein).
- 10.3 + Employment Agreement, dated January 27, 2009, by and between Glenn A. Weinman and American Apparel, Inc. (included as Exhibit 10.1 of Current Report on Form 8-K (File No. 001-32697) filed February 2, 2009 and incorporated by reference herein).
- 10.4 + Employment Agreement, dated February 7, 2011 by and between John Luttrell and American Apparel, Inc. (included as Exhibit 10.1 of the Current Report on Form 8-K filed on February 3, 2011 and incorporated by reference herein).

Table of Contents

Exhibit No. Description

- 10.5 Lease, dated as of January 1, 2004, by and between Alameda Produce Market, Inc. and AAI (included as Exhibit 10.21 of the Current Report on Form 8-K (File No. 001-32697) filed December 18, 2007 and incorporated by reference herein).
- 10.6 Lease, dated as of May 12, 2004, by and between Alameda Produce Market, Inc. and AAI (included as Exhibit 10.22 of the Current Report on Form 8-K (File No. 001-32697) filed December 18, 2007 and incorporated by reference herein).
- 10.7 Lease, dated June 9, 2004, by and between Titan Real Estate Investment Group, Inc., and Textile Unlimited Corp., E&J Textile Group, Inc., and Johnester Knitting, Inc. (jointly and severally) (included as Exhibit 10.15 of the Current Report on Form 8-K (File No. 001-32697) filed December 18, 2007 and incorporated by reference herein).
- 10.8 Assignment of Lessee's Interest in Lease and Assumption Agreement, dated as of June 2, 2005, by and between Textile Unlimited Corp., E&J Textile Group, Inc., and Johnester Knitting, Inc. (jointly and severally) and American Apparel Dyeing and Finishing, Inc. (included as Exhibit 10.16 of the Current Report on Form 8-K (File No. 001-32697) filed December 18, 2007 and incorporated by reference herein).
- 10.9 Lease, dated December 13, 2005, by and between American Central Plaza and AAI (included as Exhibit 10.17 of the Current Report on Form 8-K (File No. 001-32697) filed December 18, 2007 and incorporated by reference herein).
- 10.10 Lease Amendment, effective as of November 15, 2006, by and between American Central Plaza and AAI (included as Exhibit 10.18 of the Current Report on Form 8-K (File No. 001-32697) filed December 18, 2007 and incorporated by reference herein).
- 10.11 Lease Amendment, effective as of March 22, 2007, by and between American Central Plaza and AAI (included as Exhibit 10.19 of the Current Report on Form 8-K (File No. 001-32697) filed December 18, 2007 and incorporated by reference herein).
- 10.12 Lease, dated as of July 30, 2009, by and between Alameda Produce Market, LLC and AAI (included as Exhibit 10.21 of the Current Report on Form 8-K (File No. 001-32697) filed December 18, 2007 and incorporated by reference herein).
- 10.13 Form of Purchase and Investment Agreement, dated as of April 21, 2011, by and among American Apparel, Inc. and the purchasers signatory thereto (included as Exhibit 10.1 of the Current Report on Form 8-K (File No. 001-32697) filed on April 28, 2011 and incorporated by reference herein).
- 10.14 Purchase Agreement, dated as of April 27, 2011, between American Apparel, Inc. and Dov Charney (included as Exhibit 10.2 of the Current Report on Form 8-K/A (File No. 001-32697) filed on April 28, 2011 and incorporated by reference herein).
- 10.15 Amendment to Purchase Agreement, dated as of October 16, 2012, by and between American Apparel, Inc. and Dov Charney (included as Exhibit 10.1 of the Current Report on Form 8-K (File No. 001-32697) filed on October 22, 2012 and incorporated by reference herein).

- 10.16 Asset Purchase Agreement, dated as of December 1, 2007, by and between PNS Apparel, Inc., Blue Man Group, Inc., Allen S. Yi and American Apparel, Inc. (included as Exhibit 10.24 of Amendment No. 1 to the Annual Report on Form 10-K/A (File No. 001-32697) filed March 28, 2008 and incorporated by reference herein).
- 10.17 Letter Agreement Re: Extension of Non-Competition and Non-Solicitation Covenants in Section 5.27(a) of the Merger Agreement, dated March 13, 2009, among Dov Charney, Lion Capital (Guernesey) II Limited and American Apparel, Inc. (included as Exhibit 10.6 of the Current Report on Form 8-K (File No 001-32697) filed March 16, 2009 and incorporated by reference herein).
- 10.18 Amendment and Agreement, dated as of April 10, 2009, by and between American Apparel, Inc. and Lion/Hollywood L.L.C. (included as Exhibit 10.1 of Current Report on Form 8-K (File No 001-32697) filed April 16, 2009 and incorporated by reference herein).
- 10.19 Second Amendment and Agreement, dated as of June 17, 2009, by and between American Apparel, Inc. and Lion/Hollywood L.L.C. (included as Exhibit 10.1 of Current Report on Form 8-K (File No 001-32697) filed June 19, 2009 and incorporated by reference herein).
- 10.20 Third Amendment and Agreement, dated as of August 18, 2009, by and between American Apparel, Inc. and Lion/Hollywood L.L.C. (included as Exhibit 10.1 of Current Report on Form 8-K (File No 001-32697) filed August 20, 2009 and incorporated by reference herein).

Table of Contents

Exhibit No.	Description
10.21	Letter Agreement Re: Pledging of Restricted Securities, dated October 28, 2009, among Dov Charney, Lion/Hollywood L.L.C. and American Apparel, Inc. (included as Exhibit 10.1 of Current Report on Form 8-K (File No. 001-32697) filed November 3, 2009 and incorporated by reference herein).
10.22	Credit Agreement, dated as of December 30, 2009, between American Apparel Canada Wholesale Inc. and American Apparel Canada Retail Inc. and Bank of Montreal (included as Exhibit 10.1 of Current Report on Form 8-K (File No. 001-32697) filed January 6, 2010 and incorporated by reference herein).
10.23	Credit Agreement, dated as of March 13, 2009, among American Apparel, Inc., in its capacity as Borrower, certain subsidiaries of American Apparel, Inc., in their capacity as Facility Guarantors, Lion Capital LLP, in its capacity as administrative agent and collateral agent, Lion Capital (Guernsey) II Limited, as Initial Lender, and the other lenders from time to time party thereto (included as Exhibit 10.1 of the Current Report on Form 8-K (File No 001-32697) filed March 16, 2009 and incorporated by reference herein).
10.24	Waiver to Credit Agreement, dated as of September 30, 2009, among American Apparel, Inc., the facility guarantors from time to time party thereto, Wilmington Trust FSB, as the administrative agent and the collateral agent, Lion Capital (Americas) Inc., as a lender, Lion/Hollywood L.L.C., as a lender, and other lenders from time to time party thereto (included as Exhibit 10.1 of Current Report on Form 8-K (File No. 001-32697) filed October 6, 2009 and incorporated by reference herein).
10.25	First Amendment to Credit Agreement, dated as of December 30, 2009, among American Apparel, Inc., the facility guarantors from time to time party thereto, Wilmington Trust FSB, as the administrative agent and collateral agent, Lion Capital (Americas) Inc., as a lender, Lion/Hollywood L.L.C., as a lender, and other lenders from time to time party thereto (included as Exhibit 10.3 of Current Report on Form 8-K (File No. 001-32697) filed January 6, 2010 and incorporated by reference herein).
10.26	Second Amendment to Credit Agreement, dated as of March 31, 2010, among American Apparel, Inc., the facility guarantors from time to time party thereto, Wilmington Trust FSB, as the administrative agent and collateral agent, Lion Capital (Americas) Inc., as a lender, Lion/Hollywood L.L.C., as a lender, and other lenders from time to time party thereto (included as Exhibit 10.1 of Current Report on Form 8-K (File No. 001-32697) filed April 1, 2010 and incorporated by reference herein).
10.27	Third Amendment to Credit Agreement, dated as of June 23, 2010, among American Apparel, Inc., the facility guarantors from time to time party thereto, Wilmington Trust FSB, as the administrative agent and collateral agent, Lion Capital (Americas) Inc., as a lender, Lion/Hollywood L.L.C., as a lender, and other lenders from time to time party thereto (included as Exhibit 10.1 of Current Report on Form 8-K (File No. 001-32697) filed June 24, 2010 and incorporated by reference herein).
10.28	Fourth Amendment to Credit Agreement, dated as of September 30, 2010, among American Apparel, Inc., the facility guarantors from time to time party thereto, Wilmington Trust FSB, as the administrative agent and collateral agent, Lion Capital (Americas) Inc., as a lender, Lion/Hollywood L.L.C., as a lender, and other lenders from time to time party thereto (included as Exhibit 10.1 of Current Report on Form 8-K (File No. 001-32697) filed October 1, 2010 and incorporated by reference herein).
10.29	Waiver to Credit Agreement, dated as of January 31, 2011, among American Apparel, Inc., the facility guarantors from time to time party thereto, Wilmington Trust FSB, as the administrative agent and the collateral agent, Lion Capital (Americas) Inc., as a lender, Lion/Hollywood L.L.C., as a lender, and other

lenders from time to time party thereto (included as Exhibit 10.1 of the Current Report on Form 8-K (File No. 001-32697) filed on February 1, 2011 and incorporated by reference herein).

10.30 Fifth Amendment to Credit Agreement, dated as of February 18, 2011, among American Apparel, Inc., the facility guarantors from time to time party thereto, Wilmington Trust FSB, as the administrative agent and the collateral agent, Lion Capital (Americas) Inc., as a lender, Lion/Hollywood L.L.C., as a lender, and other lenders from time to time party thereto (included as Exhibit 10.1 of the Current Report on Form 8-K (File No. 001-32697) filed on February 22, 2011 and incorporated by reference herein).

10.31 Waiver and Sixth Amendment to Credit Agreement, dated as of April 26, 2011, among American Apparel, Inc., the facility guarantors from time to time party thereto, Wilmington Trust FSB, as the administrative agent and the collateral agent, Lion Capital (Americas) Inc., as a lender, Lion/Hollywood L.L.C., as a lender, and other lenders from time to time party thereto (included as Exhibit 10.5 of the Current Report on Form 8-K (File No. 001-32697) filed on April 28, 2011 and incorporated by reference herein).

10.32 Seventh Amendment to Credit Agreement, dated as of March 13, 2012, among American Apparel, Inc. and the other Credit Parties as the facility guarantors from time to time party thereto, Wilmington Trust N.A., as the administrative agent and the collateral agent, Lion Capital (Americas) Inc., as a lender, Lion/Hollywood L.L.C., as a lender, and other lenders from time to time party thereto (included as Exhibit 10.3 of the Amendment filed on June 21, 2012 to the Current Report on Form 8-K (File No. 001-32697) filed on March 19, 2012 and incorporated by reference herein).

Table of Contents

## Exhibit No. Description

- 10.33 Eighth Amendment to Credit Agreement, dated August 30, 2012, among American Apparel, Inc. and the other Credit Parties as the facility guarantors from time to time party thereto, Wilmington Trust N.A., as the administrative agent and the collateral agent, Lion Capital (Americas) Inc., as a lender, Lion/Hollywood L.L.C., as a lender, and other lenders from time to time party thereto (included as Exhibit 10.3 of the Current Report on Form 8-K (File No. 001-32697) filed on September 11, 2012 and incorporated by reference herein).
- 10.34 Ninth Amendment and Waiver to Credit Agreement, dated September 28, 2012, among American Apparel, Inc. and the other Credit Parties as the facility guarantors from time to time party thereto, Wilmington Trust N.A., as the administrative agent and the collateral agent, Lion Capital (Americas) Inc., as a lender, Lion/Hollywood L.L.C., as a lender, and other lenders from time to time party thereto (included as Exhibit 10.3 of the Quarterly Report on Form 10-Q (File No. 001-32697) filed on November 14, 2012 and incorporated by reference herein).
- 10.35 Tenth Amendment to Credit Agreement, dated November 12, 2012, among American Apparel, Inc. and the other Credit Parties as the facility guarantors from time to time party thereto, Wilmington Trust N.A., as the administrative agent and the collateral agent, Lion Capital (Americas) Inc., as a lender, Lion/Hollywood L.L.C., as a lender, and other lenders from time to time party thereto (included as Exhibit 10.5 of the Quarterly Report on Form 10-Q (File No. 001-32697) filed on November 14, 2012 and incorporated by reference herein).
- 10.36 Eleventh Amendment to Credit Agreement, dated February 6, 2013, among American Apparel, Inc. and the other Credit Parties as the facility guarantors from time to time party thereto, Wilmington Trust N.A., as the administrative agent and the collateral agent, Lion Capital (Americas) Inc., as a lender, Lion/Hollywood L.L.C., as a lender, and other lenders from time to time party thereto (included as Exhibit 10.2 of the Current Report on Form 8-K (File No. 001-32697) filed on February 11, 2013 and incorporated by reference herein).
- 10.37 Intercreditor Agreement, dated as of April 4, 2013, by and among U.S. Bank National Association and Capital One Leverage Finance Corp. (included as Exhibit 10.2 of the Current Report on Form 8-K (File No. 001-32697) filed April 9, 2013 and incorporated by reference herein).
- 10.38 Creditor Agreement, dated as of April 4, 2013, by and among the Credit Parties, Capital One Leverage Finance Corp., as administrative agent, swing line lender, and lender, Capital One, N.A., as L/C issuer and the other lenders party thereto (included as Exhibit 10.1 of the Current Report on Form 8-K (File No. 001-32697) filed April 9, 2013 and incorporated by reference herein).
- 10.39\* Amendment No. 1 to Credit Agreement, dated as of May 22, 2013, by and among the Borrowers, the Guarantors, Capital One Leverage Finance Corp., as administrative agent, and the Lenders party thereto.
- 10.40 Amendment No. 2 to Credit Agreement, dated as of July 5, 2013, by and among the Borrowers, the Guarantors, Capital One Leverage Finance Corp., as administrative agent, and the Lenders party thereto (included as Exhibit 10.1 of the Current Report on Form 8-K (File No. 001-32697) filed July 9, 2013 and incorporated by reference herein).
- 10.41\* Amendment No. 3 to Credit Agreement and Limited Waiver, dated as of November 14, 2013, by and among the Company, the Borrowers, Fresh Air Freight, Inc., Capital One Business Credit Corp. (f/k/a



Edgar Filing: AMERICAN APPAREL, INC - Form 10-K

Capital One Leverage Finance Corp.), as Administrative Agent, and the Lenders party thereto.

- 10.42\* Amendment No. 4 to Credit Agreement and Limited Consent, dated as of November 29, 2013, by and among the Company, the Borrowers, Fresh Air Freight, Inc., Capital One Business Credit Corp. (f/k/a Capital One Leverage Finance Corp.), as Administrative Agent, and the Lenders party thereto.
- 10.43 Amendment No. 5 to Credit Agreement and Limited Waiver, dated as of March 25, 2014, by and among the Company, the Borrowers, Fresh Air Freight, Inc., Capital One Business Credit Corp. (f/k/a Capital One Leverage Finance Corp.), as Administrative Agent, and the Lenders party thereto (included as Exhibit 10.1 of the Current Report on Form 8-K (File No. 001-32697) filed March 25, 2014 and incorporated by reference herein).
- 10.44\* Credit Agreement, dated as of May 22, 2013, by and among American Apparel, Inc., the facility guarantors party thereto, and Lion/Hollywood L.L.C.
- 10.45\* Amendment No. 1 to Credit Agreement, dated as of November 29, 2013, by and among American Apparel, Inc., the facility guarantors party thereto, and Lion/Hollywood L.L.C.
- 14.1 American Apparel, Inc. Code of Ethics (included as Exhibit 14.1 of the Current Report for 8-K (File No. 001-32697) filed December 18, 2007 and incorporated by reference herein).
- 21.1\* List of subsidiaries as of December 31, 2013
- 23.1\* Consent of Independent Registered Public Accounting Firm
- 31.1\* Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

Table of Contents

Exhibit No.	Description
31.2*	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1*	Certification of Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2*	Certification of Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS	XBRL Instance Document
101.SCH	XBRL Taxonomy Extension Schema Document
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
101.LAB	XBRL Taxonomy Extension Label Linkbase Document
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document

---

\*Filed herewith.

+Management contract or compensatory plan or arrangement.

Table of Contents

## SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

AMERICAN APPAREL, INC.

April 1, 2014

By: /s/ DOV CHARNEY  
Dov Charney  
Chief Executive Officer  
(Principal Executive Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ DOV CHARNEY Dov Charney	Chief Executive Officer and Director (Principal Executive Officer)	April 1, 2014
/s/ JOHN LUTTRELL John Luttrell	Chief Financial Officer and Principal Accounting Officer	April 1, 2014
/s/ ALBERTO CHEHEBAR Alberto Chehebar	Director	April 1, 2014
/s/ DAVID DANZIGER David Danziger	Director	April 1, 2014
/s/ ROBERT GREENE Robert Greene	Director	April 1, 2014
/s/ MARVIN IGELMAN Marvin Igelman	Director	April 1, 2014
/s/ WILLIAM MAUER William Mauer	Director	April 1, 2014
/s/ ALLAN MAYER Allan Mayer	Director	April 1, 2014