

STEAK & SHAKE CO  
Form S-4/A  
March 05, 2010

**As filed with the Securities and Exchange Commission  
on March 5, 2010**

**Registration No. 333-163192**

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

**AMENDMENT NO. 4  
TO  
FORM S-4**

**REGISTRATION STATEMENT  
UNDER THE SECURITIES ACT OF 1933**

**THE STEAK N SHAKE COMPANY**

(Exact Name of Registrant as Specified in Its Charter)

Indiana  
(State or Other Jurisdiction of  
Incorporation or Organization)

5812  
(Primary Standard Industrial  
Classification Code Number)

37-0684070  
(I.R.S. Employer  
Identification No.)

**The Steak n Shake Company  
175 East Houston Street, Suite 1300  
San Antonio, Texas 78205  
(317) 633-4100**

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(Address, Including Zip Code, and Telephone Number,  
Including Area Code, of Registrant's Principal Executive Offices)

**Duane E. Geiger**  
**Interim Chief Financial Officer**  
**The Steak n Shake Company**  
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(Name, Address Including Zip Code, and Telephone Number,  
Including Area Code, of Agent for Service)

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**Approximate date of commencement of proposed sale of the securities to the public:** As soon as practicable after  
this Registration Statement becomes effective.

If the securities being registered on this Form are being offered in connection with the formation of a holding  
company and there is compliance with General Instruction G, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act,  
check the following box.

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following  
box and list the Securities Act registration statement number of the earlier effective registration statement for the same

Duane E. Geiger Interim Chief Financial Officer The Steak n Shake Company 36 South Pennsylvania Street, Suite 500

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offering.

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 the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large Accelerated Filer  Accelerated Filer  Non-Accelerated Filer  Smaller Reporting Company   
If applicable, place an X in the box to designate the appropriate rule provision relied upon in conducting this transaction:

Exchange Act Rule 13e-4(i) (Cross-Border Issuer Tender Offer)   
Exchange Act Rule 14d-1(d) (Cross-Border Third-Party Tender Offer)

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The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act or until this Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

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The information contained herein is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This document is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

## **SUBJECT TO COMPLETION, DATED March 5, 2010**

# **PROPOSED MERGER PROXY STATEMENT/PROSPECTUS**

Dear Western Sizzlin Stockholder:

The Steak n Shake Company ( "Steak n Shake" ) proposes to purchase Western Sizzlin Corporation ( "Western Sizzlin" ). This purchase would be accomplished pursuant to an Agreement and Plan of Merger, dated as of October 22, 2009, which we refer to herein as the merger agreement. The parties to the merger agreement are Steak n Shake, Western Sizzlin, and Grill Acquisition Corporation, a wholly-owned subsidiary of Steak n Shake ( "Merger Sub" ). The merger agreement provides that Merger Sub will be merged with and into Western Sizzlin, with Western Sizzlin continuing as the surviving entity and all outstanding shares of Western Sizzlin being converted into the right to receive the purchase price for their shares that is described below. If the merger is completed, Western Sizzlin will cease to be a publicly traded company and will become a wholly-owned subsidiary of Steak n Shake.

Pursuant to the merger agreement, on October 22, 2009, Western Sizzlin declared a special dividend payable to Western Sizzlin's stockholders in the form of 1,322,806 shares of Steak n Shake common stock that were beneficially owned by an investment subsidiary of Western Sizzlin. Each stockholder of Western Sizzlin of record as of November 2, 2009 was entitled to receive this dividend, which was distributed on November 6, 2009. The dividend was paid at the rate of approximately 0.465 shares of Steak n Shake common stock for each share of Western Sizzlin common stock outstanding as of November 2, 2009 (fractional share interests were settled by a cash payment). All references to numbers of shares of Steak n Shake common stock in this paragraph are not retroactively adjusted to give effect to the 1-for-20 reverse split effected by Steak n Shake on December 18, 2009.

Under the terms of the merger agreement, the merger consideration payable by Steak n Shake to Western Sizzlin stockholders will be in the form of a new issue of 14% redeemable subordinated debentures due 2015 to be issued by Steak n Shake, which we refer to herein as the debentures, in an aggregate principal amount of \$22,959,000. Subject to stockholder approval and satisfaction or waiver of the other conditions specified in the merger agreement, as described in the attached proxy statement/prospectus, at the effective time of the merger, each outstanding share of common stock of Western Sizzlin (other than shares held by Steak n Shake, Merger Sub or Western Sizzlin, or by Western Sizzlin's stockholders who perfect and do not withdraw their appraisal rights under Delaware law) will be converted into the right to receive a pro rata portion of the debentures (approximately \$8.07 principal amount of debentures per Western Sizzlin share, based upon the number of shares of Western Sizzlin common stock outstanding on February 17, 2010), with cash to be paid in lieu of fractional debenture interests.

The debentures will be unsecured debt obligations of Steak n Shake that are subordinated in right of payment (subject to certain limitations) to all of its other present and future senior debts and obligations. The debentures will bear

interest at 14% per annum from the date of issuance (which will be the same date as the effective date of the merger), payable semiannually in cash, with principal and any accrued but unpaid interest to be paid in cash at maturity on the date that is the fifth anniversary of the date of issuance. Steak n Shake may, at its option, redeem the debentures, in whole or in part, without premium or penalty, on or after the date that is the first anniversary of the date of issuance thereof at a redemption price equal to 100% of the principal amount of the debentures to be redeemed, plus any accrued and unpaid interest to the date of redemption. The indenture governing the debentures contains covenants that restrict Steak n Shake's ability to declare or pay dividends on its common stock or incur additional indebtedness under certain circumstances. Steak n Shake applied on January 21, 2010 to list the debentures on the New York Stock Exchange upon issuance; however, because the debentures will be issued without underwriting in a direct issue limited to stockholders of Western Sizzlin in a principal amount limited to \$22,959,000, no assurance can be made that any active trading market will develop for the debentures.

The market price of Western Sizzlin common stock will fluctuate before the stockholder meeting. You should obtain current stock price quotations for Western Sizzlin's common stock. Western Sizzlin's common stock is quoted on the NASDAQ Capital Market under the symbol WEST. On , 2010, the last trading day before the distribution of the attached proxy statement/prospectus, the closing price of Western Sizzlin's common stock was \$ per share.

We cannot complete the merger unless Western Sizzlin's stockholders adopt the merger agreement and approve the merger, which we refer to herein as the merger proposal. Western Sizzlin will hold a special meeting of its stockholders to vote on the merger proposal at the Plaza Club, located at 100 West Houston Street, Ste. 2100, San Antonio, Texas 78205, on March 22, 2010, at 1:30 p.m., local time. Your vote is important. Regardless of whether you plan to attend the special meeting, please take the time to vote your shares in accordance with the instructions contained in the attached proxy statement/prospectus. Failing to vote will have the same effect as voting AGAINST the merger proposal. You will also have an opportunity to vote to approve the postponement

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or adjournment of the special meeting, if necessary or appropriate in the judgment of the Chairman, to solicit additional proxies in favor of the approval of the merger proposal, referred to herein as the adjournment proposal.

Steak n Shake and Western Sizzlin are affiliated with each other by certain common directors, certain common executive officers, and certain common shareholders. In addition, at the time of approval of the merger agreement, Western Sizzlin beneficially owned more than five percent of the outstanding common stock of Steak n Shake. In recognition of this affiliation and these close relationships, the merger agreement was negotiated between special committees of the boards of directors of Steak n Shake and of Western Sizzlin, each of which was comprised entirely of directors who had no relationships with the other party. For a discussion of the special factors that apply to the merger in light of the close relationships of the parties to the merger and their affiliates and associates, and the conflicts of interest that may be deemed to result from those relationships, see **Special Factors** beginning on page 16 of the attached proxy statement/prospectus.

**The special committee of Western Sizzlin's board of directors, and, acting in part upon the recommendation of Western Sizzlin's special committee, the Western Sizzlin board of directors, have recommended that Western Sizzlin stockholders vote FOR the merger proposal and FOR the adjournment proposal.**

The attached proxy statement/prospectus describes the special meeting, the merger proposal, the adjournment proposal, the debentures to be issued in the merger, and other related matters. **Please carefully read this entire proxy statement/prospectus, including Risk Factors beginning on page 72 and Special Factors beginning on page 16, for a discussion of the risks relating to the merger proposal and the debentures and the special factors arising from the affiliation of Steak n Shake with Western Sizzlin.** You also can obtain information about Western Sizzlin and Steak n Shake from documents that each of us has filed with the Securities and Exchange Commission.

The date of the attached proxy statement/prospectus is , 2010, and it is first being mailed to Western Sizzlin stockholders on or about , 2010.

**NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THESE SECURITIES OR THE MERGER OR PASSED UPON THE FAIRNESS OF THE MERGER OR UPON THE ADEQUACY OR ACCURACY OF THE DISCLOSURE IN THE ATTACHED PROXY STATEMENT/PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.**

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**WESTERN SIZZLIN CORPORATION**  
**401 Albemarle Ave SE**  
**Roanoke, Virginia 24013**

**NOTICE OF SPECIAL MEETING OF STOCKHOLDERS**

To the Stockholders of Western Sizzlin Corporation:

Notice is hereby given that a Special Meeting of Stockholders of Western Sizzlin Corporation, a Delaware corporation ( Western Sizzlin ), will be held on March 22, 2010 at 1:30 p.m., local time, at the Plaza Club, located at 100 West Houston Street, Ste. 2100, San Antonio, Texas 78205.

Only holders of shares of Western Sizzlin s common stock, par value \$0.01 per share, of record at the close of business on February 17, 2010, may vote at this meeting or at any adjournments or postponements thereof that may take place.

At the meeting, stockholders will be asked:

To consider and vote upon a proposal to adopt the Agreement and Plan of Merger, dated as of October 22, 2009 (as it may be amended from time to time, the merger agreement ), among The Steak n Shake Company ( Steak n Shake ), Grill Acquisition Corporation, a wholly-owned subsidiary of Steak n Shake ( Merger Sub ), and Western Sizzlin, a copy of which is attached as Annex A to the proxy statement/prospectus attached to this notice, and approve the merger of Merger Sub with and into Western Sizzlin (the merger ), as a result of which Western Sizzlin will be the surviving corporation in the merger and will be a wholly owned subsidiary of Steak n Shake; pursuant to the merger agreement, each share of Western Sizzlin s common stock (other than shares held by Steak n Shake, Merger Sub or Western Sizzlin, or by Western Sizzlin stockholders who perfect and do not withdraw their appraisal rights under Delaware law) will be cancelled and converted into the right to receive a pro rata portion of a new issue of 14% redeemable subordinated debentures due 2015 to be issued by Steak n Shake (the debentures ) in the aggregate principal amount of \$22,959,000 (approximately \$8.07 principal amount of debentures per Western Sizzlin share, based upon the number of shares of Western Sizzlin common stock outstanding on February 17, 2010), with cash to be paid in lieu of fractional debenture interests; and

To approve the adjournment or postponement of the meeting, if necessary or appropriate in the judgment of the Chairman, to solicit additional proxies if there are an insufficient number of votes at the meeting to approve the proposal described above.

The attached proxy statement/prospectus provides you with detailed information about the special meeting, the merger agreement and the merger. You are urged to read the entire document carefully. You may also obtain more information about Western Sizzlin from documents it has filed with the Securities and Exchange Commission.

A special committee of Western Sizzlin s board of directors comprised entirely of three of Western Sizzlin s directors who have no relationship to Steak n Shake (the Western Sizzlin special committee ) was established to evaluate the proposed merger with Steak n Shake, negotiate the price and terms of the merger, and explore alternatives to the merger. After reviewing and considering the terms and conditions of the merger agreement, on October 22, 2009, the Western Sizzlin special committee and, acting in part upon the recommendation of the Western Sizzlin special committee, the Western Sizzlin board of directors unanimously resolved that the terms of the merger agreement and the merger are fair to, advisable and in the best interest of Western Sizzlin and its stockholders and recommended that Western Sizzlin s stockholders adopt the merger agreement and approve the merger. In arriving at their



recommendation of the merger agreement and the merger, the Western Sizzlin special committee and the Western Sizzlin board of directors carefully considered a number of factors which are described in the attached proxy statement/prospectus.

**Each of the Western Sizzlin special committee and the Western Sizzlin board of directors have recommended that Western Sizzlin stockholders vote FOR the proposal to adopt the merger agreement and approve the merger and FOR the proposal to adjourn or postpone the meeting, if necessary or appropriate in the judgment of the Chairman, to permit further solicitation of proxies for the adoption of the merger agreement and the approval of the merger.**

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When you consider the recommendation of the Western Sizzlin special committee and the Western Sizzlin board of directors to adopt the merger agreement and approve the merger, you should be aware that certain of Western Sizzlin's directors and executive officers may have interests in the merger that are different from, or in addition to, your interests as stockholders generally and that may present actual or apparent conflicts of interests. Three directors of Western Sizzlin, Sardar Biglari, Philip L. Cooley and Jonathan Dash, along with John K. H. Linnartz, the managing member of Mustang Capital Management, LLC, in which Western Sizzlin owns a 51% interest, exercise voting control over an aggregate of 1,243,319 shares of Western Sizzlin's common stock, or approximately 43.8% of its currently outstanding common stock, based upon filings made by such persons with the Securities and Exchange Commission to date, and, at the time the merger agreement was executed, were members of a group, within the meaning of Section 13(d)(3) of the Exchange Act, along with Western Sizzlin, that beneficially owned an aggregate of 2,753,155 shares of Steak n Shake's common stock, or approximately 9.6% of its then outstanding common stock (including the 1,322,806 shares owned by an investment subsidiary of Western Sizzlin that were subsequently distributed to Western Sizzlin's stockholders on November 6, 2009). Additionally, Mr. Biglari, Western Sizzlin's Chairman and Chief Executive Officer, is also the Chairman and Chief Executive Officer of Steak n Shake and Mr. Cooley, Vice Chairman of Western Sizzlin's board of directors, is also a director and Vice Chairman of the board of directors of Steak n Shake. These and other conflicting interests are described under the section of the attached proxy statement/prospectus entitled "Special Factors - Interests of Steak n Shake and Western Sizzlin Directors and Executive Officers in the Merger."

Western Sizzlin's stockholders will have the right to demand appraisal of their shares of Western Sizzlin common stock and obtain payment in cash for the fair value of such shares, but only if they submit a written demand for an appraisal before the vote is taken on the merger agreement and comply with the applicable provisions of Delaware law. A copy of the Delaware statutory provisions relating to appraisal rights is attached as Annex D to the attached proxy statement/prospectus and a summary of those provisions can be found in the section of the attached proxy statement/prospectus entitled "Appraisal Rights."

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## **YOUR VOTE IS IMPORTANT**

We cannot complete the merger unless Western Sizzlin's stockholders adopt the merger agreement and approve the merger. Regardless of the number of shares you own, your vote is very important. The affirmative vote of the holders of at least a majority of all of the outstanding shares of Western Sizzlin common stock entitled to vote is required to adopt the merger agreement and approve the merger. If you fail to vote on the merger agreement and the merger, the effect will be the same as a vote **AGAINST** the adoption of the merger agreement and the approval of the merger.

**WE HOPE YOU WILL BE ABLE TO ATTEND THE MEETING, BUT WHETHER OR NOT YOU PLAN TO ATTEND, PLEASE SUBMIT YOUR PROXY AS PROMPTLY AS POSSIBLE BY MARKING, SIGNING AND RETURNING THE ENCLOSED PROXY CARD IN THE POSTAGE PAID ENVELOPE PROVIDED.**

Voting by proxy will not prevent you from voting your shares in person in the manner described in the attached proxy statement/prospectus if you subsequently choose to attend the special meeting. You may revoke your proxy at any time before the meeting. If your shares are held in the name of a bank, broker or other fiduciary, please follow the instructions on the voting instruction card furnished to you by the record holder. If you hold your shares in street name through a bank, broker or custodian, you must obtain a legal proxy from such custodian in order to vote in person at the meeting. You should not send in your certificates representing shares of Western Sizzlin's common stock until you receive written instructions to do so.

The Western Sizzlin board of directors has chosen the close of business on February 17, 2010 as the record date that will determine the stockholders who are entitled to receive notice of, and to vote at, the Western Sizzlin special meeting or at any adjournment or postponement of the meeting. A list of the names of Western Sizzlin stockholders of record will be available at the meeting and for 10 days prior to the meeting for any purpose germane to the meeting during regular business hours at the offices of Western Sizzlin; 401 Albemarle Ave SE, Roanoke, Virginia 24013.

BY ORDER OF THE BOARD OF DIRECTORS,

Sardar Biglari  
Chairman and Chief Executive Officer

Important Notice Regarding the Availability of Proxy Materials for the Special Meeting of Western Sizzlin's Stockholders to be Held on March 22, 2010: We are furnishing proxy materials on the Internet in addition to mailing paper copies of the materials to each stockholder of record. This Notice of Special Meeting and the attached Proxy Statement/Prospectus are available for viewing, printing and downloading at: [www.western-sizzlin.com/investors/specialmeeting2010.html](http://www.western-sizzlin.com/investors/specialmeeting2010.html).

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## **ADDITIONAL INFORMATION**

The attached proxy statement/prospectus incorporates important business and financial information about Steak n Shake from other documents that are not included in or delivered with the proxy statement/prospectus. If you are a Western Sizzlin stockholder of record as of the record date, you will not receive copies of the documents incorporated by reference herein, unless you request such documents from Western Sizzlin and Steak n Shake, as described below. This information is available to you without charge upon your request. You can obtain the documents incorporated by reference into the proxy statement/prospectus by requesting them in writing or by telephone from the appropriate company at the following addresses and telephone numbers:

The Steak n Shake Company  
175 East Houston Street, Suite 1300  
San Antonio, Texas 78205  
Attention: Duane Geiger  
Telephone: (317) 633-4100

Western Sizzlin Corporation  
401 Albemarle Ave SE  
Roanoke, Virginia 24013  
Attention: Robyn B. Mabe  
Telephone: (540) 345-3195

In addition, if you have questions about the merger or the proxy statement/prospectus, would like additional copies of the proxy statement/prospectus or the documents incorporated by reference into the proxy statement/prospectus or need to obtain proxy cards or other information related to the proxy solicitation, you may contact Morrow & Co., LLC, Western Sizzlin's proxy solicitor, at the address and telephone number listed below. You will not be charged for any of these documents that you request.

**Morrow & Co., LLC**  
470 West Avenue 3<sup>rd</sup> Floor  
Stamford, CT 06902

Banks and Brokerage Firms, please call (203) 658-9400

Stockholders, please call (800) 607-0088

**In order to receive timely delivery of the documents in advance of the special meeting of Western Sizzlin stockholders, you must request the information no later than March 15, 2010.**

For more information, see **Other Matters** **Where You Can Find More Information** beginning on page 167.

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## SUMMARY

*The following summary, together with the section of the proxy statement/prospectus entitled "Questions and Answers About the Special Meeting and the Merger," highlight selected information contained in this proxy statement/prospectus. It may not contain all of the information that might be important in your consideration of the merger agreement and the proposed merger. We encourage you to read carefully this proxy statement/prospectus and the documents we have incorporated by reference into this proxy statement/prospectus in their entirety before voting. See "Other Matters" Where You Can Find More Information.*

*In this proxy statement/prospectus, the term "Western Sizzlin" refers to Western Sizzlin Corporation, the term "Steak n Shake" refers to The Steak n Shake Company, the term "Merger Sub" refers to Grill Acquisition Corporation, a wholly-owned subsidiary of Steak n Shake, the term "merger agreement" refers to that certain Agreement and Plan of Merger, dated as of October 22, 2009, as it may be amended from time to time, among Steak n Shake, Merger Sub, and Western Sizzlin, a copy of which is attached as Annex A to the proxy statement/prospectus, the term "merger" refers to the merger of Merger Sub with and into Western Sizzlin pursuant to the Merger Agreement, and the term "debentures" refers to the new issue of 14% redeemable subordinated debentures to be issued by Steak n Shake in the merger. Where appropriate, we have set forth a section and page reference directing you to a more complete description of the topics described in this summary.*

## Information about the Companies

### The Steak n Shake Company (Page 101)

Steak n Shake, an Indiana corporation, is a holding company. Its primary restaurant operation is conducted through Steak n Shake Operations Inc. The Steak n Shake restaurant chain, founded in 1934, is a classic American brand serving premium burgers and milk shakes through its chain of 485 restaurants.

Steak n Shake's common stock, par value \$0.50 per share, is listed on the New York Stock Exchange under the symbol SNS. The principal executive offices of Steak n Shake are located at 175 East Houston Street, Suite 1300, San Antonio, Texas 78205, and its telephone number is (317) 633-4100.

Additional information about Steak n Shake is included in documents incorporated by reference into this proxy statement/prospectus. See "Other Matters" Where You Can Find More Information. See also "Recent Developments" for recent developments regarding Steak n Shake, including its recently announced plan to change its corporate name from The Steak n Shake Company to Biglari Holdings Inc., subject to shareholder approval at its annual shareholder meeting scheduled to be held on April 8, 2010.

### Western Sizzlin Corporation (Page 101)

Western Sizzlin, a Delaware corporation, is a holding company owning subsidiaries engaged in number of diverse business activities. Western Sizzlin's primary business activities are conducted through Western Sizzlin Franchise Corporation and Western Sizzlin Stores, Inc., which franchise and operate 101 restaurants in 19 states. Western Sizzlin currently operates and/or franchises the following brands: Western Sizzlin, Western Sizzlin Wood Grill, Great American Steak & Buffet, and Quincy Steakhouses.

Western Sizzlin's common stock, par value \$0.01 per share, is listed on the NASDAQ Capital Market under the symbol WEST. The principal executive offices of Western Sizzlin are located at 401 Albemarle Ave SE, Roanoke, Virginia 24013, and its telephone number is (540) 345-3195.

Additional information about Western Sizzlin is included in this proxy statement/prospectus, including under Other Important Information Regarding Western Sizzlin, Steak n Shake and the Merger Summary of Western Sizzlin's Business, Other Important Information Regarding Western Sizzlin, Steak n Shake and the Merger Management's Discussion and Analysis of Financial Condition and Results of Operations of Western Sizzlin and Recent Developments. See also Other Matters Where You Can Find More Information.

### **Merger Sub (Page 101)**

Grill Acquisition Corporation, which we sometimes refer to as Merger Sub, is a Delaware corporation and a direct wholly-owned subsidiary of Steak n Shake. Merger Sub was formed solely for the purpose of

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consummating the merger. Merger Sub has not carried on any activities to date, except for activities incidental to its formation and activities undertaken in connection with the transactions contemplated by the merger agreement. The principal executive offices of Merger Sub are located at 36 South Pennsylvania Street, Suite 500, Indianapolis, Indiana 46204, and its telephone number is (317) 633-4100.

## **The Merger**

Western Sizzlin's stockholders are being asked to consider and vote on a proposal to adopt the merger agreement entered into on October 22, 2009, among Steak n Shake, Western Sizzlin and Merger Sub. Subject to the terms and conditions of the merger agreement, Merger Sub will be merged with and into Western Sizzlin, with Western Sizzlin continuing as the surviving corporation. As a result of the merger, if completed, Steak n Shake will own all of Western Sizzlin's common stock, you will no longer have an equity interest in Western Sizzlin's future earnings or growth, Western Sizzlin will cease to be a publicly traded company, and Western Sizzlin may no longer be required to file periodic reports with the Securities and Exchange Commission which we refer to as the SEC.

### **Merger Consideration and Special Dividend (Page 105)**

Subject to stockholder approval and satisfaction or waiver of the other conditions specified in the merger agreement, at the effective time of the merger, each outstanding share of common stock of Western Sizzlin (other than shares held by Steak n Shake, Merger Sub or Western Sizzlin, or by Western Sizzlin stockholders who perfect and do not withdraw their appraisal rights under Delaware law) will be converted into the right to receive a pro rata portion of a new issue of 14% redeemable subordinated debentures due 2015 to be issued by Steak n Shake, which we refer to herein as the debentures, in the aggregate principal amount of \$22,959,000 (approximately \$8.07 principal amount of debentures per Western Sizzlin share, based upon the number of shares of Western Sizzlin common stock outstanding on February 17, 2010) with cash to be paid in lieu of fractional debenture interests.

Pursuant to the terms of the merger agreement, on October 22, 2009 Western Sizzlin declared a special dividend payable to Western Sizzlin's stockholders in the form of 1,322,806 shares of Steak n Shake common stock that was beneficially owned by an investment subsidiary of Western Sizzlin. Each stockholder of Western Sizzlin of record as of November 2, 2009 was entitled to receive this dividend which was distributed on November 6, 2009. The dividend was paid at the rate of approximately 0.465 shares of Steak n Shake common stock for each share of the Western Sizzlin common stock outstanding as of November 2, 2009 (fractional share interests were settled by a cash payment). All references to numbers of shares of Steak n Shake common stock in this paragraph are not retroactively adjusted to give effect to the 1-for-20 reverse split effected by Steak n Shake on December 18, 2009.

### **Expected Timing of the Merger (Page 16)**

Steak n Shake and Western Sizzlin currently expect to complete the merger in the first calendar quarter of 2010, subject to receipt of Western Sizzlin stockholder approval and the satisfaction or waiver of other closing conditions. However, no assurance can be given as to when, or if, the merger will occur.

### **Appraisal Rights (Page 158)**

Under Delaware law, stockholders of Western Sizzlin have dissenters' rights or rights to an appraisal of the value of their shares in connection with the merger. Please see Appraisal Rights.

**No Steak n Shake Shareholder Approval (Page 16)**

Steak n Shake shareholders are not required to adopt the merger agreement or approve the merger or the issuance of debentures in connection with the merger.

**Board of Directors of Steak n Shake and Western Sizzlin Following Completion of the Merger (Page 150)**

There are no changes to the composition of the Steak n Shake board of directors currently contemplated in connection with the merger. The directors of Merger Sub immediately prior to the effective time of the merger and such others as Steak n Shake shall have designated, if any, will be the directors of Western Sizzlin

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from and after the effective time of the merger. Information about the current Steak n Shake directors and executive officers can be found under Other Important Information Regarding Western Sizzlin, Steak n Shake and the Merger Steak n Shake Management.

**Anticipated Accounting Treatment (Page 70)**

The merger will be accounted for under the acquisition method of accounting. Under the acquisition method, the purchase price will be allocated to identifiable assets and assumed liabilities based on their fair values. Any excess will be accounted for as goodwill. Intangible assets with definite lives will be amortized over their estimated useful lives. Goodwill and intangible assets determined to have indefinite lives will not be amortized, but will be tested for impairment at least annually (more frequently if certain indicators are present). In the event that management of Steak n Shake determines that the value of goodwill or intangible assets has become impaired, an impairment charge will be recorded in the fiscal quarter in which such determination is made. Also, costs related to the merger will be expensed during the period in which they are incurred.

**Material United States Federal Income Tax Consequences (Page 162)**

The exchange of Western Sizzlin common stock for debentures (and/or cash in lieu of fractional interests in debentures) in the merger will be a taxable transaction for United States federal income tax purposes for those holders of Western Sizzlin common stock who are United States citizens or otherwise described as U.S. holders by the discussion of tax consequences included elsewhere in this document. Generally, and subject to certain exceptions, a U.S. holder whose Western Sizzlin common stock is converted into the right to receive debentures and/or cash in the merger will recognize capital gain or loss for U.S. federal income tax purposes equal to the difference, if any, between (x) the sum of (1) fair market value of the debentures received by such holder in the merger, and (2) the amount of cash received by such holder in the merger, and (y) the U.S. holder's adjusted tax basis in such Western Sizzlin common stock. For holders of Western Sizzlin common stock other than U.S. holders, the exchange of Western Sizzlin common stock for debentures (and/or cash in lieu of fractional interests in debentures) in the merger by a non-U.S. holder generally will not be subject to U.S. federal income tax unless the gain is effectively connected with a trade or business of the non-U.S. holder in the United States (and, if required by an applicable income tax treaty, is attributable to a U.S. permanent establishment of the non-U.S. holder); or the non-U.S. holder is present in the United States for 183 days or more in the taxable year of the exchange and certain other conditions are met. See Material U.S. Federal Income Tax Consequences for a summary of the material U.S. federal income tax consequences of the merger and of the material U.S. federal income tax consequences to non-U.S. holders of holding and disposing of debentures received pursuant to the merger. Because individual circumstances may differ, each stockholder should consult the stockholder's tax advisor regarding the applicability of the rules discussed in this proxy statement/prospectus to the stockholder and the particular tax effects to the stockholder of the merger and the holding or disposing of debentures in light of such stockholder's particular circumstances, the application of state, local and foreign tax laws, and, if applicable, the tax consequences of the transactions described in this proxy statement/prospectus relating to equity compensation and benefit plans.

**Recommendation of the Western Sizzlin Special Committee and Board of Directors (Pages 30 and 37)**

A special committee of Western Sizzlin's board of directors comprised entirely of three of Western Sizzlin's independent directors, which we sometimes refer to herein as the Western Sizzlin special committee, was established to evaluate the proposed merger with Steak n Shake, negotiate the price and terms of the merger, and explore alternatives to the merger. After reviewing and considering the terms and conditions of the merger agreement, on

October 22, 2009, the Western Sizzlin special committee and, acting in part upon the recommendation of the Western Sizzlin special committee, the Western Sizzlin board of directors unanimously resolved that the terms of the merger agreement and the merger are fair to, advisable and in the best interest of Western Sizzlin and its stockholders and recommended that Western Sizzlin stockholders adopt the merger agreement and approve the merger. In arriving at their recommendation of the merger agreement and the merger, the Western Sizzlin special committee and the

Western Sizzlin board of directors carefully considered a number of factors which are described in this proxy statement/prospectus. **Each of the Western Sizzlin special committee and the Western Sizzlin board of directors recommend that Western Sizzlin stockholders vote FOR the proposal to adopt the merger agreement and approve the merger**

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**and FOR the proposal to adjourn the meeting, if necessary or appropriate in the judgment of the Chairman, to permit further solicitation of proxies for the adoption of the merger agreement and approval of the merger.**

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When you consider the recommendation of the Western Sizzlin special committee and the Western Sizzlin board of directors to approve the merger agreement and the merger, you should be aware that certain of Western Sizzlin's directors and executive officers may have interests in the merger that are different from, or in addition to, your interests as stockholders generally and that may present actual or apparent conflicts of interests. Three directors of Western Sizzlin, Sardar Biglari, Philip L. Cooley and Jonathan Dash, along with John K. H. Linnartz, the managing member of Mustang Capital Management, LLC, in which Western Sizzlin owns a 51% interest, exercise voting control over an aggregate of 1,243,319 shares of Western Sizzlin's common stock, or approximately 43.8% of its currently outstanding common stock, based upon filings made by such persons with the SEC to date, and, at the time the merger agreement was executed, were members of a group, within the meaning of Section 13(d)(3) of the Securities Exchange Act of 1934, as amended, which we refer to herein as the Exchange Act. The group, along with Western Sizzlin, beneficially owned at the time the merger agreement was executed, an aggregate of 2,753,155 shares of Steak n Shake's common stock, or approximately 9.6% of its then outstanding common stock (including the 1,322,806 shares owned by an investment subsidiary of Western Sizzlin that were subsequently distributed to Western Sizzlin's stockholders on November 6, 2009). Additionally, Mr. Biglari, Western Sizzlin's Chairman, President and Chief Executive Officer, is also the Chairman, President and Chief Executive Officer of Steak n Shake and Mr. Cooley, Vice Chairman of Western Sizzlin's board of directors, is also Vice Chairman of the board of directors of Steak n Shake. These and other conflicting interests are described below in Special Factors Interests of Steak n Shake and Western Sizzlin Directors and Executive Officers in the Merger.

### **Western Sizzlin's Reasons for the Merger (Pages 30 and 37)**

In the course of reaching its decisions, and making its recommendation, in respect of the merger, the Western Sizzlin special committee consulted its legal and financial advisors and considered a wide range of factors in its deliberations.

In the course of reaching its decision in respect of the merger, the Western Sizzlin board of directors considered, among other things, the unanimous recommendation of the Western Sizzlin special committee. Each of the Western Sizzlin special committee and the Western Sizzlin board of directors authorized and approved the merger based on the totality of the information presented to it and considered by it. See Special Factors Recommendation of the Western Sizzlin Special Committee; Reasons for, and Effects and Fairness of, the Merger and Special Factors Approval of the Western Sizzlin Board of Directors; Reasons for, and Effects and Fairness of, the Merger, which are not intended to be exhaustive.

### **Opinion of the Financial Advisor of the Western Sizzlin Special Committee (Page 38)**

On October 22, 2009, B. Riley & Co., LLC, which we refer to herein as B. Riley, rendered its oral opinion to the Western Sizzlin special committee, which was subsequently confirmed in writing, that, as of the date of the opinion and based upon and subject to the factors and assumptions set forth in the opinion, the merger consideration to be received by Western Sizzlin's stockholders (other than Steak n Shake, Merger Sub or Western Sizzlin, or Western Sizzlin stockholders who perfect and do not withdraw their appraisal rights under Delaware law) in the merger, after giving effect to the pro rata distribution of the 1,322,806 shares of Steak n Shake common stock that were beneficially owned by an investment subsidiary of Western Sizzlin, in the aggregate, is fair to Western Sizzlin's stockholders from a financial standpoint. The full text of the written opinion of B. Riley, which sets forth the assumptions made, procedures followed, matters considered and limitations on the review undertaken in connection with the opinion, is included as Annex B to this proxy statement/prospectus and is incorporated herein by reference. We encourage you to read B. Riley's opinion, and the section entitled Special Factors Opinion of the Financial Advisor of the Western Sizzlin Special Committee below, carefully and in their entirety. B. Riley provided its opinion to the Western Sizzlin special committee in connection with their consideration of the merger. B. Riley's opinion is not a recommendation as

to how any holder of Western Sizzlin common stock should vote with respect to the merger agreement, the merger or any other matter. Pursuant to the terms of the engagement letter with Western Sizzlin's special committee, B. Riley was paid a \$50,000 initial retainer for its financial advisory services and was paid a fee of \$150,000 for rendering its Opinion on October 22, 2009. If the merger is completed, B. Riley will be paid an additional amount equal to approximately \$100,000 for its financial advisory services.

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**Steak n Shake s Reasons for the Merger (Pages 56 and 59)**

On October 21, 2009, a special committee of the Steak n Shake board of directors (composed entirely of three directors with no relationship to Western Sizzlin), and the Steak n Shake board of directors (acting in part upon the recommendation of the Steak n Shake special committee), unanimously approved the merger agreement. In the course of reaching its decision, and making its recommendations, in respect of the merger, the Steak n Shake special committee consulted its legal, financial and other advisors and considered a wide range of factors, including (1) the financial presentation of Duff & Phelps, LLC, which we refer to as Duff & Phelps, that was prepared for the Steak n Shake special committee, as well as the oral opinion received by the Steak n Shake special committee from Duff & Phelps, subsequently delivered to the Steak n Shake special committee in writing dated October 21, 2009, to the effect that as of the date thereof, the merger consideration to be provided to Western Sizzlin stockholders was fair, from a financial point of view, to the public shareholders of Steak n Shake, and (2) those additional factors described under Special Factors Recommendation of the Steak n Shake Special Committee; Reasons for, and Effects and Fairness of, the Merger, which is not intended to be exhaustive. In the course of reaching its decision approving the merger, the Steak n Shake board of directors considered, among other factors, the unanimous recommendation of the Steak n Shake special committee and other factors. See Special Factors Recommendation of the Steak n Shake Board of Directors; Reasons for, and Effects and Fairness of, the Merger. Each of the Steak n Shake special committee and the Steak n Shake board of directors authorized and approved the merger based on the totality of the information presented to it and considered by it.

**Opinion of the Financial Advisor of the Steak n Shake Special Committee  
(Page 59)**

In connection with the merger, Duff & Phelps delivered its written opinion, on October 21, 2009, to the Steak n Shake special committee to the effect that, as of October 21, 2009, the consideration to be paid by Steak n Shake in the merger was fair, from a financial point of view, to the public shareholders of Steak n Shake (other than Mr. Sardar Biglari, Mr. Philip Cooley and their affiliates and associates).

The full text of Duff & Phelps s written opinion, which sets forth the assumptions made, procedures followed, factors considered and qualifications and limitations on the review undertaken by Duff & Phelps in connection with its opinion, is attached to this proxy statement/prospectus as Annex C and is incorporated into this proxy statement/prospectus by reference. We encourage you to read Duff & Phelps s opinion, and the section entitled Special Factors Opinion of the Financial Advisor of the Steak n Shake Special Committee below, carefully and in their entirety. Duff & Phelps s opinion was directed to the Steak n Shake special committee for the information and assistance of the Steak n Shake special committee in connection with its evaluation of the merger and only addressed the fairness to the public shareholders of Steak n Shake (other than Mr. Sardar Biglari, Mr. Philip Cooley and their affiliates and associates), from a financial point of view, of the merger consideration to be paid by Steak n Shake in the merger as of the date of the opinion. Duff & Phelps s opinion did not address any other aspect of the merger and was not intended to and does not constitute a recommendation to any holder of Western Sizzlin common shares as to how such holder should vote or act with respect to the merger or any matter relating thereto. In connection with Duff & Phelps s services as financial advisor to the Steak n Shake special committee in connection with the merger, the Steak n Shake special committee agreed that Steak n Shake would pay Duff & Phelps an aggregate fee of \$375,000, no portion of which is contingent on the consummation of the merger.

## **Interests of Western Sizzlin Directors and Executive Officers in the Merger (Page 67)**

In considering the recommendations of the Western Sizzlin special committee and the Western Sizzlin board of directors that Western Sizzlin's stockholders vote FOR the proposals to approve and adopt, as the case may be, the merger agreement, the merger and a postponement or adjournment of the Western Sizzlin special meeting to solicit additional proxies, if necessary or appropriate in the judgment of the Chairman, Western Sizzlin stockholders should be aware that certain of Western Sizzlin's directors and executive officers may have interests in the merger that are different from, or in addition to, your interests as Western Sizzlin stockholders generally and that may present actual or apparent conflicts of interests, including:

Three directors of Western Sizzlin, Sardar Biglari, Philip L. Cooley and Jonathan Dash, along with John K. H. Linnartz, the managing member of Mustang Capital Management, LLC, in which Western Sizzlin owns a 51% interest, exercise voting control over an aggregate of 1,243,319 shares

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of Western Sizzlin's common stock, or approximately 43.8% of its currently outstanding common stock, based upon filings made by such persons with the SEC to date, and, at the time the merger agreement was executed, were members of a group, within the meaning of Section 13(d)(3) of the Exchange Act, along with Western Sizzlin, that beneficially owned, at the time the merger agreement was executed, an aggregate of 2,753,155 shares of Steak n Shake's common stock, or approximately 9.6% of its then outstanding common stock (including the 1,322,806 shares owned by an investment subsidiary of Western Sizzlin that were subsequently distributed to Western Sizzlin's stockholders on November 6, 2009);

Mr. Biglari, Western Sizzlin's Chairman, President, and Chief Executive Officer, is also Chairman, President, and Chief Executive Officer of Steak n Shake and Mr. Cooley, Vice Chairman of Western Sizzlin's board of directors, is also Vice Chairman of the board of directors of Steak n Shake;

Western Sizzlin's officers will continue to serve as officers of the surviving corporation after the merger is effective, as discussed in The Merger Agreement Directors and Officers of Western Sizzlin Following the Merger;

certain of Western Sizzlin's executive officers may be eligible to receive enhanced severance rights under their employment agreements if their employment is terminated as a result of the merger; and continued indemnification of Western Sizzlin's directors and officers and directors and officers liability insurance coverage is to be provided by Steak n Shake and the surviving corporation for at least six years following the effective time of the merger.

The special committee of the Western Sizzlin board of directors was aware of these differing interests and potential conflicts and considered them, among other matters, in evaluating and negotiating the merger agreement with the Steak n Shake special committee and in recommending that Western Sizzlin's board of directors and Western Sizzlin's stockholders approve and adopt, as the case may be, the proposals to be voted upon at the Western Sizzlin special meeting. These and other conflicting interests are described under the section of this proxy statement/prospectus entitled Special Factors Interests of Steak n Shake and Western Sizzlin Directors and Executive Officers in the Merger.

## **Interests of Steak n Shake Directors and Executive Officers in the Merger (Page 68)**

In considering the recommendations of the Steak n Shake special committee that Steak n Shake's board of directors approve the merger, the Steak n Shake board of directors was aware that Sardar Biglari, Chairman, President and Chief Executive Officer of Steak n Shake, and Philip L. Cooley, Vice Chairman of the board of directors of Steak n Shake, have interests in the merger that may be different from, and/or in addition to, the interests of Steak n Shake stockholders generally, including:

Mr. Biglari is also Chairman, President, and Chief Executive Officer of Western Sizzlin and beneficially owns through private investment funds approximately 33% of the common stock of Western Sizzlin, and Mr. Cooley is also vice chairman of Western Sizzlin and beneficially owns common stock of Western Sizzlin representing less than one percent of its outstanding common stock.

Mr. Biglari and Mr. Cooley are also members of a group, within the meaning of Section 13(d)(3) of the Exchange Act, that owned, as of the date of the merger agreement, an aggregate of 2,753,155 shares of Steak n Shake's common stock, or approximately 9.6% of its then outstanding common stock (including the 1,322,806 shares owned by an investment subsidiary of Western Sizzlin that were subsequently distributed to Western Sizzlin's stockholders on November 6, 2009), which group included, at the time the merger agreement was executed, among others, Western Sizzlin director and stockholder Jonathan Dash along with John K. H. Linnartz, the managing member of Mustang Capital Management, LLC, in which Western Sizzlin owns a 51% interest.

The Steak n Shake special committee was aware of and considered these differing interests and potential conflicts, among other matters, in evaluating and negotiating the merger agreement with the Western Sizzlin special committee

and in recommending that Steak n Shake's board of directors approve and adopt the merger

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agreement and the merger. These and other conflicting interests are described under the section of this proxy statement/prospectus entitled "Special Factors – Interests of Steak n Shake and Western Sizzlin Directors and Executive Officers in the Merger."

**Position of the Schedule 13e-3 Filing Persons as to the Fairness of the Merger Agreement and the Merger (Page 29)**

Under the rules of the Exchange Act and the SEC regulations promulgated thereunder governing going-private transactions, Western Sizzlin, Steak n Shake, Merger Sub, Sardar Biglari and Philip L. Cooley, which we refer to, collectively, as the Schedule 13e-3 Filing Persons, are engaged in a going private transaction. Accordingly, the applicable rules of the Exchange Act and the SEC regulations promulgated thereunder require the Schedule 13e-3 Filing Persons to express their beliefs as to the substantive and procedural fairness of the merger to Western Sizzlin's unaffiliated stockholders.

The interests of Western Sizzlin's unaffiliated stockholders were represented by the special committee comprised of independent and disinterested Western Sizzlin's directors, which had the exclusive authority to review, evaluate and negotiate the terms and conditions of the merger agreement on Western Sizzlin's behalf, with the assistance of the Western Sizzlin special committee's independent financial and legal advisors. Accordingly, the Schedule 13e-3 Filing Persons relied upon the Western Sizzlin special committee to evaluate the merger and to engage a financial advisor for the purpose of reviewing and evaluating the merits of the proposed merger from Western Sizzlin's stockholders viewpoint. On the basis of the beliefs of the Western Sizzlin special committee, the Schedule 13e-3 Filing Persons believe that (a) the merger consideration is substantively fair to the unaffiliated Western Sizzlin stockholders and (b) the merger is procedurally fair to Western Sizzlin's unaffiliated stockholders on the basis of the factors described under Recommendation of the Western Sizzlin Special Committee; Reasons for, and Effects and Fairness of, the Merger and Recommendation of the Western Sizzlin Board of Directors; Reasons for, and Effects and Fairness of, the Merger. The Schedule 13e-3 Filing Persons agree with and expressly adopt the analyses and conclusions of each of the Western Sizzlin special committee, the Western Sizzlin board of directors and B. Riley, as expressed in its opinion to the Western Sizzlin special committee, which they also expressly adopt, based upon the reasonableness of those analyses and conclusions, with respect to the fairness of the merger to such unaffiliated stockholders.

**Governmental and Regulatory Matters (Page 69)**

Steak n Shake and Western Sizzlin have agreed to use their respective reasonable best efforts to obtain as promptly as practicable all governmental or regulatory approvals or consents that may be required to complete the transactions contemplated in the merger agreement. Neither Steak n Shake nor Western Sizzlin is aware of any material governmental or regulatory approval required for completion of the merger, other than the effectiveness of the registration statement of which this joint proxy statement/prospectus is a part, compliance with applicable corporate law of Delaware and compliance with applicable state blue sky laws.

**The Rights of Western Sizzlin Stockholders Will Change as a Result of the Merger (Page 146)**

There are material differences between the rights of a holder of Western Sizzlin's common shares and the rights a holder of the debentures will have upon completion of the merger. This proxy statement/prospectus contains a summary description of rights under each of the Western Sizzlin common stock and Steak n Shake debentures and describes the material differences between them. See "Other Important Information Regarding Western Sizzlin, Steak n

## Merger Agreement

*The merger agreement is attached as Annex A to this proxy statement/prospectus. You are urged to read the merger agreement in its entirety because it, and not this proxy statement/prospectus, is the legal document that governs the merger.*

### Conditions to the Merger (Page 110)

The obligations of Western Sizzlin, Merger Sub and Steak n Shake to complete the merger are subject to the satisfaction or waiver of a number of conditions set forth in the merger agreement. See the section entitled The Merger Agreement Conditions to Completion of the Merger.



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**Restrictions on Solicitation of Other Offers (Page 111)**

The merger agreement contains certain restrictions on Western Sizzlin's ability to solicit offers for a proposed alternative transaction with a third party, and Western Sizzlin is now precluded from actively soliciting any additional interest from any third party. Western Sizzlin's financial advisor did not engage in any additional solicitation of offers for alternative transactions in light of the fact that it had not received any indications of interest from third parties during its pre-signing market check, and neither Western Sizzlin nor its financial advisor received any indications of interest or offers from third parties during the 30 day post-signing go-shop period provided under the merger agreement, which ended on November 21, 2009. The Western Sizzlin special committee, however, may respond to unsolicited Acquisition Proposals (as defined in the merger agreement and described in this proxy statement/prospectus) that are reasonably likely to constitute or lead to a Superior Proposal, subject to the specified conditions described under The Merger Agreement Restrictions on Solicitation of Other Offers.

**Change in Recommendation (Page 112)**

The merger agreement contains provisions restricting the Western Sizzlin special committee and board of directors from changing their recommendations in connection with the merger in any manner adverse to Steak n Shake. The Western Sizzlin special committee may, however, make such an adverse recommendation change if, among other things, Western Sizzlin has received a Superior Proposal that has not been withdrawn or abandoned and, subject to the payment of a termination fee of \$1,250,000 (or \$837,500 under certain circumstances), may terminate the merger agreement in order to enter into a definitive agreement with respect to the Superior Proposal. Prior to making any change of recommendation with respect to any such Superior Proposal, Western Sizzlin is required to comply with certain terms of the merger agreement described under The Merger Agreement Change in Recommendation.

**Termination of the Merger Agreement (Page 113)**

Western Sizzlin and Steak n Shake, acting through their respective special committees, may jointly agree to terminate the merger agreement at any time without completing the merger, even after approval by the Western Sizzlin stockholders of the merger agreement and the merger. In addition, the merger agreement may be terminated at any time prior to the effective time of the merger, whether before or after stockholder approval has been obtained, under circumstances as described under The Merger Agreement Termination of the Merger Agreement.

**Termination Fees; Expense Reimbursement (Page 114)**

Under certain specified circumstances set forth in the merger agreement and discussed herein, Western Sizzlin has agreed to pay to Steak n Shake, a non-refundable termination fee of \$1,250,000 (or \$837,500 under if the merger agreement is terminated under certain circumstances) or to reimburse Steak n Shake up to a maximum of \$1 million for all reasonable out-of-pocket fees and expenses incurred in connection with the merger agreement. In addition, Steak n Shake will be required to pay a termination fee of \$500,000 if Western Sizzlin terminates the merger agreement under specified circumstances. See the section entitled The Merger Agreement Expenses and Fees.

**Dividends and Distributions (Page 69)**

Under the terms of the merger agreement, prior to the closing of the merger, Western Sizzlin is prohibited from declaring or paying any cash dividend or other distribution to Western Sizzlin stockholders, except for the special dividend payable in kind to Western Sizzlin's stockholders of the shares of Steak n Shake common stock that were

beneficially owned by an investment subsidiary of Western Sizzlin as of the date of the merger agreement and that were distributed by Western Sizzlin to its stockholders on November 6, 2009. The terms of the merger agreement prohibit Steak n Shake from declaring or paying dividends or distributions to Steak n Shake's stockholders, where such action would reasonably be expected to constitute a breach of the covenants applicable to Steak n Shake set forth in the indenture, if the indenture were effective as of the date of the merger agreement.

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## **Debentures**

At the effective time of the merger, subject to approval by Western Sizzlin's stockholders and the satisfaction or waiver of certain other conditions set forth in the merger agreement, each share of Western Sizzlin's common stock (other than shares held by Steak n Shake, Merger Sub or Western Sizzlin, or by Western Sizzlin stockholders who perfect and do not withdraw their appraisal rights under Delaware law) will be cancelled and converted into the right to receive a pro rata portion of a new issue of 14% redeemable subordinated debentures due 2015 to be issued by Steak n Shake in the aggregate principal amount of \$22,959,000 (approximately \$8.07 principal amount of debentures per Western Sizzlin share, based upon the number of shares of Western Sizzlin common stock outstanding on February 17, 2010), with cash to be paid in lieu of fractional debenture interests.

### **Indenture (Page 115)**

Steak n Shake will issue the debentures under an indenture between it and Wells Fargo Bank, National Association, as trustee, which we sometimes refer to herein as the indenture. A copy of the indenture is attached hereto as Annex F. The indenture includes the protective provisions that are required to be included in a trust indenture qualified under the Trust Indenture Act of 1939, as amended.

### **Maturity Date; Principal and Interest Payments (Page 115)**

The debentures will bear interest on the principal amount of the debentures at the rate per annum of fourteen percent (14%), which will accrue from the date on which the debentures are issued (which will be the same date as the effective date of the merger). Steak n Shake will pay accrued interest in cash semi-annually on June 30 and December 31 of each year, commencing on June 30, 2010, with principal and any accrued and unpaid interest to be paid in cash on the date that is the fifth anniversary of the date of issuance. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

### **Redemption by Steak n Shake is Possible Prior to Maturity (Page 116)**

Steak n Shake may, at its option, redeem the debentures, in whole or in part, without premium or penalty, on or after the date that is the first anniversary of the date of issuance thereof at a redemption price equal to 100% of the principal amount of the debentures to be redeemed, plus any accrued and unpaid interest to the date of redemption, provided that Steak n Shake complies with applicable conditions specified by the indenture. If Steak n Shake redeems your debentures, you will receive the redemption amount of 100% of the principal amount of the debentures, plus any accrued and unpaid interest to the date of redemption.

### **Form of Debenture; No Fractional Interests (Page 116)**

The debentures will be issuable at the effective time of the merger in registered form in whole multiples of \$1,000. In the event that a debenture to be issued to a Western Sizzlin stockholder under the terms of the merger agreement would not be evenly divisible by 1,000, the amount in excess of the \$1,000 principal amount of the debenture or the next whole multiple thereof shall be paid in cash to such Western Sizzlin stockholder. In the event that any Western Sizzlin stockholder's portion of the merger consideration is less than \$1,000, such stockholder will only be entitled to receive their portion of the merger consideration in cash, and such stockholder will not be entitled to receive a debenture.

A significant portion of Western Sizzlin's common stock is held of record for the accounts of beneficial owners by banks, brokers or other nominees, and is registered in the name of Cede & Co, which is a nominee of the Depository Trust Company. Accordingly, under the terms of the indenture, Steak n Shake may, in its sole discretion, issue the debentures in the form of one or more global debentures to Cede & Co. and/or any other depository or its nominee. Beneficial owners of part or all of any such global debenture would be subject to the rules of the applicable depository as in effect from time to time. If you are a Western Sizzlin stockholder who acquires a beneficial interest in debentures that are issued in the form of a global debenture, your ability to obtain a physical debenture certificate registered in your name will be subject to expense and delays associated with your ability to comply with the applicable requirements specified by the indenture and the rules of the applicable depository then in effect. Further, the laws of some states may require that the purchasers of securities take physical delivery of securities in definitive form. These laws may impair your ability to own, transfer, or pledge beneficial interest in a global debenture. Due to the expense and delays

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associated with obtaining physical delivery of a debenture, it may not be practicable for you to transfer or pledge your beneficial interest in a debenture that you may acquire in a global debenture to a transferee or pledgee who requires (due to state law or other requirements) that physical delivery of a debenture be made to it on a timely basis in order to complete the transfer or pledge.

### **Subordination (Page 119)**

Because Steak n Shake is a holding company whose principal assets consist of cash and equity investments and equity of its subsidiaries, the debentures will be effectively subordinated to the claims of all creditors of the subsidiaries of Steak n Shake, including, but not limited to, the claims of the bank lenders and other creditors of Steak n Shake Operations, Inc., the subsidiary of Steak n Shake that owns and operates Steak n Shake's restaurants. In addition, Steak n Shake's obligations to pay principal and interest to the holders of Steak n Shake debentures will rank junior in priority to Steak n Shake's obligations to pay Steak n Shake's other existing and future indebtedness under its Senior Debt, as that term is defined in the indenture and described in the section of the proxy statement/prospectus entitled Description of Debentures Subordination of Debentures. Therefore, if Steak n Shake becomes the subject of any liquidation, Steak n Shake will be obligated to pay first the entire amounts to which these other creditors are entitled before Steak n Shake will be obligated to pay any amounts to the holders of the debentures for principal or accrued and unpaid interest. Under the indenture, Steak n Shake is prohibited from paying any principal or interest on any debentures (i) after any Senior Debt becomes due and payable, unless and until all such Senior Debt has first been paid in full, or (ii) after a Senior Debt payment default, unless and until such default has been cured, waived, or otherwise has ceased to exist.

### **Restrictive Covenants (Page 117)**

The indenture contains covenants of Steak n Shake relating to, among other things, (a) the payment of principal and interest on the debentures; (b) the declaration of dividends or the making of any other payment or distribution on account of its equity holders; (c) the incurrence of additional indebtedness; and (d) the prepayment of indebtedness that is subordinated to the debentures.

### **Unsecured Obligations; No Sinking Fund (Page 116)**

The performance of Steak n Shake's obligations under the debentures will not be secured by a pledge of, or other security interest in, any of Steak n Shake's assets. The debentures will not be entitled to the benefit of any sinking fund.

### **No Assured Trading Market (Page 116)**

Steak n Shake applied on January 21, 2010 to list the debentures on the New York Stock Exchange upon issuance. However, because the debentures will be issued without underwriting in a direct issue limited to stockholders of Western Sizzlin in a principal amount limited to \$22,959,000, no assurance can be made that any active trading market will develop for the debentures. The debentures are not expected to be rated by any securities rating agency.

For further discussion, see Description of Debentures.

# Western Sizzlin Special Meeting

## Date, Time and Place (Page 121)

The special meeting of the holders of common stock of Western Sizzlin will be held on March 22, 2010 at 1:30 p.m., local time, at the Plaza Club, located at 100 West Houston Street, Ste. 2100, San Antonio, Texas 78205. At the meeting, Western Sizzlin stockholders will be asked to vote on the following proposals:

to adopt the merger agreement and approve the merger and the other transactions contemplated thereby; and to approve the postponement or adjournment of the meeting, if necessary or appropriate in the judgment of the Chairman, to solicit additional proxies if there is an insufficient number of votes to adopt the merger agreement and approve the merger at the time of the meeting.

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**Record Date (Page 121)**

Only holders of record of Western Sizzlin common stock at the close of business on February 17, 2010, the record date for the special meeting, will be entitled to notice of, and to vote at, the meeting or any adjournment or postponement thereof, provided that the shares remain outstanding on the date of the meeting. As of the close of business on the record date, there were 2,844,402 shares of Western Sizzlin common stock outstanding and entitled to vote at the meeting, held by 90 holders of record.

**Attending In Person (Page 122)**

All Western Sizzlin stockholders of record as of the record date for the special meeting, may attend the special meeting. Western Sizzlin stockholders who wish to attend the special meeting in person but who hold their shares in street name, meaning the name of a broker or other nominee who is the record holder, must bring proof of their ownership and identification with a photo to the special meeting. For example, you may bring an account statement showing that you beneficially owned shares of the Western Sizzlin s stock as of the record date as acceptable proof of ownership. **WHETHER OR NOT YOU INTEND TO ATTEND THE SPECIAL MEETING, IT IS VERY IMPORTANT THAT YOUR SHARES BE REPRESENTED.** Accordingly, please sign, date, and return the enclosed proxy card, which will indicate your vote upon the matters to be considered. If you do attend the special meeting and desire to vote in person, you may do so by withdrawing your proxy at that time.

**How to Vote (Page 122)**

Western Sizzlin stockholders may vote their shares at the special meeting:

*In Person:* by attending the special meeting and voting their shares in person; or

*By Mail:* by completing the enclosed proxy card, signing and dating it and mailing it in the enclosed post-prepaid envelope.

Western Sizzlin s board of directors is asking for your proxy. Giving the Western Sizzlin board of directors your proxy means you authorize it to vote your shares at the special meeting in the manner you direct. You may vote for or against the proposals, abstain from voting or withhold your vote for the proposals. All shares represented by a valid proxy received prior to the special meeting will be voted, and where a stockholder specifies by means of the proxy a choice with respect to any matter to be acted upon, the shares will be voted in accordance with the specification so made. If no choice is indicated on the proxy, the shares will be voted **FOR** the adoption of the merger agreement and the approval of the merger, **FOR** the postponement or adjournment of the meeting, if necessary or appropriate in the judgment of the Chairman, to solicit additional proxies, and as the proxy holders may determine in their discretion with respect to any other matters that may properly come before the special meeting.

The form of proxy accompanying this proxy statement/prospectus confers discretionary authority upon the named proxy holders with respect to amendments or variations to the matters identified in the accompanying Notice of Special Meeting and with respect to any other matters which may properly come before the special meeting. As of the date of this proxy statement/prospectus, the Western Sizzlin board of directors knows of no such amendment or variation or of any matters expected to come before the special meeting that are not referred to in the accompanying Notice of Special Meeting.

Stockholders who hold their shares in street name, meaning the name of a broker or other nominee who is the record holder, must either direct the record holder of their shares to vote their shares or obtain a proxy or voting instruction from the record holder to vote their shares at the special meeting.

If you need assistance, including help in submitting, changing or revoking your proxy, please contact Morrow & Co., LLC at (800) 607-0088.

### **Changing or Revoking a Proxy (Page 123)**

Any proxy may be revoked by the person giving it at any time before it is voted. A proxy may be revoked by (i) filing with Western Sizzlin's Secretary (401 Albemarle Ave SE, Roanoke, Virginia 24013) a written notice of revocation bearing a date later than the date of such proxy, (ii) submitting a subsequent proxy relating to the same shares, or (iii) attending the special meeting and voting in person.

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Simply attending the special meeting will not constitute revocation of your proxy. If your shares are held in the name of a broker or other nominee who is the record holder, you must follow the instruction of your broker or other nominee to revoke a previously given proxy.

### **Quorum (Page 121)**

The presence, in person or by proxy, of stockholders holding at least a majority of the issued and outstanding shares of the Western Sizzlin common stock entitled to vote on the record date will constitute a quorum for the special meeting.

### **Required Votes (Page 122)**

To adopt the merger agreement, the holders of a majority of the shares of Western Sizzlin common stock outstanding and entitled to vote on the proposal must vote in favor of adoption of the merger agreement. Approval of the proposal to postpone or adjourn the special meeting, if necessary or appropriate in the judgment of the Chairman, requires the affirmative vote of the holders of a majority of shares present in person or represented by proxy and entitled to vote on the proposal. Each holder of Western Sizzlin common stock is entitled to one vote. **If you withhold a vote or abstain from voting on the proposals to adoption of the merger agreement and the approval of the merger and to postpone or adjourn the special meeting to solicit additional process, it will have the same effect as a vote AGAINST each of the proposals.**

The directors and officers of Western Sizzlin exercise voting control, individually and through entities over for which they exercise voting control, in the aggregate, over approximately 42.6% of the outstanding shares of Western Sizzlin common stock. Of the shares of Western Sizzlin common stock beneficially owned by directors and officers of Western Sizzlin, the Lion Fund, L.P. and Dash Acquisitions, LLC, which are controlled by Messrs. Biglari and Dash, respectively, have agreed to vote all of the shares of Western Sizzlin common stock that they beneficially own or over which they exercise voting control, which comprise in the aggregate approximately 39.9% of Western Sizzlin outstanding common stock, to be voted FOR the adoption of the merger agreement and approval of the merger and the postponement or adjournment of the special meeting, described above. Approval of the merger and the adoption of the merger agreement does not require the separate vote of a majority of Western Sizzlin unaffiliated stockholders, and no separate vote of Western Sizzlin unaffiliated stockholders will be conducted. Consequently, we anticipate that the approval of the merger and the adoption of the merger agreement will be duly authorized at the special meeting.

### **Treatment and Effect of Abstentions and Broker Non-Votes (Page 122)**

A broker non-vote occurs when a nominee holding shares of Common Stock for the beneficial owner does not vote on a particular proposal because the nominee does not have discretionary voting power with respect to that item and has not received instructions from the beneficial owner. If you are a beneficial owner of Western Sizzlin common stock held by a broker or other nominee, you must instruct your nominee how to vote. Your nominee cannot vote your shares on your behalf without your instructions.

Broker non-votes and the shares of Western Sizzlin common stock as to which a stockholder abstains are treated as being present at the special meeting for purpose of determining whether a quorum of shares is present at the special meeting. Because approval of the merger and the adoption of the merger agreement requires the affirmative vote of a majority of the shares of Western Sizzlin common stock issued and outstanding, abstentions and broker non-votes will have the same effect as a vote AGAINST the adoption of the merger agreement and the approval of the merger.

Because approval of the proposal to postpone or adjourn the meeting to solicit additional proxies requires the affirmative vote of the holders of a majority of the outstanding shares present in person or represented by proxy at the

meeting and entitled to vote on the proposal, abstentions will have the same effect as a vote AGAINST this matter, but broker non-votes and failures to be present to vote will have no effect.

### **Cost of This Proxy Statement/Prospectus and Solicitation of Proxies (Page 123)**

The cost of preparing, assembling, printing and mailing this proxy statement/prospectus and the accompanying form of proxy, and the cost of soliciting proxies related to the special meeting, will be borne by Western Sizzlin. Some banks and brokers have customers who beneficially own Western Sizzlin common

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stock listed of record in the names of nominees. Western Sizzlin intends to request banks and brokers to solicit such customers and will reimburse them for their reasonable out-of-pocket expenses for such solicitations. If any additional solicitation of the holders of Western Sizzlin's outstanding shares of common stock is deemed necessary, Western Sizzlin (through its directors and officers) anticipates making such solicitation directly. The solicitation of proxies by mail may be supplemented by telephone, electronic and personal solicitation by officers, directors and other employees of Western Sizzlin, but no additional compensation will be paid to such individuals.

In addition, Western Sizzlin has engaged Morrow & Co., LLC, a proxy solicitation firm, to assist it in connection with the solicitation of proxies and will pay Morrow & Co., LLC a base fee of \$4,000 plus reimbursement of out-of-pocket expenses. Morrow & Co., LLC will also charge a per call fee of \$5.00 plus related telecommunications charges to respond to incoming inquiries.

## **Risk Factors (Page 72)**

In evaluating the merger, the merger agreement and the debentures to be received in connection with the merger, you should carefully read this prospectus and especially consider the factors discussed in the section entitled Risk Factors.

## **Special Factors (Page 16)**

Steak n Shake and Western Sizzlin are affiliated with each other by certain common directors, certain common executive officers, and certain common shareholders. In addition, at the time of approval of the merger agreement, Western Sizzlin beneficially owned more than five percent of the outstanding common stock of Steak n Shake. In recognition of this affiliation and these close relationships, the merger agreement was negotiated between special committees of the boards of directors of Steak n Shake and of Western Sizzlin, each of which was comprised entirely of directors who had no relationships with the other party. For a discussion of the special factors that apply to the merger in light of the close relationships of the parties to the merger and their affiliates and associates, and the conflicts of interest that may be deemed to result from those relationships, see Special Factors.

## **Per Share Data (Pages 89, 91 and 93)**

The following table shows income per share, cash dividends per share and book value per share for each of Steak n Shake and Western Sizzlin as of and for certain periods ended December 23, 2009 and September 30, 2009, and similar information reflecting the pro forma income per share, cash dividends per share, and book value per share of Steak n Shake as of such dates and for such periods giving effect to the completion of the merger on the basis of certain assumptions (which we refer to as pro forma information).

The pro forma information, while helpful in illustrating the financial impact of a purchase upon a purchasing company such as Steak n Shake under one set of assumptions, does not attempt to predict or suggest future results.

The information in the following table is based on the historical financial statements of Steak n Shake that Steak n Shake has presented in its Securities and Exchange Commission filings (which Steak n Shake has incorporated into this document by reference, see Where You Can Find Additional Information ) and on the historical financial statements of Western Sizzlin that are included elsewhere in this proxy statement/prospectus (see Index to Western Sizzlin's Financial Statements ). See also Selected Historical Consolidated Financial Data of Steak n Shake and Selected Historical Consolidated Financial Data of Western Sizzlin and Pro Forma Condensed Consolidated Financial



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	Twelve Weeks Ended December 23, 2009 Steak n Shake Historical <sup>(2)</sup>	Three Months Ended September 30, 2009 Western Sizzlin Historical	Pro Forma Combined Per Share	Pro Forma Equivalent Per Share (N/A)
Book value per share <sup>(1)</sup>	\$ 207.16	\$ 9.31	\$ 206.38	N/A
Cash dividends declared per share as of December 23, 2009				N/A
Earnings per share as of December 23, 2009				
Basic	\$ 3.84	\$ 1.26	\$ 4.07	N/A
Diluted	\$ 3.82	\$ 1.26	\$ 4.05	N/A

	53 Weeks Ended September 30, 2009 Steak n Shake Historical <sup>(2)</sup>	12 Months Ended September 30, 2009 Western Sizzlin Historical	Pro Forma Combined Per Share	Pro Forma Equivalent Per Share (N/A)
Book value per share <sup>(1)</sup>	\$ 203.18	\$ 9.31	\$ 202.29	N/A
Cash dividends declared per share as of September 30, 2009				N/A
Earnings per share as of September 30, 2009				
Basic	\$ 4.21	\$ 1.52	\$ 3.99	N/A
Diluted	\$ 4.20	\$ 1.52	\$ 3.98	N/A

(1) The book value per share is computed by dividing stockholders' equity at the end of the period by the basic number of shares outstanding at the end of the period.

(2) Adjusted for 1-for-20 reverse stock split effective December 18, 2009.

The following table shows the market value of Western Sizzlin's common stock and the market value of Steak n Shake's common stock on August 12, 2009, the date preceding the public announcement of the proposed merger.

	Historical Market Value	
	Steak n Shake	Western Sizzlin
Market Values as of August 12, 2009	\$ 11.17	\$ 12.75

The merger will not result in stockholders of Western Sizzlin becoming entitled to receive, in exchange for their Western Sizzlin shares, any shares of common stock of Steak n Shake; rather, all shares of common stock of Western Sizzlin will be converted into a right to receive the debentures on the terms specified by the merger agreement. Accordingly, equivalent per share data reflecting the results of the merger to Western Sizzlin stockholders cannot be calculated because the merger agreement creates no equivalency between (a) the pro forma per share information for Steak n Shake and the historical per share financial information for Western Sizzlin presented above, or (b) the market

value of the Western Sizzlin common stock and the market value of the Steak n Shake common stock.

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## **SPECIAL FACTORS**

### **Structure of Merger**

On October 21, 2009 and October 22, 2009, the special committees and boards of directors of Steak n Shake and of Western Sizzlin, respectively, adopted the merger and approved the merger agreement, which was executed and delivered on October 22, 2009 by the parties. The merger agreement provides for the acquisition by Steak n Shake of Western Sizzlin through a merger of Grill Acquisition Corporation, a wholly-owned subsidiary of Steak n Shake, with and into Western Sizzlin. After the merger, Western Sizzlin will be the surviving company and will succeed to and assume all the rights and obligations of Merger Sub. As a result of the merger, if completed, you will no longer have an interest in Western Sizzlin's future earnings or growth, Western Sizzlin will cease to be a publicly traded company, and Western Sizzlin may no longer be required to file separate periodic reports with the SEC.

Pursuant to the terms of the merger agreement, on October 22, 2009, Western Sizzlin declared a special dividend payable to Western Sizzlin's stockholders in the form of 1,322,806 shares of Steak n Shake common stock that was beneficially owned by an investment subsidiary of Western Sizzlin. Each stockholder of Western Sizzlin of record as of November 2, 2009 was entitled to receive this dividend which was distributed on November 6, 2009. The dividend was paid at the rate of approximately 0.465 shares of Steak n Shake common stock for each share of the Western Sizzlin common stock outstanding as of November 2, 2009 (fractional share interests were settled by a cash payment). The closing price of Steak n Shake common stock on November 6, 2009 was \$12.03 per share. All share and per share information in this paragraph is presented without adjustment for the 1-for-20 reverse split effected by Steak n Shake on December 18, 2009.

At the effective time of the merger each Western Sizzlin common share, each outstanding share of common stock of Western Sizzlin (other than shares held by Steak n Shake, Merger Sub or Western Sizzlin, or by Western Sizzlin stockholders who perfect and do not withdraw their appraisal rights under Delaware law) will be converted into the right to receive a pro rata portion of a new issue of 14% redeemable subordinated debentures due 2015 to be issued by Steak n Shake, which we refer to herein as the debentures, in the aggregate principal amount of \$22,959,000 (approximately \$8.07 principal amount of debentures per Western Sizzlin share, based upon the number of shares of Western Sizzlin common stock outstanding on February 17, 2010), with cash to be paid in lieu of fractional debenture interests.

The debentures will be unsecured debt obligations of Steak n Shake that are subordinated to certain of its other present and future debts and obligations. The debentures will bear interest at 14% per annum from the date of issuance (which will be the same date as the effective time of the merger), payable semiannually, and principal will be due in a single payment on the date that is the fifth anniversary of the date of issuance. Steak n Shake will be entitled at its option to redeem the debentures on or after the date that is the first anniversary of the date of issuance of the debentures at a redemption price equal to 100% of the principal amount of the debentures to be redeemed, plus any accrued and unpaid interest to the date of redemption.

Further details relating to the structure of the merger and the merger consideration are described in Special Factors Structure of the Merger and The Merger Agreement Special Dividend and Merger Consideration below. Further details relating to the terms and conditions of the debentures and the indenture governing debentures are described in Description of Debentures.

## **Expected Timing of the Merger**

Steak n Shake and Western Sizzlin currently expect to complete the merger in the first calendar quarter of 2010, subject to receipt of Western Sizzlin stockholder approval and the satisfaction or waiver of other closing conditions.

However, no assurance can be given as to when, or if, the merger will occur.

## **No Steak n Shake Stockholder Approval**

Steak n Shake stockholders are not required to adopt the merger agreement or approve the merger or the issuance of debentures in connection with the merger.



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## **Merger Expenses, Fees and Costs**

Generally, all expenses incurred in connection with the merger agreement and related transactions will be paid by the party incurring the expense. Under the merger agreement, however, termination fees are payable by Western Sizzlin if the merger agreement is terminated under certain circumstances, and Western Sizzlin is required to reimburse Steak n Shake for Steak n Shake's expenses related to the merger transaction up to \$1 million in certain circumstances if the Western Sizzlin stockholders do not approve the merger at the special meeting. Similarly, Steak n Shake is obligated to pay a termination fee to Western Sizzlin under certain circumstances. See The Merger Agreement Expenses and Fees.

## **Appraisal Rights That May be Available in Connection with the Merger**

Western Sizzlin stockholders have the right under Delaware law to dissent from the adoption of the merger agreement and approval of the merger, to exercise appraisal rights and to receive payment in cash of the judicially determined fair value for their shares, plus interest, if any, on the amount determined to be the fair value, in accordance with Delaware law. The fair value of shares of Western Sizzlin's common stock, as determined in accordance with Delaware law, may be more or less than, or equal to, the merger consideration to be received by non-dissenting stockholders in the merger. To preserve their rights, Western Sizzlin stockholders who wish to exercise appraisal rights must not vote in favor of the adoption of the merger agreement and approval of the merger and must follow the specific procedures provided under Delaware law for perfecting appraisal rights. Dissenting stockholders must precisely follow these specific procedures to exercise appraisal rights or their appraisal rights may be lost. These procedures are described in this proxy statement/prospectus, and a copy of Section 262 of the Delaware General Corporation Law ( DGCL ), which grants appraisal rights and governs such procedures, is attached as Annex D to this proxy statement/ prospectus. See Appraisal Rights.

## **Background of the Merger**

Sardar Biglari, through Lion Fund, L.P. (which we refer to as the Lion Fund) a private investment fund controlled by Mr. Biglari, has been the beneficial owner of more than five percent of the outstanding common stock of Western Sizzlin since July 2005. In December 2005, Mr. Biglari and Philip L. Cooley (an advisory director of the Lion Fund) were elected as directors of Western Sizzlin. In March 2006, Mr. Biglari was named Chairman of the board of directors of Western Sizzlin and Mr. Cooley was elected Vice Chairman of the board of directors of Western Sizzlin. Mr. Biglari was appointed President and Chief Executive Officer of Western Sizzlin in May 2007.

In August 2007, a group, within the meaning of Section 13(d)(3) of the Exchange Act, of which Western Sizzlin, the Lion Fund, and Messrs. Biglari and Cooley were the members (the Investment Group), disclosed in a Schedule 13D statement of beneficial ownership that the Investment Group had acquired a substantial position in the common stock of Steak n Shake. Mr. Biglari met with management of Steak n Shake on August 13, 2007, seeking representation of the interests of the Investment Group on the board of directors of Steak n Shake. In March 2008, Messrs. Biglari and Cooley won election by Steak n Shake's shareholders to Steak n Shake's board of directors. On June 19, 2008, Mr. Biglari was named Chairman of Steak n Shake. In August 2008, Mr. Biglari was also named Chief Executive Officer of Steak n Shake and, in April 2009, Mr. Cooley was named Vice Chairman of Steak n Shake's board of directors.

William J. Regan, Jr., a private investor, first joined the board of directors of Steak n Shake by action of Steak n Shake's board of directors in November 2008, and subsequently was elected a director by the shareholders of Steak n Shake at its annual meeting of shareholders held in April 2009.

At meetings of the Steak n Shake board of directors on January 8, 2009 and of the Western Sizzlin board of directors on January 14, 2009, Mr. Biglari proposed a potential strategic combination of Western Sizzlin and Steak n Shake.

Prior to January 2009, neither the boards of directors of Steak n Shake or Western Sizzlin nor the other Schedule 13e-3 Filing Persons discussed a possible business combination of Western Sizzlin and Steak n Shake.

### **Formation of the Western Sizzlin Special Committee and the Steak n Shake Special Committee**

At a meeting on January 14, 2009, the Western Sizzlin board of directors, in order to ensure a process that would be fair to Western Sizzlin's unaffiliated stockholders, established a special committee of

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disinterested directors, consisting of Kenneth R. Cooper, as chairman, Martin S. Fridson and Titus W. Greene, to investigate and research the potential merger between Western Sizzlin and Steak n Shake proposed by Mr. Biglari. Messrs. Cooper, Fridson and Greene were not employees of Western Sizzlin. The Western Sizzlin board of directors determined that there were no relationships between the members of the Western Sizzlin special committee and Steak n Shake. In accordance with Western Sizzlin's director compensation policy, Mr. Cooper is entitled to receive an additional \$250 per quarter in consideration for his services as committee chair and each member of the special committee is entitled to receive \$500 for each telephonic meeting or \$1,500 and reimbursement for out-of-pocket expenses incurred for each meeting attended in person. The Western Sizzlin special committee was given the mandate of evaluating the fairness of the proposed merger and negotiating the terms of the merger. No limitations were placed on the authority of the Western Sizzlin special committee, including any limitation on its authority to consider alternatives to the merger.

Following Mr. Biglari's proposal at the Steak n Shake January 8, 2009 Board meeting, Messrs. Biglari and Cooley excused themselves from the meeting, and the other members of the board of directors who were present at that meeting conducted an initial discussion of Mr. Biglari's proposal. The directors asked Edward Wilhelm, then a member of the board of directors of Steak n Shake and then the Chairman of its Audit Committee, to lead an effort to consider Mr. Biglari's proposal, and Mr. Wilhelm accepted Mr. Regan's offer to assist with Mr. Wilhelm's analysis and investigation.

During the weeks that followed, Mr. Regan and Mr. Wilhelm discussed the Western Sizzlin proposal, and Mr. Wilhelm then discussed the proposal with Mr. Biglari. Based on those discussions, while Mr. Biglari believed that the turnaround of Steak n Shake's business was underway and that a potential purchase by Steak n Shake of Western Sizzlin would be opportune, differences of opinion as to the stage of the turnaround resulted in Mr. Biglari advising the Board in February 2009, that further consideration of the Western Sizzlin opportunity should be deferred.

Accordingly, no substantive discussion took place between the independent board representatives of the two companies regarding the specific terms and conditions of a possible merger of the two companies until May 2009.

In early May 2009, Mr. Biglari again raised and discussed with the Western Sizzlin board of directors the idea of a potential strategic combination of Western Sizzlin and Steak n Shake. At a meeting of the board of directors of Western Sizzlin on May 13, 2009, the board reaffirmed the formation of the independent special committee to investigate and research a potential merger of the two companies.

Mr. Biglari also convened a special telephonic meeting of the Steak n Shake board on May 13, 2009. At that meeting Mr. Biglari proposed that Steak n Shake consider an acquisition of Western Sizzlin by means of a merger. Mr. Biglari stated that, if Steak n Shake wished to consider the acquisition further, the consideration would have to be made by a committee of directors who were independent of Western Sizzlin, and he suggested that the independent members of the board convene separately after Dr. Cooley and he had left the telephonic meeting to consider whether to establish a special committee. Upon the departure from the telephonic meeting of Messrs. Biglari and Cooley, the remaining three directors (Ruth J. Person, John W. Ryan, and Mr. Regan), none of whom had any relationship with Western Sizzlin, voted to establish themselves as a special committee to consider the matter of a proposed transaction with Western Sizzlin, and appointed Mr. Regan the Chairman of the special committee. Mr. Regan discussed with the committee that he had recently met with Messrs. Biglari and Cooley concerning the benefits to Steak n Shake of the proposed merger transaction, and advised the committee that Mr. Biglari had prepared and discussed with Mr. Regan, Mr. Biglari's preliminary assessment of the potential value of the proposed transaction to Steak n Shake.

The board of directors, at the May 13, 2009, meeting, also authorized the special committee, if and when formed, to retain counsel to represent it, at its sole discretion. The Board discussed the possibility that the special committee might consider engaging Steak n Shake's outside counsel, the law firm of Cline, Williams, Wright, Johnson, &

Oldfather, L.L.P., of Omaha, Nebraska (which we refer to as Cline Williams), to serve as counsel to the special committee. During that telephonic meeting, in which Cline Williams also participated, Cline Williams advised the board that Cline Williams also represented Western Sizzlin and that Cline Williams would need to recuse itself from further representation of Western Sizzlin or, in the alternative, obtain consents of both companies to its continued representation of Western. The consensus of the special committee, when formed, was to consider engaging Cline Williams as its counsel, and the engagement by the

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special committee of Cline Williams as its counsel was confirmed in writing by Mr. Regan with Cline Williams on May 20, 2009. Both special committees waived the conflict of interest of Cline Williams by letters signed by their chairmen.

Mr. Regan first contacted Mr. Cooper on May 14, 2009.

On May 15, 2009, Mr. Regan discussed with Cline Williams attorneys and with members of the Steak n Shake special committee various legal, financial and other considerations applicable to the structure of the proposed merger transaction and the type of consideration to be offered to the Western Sizzlin shareholders. On the basis of those discussions, Mr. Regan and the Cline Williams attorneys called Mr. Biglari to update him on those discussions. During this conference call, Mr. Biglari stated that he desired that the Special Committee should remain open to transaction structures other than stock-for-stock mergers. Upon Mr. Regan's request, Mr. Biglari agreed to formulate alternative structures for the special committee to analyze.

On May 18, 2009, Mr. Regan delivered a letter to Mr. Cooper advising that Steak n Shake had formed a special committee of directors who had no relationships to Western Sizzlin for the purposes of exploring the possibility of a strategic transaction between Steak n Shake and Western Sizzlin. The letter also recommended that the parties enter into a mutual nondisclosure agreement so that information could be shared and discussions had on a confidential basis. To that end, Steak n Shake and Western Sizzlin entered into a letter agreement, dated May 28, 2009, providing that all information exchanged between the parties in connection with their respective diligence reviews was to be kept confidential in accordance with the terms thereof.

On May 21, 2009, the Western Sizzlin special committee retained Olshan Grundman Frome Rosenzweig & Wolosky LLP (which we refer to as Olshan) to represent the special committee in connection with advice relating to strategic alternatives, including but not limited to, the potential transaction with Steak n Shake. Olshan has previously acted as special counsel to Western Sizzlin from time to time in connection with certain previous transactions unrelated to the merger. Additionally, Olshan has represented a group, within the meaning of Section 13(d)(3) of the Exchange Act, of which Western Sizzlin, the Lion Fund, and Messrs. Biglari and Cooley, among others, are members, in connection with a proxy solicitation seeking representation of the group on Steak n Shake's board of directors, and Olshan continues to represent the group in a limited capacity in connection with the group's securities laws filings relating to its investment in Steak n Shake. Olshan was not involved in any discussions relating to a potential merger or other business combination between Western Sizzlin and Steak n Shake prior to the engagement of Olshan by the Western Sizzlin special committee. The Western Sizzlin special committee was aware of these past relationships when it retained Olshan and consented to the firm's retention, waiving any possible conflicts that may result therefrom. In mid-June 2009, Olshan discussed with the Western Sizzlin special committee the basic legal and fiduciary obligations of the Western Sizzlin special committee with respect to a transaction involving the potential sale of the company, including the retention and scope of services to be provided by a financial advisor to the special committee. After reviewing proposals from recognized investment banking firms, on June 25, 2009, the Western Sizzlin special committee retained B. Riley & Co., LLC, which we refer to herein as B. Riley, to serve as the special committee's financial advisors and to provide an opinion as to the fairness to Western Sizzlin stockholders of the consideration to be offered in a potential transaction with Steak n Shake, from a financial point of view. The Western Sizzlin special committee selected B. Riley primarily due to its confidence in B. Riley's familiarity with and transactional experience in the restaurant industry and its extensive experience with and reputation for providing investment banking services to middle market companies in connection with mergers and acquisitions.

On May 23, 2009, Mr. Biglari and Mr. Regan spoke by telephone concerning a proposal that Mr. Biglari had developed on behalf of Steak n Shake management to structure the acquisition of Western Sizzlin using consideration other than the issuance of Steak n Shake common stock. Mr. Biglari suggested that Western Sizzlin could first

distribute to Western Sizzlin's stockholders the shares of Steak n Shake beneficially owned by an investment subsidiary of Western Sizzlin, thereby reducing the transaction size by 30% to 35%, and requested that the special committee consider the issuance by Steak n Shake of debt, preferred stock or similar instruments to finance the balance of the consideration to be offered to the Western Sizzlin stockholders in the transaction.

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Upon the signature on May 28, 2009, by both parties to the letter agreement of confidentiality that had been proposed by Mr. Regan to Mr. Cooper on May 18, 2009, the chief financial officers of both Western Sizzlin and Steak n Shake were authorized and directed to communicate with each other to begin exchanging the information that each party would need to review the business, assets, liabilities, operations and affairs of the other party.

On June 3, 2009, the Steak n Shake special committee conducted a telephonic meeting at which Chairman Regan updated the members of the committee as to recent developments. The special committee reviewed the potential interest of four financial advisory firms in providing services to the committee. The committee also discussed the type of service and advice needed by the special committee from the chosen firm, and determined that the committee would require both valuation assistance and a fairness opinion. The committee unanimously authorized Mr. Regan as Chairman to proceed to interview two of these firms, and recommend to the full committee his choice.

On June 5, 2009, the Steak n Shake special committee reported to the full board of Steak n Shake concerning the progress of its negotiations with the Western Sizzlin special committee and the selection of a financial advisor. At that meeting the Board authorized the committee to begin interviewing candidates for providing a valuation and for providing a fairness opinion, and requested that the committee also interview another firm in addition to the two firms that had been identified by the special committee on June 3, 2009. In addition, the special committee was authorized to discuss with Western Sizzlin's special committee, and consult with the chosen financial advisor, concerning an alternative to a stock-for-stock merger, involving a debt security with a maturity not exceeding five years.

Subsequently, Mr. Regan, accompanied by Duane E. Geiger, Steak n Shake's Interim Chief Financial Officer, interviewed each of the three financial advisory firms discussed at the June 5, 2009 board of directors meeting. Mr. Regan reported to the special committee on the results of such interviews at a special committee meeting held June 19, 2009, and the special committee unanimously selected Duff & Phelps, LLC (which we refer to as Duff & Phelps), as the special committee's financial advisor. On June 26, 2009, the Steak n Shake special committee retained Duff & Phelps, as its financial advisor for the proposed transaction, and to provide a fairness opinion, if requested. The special committee selected Duff & Phelps on the basis of its confidence that Duff & Phelps had broad experience and capability advising middle market companies regarding valuation issues and structuring mergers and acquisitions and had specific knowledge and experience in the restaurant industry.

In mid-June 2009, Olshan discussed with the Western Sizzlin special committee the basic legal and fiduciary obligations of the Western Sizzlin special committee with respect to a transaction involving the potential sale of the company, including the retention and scope of services to be provided by a financial advisor to the special committee. After reviewing proposals from recognized investment banking firms, on June 25, 2009, the Western Sizzlin special committee retained B. Riley & Co., LLC (which we refer to as B. Riley) to serve as the special committee's financial advisors and to provide an opinion as to the fairness to Western Sizzlin stockholders of the consideration to be offered in a potential transaction with Steak n Shake, from a financial point of view.

On Friday, July 24, 2009, representatives of Duff & Phelps called Mr. Regan to discuss with him the tentative summary results of their review of the value to Steak n Shake of Western Sizzlin. On Friday, July 24, 2009, representatives of Duff & Phelps called Mr. Regan to discuss with him the tentative summary results of their review of the value to Steak n Shake of Western Sizzlin. During this telephone call, Duff & Phelps suggested that, although the review was ongoing and conclusions were still being evaluated, the value of a combination of Western Sizzlin with Steak n Shake (including expected synergies) would likely fall in the range of about \$11.00 per Western Sizzlin share to about \$13.50 per Western Sizzlin share.

On the morning of July 27, 2009, Mr. Regan convened a special meeting of the Steak n Shake special committee to discuss valuation issues. Duff & Phelps did not participate in this meeting and no materials prepared by Duff & Phelps were prepared for or presented at this meeting. Mr. Regan reported to the special committee that he believed that Duff

& Phelps's preliminary and tentative valuation work would likely suggest a value of Western Sizzlin to Steak n Shake (including synergies) in the range of \$11.00 to \$13.50 per Western Sizzlin share. The committee discussed at length certain valuation methodologies utilized by Duff & Phelps in its preliminary work. The committee also discussed at this meeting the relative merits of the use of



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Steak n Shake common stock as the consideration to be issued in the merger compared to a debt security to be issued by Steak n Shake as the merger consideration. Mr. Regan reported to the Committee that, on the basis of his preliminary discussions with Duff & Phelps and his review of financial data regarding the restaurants and food service industries, he believed that the appropriate interest rate on a five-year debenture with all principal due in a single installment at maturity would be in the range of 12% to 15% per annum. The special committee concluded that the use of Steak n Shake debt as the merger consideration, as an alternative to a structure the transaction with common stock as the merger consideration, could also result in a transaction that would be in Steak n Shake's best interests.

The full board of directors of Steak n Shake then met the afternoon of July 27, 2009 by conference telephone. Mr. Regan, as Chairman of the special committee, reported concerning the special committee's discussions with Duff & Phelps, and, without sharing with the full board the specific preliminary valuation range suggested by Duff & Phelps, Mr. Regan reported that the special committee would be comfortable in proceeding with an offer in the range of \$12.00 to \$13.00 per Western Sizzlin share. Further, Mr. Regan noted the special committee's thoughts concerning the use of stock as the merger consideration rather than debt, but reported that the committee understood Mr. Biglari's opinion that the Steak n Shake stock was undervalued. Mr. Regan reported to the board that, on the basis of his preliminary discussions with Duff & Phelps, and his review of financial reports, a debt instrument issued by Steak n Shake with a five year maturity, to be valued at par, would likely carry an interest rate of 12% to 15% per annum. After discussion, the three directors who were also members of the special committee adopted a resolution, with Messrs. Biglari and Cooley abstaining, that Steak n Shake should make an offer to exchange five year 14% debentures of Steak n Shake with interest payable semiannually for all of Western Sizzlin's shares; that Western Sizzlin's shares should be valued for purposes of the transaction at \$13.00 per share, before giving effect to the distribution by Western Sizzlin to all of its stockholders of all Steak n Shake shares beneficially owned by an investment subsidiary of Western Sizzlin; and that the transaction would be contingent on a fairness opinion from Duff & Phelps.

On July 28, 2009, Mr. Regan received an oral update from representatives of Duff & Phelps in which they reported that the high end of the valuation range in the preliminary report to be delivered to the Committee would likely be \$13.25 per Western Sizzlin share. Mr. Regan then reported that conversation to members of the special committee and advised them that he believed that the value of the Steak n Shake stock to be distributed by Western Sizzlin to its stockholders (for purposes of measuring how much of the \$13.00 per share proposal should be allocable to that special dividend) should be based on Steak n Shake's then current value in the market (at the time of the extension of the offer to Western Sizzlin) and not an average price over a specified prior period of time, and that he believed that the debentures to be issued in the merger should be redeemable at Steak n Shake's option without penalty or premium as early as the date that was six months after the date of initial issuance. He also reported that Duff & Phelps would be comfortable with those two changes based on his July 28 telephone conversation with Duff & Phelps.

Duff & Phelps on July 29, 2009, delivered to Mr. Regan a draft presentation which he forwarded to the other members of the special committee. That draft presentation reflected a further narrowing of range of values of Western Sizzlin to Steak n Shake (including synergies) to a range of \$11.30 to \$13.10 per Western Sizzlin share.

Mr. Regan sought and received authorizations from both of the other members of the special committee to proceed to extend a non-binding proposal to Mr. Cooper, as Chairman of the Western Sizzlin special committee on July 28, 2009, and a letter expressing that non-binding proposal was delivered by Mr. Regan to Mr. Cooper that same day.

## **Negotiation of the Letter of Intent**

Messrs. Regan and Cooper had discussions during the period from May 18, 2009 through July 28, 2009 regarding the exchange of information between advisors to their respective companies, the treatment of the Steak n Shake common

stock held by Western Sizzlin, the potential that the consideration to be issued in the proposed merger could take the form of preferred stock or debentures, and the benefits of the potential combination of the two companies. During this period, however, Messrs. Regan and Cooper had no discussion of the financial terms or values of the transaction to Steak n Shake or to the Western Sizzlin shareholders.

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The indication of interest that Mr. Regan delivered to Mr. Cooper on July 28, 2009, proposed that Steak n Shake would acquire all outstanding shares of Western Sizzlin's common stock in a reverse triangular merger of Western Sizzlin with a newly formed subsidiary of Steak n Shake, with Western Sizzlin surviving the merger. The indication of interest provided that the acquisition would be based on an equity value of approximately \$36,814,000 in the aggregate, or \$13.00 per share of Western Sizzlin common stock, based upon the number of shares of Western Sizzlin common stock then reported to be outstanding. Under Steak n Shake's proposal, at or prior to effectiveness of the proposed merger, Western Sizzlin would be required to distribute to its stockholders all shares of Steak n Shake then beneficially owned by Western Sizzlin. The July 28, 2009 market value of those Steak n Shake shares (approximately \$13,855,000 in the aggregate, or approximately \$4.89 per Western Sizzlin share, based upon the number of shares of Western Sizzlin common stock then reported to be outstanding) would be deducted from the \$36,814,000 aggregate equity value (or \$13.00 per share). The remaining equity value of \$22,959,000 balance of the purchase price (or \$8.11 per Western Sizzlin share, based upon the number of shares of Western Sizzlin common stock then reported to be outstanding), after giving effect to the distribution of those Steak n Shake shares, would be paid through the delivery of debentures to be issued by Steak n Shake. The following shows the two components of the \$13.00 per share equity value (in each case based upon the number of shares of Western Sizzlin common stock then reported to be outstanding) that was proposed by Steak n Shake in its July 28, 2009 letter of intent:

Per share value (fixed as of July 28, 2009) of Steak n Shake shares beneficially owned by Western Sizzlin as of July 28, 2009	\$ 4.89
Per share principal amount of debentures to be issued by Steak n Shake	\$ 8.11
Total	\$ 13.00

The indication of interest provided that the proposed debentures would carry a term of five years, be pre-payable without penalty at the option of Steak n Shake after six months and would bear interest at a rate of 14% per annum from the date of issuance (which will be the same date as the effective date of the merger), payable semi-annually in cash with principal and any accrued but unpaid interest to be paid in cash at maturity. This letter indicated that it was the Steak n Shake's special committee's last and best offer.

The Western Sizzlin special committee met on July 29, 2009 to discuss the terms set forth in the Steak n Shake indication of interest with its legal counsel and financial advisors. A representative of B. Riley advised that, based upon a preliminary analysis, the purchase price would likely be in the range of prices that would be fair to Western Sizzlin's stockholders. A representative of the special committee's legal counsel discussed with the special committee the importance of certain terms of the proposed debentures that were not fully addressed in the indication of interest such as the inclusion of restrictive covenants and the potential terms of subordination to senior debt of Steak n Shake. Legal counsel also reiterated the fiduciary duties of the members of the special committee under Delaware law with respect to a potential transaction with Steak n Shake. Thereafter, the Western Sizzlin special committee directed Mr. Cooper to call Mr. Regan to negotiate the purchase price of the proposed transaction and to clarify certain terms of the proposed debentures. The special committee also authorized representatives of B. Riley to speak with Mr. Regan and the Steak n Shake special committee's financial advisors regarding the basis of and valuations underlying the proposed purchase price contained in the indication of interest.

Over the course of July 29<sup>th</sup> and 30<sup>th</sup>, both Mr. Cooper and representatives of B. Riley had conversations with Mr. Regan regarding the terms of the proposed merger.

On July 30, 2009, at a meeting of the Western Sizzlin special committee, Mr. Cooper reported to the special committee the status of his discussions with Mr. Regan with respect to the proposed merger. A representative of B. Riley also reported on his discussion with Mr. Regan and recommended that the special committee respond to the July 28<sup>th</sup> indication of interest with a proposal to increase the purchase price and provide for certain covenants with respect

to the debentures to be issued by Steak n Shake in the merger including covenants restricting Steak n Shake's ability to incur additional indebtedness and declare or pay dividends. The Western Sizzlin special committee discussed further the terms of the proposed merger set forth in the indication of interest. The special committee also discussed advising the board of directors of Western Sizzlin of the receipt of the indication of interest from Steak n Shake. A special meeting of the full board of directors of Western Sizzlin was held July 30, 2009 for this purpose. At the board of directors meeting, Mr.

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Cooper informed the board that the special committee had received the non-binding indication of interest from Steak n Shake. Mr. Cooper did not discuss the specific terms of the letter and advised that the special committee would be independently reviewing the indication of interest consistent with its fiduciary duties and the mandate given to the special committee by the board. The board of directors of Western Sizzlin agreed that the special committee should continue with discussions and negotiations with Steak n Shake, and with the assistance of the advisors selected by the special committee, respond to the July 28<sup>th</sup> indication of interest or proceed as otherwise determined by the special committee.

The Western Sizzlin special committee met again on August 1, 2009 to discuss the terms of the proposed transaction and the special committee's response to the July 28<sup>th</sup> indication of interest with the special committee's financial advisors and legal counsel. Representatives of B. Riley recommended certain terms that should be included in the response to Steak n Shake's indication of interest including the following principal terms: (a) an increase in the purchase price to between \$14.00 and \$14.50 per share; (b) the debentures to be issued by Steak n Shake in the merger would not contain any call feature permitting the prepayment thereof without penalty; and (c) the Steak n Shake debentures would contain certain covenants related to restrictions on the total leverage, subordination only to senior secured debt and restrictions on the payment of dividends. The board of directors of Western Sizzlin also met again on August 1, 2009 and reaffirmed the special committee's full authority to negotiate the terms and conditions of a non-binding Letter of Intent with Steak n Shake and to take any and all actions that the special committee deemed appropriate in fulfilling its fiduciary duties, provided that the special committee was not authorized to enter into a binding agreement without the full board's approval, which would be sought at such time and if the special committee deemed appropriate.

On August 2, 2009, Mr. Cooper and Mr. Regan had further conversations regarding the proposed transaction.

On August 3, 2009, Mr. Cooper responded by letter to Mr. Regan on behalf of the Western Sizzlin special committee. Mr. Cooper's letter indicated that the Western Sizzlin special committee was in the process of continuing to conduct research with its advisors regarding the valuation and terms of the proposed transaction. Based on research to date, however, Mr. Cooper advised that the Western Sizzlin special committee would be willing to move forward with a transaction with Steak n Shake upon the following principal terms: (a) an increase in the purchase price to \$14.00 per share; (b) the debentures to be issued by Steak n Shake in the merger would not contain any call feature permitting the prepayment thereof without penalty; and (c) the Steak n Shake debentures would contain certain covenants related to restrictions on the total leverage, subordination only to senior secured debt and restrictions on the payment of dividends.

The Steak n Shake special committee met by telephone to consider the August 3 letter from Mr. Cooper, and determined that Western Sizzlin's proposal was not in the best interests of Steak n Shake. Mr. Regan then responded to Mr. Cooper's letter by a letter to Mr. Cooper, dated August 4, 2009, which re-affirmed that Steak n Shake's July 28<sup>th</sup> indication of interest represented its last and best offer and that Steak n Shake had no room to negotiate on price. With respect to the terms of the debentures, however, Mr. Regan indicated that the covenants requested in Mr. Cooper's August 3<sup>rd</sup> letter were not necessarily contrary to Steak n Shake's proposal, but that the right to prepay the debenture to be issued by Steak n Shake was of significant importance to the Steak n Shake special committee.

The Western Sizzlin special committee met on August 4, 2009 to consider Mr. Regan's response and discuss its position and whether it should continue to negotiate the terms of the proposed transaction other than the purchase price. Upon the special committee's request, a representative B. Riley advised that it would provide its preliminary analysis of the valuation of Western Sizzlin's common stock to the special committee. The special committee directed Mr. Cooper to inform Mr. Regan that it was discussing the purchase price and other terms of the proposal with its advisors.

Following the meeting, Mr. Cooper contacted Mr. Regan and informed him that the Western Sizzlin special committee was discussing the purchase price and other terms of the proposal with its advisors.

On August 6, 2009, B. Riley submitted a draft summary of its preliminary analysis of the valuation of Western Sizzlin s common stock to the special committee. A low, mean and high purchase price per share for Western Sizzlin s common stock of \$11.64, \$12.44 and \$13.45 per share (based upon the number of shares

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outstanding as of August 6, 2009) were presented and B. Riley noted that the purchase price proposed by Steak n Shake fell between the mean and high prices of such range. Following a thorough discussion, and with the advice of the special committee's legal counsel and financial advisors, the special committee directed Mr. Cooper to respond in writing to Mr. Regan that Western Sizzlin would be willing to enter into a non-binding Letter of Intent containing the price set forth in the July 28, 2009 indication of interest, a one year no-call period on the debentures to be issued by Steak n Shake, registration under the Securities Act of the debentures and the covenants for the debentures that Mr. Cooper requested in his August 3, 2009 letter. Mr. Cooper delivered a letter to Mr. Regan later that day along the lines approved by the Western Sizzlin special committee.

Later on August 6, 2009, the Steak n Shake special committee met by telephone to discuss the August 6, 2009 letter from Mr. Cooper, and concluded that it was in Steak n Shake's best interest to proceed with negotiations with Western Sizzlin's special committee on the terms of that letter and authorized Cline Williams to prepare a draft of a letter of intent.

On August 9, 2009, the Steak n Shake special committee met by telephone to review the draft of a proposed non-binding Letter of Intent with respect to a reverse triangular merger of a Steak n Shake subsidiary with Western Sizzlin, and authorized Mr. Regan to work with Cline Williams to finalize the draft letter and deliver the draft letter to Mr. Cooper. Mr. Regan, on behalf of the Steak n Shake special committee, delivered the proposed Letter of Intent to Mr. Cooper on August 9, 2009. The proposed Letter of Intent contained substantially the same principal terms that Mr. Cooper indicated would be acceptable to the Western Sizzlin special committee in his August 6, 2009 letter.

The Western Sizzlin special committee met on August 10, 2009 to discuss with its legal counsel and financial advisors the terms of the proposed Letter of Intent that was received from Mr. Regan. After discussion and based upon the advice of the special committee's legal counsel and financial advisors, the Western Sizzlin special committee authorized Mr. Cooper to execute the Letter of Intent on behalf of the special committee, with such changes suggested by the special committee's legal counsel and financial advisors, and to enter into negotiations for a definitive agreement. While the boards of directors of Western Sizzlin and Steak n Shake have evaluated and reviewed strategic alternatives from time to time, neither company's board of directors nor any of the other Schedule 13e-3 Filing Persons had considered any specific alternatives to the transaction contemplated by the proposed Letter of Intent, other than the alternative of not proceeding with the proposed transaction. Following the meeting, Mr. Cooper sent to Mr. Regan proposed changes to the draft Letter of Intent based on comments from the Western Sizzlin special committee's advisors.

Following Mr. Regan's receipt of the proposed changes, the Steak n Shake special committee met by telephone on August 10, 2009, and concluded that the proposed changes were acceptable, and authorized Mr. Regan to sign the Letter of Intent, subject to receipt of a verbal update from Duff & Phelps of its comfort with the special committee's proceeding on those terms on the basis of an updated financial analysis that Duff & Phelps was then undertaking.

On August 11, 2009, Western Sizzlin and Steak n Shake entered into the non-binding Letter of Intent relating to the proposed merger of Western Sizzlin into a wholly-owned subsidiary of Steak n Shake. The Letter of Intent provided for the following principal terms: (a) on or prior to closing of the proposed merger, Western Sizzlin would distribute to its stockholders all of the Steak n Shake shares beneficially owned by Western Sizzlin; (b) the consideration payable to Western Sizzlin's stockholders would be based on a net transaction valuation of \$22,959,000 and, at closing, each share of Western Sizzlin's common stock would be converted into the right to receive an amount equal to approximately \$8.11 per share (based upon the number of shares of Western Sizzlin common stock outstanding on August 11, 2009) in the principal amount of debentures issued by Steak n Shake; and (c) the Steak n Shake debentures would have a term of five (5) years, would bear interest at the rate of 14 percent per annum, would be pre-payable without penalty at the option of Steak n Shake after one year from the date of issuance and would contain certain

restrictive covenants along the lines outlined in Mr. Cooper's letter on August 3, 2009.

On August 12, 2009, the Steak n Shake Special Committee met to consider the issuance of a joint press release and, in conjunction with that public announcement, a proposed amendment to the Letter of Intent to



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relieve Western Sizzlin of an obligation in the Letter of Intent not to solicit the interest of other potential interested parties until after September 11, 2009, so that Western Sizzlin would be permitted immediately to shop Western Sizzlin for sale to other potentially-interested purchasers from and after the public announcement. The Special Committee authorized Mr. Regan to execute an amendment to the Letter of Intent that would relieve Western Sizzlin of its obligation to avoid soliciting proposals other than from Steak n Shake in return for an expense reimbursement clause or other protections of Steak n Shake in that regard acceptable to Mr. Regan in his discretion. On August 12, 2009, Steak n Shake and Western Sizzlin amended the Letter of Intent to remove Western Sizzlin's agreement prohibiting it from shopping Western Sizzlin but requiring Western Sizzlin to reimburse Steak n Shake for up to \$300,000 of its expenses incurred in connection with the proposed transaction if Western Sizzlin should be sold within the next twelve months to another company.

On August 13, 2009, Western Sizzlin and Steak n Shake issued a joint press release publicly announcing the execution of the Letter of Intent.

### **Negotiation of the Merger Agreement and the Indenture**

Following the execution of the Letter of Intent, during August 2009, legal counsel and financial advisors for each of the Steak n Shake and Western Sizzlin special committees performed their due diligence review and discussed the principal provisions of the definitive agreement. Steak n Shake's special committee hired the law firm of Ice Miller LLP, Indianapolis, Indiana (which we refer to as Ice Miller), as successor counsel to Cline Williams during a special meeting held by telephone on August 18, 2009. During that meeting, Ice Miller attorneys advised the special committee that Ice Miller also represented Steak n Shake as to employee benefit law matters. No limitations were placed on the authority of the Western Sizzlin special committee with respect to its authority to negotiate the terms of the definitive agreement.

Also following the execution of the Letter of Intent, at the Special Committee's request, B. Riley conducted a market test to solicit alternative acquisition proposals and address Western Sizzlin's strategic alternatives. As part of this market test, B. Riley developed a confidentiality agreement, one page executive summary and descriptive memorandum. The firm also created an electronic data room to facilitate the due diligence process.

B. Riley contacted a number of candidates to assess their interest in a transaction with Western Sizzlin. The firm discussed the opportunity with restaurant concepts in the casual dining and family dining space and consumer oriented private equity firms with active and/or past portfolio investments in the restaurant industry. B. Riley executed a confidentiality agreement and delivered a descriptive memorandum to one potential target in the family dining space. The party declined to pursue the opportunity after reviewing the descriptive memorandum. The majority of the parties contacted declined to pursue the opportunity beyond early-stage discussions and a review of the one page executive summary. Targeted parties who declined to pursue the opportunity cited:

lack of interest in the family dining and buffet segment;  
a desire to focus on organic growth;  
limited capital to pursue acquisitions;  
a need to address their own internal operating issues;  
the state of the U.S. economy; and  
volatility in the U.S. credit markets.

In addition, B. Riley did not receive any inquiries regarding Western Sizzlin from outside parties after the announcement that Western Sizzlin had received an unsolicited offer from Steak n Shake.

On August 31, 2009, the Steak n Shake special committee met by telephone with legal counsel for the Steak n Shake special committee to discuss the terms and conditions of a draft merger agreement that Ice Miller had circulated among the special committee members. The special committee authorized Ice Miller to deliver the draft agreement to Olshan as counsel for the Western Sizzlin special committee. On September 16, 2009, legal counsel for the Steak n Shake special committee also provided the Western Sizzlin special

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committee and its legal counsel with a draft of the proposed voting agreements to be executed by certain Western Sizzlin stockholders and of the indenture governing the debentures to be issued by Steak n Shake in the merger.

During the period from September 3, 2009 through October 20, 2009, each of the Steak n Shake and Western Sizzlin special committees held several meeting concerning terms and status of negotiations with respect to the merger agreement and the indenture. During this same period, legal counsel for each of the Steak n Shake and Western Sizzlin special committees negotiated the terms of the merger agreement and indenture and circulated several revised drafts of the documents, each of which was discussed at length by the respective special committees or their chairmen. In addition, between such dates, counsel for the Steak n Shake special committee and each of the parties to the voting agreements negotiated the final terms and provisions of the voting agreements.

The Steak n Shake special committee (represented by Ice Miller in such negotiations) proposed to the Western Sizzlin special committee (represented by Olshan in such negotiations) the initial terms of the merger agreement, the indenture and the voting agreements. While the merger agreement that was ultimately executed and delivered did not vary fundamentally from the initial draft of merger agreement that was proposed by Ice Miller on behalf of the Steak n Shake special committee to Olshan for consideration by the Western Sizzlin special committee, the initial draft of merger agreement:

contemplated that the debentures to be issued to each of Western Sizzlin's shareholders would be subject to offset in the event that Steak n Shake were damaged after the effective date of the merger by reason of any breach of the merger agreement by Western Sizzlin or on account of certain types of claims (this offset request was rejected by Western Sizzlin's special committee and that rejection was accepted by Steak n Shake's special committee); fixed the termination fee to be payable by Western Sizzlin to Steak n Shake in certain events at a higher figure than the figure that ultimately was negotiated between the parties and fixed by the merger agreement; and contemplated that the distribution by Western Sizzlin of its shares of Steak n Shake to Western Sizzlin's shareholders would occur immediately prior to effectiveness of the merger (the parties ultimately agreed in the merger agreement that this distribution would be made as soon as practicable after execution of the merger agreement).

Similarly, the indenture as initially proposed by Ice Miller on behalf of the Steak n Shake special committee to Olshan on behalf of the Western Sizzlin special committee did not vary fundamentally from the terms of the indenture ultimately agreed to, in form, by the parties as part of the merger agreement; principal terms of negotiation between Ice Miller and Olshan on behalf of their respective clients centered upon:

the appropriate value of the minimum pro forma fixed charge coverage ratio of Steak n Shake within which Steak n Shake would have freedom under the indenture to incur other debt or to purchase its own stock or pay dividends to its stockholders;

the determination of what types (and in what amount) of debt that Steak n Shake could incur that would be senior in right of payment to the debentures; and

the types of events that would constitute events of default under the indenture.

The form of voting agreement as initially proposed by Ice Miller on behalf of the Steak n Shake special committee did not vary fundamentally from the form of voting agreement ultimately accepted by the parties to such voting agreements at the request of the special committee of Western Sizzlin.

The parties completed negotiations and came to agreement on all remaining open issues relating to the merger agreement and the indenture on or about October 20, 2009 and revised drafts of the merger agreement and indenture were circulated to all parties by the Steak n Shake special committee's legal counsel on October 17, 2009.



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**Recommendations and Approvals of the Western Sizzlin Special Committee and Board of Directors**

On October 22, 2009, the Western Sizzlin special committee met to consider the proposed merger and its potential benefits to the company and its stockholders. The special committee and representatives of its legal counsel discussed the recent developments with respect to the negotiations and the resolution of the principal terms of the merger agreement and the indenture. B. Riley provided to the special committee its financial analysis of the proposed transaction, and then delivered to the special committee its oral opinion (subsequently confirmed in writing) to the effect that, as of October 22, 2009, and subject to and based upon the assumptions made, matters considered and limits of the review set forth in its opinion, the consideration to be received by Western Sizzlin stockholders in the form of debentures to be issued by Steak n Shake in the principal amount of approximately \$8.07 per share was, after giving effect indirectly to the distribution by Western Sizzlin of all shares of Steak n Shake common stock that it owned, fair to Western Sizzlin's stockholders from a financial point of view. The Western Sizzlin special committee's legal counsel reviewed with the members of the special committee their fiduciary duties under Delaware law, as well as the terms and provisions of the merger agreement and the indenture. After extensive discussion, including an in-depth analysis of the reasons for engaging in the transaction, the Western Sizzlin special committee unanimously determined that the merger and the merger agreement were advisable and fair to Western Sizzlin and in the best interest of Western Sizzlin's stockholders. Accordingly, the Western Sizzlin special committee unanimously recommended that the full board of directors adopt the merger agreement and approve the transactions contemplated thereby.

Later that day, the full board of directors of Western Sizzlin met to consider the proposed merger and its potential benefits to Western Sizzlin and its stockholders. Mr. Cooper updated members of the board concerning recent developments with respect to the proposed merger with Steak n Shake. Mr. Cooper presented the board of directors with drafts of the merger agreement and the indenture and discussed the terms and conditions thereof. Mr. Cooper advised the full board of directors that B. Riley had delivered to the special committee its oral opinion to the effect that, as of October 22, 2009, and subject to and based upon the assumptions made, matters considered and limits of the review set forth in its opinion, the consideration to be received by Western Sizzlin stockholders in the form of debentures to be issued by Steak n Shake in the principal amount of approximately \$8.08 per share (based upon the number of shares of Western Sizzlin common stock outstanding on October 22, 2009) was, after giving effect to the distribution by Western Sizzlin of all shares of Steak n Shake common stock that it owned indirectly, fair to Western Sizzlin's stockholders from a financial point of view. Mr. Cooper further advised that the special committee had unanimously recommended that the full board of directors adopt the merger agreement and approve the transactions contemplated thereby. Following a discussion, the full board of directors of Western Sizzlin, acting upon the recommendation of the special committee, unanimously determined that the merger and the merger agreement were advisable and are fair to Western Sizzlin and in the best interest of Western Sizzlin's stockholders. Accordingly, the Western Sizzlin board of directors unanimously approved the merger agreement and resolved to recommend that its stockholders adopt the merger agreement and approve the transactions contemplated thereby. In doing so, the Western Sizzlin board of directors believed that:

having attempted unsuccessfully to negotiate an increase of the purchase price, it could not expect Steak n Shake to offer more in the merger;

any significant delay in signing a definitive agreement with Steak n Shake could cause Steak n Shake to withdraw its expression of interest;

Western Sizzlin had not received any competing indications of interest from other interested parties since the public announcement of the transaction or in connection with the limited market check performed by B. Riley and, as a result of the recent deterioration of general economic conditions and the current uncertainty with respect to the timing and scope of a sustained recovery of the general economy as well as the negative trends in the casual dining restaurant

market in recent years, Western Sizzlin might not be able to attract a comparable bid to acquire the company for a significant period of time, or at all (see Recommendation of the Western Sizzlin Special Committee; Reasons for, and Effects and Fairness of, the Merger and Recommendation of the Western Sizzlin Board of Directors; Reasons for, and Effects and Fairness of, the Merger for a full description of the Board's considerations in approving the transaction price);

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despite the fact that the special committee had tried unsuccessfully to negotiate an increase in the purchase price with Steak n Shake and Western Sizzlin had not received any competing indications of interests from other interests parties, a business combination with a strategic acquirer such as Steak n Shake would, nonetheless, be in the best interest of Western Sizzlin and its stockholders at this juncture and would maximize stockholder value in light of substantial current uncertainty regarding Western Sizzlin's future earnings and future prospects resulting from various challenges to Western Sizzlin's current business plan, including increased competition in the restaurant industry in which Western Sizzlin operates, increases in the prices of key commodities and certain food supplies and the general economic downturn and downward trend of consumer spending throughout the United States since 2008; and as a result of the relatively low volume of trading activity in the market for Western Sizzlin's common stock, Western Sizzlin's stockholders may not be able to sell their shares without significantly decreasing the market price for those shares and Western Sizzlin's stockholders may not have another opportunity in the foreseeable future, if at all, to realize the full value of their shares of Western Sizzlin common stock.

### **Recommendation and Approvals of the Steak n Shake Special Committee and Board of Directors**

On the morning of October 20, 2009, the Steak n Shake special committee met by telephone to consider the proposed merger and its potential benefits to Steak n Shake. The special committee and representatives of its legal counsel discussed the recent developments with respect to the negotiations and the resolution of the principal terms of the merger agreement and the indenture, and the results of the investigation that had been undertaken by counsel and tax advisors to Steak n Shake of certain legal and tax matters relating to Western Sizzlin or the merger proposal. The special committee adjourned the telephone meeting until the afternoon of October 21, 2009, to be reconvened in Indianapolis, Indiana.

On the afternoon of October 21, 2009, Duff & Phelps provided to the special committee its financial analysis of the proposed transaction, and then delivered to the special committee its oral opinion (subsequently confirmed in writing) to the effect that, as of October 21, 2009, and subject to and based upon the assumptions made, matters considered and limits of the review set forth in its opinion, the terms of the merger agreement were fair, from a financial point of view, to the public shareholders of Steak n Shake. After extensive discussion, including an in-depth analysis of the reasons for engaging in the transaction, the Steak n Shake special committee unanimously determined that the merger and the merger agreement were in the best interests of Steak n Shake and unanimously recommended that the full board of directors approve the merger agreement and approve the transactions contemplated thereby.

After the adjournment of the special committee meeting, the full board of directors of Steak n Shake met to consider the proposed merger. Mr. Regan discussed with the members of the board of directors the drafts of the merger agreement and the indenture that had been provided to each of them in advance of the meeting, and advised the full board of directors that Duff & Phelps had delivered to the special committee its oral opinion to the effect that, as of October 21, 2009, the terms of the merger agreement were fair, from a financial point of view, to the public shareholders of Steak n Shake. Mr. Regan further advised that the special committee had unanimously recommended that the full board of directors approve the merger agreement and the transactions contemplated thereby including the issuance of the debentures. Following a discussion, the full board of directors of Steak n Shake, in reliance in part upon the recommendation of the special committee, unanimously determined that the merger and the merger agreement were advisable and in the best interests of Steak n Shake and unanimously approved the merger agreement.

### **Execution of the Merger Agreement and Voting Agreements**

On October 22, 2009, Steak n Shake, Merger Sub and Western Sizzlin executed the merger agreement. In addition, in connection with the merger agreement, each of the Lion Fund and Dash Acquisitions, LLC entered into voting

agreements with Steak n Shake on October 22, 2009. These two voting agreements had been requested by the Steak n Shake Special Committee in connection with its negotiation of the merger agreement terms and in communication with Olshan, and were approved in substance in the forms requested. Also on October 22, 2009, Western Sizzlin and Steak n Shake issued a joint press release announcing the signing of the merger agreement.



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## **Position of Schedule 13e-3 Filing Persons as to the Fairness of the Merger**

Under the rules of the Exchange Act and the SEC regulations promulgated thereunder governing going-private transactions, Western Sizzlin, Steak n Shake, Merger Sub, Sardar Biglari and Philip L. Cooley, which we refer to, collectively, as the Schedule 13e-3 Filing Persons, are engaged in a going private transaction and, therefore, are required to express their beliefs as to the substantive and procedural fairness of the merger to Western Sizzlin's unaffiliated stockholders. The Schedule 13e-3 Filing Persons are making the statements included in this subsection solely for the purposes of complying with the requirements of Rule 13e-3 and related rules under the Exchange Act that may be applicable to the merger and the other transactions contemplated by the merger agreement. The views of the Schedule 13e-3 Filing Persons as to the fairness of the proposed merger should not be construed as a recommendation to any of Western Sizzlin's stockholders as to how such stockholder should vote on the proposal to adopt and approve the merger agreement and the merger.

The Schedule 13e-3 Filing Persons did not participate in the deliberations of the Western Sizzlin special committee or Western Sizzlin board of directors regarding, and did not receive advice from the Western Sizzlin special committee's legal or financial advisors as to, the fairness of the merger to Western Sizzlin's stockholders. The Steak n Shake special committee engaged Duff & Phelps as its independent financial advisor to provide certain financial advisory services with respect to a business combination with Western Sizzlin. Duff & Phelps has not provided an opinion with respect to the fairness of the merger or the merger consideration to Western Sizzlin stockholders.

The interests of Western Sizzlin's unaffiliated stockholders were represented by the special committee comprised of independent and disinterested Western Sizzlin's directors, which had the exclusive authority to review, evaluate and negotiate the terms and conditions of the merger agreement on Western Sizzlin's behalf, with the assistance of the Western Sizzlin special committee's independent financial and legal advisors. Accordingly, the Schedule 13e-3 Filing Persons relied upon the Western Sizzlin special committee to evaluate the merger and to engage a financial advisor for the purpose of reviewing and evaluating the merits of the proposed merger from Western Sizzlin's stockholders viewpoint. On the basis of the beliefs of the Western Sizzlin special committee, the Schedule 13e-3 Filing Persons believe that (a) the merger consideration is substantively fair to the unaffiliated Western Sizzlin stockholders and (b) the merger is procedurally fair to Western Sizzlin's unaffiliated stockholders on the basis of the factors described under Recommendation of the Western Sizzlin Special Committee; Reasons for, and Effects and Fairness of, the Merger and Recommendation of the Western Sizzlin Board of Directors; Reasons for, and Effects and Fairness of, the Merger. The Schedule 13e-3 Filing Persons agree with and expressly adopt the analyses and conclusions of the Western Sizzlin special committee and the Western Sizzlin board of directors, based upon the reasonableness of those analyses and conclusions, which they adopt, with respect to the fairness of the merger to such unaffiliated stockholders.

In addition, the Schedule 13e-3 Filing Persons considered the fact that the Western Sizzlin special committee received, solely for its benefit and use, an opinion from B. Riley to the effect that and subject to the various assumptions set forth therein, as of October 22, 2009, the date of its opinion, that the merger consideration of debentures issued by Steak n Shake in the principal amount of approximately \$8.08 per share (based upon the number of shares of Western Sizzlin common stock outstanding on October 22, 2009) to be received pursuant to the merger agreement by the holders of shares of Western Sizzlin's common stock was fair, from a financial point of view, to Western Sizzlin's stockholders. While the opinion of B. Riley addressed fairness with respect to the consideration to be received by all Western Sizzlin's stockholders pursuant to the merger agreement, the Schedule 13e-3 Filing Persons believed that the opinion of B. Riley supported its determination with respect to the fairness of the merger

consideration to stockholders unaffiliated with Western Sizzlin because all of Western Sizzlin's stockholders, including its unaffiliated stockholders, will be entitled to receive the same per share merger consideration under the terms of the merger agreement and no affiliates of Western Sizzlin will receive any additional benefits under the terms of the merger agreement. Therefore, the Schedule 13e-3 Filing Persons agree with and expressly adopt the opinion of B. Riley to the Western Sizzlin special committee with respect to the fairness of the merger to Western Sizzlin's unaffiliated stockholders, based upon the reasonableness of such opinion and the reasonableness of the analyses and conclusions underlying such opinion, which the Schedule 13e-3 Filing Persons also expressly adopt.

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Although Messrs. Biglari and Cooley are current directors and/or officers, because of their differing interests in the merger, they did not participate in the Western Sizzlin special committee's evaluation or approval of the merger agreement and the merger. For these reasons, Messrs. Biglari and Cooley do not believe that their interests in the merger influenced the decision of the Western Sizzlin special committee with respect to recommending the merger agreement or the merger.

The foregoing discussion of the information and factors considered and given weight by the Schedule 13e-3 Filing Persons in connection with the fairness of the merger agreement and the merger is not intended to be exhaustive but is believed to include all material factors they considered. The Schedule 13e-3 Filing Persons did not find it practicable to assign, and did not assign, relative weights to the individual factors considered in reaching its conclusion as to the fairness of the merger to the unaffiliated Western Sizzlin stockholders. Rather, their fairness determination was made after consideration of all of the above factors as a whole.

## **Purposes of the Merger for the Schedule 13e-3 Filing Persons**

### **Purposes of Steak n Shake and Merger Sub**

If the proposed merger is completed, Western Sizzlin will become a direct subsidiary of Steak n Shake. For Steak n Shake and Merger Sub, the purpose of the merger is to effectuate the transactions contemplated by the merger agreement.

### **Purposes of Sardar Biglari and Philip L. Cooley**

For each of Sardar Biglari and Philip L. Cooley, the primary purpose of the merger is to benefit in their capacities as a director, officer and stockholder of Steak n Shake from the potential benefits that may result from the combination of Steak n Shake's and Western Sizzlin's businesses, including the creation of a more diversified restaurant company with increase cash flow, the strengthening of the combined company's market position and the potential that the combined company will have an opportunity for cost savings. In their capacities as Western Sizzlin stockholders, Sardar Biglari's and Philip L. Cooley's purpose for the merger is to convert their interests as stockholders into interests in the debentures.

### **Purposes of Western Sizzlin**

The purpose of the merger for Western Sizzlin is to enable Western Sizzlin's stockholders (other than stockholders who properly exercise their dissenters' rights of appraisal under Delaware law) to immediately realize the value of their investment in Western Sizzlin through their receipt of a pro rata portion of the merger consideration of debentures. For the reasons discussed under Recommendation of the Western Sizzlin Special Committee; Reasons for, and Effects and Fairness of, the Merger and Recommendation of the Western Sizzlin Board of Directors; Reasons for, and Effects and Fairness of, the Merger, the Western Sizzlin special committee and board of directors unanimously determined that the merger agreement and the merger are advisable, fair to and in the best interests of Western Sizzlin and its unaffiliated stockholders.

# **Recommendation of the Western Sizzlin Special Committee; Reasons for, and Effects and Fairness of, the Merger**

The Western Sizzlin special committee, comprised entirely of disinterested directors and acting with the advice and assistance of its own legal and financial advisors, evaluated and negotiated the merger agreement with Steak n Shake. At a meeting held on October 22, 2009, the Western Sizzlin special committee, after considering the presentations of its financial and legal advisors, unanimously:

Resolved that the merger and the merger agreement are fair to, advisable and in the best interest of Western Sizzlin and its stockholders,

Recommended to the full board of directors of Western Sizzlin that it adopt the merger agreement and approve the merger, and

Recommended to the full board of directors of Western Sizzlin that it recommend that Western Sizzlin's stockholders adopt the merger agreement and approve the merger.

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In the course of reaching the determinations and decisions and making the recommendations described above, the special committee considered the following substantive positive factors and potential benefits of the merger agreement and the merger, each of which the special committee believed supported its decision:

The special committee's belief that the merger consideration of debentures issued by Steak n Shake in the principal amount of approximately \$8.08 per share (based upon the number of shares of Western Sizzlin common stock outstanding on October 22, 2009) is more favorable to Western Sizzlin's unaffiliated stockholders than the potential value that might result from continuing with Western Sizzlin's current business plan:

The fact that the distribution of the shares of Steak n Shake's common stock beneficially owned by an investment subsidiary of Western Sizzlin pursuant to the terms of the merger agreement would effectively reduce the enterprise value of Western Sizzlin by an amount equal to the market value of the Steak n Shake shares to be distributed, and the special committee's belief that the merger consideration is fair to Western Sizzlin's unaffiliated stockholders in relation to such reduced enterprise value of Western Sizzlin after giving effect to the distribution of the Steak n Shake shares to be distributed;

The fact that the merger consideration of approximately \$8.08 per share (based upon the number of shares of Western Sizzlin common stock outstanding on October 22, 2009), together with the market value on October 21, 2009 of the shares of Steak n Shake's common stock that were to be distributed to Western Sizzlin's stockholders pursuant to the merger agreement, represent a premium of approximately 4.1% over the closing market price of Western Sizzlin's common stock on August 12, 2009, the last trading day before Western Sizzlin announced its entry into a letter of intent with Steak n Shake relating to the merger;

The special committee's belief that the restrictive covenants set forth in the debentures protect Western Sizzlin's unaffiliated stockholders by improving the likelihood that all principal and interest under the debentures would be paid in full when due, including the following covenants:

- a restriction prohibiting Steak n Shake from declaring or paying dividends on its equity securities or prepaying certain indebtedness, unless Steak n Shake satisfies a financial ratio set forth in the indenture;
  - a restriction prohibiting Steak n Shake from issuing additional debt unless Steak n Shake satisfies a financial ratio set forth in the indenture;
  - a restriction prohibiting Steak n Shake from incurring any indebtedness (other than certain indebtedness capped at a maximum of \$50 million at any one time) that is senior in right of payment to the debentures;
- and the fact that if any of the restrictive covenants set forth in the debentures are violated, the trustee under the indenture governing the debentures or the holders of at least 25% of the principal amount of the debentures will be permitted to require the immediate repayment of the debentures, subject to any applicable cure periods;

The special committee's belief that the merger consideration is fair to Western Sizzlin's unaffiliated stockholders in light of the special committee's belief that Western Sizzlin faces substantial challenges if it continues with its current business plan, based upon Western Sizzlin's historical and current financial performance and results of operations, its prospects and long-term strategy, its competitive position in the industry, the outlook for the casual dining sector of the restaurant industry and general economic and financial market conditions, which challenges include:

- the steady declines Western Sizzlin has experienced in its existing franchise base for the past several years;
- the fact that Western Sizzlin's restaurant base, both franchised and company-owned, is smaller and less geographically diverse than many other restaurant chains with which Western Sizzlin competes; and

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the fact that there has been substantial uncertainty and disruption in the capital and credit markets over the past twelve months, which could have an adverse effect on Western Sizzlin's business, including the future operating results of Western Sizzlin's restaurants and the value of Western Sizzlin's investments;

The opinion the special committee received from B. Riley, which was delivered orally at the special committee meeting on October 22, 2009, and subsequently confirmed in writing, that, as of October 22, 2009, the date of the opinion, and based upon and subject to the factors, assumptions, limitations, qualifications and other conditions set forth in the opinion, the merger consideration to be received by Western Sizzlin's stockholders (other than Steak n Shake, Merger Sub or Western Sizzlin, or Western Sizzlin stockholders who perfect and do not withdraw their appraisal rights under Delaware law, in the merger, after giving effect to the pro rata distribution of the 1,322,806 shares of Steak n Shake common stock that were then beneficially owned by Western Sizzlin's subsidiaries, in the aggregate) is fair to the Western Sizzlin's stockholders from a financial standpoint, which opinion the special committee agrees with and expressly adopts, based upon the reasonableness of such opinion and the reasonableness of the analyses and conclusions underlying such opinion, which the special committee also expressly adopts.

The presentation by B. Riley to the special committee on October 22, 2009 in connection with the foregoing opinion, which described and supported the analyses and conclusions expressed in B. Riley's opinion, and which is described under the section of this proxy statement/prospectus entitled "Opinion of the Financial Advisor of the Western Sizzlin Special Committee";

The special committee's belief that the merger consideration was fair to Western Sizzlin's unaffiliated stockholders, based upon the fact that by approving the merger, Western Sizzlin's unaffiliated stockholders would receive debentures under the terms of the merger agreement that would entitle the holder thereof to receive interest payments semiannually in cash at a rate of 14% per annum and will rank senior to Steak n Shake's common stock with respect to rights upon Steak n Shake's liquidation, dissolution or winding up, which the special committee believed would be fair to Western Sizzlin's unaffiliated stockholders when compared to the alternative of continuing to own Western Sizzlin common stock, because the debentures received by Western Sizzlin's unaffiliated stockholders would no longer be subject to the risks that arise from owning an equity interest in Western Sizzlin. These risks include the risk that the market price for Western Sizzlin's common stock could be adversely affected by earnings fluctuations that may result from changes in Western Sizzlin's operations specifically and changes in the restaurant industry generally, or from changes in the value of marketable securities owned by Western Sizzlin, and the risk that Western Sizzlin's stockholder may not be able to realize the full value of their shares due to the relatively illiquid market for Western Sizzlin's common stock;

The special committee's belief that the issuance to Western Sizzlin's stockholders, including its unaffiliated stockholders, of the Steak n Shake debentures in the aggregate principal amount of \$22,959,000 pursuant to the terms of the merger agreement, after distribution to its stockholders of the shares of Steak n Shake common stock that Western Sizzlin beneficially owns, was the highest consideration that could be negotiated with Steak n Shake, which supported the special committee's belief that a transaction providing higher consideration to Western Sizzlin's unaffiliated stockholders could not be obtained at this time, if at all, and, therefore, the merger consideration was fair to Western Sizzlin's unaffiliated stockholders;

The special committee's belief that Western Sizzlin's unaffiliated stockholder may not be able to recognize the full value of their shares in the market because the market price for Western Sizzlin's common stock may be depressed by the fact that Western Sizzlin incurs significant costs of remaining a public company, including the legal, accounting and transfer agent fees and expenses and printing costs necessary to satisfy the reporting obligations of the federal securities laws, but Western Sizzlin does not realize the full benefits of being a public company, as its ability to access capital markets is limited by the relatively low trading volume in the market for Western Sizzlin's

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common stock, the lack of analyst followings and other factors, which, taken together, supported the special committee's belief that the merger consideration to be received pursuant to the terms of the merger agreement is fair and in the best interest of Western Sizzlin's unaffiliated stockholders;

The special committee's belief that the merger consideration is fair to Western Sizzlin's unaffiliated stockholders in light of the fact that no alternative acquisition proposal for Western Sizzlin had been submitted since the announcement of Steak n Shake's proposal on August 13, 2009, which supported the special committee's belief that an offer from a third party to acquire Western Sizzlin for a better price than was offered under the terms of the merger agreement was not available and might not be available in the foreseeable future and, accordingly, that the merger consideration offered pursuant to the merger agreement was fair to Western Sizzlin's unaffiliated stockholders when compared to the alternative of continuing with the company's current business plan, as discussed above, and in light of the lack of any indications of interest in an alternative transaction from a third party;

The terms and conditions of the merger agreement that the special committee believes will protect the interests of Western Sizzlin's unaffiliated stockholders, including:

The absence of a financing condition to Steak n Shake's obligation to consummate the transaction, which the special committee believed was in the best interest of Western Sizzlin's unaffiliated stockholders by increasing the likelihood that the merger would be consummated, thereby reducing the risks that Western Sizzlin's unaffiliated stockholders would face if Western Sizzlin were to continue with its existing business plan or seek to consummate a transaction with another party instead of completing the transactions provided for under the merger agreement, as discussed above;

The provisions of the merger agreement that provide the Western Sizzlin special committee with a 30 day post signing go-shop period during which the special committee would have the right to actively solicit additional interest in a transaction involving Western Sizzlin and provide that after such go-shop period, the Western Sizzlin special committee would be permitted to continue any then on-going discussions with any third party that proposed an alternative transaction that is a Superior Proposal, as defined in the merger agreement, and provide further that following the go-shop period the Western Sizzlin special committee may respond to unsolicited Acquisition Proposals, as such term is defined in the merger agreement, that are reasonably likely to constitute or lead to a Superior Proposal, subject to the specified conditions as more fully described under The Merger Agreement Restrictions on Solicitation of Other Offers, which provisions permitted the special committee to continue to seek an alternative transaction during the period described above and respond to certain alternative proposals, subject to the terms of the merger agreement, in order to ensure that the special committee obtained the most favorable transaction for Western Sizzlin's unaffiliated stockholders;

The provisions of the merger agreement that provide that, subject to compliance with the terms and conditions of the merger agreement, if a third party has proposed an alternative transaction that is a Superior Proposal at any time prior to obtaining approval of the merger by Western Sizzlin's stockholders, the board is permitted to change its recommendation, subject to the payment of a termination fee of \$1,250,000 (or \$837,500 under certain circumstances), and terminate the merger agreement in order to enter into a definitive agreement with respect to the Superior Proposal, as more fully described below under the section of this proxy statement/prospectus entitled The Merger Agreement Change in Recommendation, which provisions ensured that the special committee would have the ability to pursue any alternative transaction that may be in the best interest of Western Sizzlin's unaffiliated stockholders; and

The provisions of the merger agreement that authorize Western Sizzlin to terminate the merger agreement and require Steak n Shake to pay Western Sizzlin a reverse termination fee of \$500,000 if Steak n Shake breaches or fails to perform certain of its representations, warranties or covenants contained in the merger agreement under certain circumstances, which provisions ensured that Western Sizzlin would be compensated for the losses it may incur in the event of such termination; and

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The special committee's belief that the merger consideration is fair to Western Sizzlin's unaffiliated stockholders in light of the timing of the merger during a period where the special committee believed that Western Sizzlin faced substantial uncertainty and challenges with respect to its ability to successfully pursue its current business plan, and the risk that if Western Sizzlin did not accept Steak n Shake's offer when it did, it might not have another opportunity to do so, particularly in light of recent substantial capital market fluctuations that could make it more difficult to finance the acquisition of Western Sizzlin, which supported the special committee's belief that the merger consideration represented a greater value to Western Sizzlin's unaffiliated stockholders than the potential benefits that could be realized by pursuing its current business plan or an alternative transaction and, therefore, that the merger consideration was fair to Western Sizzlin's unaffiliated stockholders.

In the course of reaching the determinations and decisions, and making the recommendations, described above, the special committee considered the following risks and potentially negative factors relating to the merger agreement, the merger and the other transactions contemplated thereby:

That Western Sizzlin's stockholders will have no ongoing equity participation in the company following the merger, and that Western Sizzlin's stockholders will cease to participate in Western Sizzlin's future earnings or growth or benefit from increases in the value of Western Sizzlin's common stock;

That Western Sizzlin's stockholders will be exposed to credit risk with respect to Steak n Shake and will bear the risk of a decrease in Steak n Shake's financial health, profitability and cash flow, whether as a result of operating or market factors, which could impact Steak n Shake's ability to repay the debentures;

The debentures are subordinated to all of Steak n Shake's senior secured debt, the aggregate amount of which was approximately \$13,680,000 as of July 1, 2009, subject to certain leverage restrictions, which increases the risk that Steak n Shake may not be able to pay all principal of and interest on the debentures;

Since the merger consideration is non-cash, no assurance can be made with respect to the accuracy of the valuation of the debentures to be received by Western Sizzlin's stockholders;

That the per share principal amount of Steak n Shake debentures to be issued to Western Sizzlin's stockholders, together with the market value on October 21, 2009 of the shares of Steak n Shake's common stock that were to be distributed to Western Sizzlin's stockholders pursuant to the merger agreement, did not represent a premium over the market price of Western Sizzlin's common stock on various dates prior to and following the public announcement of the execution of the letter of intent providing the principal terms of the proposed merger;

The merger agreement contains restrictions on the conduct of Western Sizzlin's business prior to the completion of the merger, generally requiring Western Sizzlin to conduct its business only in the ordinary course, subject to specific limitations, which may delay or prevent Western Sizzlin from undertaking business opportunities that may arise pending completion of the merger and the length of time between signing and closing when these restrictions are in place;

The risks and costs to Western Sizzlin if the merger does not close, including the diversion of management and employee attention, potential employee attrition and the potential effect on business and customer relationships;

That the receipt of debentures in exchange for shares of Western Sizzlin's common stock pursuant to the merger will be a taxable sale transaction for U.S. federal income tax purposes;

That the directors and officers of Western Sizzlin exercise voting control, individually and through entities over for which they exercise voting control, in the aggregate, over approximately 42.6% of the outstanding shares of Western Sizzlin's common stock, and, as a result, only a small minority of



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Western Sizzlin's unaffiliated stockholders need to vote for the merger for it to be approved, which requires the affirmative vote of the holders of at least a majority of all of the outstanding shares of Western Sizzlin common stock entitled to vote;

The merger agreement's limitations on Western Sizzlin's ability to solicit other offers after the end of the go-shop period, which restricts the special committee's ability to continue to actively seek an alternative transaction that could be more favorable to Western Sizzlin's unaffiliated stockholders;

The possibility that, in the event of termination of the merger agreement, Western Sizzlin may be required to pay a termination fee of \$1,250,000 (or \$837,500 under certain circumstances);

That Steak n Shake's maximum exposure for wrongfully failing to close or breaching the merger agreement under certain circumstances, even if the breach is willful or deliberate, is limited to its payment of a reverse termination fee in the amount of \$500,000; and

That Steak n Shake's obligation to consummate the merger is subject to certain conditions outside of Western Sizzlin's control.

In the course of reaching the determinations and decisions, and making the recommendations described above, the special committee also considered the following factors relating to the procedural safeguards that the special committee believes were and are present to ensure the fairness of the merger and to permit the special committee to represent the interests of Western Sizzlin's unaffiliated stockholders, each of which the special committee believed supported its decision and provided assurance of the fairness of the merger to Western Sizzlin and its unaffiliated stockholders:

That the special committee consists solely of independent and disinterested directors who are not Western Sizzlin's employees and have no financial interest in the merger that is different from that of the unaffiliated stockholders (other than the acceleration of options to acquire Western Sizzlin's shares of common stock);

That the members of the special committee were adequately compensated for their services and that their compensation for serving on the special committee was in no way contingent on their approving the merger agreement and the merger and taking the other actions described in this proxy statement/prospectus;

That the special committee retained and was advised by Olshan Grundman Frome Rosenzweig & Wolosky LLP, its legal counsel;

That the special committee retained and was advised by B. Riley, its financial advisor;

That, to solicit alternative acquisition proposals and address Western Sizzlin's strategic alternatives, B. Riley contacted a number of candidates to assess their interest in a transaction with Western Sizzlin, none of whom elected to pursue a potential transaction with Western Sizzlin, which supported the special committee's belief that an alternative transaction on terms more favorable to Western Sizzlin's unaffiliated stockholders may not be available in the foreseeable future;

The fact that no alternative acquisition proposal for Western Sizzlin had been submitted since the announcement of the entry into a letter of intent with respect to the proposed merger with a subsidiary of Steak n Shake's on August 13, 2009, which also supported the special committee's belief that an alternative transaction on terms more favorable to Western Sizzlin's unaffiliated stockholders may not be available for the foreseeable future;

That the special committee received an opinion from its financial advisor, B. Riley, which was delivered orally at the special committee meeting on October 22, 2009, and subsequently confirmed in writing, that, as of October 22, 2009, the date of the opinion, and based upon and subject to the factors, assumptions, limitations, qualifications and other conditions set forth in the opinion, the merger consideration of debentures issued by Steak n Shake in the principal amount of approximately \$8.08 per share (based upon the number of shares of Western Sizzlin common stock outstanding on October 22, 2009) to be received pursuant to the merger agreement by the holders of

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shares of Western Sizzlin's common stock was fair, from a financial point of view, to Western Sizzlin's stockholders, and that all Western Sizzlin stockholders, including unaffiliated stockholders, will receive the same consideration in the merger;

That the special committee was involved in extensive deliberations over a period of almost three months regarding the proposal, and was provided with access to Western Sizzlin's management in connection with the due diligence conducted by its advisors, which supported the special committee's belief that it had obtained the most favorable terms reasonably possible for Western Sizzlin's unaffiliated stockholders;

That the special committee, with the assistance of its legal and financial advisors, negotiated with Steak n Shake and its representatives; as a result, the committee successfully negotiated for the inclusion of certain terms of the merger agreement and indenture that the special committee believed protect the interests of Western Sizzlin's unaffiliated stockholders;

That the special committee had ultimate authority to decide whether or not to proceed with a transaction or any alternative thereto, which ensured that the special committee would have the ability to approve or disapprove the merger or any alternative thereto in accordance with the best interests of Western Sizzlin's unaffiliated stockholders;

That the special committee, from its inception, was authorized to consider strategic alternatives with respect to Western Sizzlin, including Western Sizzlin's sale, which ensured that the special committee was authorized to pursue any strategic alternative which may maximize stockholder value for Western Sizzlin's unaffiliated stockholders;

That the special committee was aware that it had no obligation to recommend any transaction, including the proposal put forth by Steak n Shake, which ensured that the special committee could recommend that the company continue with its current business plan, if it believed that such action would be in the best interest of Western Sizzlin's unaffiliated stockholders;

That the merger agreement provides the special committee with a 30 day post signing go-shop period during which the special committee will have the right to actively solicit additional interest in a transaction involving Western Sizzlin and provides that after such go-shop period, the Western Sizzlin special committee would be permitted to continue any then on-going discussions with any third party that proposed an alternative transaction that is a superior proposal, and provides further that following the go-shop period the special committee may respond to unsolicited acquisition proposals that are reasonably likely to constitute or lead to a superior proposal, subject to the specified conditions as more fully described under "The Merger Agreement - Restrictions on Solicitation of Other Offers," which provisions of the merger agreement permitted the special committee to continue to seek an alternative transaction during the period described above and respond to certain alternative proposals, subject to the terms of the merger agreement, in order to ensure that the special committee obtained the most favorable transaction for Western Sizzlin's unaffiliated stockholders;

That the special committee made its evaluation of the merger agreement and the merger based upon the factors discussed in this proxy statement/prospectus, independent of Messrs. Biglari, Cooley and Dash and with knowledge of their interests; and

That the special committee was fully informed about the extent to which the interests of Messrs. Biglari, Cooley and Dash in the merger differed from those of Western Sizzlin's other stockholders, which are discussed in the section of this proxy statement/prospectus entitled "Interests of Steak n Shake and Western Sizzlin Directors and Executive Officers in the Merger," which information enabled the special committee to determine that the merger was fair to Western Sizzlin's unaffiliated stockholders, as the special committee believed that the interest of its unaffiliated stockholders were not inconsistent with and would not be harmed as a result of any additional or different interests that Messrs. Biglari, Cooley and Dash may have in the merger.

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The special committee did not consider net book value in determining the fairness of the merger to Western Sizzlin's stockholders because of its belief that net book value, which is an accounting concept that is not commonly used as a valuation metric in the restaurant, hotel or gaming industries, does not reflect historical or projected cash flows from continuing operations and thus does not reflect Western Sizzlin's value or Western Sizzlin's market trading prices for Western Sizzlin's common stock. In addition, while the special committee reviewed the various components of Western Sizzlin's operations which could be sold separately, it did not consider liquidation value in determining the fairness of the merger because of its belief that liquidation value does not present a meaningful valuation for Western Sizzlin and its business as Western Sizzlin's value is derived from cash flows generated from Western Sizzlin's continuing operations rather than the value of assets that might be realized in a liquidation.

The foregoing discussion of the information and factors considered by the special committee includes the material factors considered by the special committee. In view of the variety of factors considered in connection with its evaluation of the merger, the special committee did not find it practicable to, and did not quantify or otherwise assign relative weights to, the specific factors considered in reaching its determination and recommendation. In addition, individual directors may have given different weights to different factors. The special committee approved and recommended the merger agreement and the merger based upon the totality of the information presented to and considered by it.

## **Recommendation of the Western Sizzlin Board of Directors; Reasons for, and Effects and Fairness of, the Merger**

On October 22, 2009, the full board of directors of Western Sizzlin met to consider the report and recommendation of the Western Sizzlin special committee. On the basis of the special committee's recommendation and the other factors described below, Western Sizzlin's board of directors unanimously:

determined that the merger agreement and the merger were advisable, fair to and in the best interests of Western Sizzlin and its stockholders;

approved the merger agreement and the merger;

declared a special dividend in kind of the 1,322,806 shares of Steak n Shake's common stock beneficially owned by Western Sizzlin; and

recommended that Western Sizzlin's stockholders vote to adopt the merger agreement and approve the merger.

In determining that the merger agreement and the merger were advisable, fair to and in the best interests of Western Sizzlin and its stockholders, the full board of directors of Western Sizzlin considered:

the unanimous determination and recommendation of the special committee; and  
the factors considered by the special committee, including the positive factors and potential benefits of the merger agreement and the merger, the risks and potentially negative factors relating to the merger agreement and the merger, the fairness opinion received by the special committee and the factors relating to procedural safeguards.

The foregoing discussion of the information and factors considered by Western Sizzlin's board of directors includes the material factors considered by the board of directors. In view of the variety of factors considered in connection with its evaluation of the merger, Western Sizzlin's board of directors did not find it practicable to, and did not quantify or otherwise assign relative weights to the specific factors considered in reaching its determination and recommendation. In addition, individual directors may have given different weights to different factors. The Western Sizzlin board of directors approved and recommends the merger agreement and the merger based upon the totality of

the information presented to and considered by it.

Other than as described in this proxy statement/prospectus, the Western Sizzlin board of directors is not aware of any firm offers by any other person during the prior two years for a merger or consolidation of Western Sizzlin with another company, the sale or transfer of all or substantially all of its assets or a purchase of its securities that would enable such person to exercise control of Western Sizzlin.

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**The Western Sizzlin board of directors recommends that you vote FOR the adoption of the merger agreement and approval of the merger.**

## **Opinion of the Financial Advisor of the Western Sizzlin Special Committee**

Western Sizzlin's special committee engaged B. Riley as its financial advisor to assist the special committee in its ongoing evaluation of Western Sizzlin's business and strategic direction. Throughout the process, the special committee consulted with B. Riley regarding the Steak n Shake offer. On October 22, 2009, at a meeting of the special committee, B. Riley rendered its oral opinion, which was subsequently delivered in writing, to the special committee that, as of that date and based upon and subject to the assumptions, limitations and qualifications contained in its opinion, the merger consideration to be received by Western Sizzlin's stockholders pursuant to the merger agreement was fair, from a financial point of view.

**The full text of the written opinion of B. Riley, dated October 22, 2009 (the *Opinion*), which sets forth assumptions made, matters considered, and limits on the scope of review undertaken, is attached as Appendix B to this proxy statement and is incorporated herein by reference. Western Sizzlin stockholders are urged to read the *Opinion* in its entirety. The summary of the *Opinion* set forth in this proxy statement/prospectus is qualified in its entirety by reference to the full text of the *Opinion*.**

B. Riley was not retained to serve as an advisor to or agent of any Western Sizzlin stockholder. The *Opinion* was prepared for the special committee and is directed only to the fairness, from a financial point of view, as of the date of the *Opinion*, of the consideration to be received by Western's stockholders pursuant to the merger agreement and does not address Western Sizzlin's underlying business decision to enter into the merger agreement or any other terms of the merger or the merger agreement. The *Opinion* does not constitute a recommendation to any Western Sizzlin's stockholder as to whether such stockholder should provide its written consent to the merger or how such stockholder should vote at any special meeting of the stockholders. Neither Western Sizzlin nor the Western Sizzlin special committee placed any limitations on the scope of B. Riley's opinion.

B. Riley did not recommend the merger consideration to be paid in the merger. The merger consideration was determined in negotiations between the special committees of both Western Sizzlin and Steak n Shake. No restrictions or limitations were imposed on B. Riley by Western Sizzlin's special committee with respect to the investigations made or the procedures followed by B. Riley in rendering its *Opinion*.

In connection with rendering its *Opinion*, B. Riley has, among other things:

1. reviewed a draft of the merger agreement, dated October 21, 2009, which was in substantially final form;
2. reviewed a draft form of the Form of Indenture, which was in substantially final form;
3. reviewed public filings and press releases prepared by Western Sizzlin and Steak n Shake senior management related to each company's business and financial prospects;
4. reviewed non-public internal financial information and other data prepared by Western Sizzlin and Steak n Shake senior management (other than Mr. Biglari) related to each company's business and financial prospects;
5. discussed each company's business, operations, financial condition, future prospects and projected operations and performance, on a stand-alone basis, with members of the Western Sizzlin and Steak n Shake senior management teams (other than Mr. Biglari);
- 6.

reviewed publicly available financial information and stock market data with respect to certain other companies engaged in generally comparable businesses;

7. reviewed publicly available financial terms of relevant mergers and acquisitions;

8. reviewed the San Antonio real estate parcel s market appraisal prepared by Duggar, Canady, Grafe, Inc. (the San Antonio Appraisal );

9. reviewed and prepared various other financial analyses to assess Western Sizzlin s fair market value; and

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10. conducted such other financial studies, analyses and investigations and evaluated such other information, as B. Riley deemed appropriate.

B. Riley also spoke with certain officers and employees of Western Sizzlin and Steak n Shake (other than Mr. Biglari) to discuss the business and prospects of both companies and other matters B. Riley deemed relevant to its inquiry, and considered such other data and information B. Riley judged necessary to render its Opinion.

In rendering its Opinion, B. Riley has assumed and relied upon the accuracy and completeness of all of the financial and other information provided to or otherwise reviewed by or discussed with B. Riley and have assumed and relied upon the representations and warranties of Western Sizzlin and Steak n Shake contained in the merger agreement. B. Riley was not engaged to, and has not independently attempted to, verify any of such information. B. Riley has also relied upon the management of Western Sizzlin and Steak n Shake as to the reasonableness and achievability of the financial and operating projections (and the assumptions and basis therefore) provided to B. Riley by Western Sizzlin's senior management (other than Mr. Biglari) and B. Riley has assumed that such projections were reasonably prepared and reflect the best currently available estimates and judgments of Western Sizzlin and Steak n Shake. B. Riley has not been engaged to assess the reasonableness or achievability of such projections or the assumptions on which they were based and express no view as to such projections or assumptions. Western Sizzlin's board of directors reviewed the non-public financial information provided to B. Riley and Duff & Phelps for accuracy and completeness and it routinely reviews non-public financial information prepared by Western Sizzlin's management on a monthly basis.

Western Sizzlin's board of directors determined that B. Riley's and Duff & Phelps' reliance on these materials was reasonable in light of the fact that such materials were prepared in a manner consistent with past practices. In addition, B. Riley has not conducted a physical inspection of any of the assets, properties or facilities of Western Sizzlin nor has B. Riley furnished with any such evaluation or appraisal with the exception of the San Antonio Appraisal. B. Riley has also assumed that all governmental, regulatory or other consents and approvals necessary for the consummation of the merger and other transactions contemplated by the merger agreement will be obtained without material adverse effect on Western Sizzlin or the merger.

B. Riley has not been asked to, nor does it, offer any opinion as to the material terms of the merger agreement or the form of the merger. In rendering its opinion, B. Riley has assumed, with the consent of the special committee, that the final executed form of the merger agreement does not differ in any material respect from the draft that we have examined, and that the conditions to the merger as set forth in the merger agreement would be satisfied and that the merger would be consummated on a timely basis in the manner contemplated by the merger agreement.

Without limiting the generality of the foregoing, B. Riley has undertaken no independent analysis of any pending or threatened litigation, possible unasserted claims or other contingent liabilities, to which Western Sizzlin is a party or may be subject.

It should be noted that this opinion is based on economic and market conditions and other circumstances existing on, and information made available as of, the date hereof and does not address any matters subsequent to such date. In addition, B. Riley's Opinion is, in any event, limited to the fairness, as of the date hereof, from a financial point of view, of the consideration to be received by Western Sizzlin's stockholders pursuant to the merger agreement and does not address Western Sizzlin's underlying business decision to effect the merger or any other terms of the merger. It should be noted that although subsequent developments may affect B. Riley's Opinion, B. Riley does not have any obligation to update, revise or reaffirm the Opinion.

The following is a brief summary of the analyses performed by B. Riley in connection with its Opinion. This summary is not intended to be an exhaustive description of the analyses performed by B. Riley but includes all material factors considered by B. Riley in rendering its Opinion. B. Riley drew no specific conclusions from any individual analysis, but subjectively factored its observations from all of these analyses into its qualitative assessment of the merger

consideration.

Each analysis performed by B. Riley is a common methodology utilized in valuations. Although other valuation techniques may exist, B. Riley believes that the analyses described below, when taken as a whole, provide the most appropriate analyses for B. Riley to arrive at its Opinion.

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The different analyses have been weighted to derive ranges of value for the operating assets and investments assets of the subsidiaries, partnerships and business units that comprise Western Sizzlin. A list of Western Sizzlin's primary entities is summarized below:

Business Unit	Western Economic Interest	
Western Sizzlin Franchise Corporation ( WSFC )	100.0	%
The Western Sizzlin Stores, Inc. ( WSSI )	100.0	%
Great American Partners-I, LLC ( GAP )	50.0	%
Western Investments, Inc. ( Western Investments )	100.0	%
	92.06	%
General Partner of Western Acquisitions, LP ( WA )		
Western Properties, Inc. ( Western Properties )	100.0	%
	100.0	%
General Partner of Western Real Estate, LP ( WRE )		
Western Mustang Holdings LLC ( Western Mustang )	100.0	%
	51.0	%
Mustang Capital Management, LLC ( MCM )		
o		
	50.5	%
General Partner of Mustang Capital Advisors, LP ( MCA )		

**Premiums Paid Analysis**

Using publicly available information, B. Riley reviewed 294 transactions involving United States targets since January 1, 2008, excluding transactions in the financial services industry and real estate transactions. B. Riley examined each acquisition target's one day, one week and one month closing stock price prior to the announcement of the relevant transaction in order to calculate a range of acquisition premiums. Based upon this review, B. Riley determined that the highest and lowest premiums offered in 2008 were as follows<sup>(1)</sup>:

Buyer	Seller	Premium Offered
Diversified Lending Group	FONAR Corp.	575.7%
The Hartford Financial Services Group, Inc.	Federal Trust Corp.	455.6%
CertainTeed Insulation, Inc.	OFI Income Fund	408.3%
Golden Century Wealth Investment Ltd.	IA Global, Inc.	328.6%
Medtronic, Inc.	Restore Medical, Inc.	321.1%
Buyer	Seller	Premium Offered

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JPMorgan Chase & Co., Inc.	Bear Stearns Cos., Inc.	-84.1%
Kohlberg & Co., LLC	Centerplate, Inc.	-43.6%
Bank of America Corp.	Central Safe Investments Ltd.	-35.7%
Heckmann Corp.	China Water & Drinks, Inc.	-35.1%
Banco Santander SA	Sovereign Bancorp.	-32.2%

(1) Excludes Sellers operating under Chapter 11.

B. Riley compared the premiums paid data set to Western Sizzlin's merger consideration premium. The premium is calculated using Western Sizzlin's closing stock price of \$12.75 on August 12, 2009, the last trading day prior to the Letter of Intent ( LOI ) announcement. B. Riley also reviewed Western Sizzlin's historical volume weighted average price ( VWAP ) data. The merger consideration of \$8.08 per share (based on the number of shares of Western Sizzlin common stock outstanding on October 22, 2009), together with the market value on October 21, 2009 of the shares of Steak n Shake common stock that were to be distributed to Western Sizzlin's stockholders pursuant to the merger agreement, represents a premium of approximately 4.1% over Western Sizzlin closing stock price on August 12, 2009.

The premiums paid analysis is not a strong benchmark due to the nature of the transaction structure, as the vast majority of transactions reviewed by B. Riley involved consideration consisting of cash or stock or a combination of cash and stock, and, in B. Riley's experience, transactions of this nature rarely involve consideration consisting exclusively of debentures. Additionally, the nominal historical trading volume of

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Western Sizzlin's common stock and the ratio of Western Sizzlin's investment assets to its overall valuation. Investment assets, which are generally valued by investors and merger partners at mark-to-market, comprise approximately 50% of Western Sizzlin's market capitalization.

**Discounted Cash Flow Analysis**

B. Riley examined the value of Western Sizzlin's separate economic interests in WSFC, WSSI and GAP based on each entity's projected free cash flow estimates. The free cash flow estimates were generated utilizing each entity's financial projections that were prepared and furnished to B. Riley by Western Sizzlin's senior management, which were prepared by Western Sizzlin's senior management (other than Mr. Biglari).

When evaluating Western Sizzlin's economic interest in WSFC, B. Riley utilized free cash flow estimates for the three-month period ending December 2009 and the years ending December 31, 2010 through December 31, 2014. B. Riley calculated a 17.8% weighted average cost of capital, or discount rate, using the Capital Asset Pricing Model and the cost of capital for the comparable public companies. B. Riley's calculation of WSFC's weighted average cost of capital as of October 21, 2009 is summarized below:

Derivation of Cost of Equity		
Risk-Free Rate: 10 Year Treasury		2.28 %
Relevered Beta Using Selected Industry Data	150.00%	
Excess Return on S&P Stock Index	6.00 %	
Unadjusted Equity Risk Premium	9.00 %	
Add: Company Specific Risk Premium	7.50 %	
Total Risk Premium		16.50%
Total Expected Return on Equity		18.78%
After-Tax Cost of Debt		
Pre-Tax Cost of Debt		7.30 %
Borrowing Premium		2.00 %
Effective Cost of Debt		9.30 %
Tax Rate		38.00%
After-Tax Cost of Debt		5.77 %
Weighted Average Cost of Capital (WACC)		

Industry Capital Structure	Debt / Equity Ratio	Cost of Capital	Weighted After Tax Cost of Capital
Equity	92.50 %	18.78 %	17.37 %
Debt	7.50 %	5.77 %	0.43 %
WSFC WACC			17.80 %

Next, B. Riley calculated terminal values using a range of EBITDA multiples (6.5x to 8.0x) around the adjusted mean of the comparable public companies EBITDA multiple (approximately 7.2x), and a range of discount rates (16.0% to 19.6%) around the 17.8% weighted average cost of capital.



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Based on these criteria, the discounted cash flow analysis created a range of total enterprise values, which are comprised of equity market capitalization, plus interest bearing debt, plus preferred stock, less excess cash ( TEV ), for WSFC. B. Riley calculated WSFC's range of equity values by applying its net cash/debt position to the low, mean and high TEVs:

Multiple	Discount Rates		
	19.6%	17.8%	16.0%
6.5x	\$9,225,560	\$9,871,945	\$10,578,922
6.9x	\$9,565,004	\$10,239,200	\$10,976,745
7.2x	\$9,904,447	\$10,606,456	\$11,374,568
7.6x	\$10,243,890	\$10,973,711	\$11,772,392
8.0x	\$10,583,334	\$11,340,967	\$12,170,215

	Low	Mean	High
Exit Multiple	6.5x	7.2x	8.0x
Discount Rate	19.6 %	17.8 %	16.0 %
WSFC Enterprise Value	\$9,225,560	\$10,606,456	\$12,170,215
Less: Total Debt			
Add: Cash	\$128,880	\$128,880	\$128,880

	Low	Mean	High
WSFC Equity Value	\$9,354,440	\$10,735,336	\$12,299,095

When evaluating Western Sizzlin's economic interest in WSSI, B. Riley utilized free cash flow estimates for the three-month period ending December 2009 and the years ending December 31, 2010 through December 31, 2014. B. Riley calculated a 14.3% weighted average cost of capital, or discount rate, using the Capital Asset Pricing Model and the cost of capital for the comparable public companies. B. Riley's calculation of WSSI's weighted average cost of capital as of October 21, 2009 is summarized below:

Derivation of Cost of Equity	
Risk-Free Rate: 10 Year Treasury	2.28 %
Relevered Beta Using Selected Industry Data	150.00%
Excess Return on S&P Stock Index	6.00 %
Unadjusted Equity Risk Premium	9.00 %
Add: Company Specific Risk Premium	3.75 %
Total Risk Premium	12.75 %
Total Expected Return on Equity	15.03 %
After-Tax Cost of Debt	
Pre-Tax Cost of Debt	7.30 %
Borrowing Premium	2.00 %
Effective Cost of Debt	9.30 %
Tax Rate	38.00 %
After-Tax Cost of Debt	5.77 %

Weighted Average Cost of Capital (WACC)

Industry Capital Structure	Debt / Equity Ratio		Cost of Capital		Weighted After Tax Cost of Capital	
Equity	92.50	%	15.03	%	13.90	%
Debt	7.50	%	5.77	%	0.43	%
WSSI WACC					14.34	%

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Next, B. Riley calculated terminal values using a Perpetuity Growth Model and a range of discount rates (12.9% to 15.8%) around the 14.3% weighted average cost of capital.

Based on these criteria, the discounted cash flow analysis created a range of TEVs for WSSI. B. Riley calculated WSSI's range of equity values by applying its net cash/debt position to the low, mean and high TEVs:

Growth Rate	Discount Rates		
	15.8%	14.3%	12.9%
-1.5%	\$3,894,132	\$4,246,826	\$4,669,126
-0.8%	\$3,982,091	\$4,357,576	\$4,811,099
0.0%	\$4,078,418	\$4,479,914	\$4,969,578
0.8%	\$4,184,365	\$4,615,760	\$5,147,619
1.5%	\$4,301,449	\$4,767,481	\$5,349,084

	Low	Mean	High
Growth Rate	-1.5 %	0.0 %	1.5 %
Discount Rate	15.8 %	14.3 %	12.9 %
WSSI Enterprise Value	\$3,894,132	\$4,479,914	\$5,349,084
Less: Total Debt	(\$484,990)	(\$484,990)	(\$484,990)
Add: Cash	\$575,261	\$575,261	\$575,261

	Low	Mean	High
WSSI Equity Value	\$3,984,403	\$4,570,185	\$5,439,355

When evaluating Western Sizzlin's economic interest in GAP, B. Riley utilized free cash flow estimates for the three-month period ending December 2009 and the years ending December 31, 2010 through December 31, 2011. B. Riley calculated a 10.9% weighted average cost of capital, or discount rate, using the Capital Asset Pricing Model and the cost of capital for the comparable public companies. B. Riley's calculation of GAP's weighted average cost of capital as of October 21, 2009 is summarized below:

Derivation of Cost of Equity	
Risk-Free Rate: 10 Year Treasury	2.28 %
Relevered Beta Using Selected Industry Data	150.00%
Excess Return on S&P Stock Index	6.00 %
Unadjusted Equity Risk Premium	9.00 %
Add: Company Specific Risk Premium	
Total Risk Premium	9.00 %
Total Expected Return on Equity	11.28 %
After-Tax Cost of Debt	
Pre-Tax Cost of Debt	7.30 %
Borrowing Premium	2.00 %
Effective Cost of Debt	9.30 %
Tax Rate	38.00 %

After-Tax Cost of Debt 5.77 %  
 Weighted Average Cost of Capital (WACC)

Industry Capital Structure	Debt / Equity Ratio	Cost of Capital	Weighted After Tax Cost of Capital
Equity	92.50 %	11.28 %	10.43 %
Debt	7.50 %	5.77 %	0.43 %
GAP WACC			10.87 %

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Due to the joint venture's December 2011 buyout provision, B. Riley did not need to calculate a terminal value for GAP. B. Riley calculated a range of discount rates (9.8% to 12.0%) around the 10.9% weighted average cost of capital.

Based on these criteria, the discounted cash flow analysis created a range of TEVs for GAP. B. Riley calculated GAP's range of equity values by applying its net cash/debt position to the low, mean and high TEVs:

	Low	Mean	High
Discount Rates	12.0 %	10.9 %	9.8 %
Enterprise Value Range	\$1,079,522	\$1,099,177	\$1,119,428
Less: Total Debt			
Add: Cash	\$31,657	\$31,657	\$31,657
GAP Equity Value Range	\$1,111,180	\$1,130,834	\$1,151,085

The discount rates utilized by B. Riley in its discounted cash flow analysis for each of Western Sizzlin's business units described above were calculated using each business unit's respective weighted average cost of capital. The EBITDA multiples for each of Western Sizzlin's business units that were utilized for this analysis were calculated based on the corresponding adjusted mean multiples of enterprise value to EBITDA for each business unit's group of comparable public companies considered by B. Riley. The weighted average cost of capital, or discount rate, used for each of Western Sizzlin's business units were inherently different based upon each business unit's independent risk profile.

While the discounted cash flow analysis is a widely accepted and practiced valuation methodology, it relies on a number of assumptions, including growth rates, terminal multiples and discount rates. The valuation derived from the discounted cash flow analysis is not necessarily indicative of the Western Sizzlin's present or future value or results. Discounted cash flow analysis in isolation from other analyses is not an effective method of evaluating transactions.

## Comparable Public Company Analysis

B. Riley examined the value of Western Sizzlin's separate economic interests in WSFC and WSSI by reviewing and comparing selected financial data for publicly traded companies chosen by B. Riley that were deemed to be comparable to WSFC and WSSI. B. Riley selected these companies based on their size, business mix, profitability, growth and business model. More specifically, B. Riley evaluated their common participation in the restaurant industry and/or similarities regarding percentage of company owned stores and franchised stores.

B. Riley divided the comparable companies into two groups based on their percentage of company owned stores and franchised stores. B. Riley compared WSFC to multi-unit restaurant concepts with franchise units comprising over 50% of total units. B. Riley compared WSSI to multi-unit family style and buffet concepts with franchise units comprising less than 20% of total units. The comparable companies chosen by B. Riley included:

### Multi-unit Restaurants Concepts with Franchise Units Comprising over 50% of Total Units

McDonald's Corp.  
DineEquity  
Sonic Corp.  
AFC Enterprises  
Yum! Brands  
Burger King Holdings

Nathan's Famous  
Buffalo Wild Wings  
Domino's Pizza  
Denny's Corp.

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Papa John's International  
Famous Dave's of America  
CKE Restaurants

**Multi-unit Family Style/Buffer Concepts with Franchise Units Comprising Less Than 20% of Total Units**

Bob Evans Farms  
Frisch's Restaurants  
Cracker Barrel Old Country Store  
Luby's

For each of the comparable companies, B. Riley initially calculated the applicable company's ratio of TEV for the latest twelve-month ( LTM ) period ended on the last day of the period covered by its most recently filed Form 10-K or Form 10-Q, as applicable, to that company's LTM earnings before interest, taxes, depreciation and amortization ( EBITDA ). B. Riley then used these ratios to determine the high quartile, low quartile, mean, median and adjusted mean multiples for the comparable companies. The ratios of TEV to LTM EBITDA used by B. Riley for this analysis are as follows:

WSFC Franchise Based Concepts Company	LTM EBITDA	TEV	TEV / LTM EBITDA
McDonald's Corp.	\$ 7,411,500	\$ 72,498,229	9.8x
DineEquity, Inc.	\$ 389,576	\$ 2,756,255	7.1x
Sonic Corp.	\$ 197,857	\$ 1,247,798	6.3x
AFC Enterprises Inc.	\$ 38,500	\$ 315,394	8.2x
Yum! Brands, Inc.	\$ 2,097,000	\$ 19,115,104	9.1x
Burger King Holdings Inc.	\$ 443,400	\$ 3,257,082	7.3x
Nathan's Famous Inc.	\$ 7,578	\$ 43,432	5.7x
Buffalo Wild Wings Inc.	\$ 70,232	\$ 682,588	9.7x
Domino's Pizza, Inc.	\$ 194,706	\$ 2,041,981	10.5x
Denny's Corp.	\$ 94,985	\$ 546,513	5.8x
Papa John's International Inc.	\$ 140,630	\$ 730,826	5.2x
Famous Dave's of America Inc.	\$ 15,542	\$ 81,172	5.2x
CKE Restaurants Inc.	\$ 156,568	\$ 836,540	5.3x

	Low <sup>(1)</sup>	High <sup>(1)</sup>	Mean	Median	Adjusted Mean <sup>(2)</sup>
WSFC TEV / LTM EBITDA Multiple	5.7x	9.1x	7.3x	7.1x	7.2x

WSSI Family Dining and Buffet Concepts Company	LTM EBITDA	TEV	TEV / LTM EBITDA
Bob Evans Farms Inc.	\$ 188,170	\$ 1,105,715	5.9x
Frisch's Restaurants Inc.	\$ 28,909	\$ 159,644	5.5x
Cracker Barrel Old Country Store	\$ 203,613	\$ 1,481,676	7.3x
Luby's Inc.	\$ 5,492	\$ 101,252	18.4x

	Low <sup>(1)</sup>	High <sup>(1)</sup>	Mean	Median	Adjusted Mean <sup>(2)</sup>
WSSI TEV / LTM EBITDA Multiple	5.8x	10.1x	9.3x	6.6x	6.6x

(1) High and low observations represent the upper (75th percentile) and lower (25th percentile) quartiles of the range, respectively.

(2) Adjusted mean excludes the high and low observations of the data set.

B. Riley calculated the range of implied TEVs for WSFC using TEV to LTM EBITDA multiples and WSFC's LTM EBITDA. B. Riley calculated WSFC's range of equity values by applying its net cash/debt position to the low, mean and high TEVs.

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The results of the analysis are summarized as follows:

	Public Company Market Multiples		
	Low	Mean	High
TEV / EBITDA Multiple Range	6.5x	7.2x	8.0x
Size / Liquidity Discount			
LTM EBITDA	\$1,746,185	\$1,746,185	\$1,746,185
WSFC Enterprise Value Range	\$11,370,491	\$12,633,879	\$13,897,267
Less: Total Debt			
Plus: Cash	\$128,880	\$128,880	\$128,880
WSFC Equity Value Range	\$11,499,371	\$12,762,759	\$14,026,147

B. Riley calculated the range of implied TEVs for WSSI using TEV to LTM EBITDA multiples and WSSI's LTM EBITDA. B. Riley calculated WSSI's range of equity values by applying its net cash/debt position to the low, mean and high TEVs. The results of the analysis are summarized as follows:

	Public Company Market Multiples		
	Low	Mean	High
TEV / EBITDA Multiple Range	5.9x	6.6x	7.2x
Size / Liquidity Discount			
TTM EBITDA	\$691,210	\$691,210	\$691,210
WSSI Enterprise Value Range	\$4,091,190	\$4,545,767	\$5,000,344
Less: Total Debt	(\$484,990)	(\$484,990)	(\$484,990)
Plus: Cash	\$575,261	\$575,261	\$575,261
WSSI Equity Value Range	\$4,181,461	\$4,636,038	\$5,090,615

B. Riley examined the value of Western Sizzlin's economic interest in Western Mustang by reviewing and comparing selected financial data for publicly traded companies chosen by B. Riley that were deemed to be comparable to Western Mustang. B. Riley selected these companies based on their common participation within the investment management industry. The comparable companies chosen by B. Riley included:

Affiliated Managers  
Calamos Asset Management  
Federated Investors  
Pzena Invest. Management  
Virtus Invsts. Partners

For each of the comparable companies, B. Riley initially calculated the applicable company's ratio of TEV for the LTM ended on the last day of the period covered by its most recently filed Form 10-K or Form 10-Q, as applicable, to that company's assets under management (AUM) and TEV to LTM revenue. B. Riley then used these ratios to determine the high quartile, low quartile, mean, median and adjusted mean multiples for the comparable companies.

These ratios are as follows:

Company	TEV	AUM	LTM Revenue	TEV/AUM	TEV/LTM Rev.
Affiliated Managers	\$4,148,629	\$178,700,000	\$893,900	2.32 %	4.64x
Calamos Asset Management	\$240,148	\$23,500,000	\$295,300	1.02 %	0.81 x

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Federated Investors	\$2,787,470	\$401,800,000	\$1,225,200	0.69 %	2.28x
Pzena Invest. Management	\$75,605	\$13,900,000	\$71,000	0.54 %	1.06x
Virtus Invsts. Partners	\$128,758	\$22,400,000	\$154,000	0.57 %	0.84x

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	Low	High	Mean	Adjusted Mean <sup>(1)</sup>
Western Mustang TEV / AUM Multiple	0.5 %	2.3 %	1.0 %	0.8 %
Western Mustang TEV / LTM Revenue Multiple	0.8x	4.6x	1.9x	1.4x

(1) Adjusted mean excludes the high and low observations of the data set.

B. Riley calculated the range of implied TEVs for Western Mustang by applying the TEV to AUM and TEV to LTM revenue multiples to Western Mustang's AUM and LTM revenue. B. Riley calculated Western Mustang's range of equity values by applying its net cash/debt position to the low, mean and high TEVs.

Western Sizzlin has a 50.5% economic interest in MCA's investment management operations. MCA is a registered investment advisor and serves as the investment advisor to, and the general partner of, Mustang Capital Partners I, LP and Mustang Capital Partners II, LP (the Funds). The Funds are private investment funds organized for the purpose of trading and investing in securities. Western Sizzlin has a 1.4% economic interest in the combined net assets of the Funds as of September 30, 2009.

The following results of the comparable public company analysis reflect Western Sizzlin's economic interest in Western Mustang through MCA's investment management operations, but exclude its claim in the combined net assets of the Funds as of September 30, 2009, which are valued separately:

	Low	Mean	High
Equity Value (TEV/AUM)	\$ 200,319	\$ 222,577	\$ 244,835
Equity Value (TEV/LTM Rev)	\$ 307,781	\$ 341,923	\$ 376,116

No company utilized in the comparable public company analysis is identical to Western Sizzlin, WSFC, WSSI or Western Mustang. B. Riley made judgments and assumptions with regard to industry performance, general business, economic, market and financial conditions and other matters, many of which are beyond the control of either Western Sizzlin or Steak n Shake. Mathematical analysis of comparable public companies (such as determining means and medians) in isolation from other analyses is not an effective method of evaluating transactions.

## Precedent M&A Transactions Analysis

B. Riley examined the value of Western Sizzlin's separate economic interests in WSFC and WSSI by reviewing and analyzing publicly available information relating to 12 acquisitions of multi-unit restaurant companies announced since January 2008, which B. Riley deemed relevant due to the target companies' common participation in the restaurant industry. The selected comparable transactions included:

### Precedent M&A Transactions Multi-Unit Restaurant Companies

Month and Year of Announcement	Target	Acquiror
September 2009	Canyons Burger Company	Growth Concepts
September 2009	Papa Bello Enterprises	Aero Financial
December 2008	Village Inn	Newport Global
October 2008	Fox Sports Grill	Private Inv. Group

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August 2008	Romano's Macaroni Grill	Golden Gate Capital
August 2008	BUCA	Planet Hollywood
July 2008	Rockfish Seafood Grill	White Oak Capital
June 2008	Café Enterprises	Milestone Partners
April 2008	Max & Erma's Restaurants	G&R Acquisition
April 2008	Wendy's International	Triarc Companies
January 2008	Pat & Oscar's	Management Buyout
January 2008	Moby Dick's House of Kabob	Javan Capital Partners

For each of the selected transactions disclosing applicable data, B. Riley calculated the ratios of the TEV of the transaction (based on the acquisition price) to the target company's LTM EBITDA prior to the announcement of the relevant transaction. In calculating such ratios, B. Riley calculated the TEV of each



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transaction as the market value of the relevant target company's equity securities plus its indebtedness and minority interests less cash and cash equivalents. These ratios are as follows:

Date	Target	Acquiror	TEV	EBITDA	TEV / Rev.	TEV / EBITDA
09/14/09	Canyons Burger Company	Growth Concepts	NA	NA	NA	NA
09/04/09	Papa Bello Enterprises	Aero Financial	NA	NA	NA	NA
06/16/09	Carrols Restaurant Group <sup>(1)</sup>	Jefferies Capital Partners	\$430.0	\$84.9	NA	NA
12/12/08	VI Acquisition Corp. / Village Inn	Newport Global / Fidelity National	\$55.0	NA	NA	NA
10/31/08	Fox Sports Grill	Private Investment Group	NA	NA	NA	NA
08/18/08	Romano's Macaroni Grill	Golden Gate Capital	\$109.9	NA	NA	NA
08/05/08	BUCA	Planet Hollywood International	\$28.8	\$3.0	0.1x	9.5x
07/31/08	Rockfish Seafood Grill	White Oak Capital / Capital Point Partners	NA	NA	NA	NA
06/16/08	Cafe Enterprises	Milestone Partners	\$60.0	NA	NA	NA
04/28/08	Max & Erma's Restaurants	G&R Acquisition	\$58.7	\$7.1	0.3x	8.3x
04/23/08	Wendy's International	Triarc Companies	\$2,718.9	\$298.8	1.1x	9.1x
01/22/08	Pat & Oscar's	Management Buyout	NA	NA	NA	NA
01/15/08	Moby Dick's House of Kabob	Javan Capital Partners	NA	NA	NA	NA
		Low <sup>(2)</sup>	High <sup>(2)</sup>	Median	Mean	Adj. Mean <sup>(3)</sup>
	TEV / LTM EBITDA Multiple	8.7x	9.3x	9.1x	8.9x	9.1x

(1) Acquisition of a minority stake. Excluded from the calculation of valuation multiples.

(2) High and low observations represent the upper (75th percentile) and lower (25th percentile) quartiles of the range, respectively.

(3) Adjusted mean excludes the high and low observations of the data set.

B. Riley calculated the range of implied TEVs for WSFC and WSSI by applying the TEV to LTM EBITDA multiples to WSFC and WSSI's LTM EBITDA. B. Riley calculated the range of equity values by applying each entity's net cash/debt position to its low, mean and high TEVs. The results of the analysis are summarized as follows:

WSFC	Precedent M&A Transaction Multiples		
	Low	Mean	High
TEV / EBITDA Multiple Range	8.7x	9.1x	9.3x
Market Environment Discount			
Adjusted TEV / EBITDA Multiple Range	8.68x	9.10x	9.28x
LTM EBITDA	\$1,746,185	\$1,746,185	\$1,746,185
WSFC Enterprise Value Range	\$15,158,084	\$15,889,880	\$16,204,855
Less: Total Debt			
Plus: Cash	\$128,880	\$128,880	\$128,880
WSFC Equity Value Range	\$15,286,964	\$16,018,760	\$16,333,735

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WSSI	Precedent M&A Transaction Multiples		
	Low	Mean	High
TEV / EBITDA Multiple Range	8.7x	9.1x	9.3x
Market Environment Discount			
Adjusted TEV / EBITDA Multiple Range	8.68x	9.10x	9.28x
TTM EBITDA	\$691,210	\$691,210	\$691,210
WSSI Enterprise Value Range	\$6,000,177	\$6,289,851	\$6,414,531
Less: Total Debt	(\$484,990)	(\$484,990)	(\$484,990)
Plus: Cash	\$575,261	\$575,261	\$575,261
WSSI Equity Value Range	\$6,090,448	\$6,380,123	\$6,504,802

No transaction utilized in the precedent M&A transactions analysis is identical to Western Sizzlin, WSFC or WSSI. B.

Riley did not assign any weighting to the Precedent M&A Transactions Analysis, as only three of the acquisitions disclosed meaningful transaction terms, and all three deals were completed prior the market shift that occurred in late 2008.

B. Riley examined the value of Western Sizzlin's economic interest in Western Mustang by reviewing and analyzing publicly available information relating to four acquisitions of investment management companies announced since January 2008, which B. Riley deemed relevant due to the target companies' common industry affiliation. The selected comparable transactions included:

#### **Precedent M&A Transactions Investment Management Companies**

Month and Year of Announcement	Target	Acquiror
October 2009	Morgan Stanley Retail Asset Mngt.	Invesco
January 2009	Deephaven Capital Management	Stark Investments
July 2008	J&W Seligman	Ameriprise
February 2008	National Investment Services	Titanium Asset Management

For each of the selected transactions disclosing applicable data, B. Riley calculated the ratios of the TEV of the transaction (based on the acquisition price) to the target company's AUM as of the announcement of the relevant transaction. In calculating such ratio, B. Riley calculated the TEV of the transaction as the market value of the relevant target company's equity securities plus its indebtedness and minority interests less cash and cash equivalents.

B. Riley calculated the range of implied TEVs for Western Mustang using the TEV to AUM multiples and Western Mustang AUM. B. Riley calculated the range of equity values by applying Western Mustang's net cash/debt position to its low, mean and high TEVs. These ratios are as follows:

Date	Target	Acquiror	TEV	AUM	TEV / AUM
10/19/09	Morgan Stanley Retail Asset Mngt	Invesco	\$1,500,000	\$119,000,000	1.26 %
1/7/2009	Deephaven Capital Management	Stark Investments	\$44,670	\$4,240,000	1.05 %

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7/7/2008	J&W Seligman	Ameriprise	\$432,000	\$18,000,000	2.40%
2/28/2008	National Investment Services	Titanium Asset Mngt	\$35,630	\$3,000,000	1.19%

	Low		High		Mean		Adj. Mean <sup>(1)</sup>	
TEV / AUM Multiple	1.1	%	2.4	%	1.5	%	1.2	%

(1) Adjusted mean excludes the high and low observations of the data set.

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Western Sizzlin has as 50.5% economic interest in MCA's investment management operations. MCA is a registered investment advisor and serves as the investment advisor to, and the general partner of the Funds. The Funds are private investment funds organized for the purpose of trading and investing in securities. Western Sizzlin has a 1.4% economic interest in the combined net assets of the Funds as of September 30, 2009.

The following results of the precedent M&A transactions analysis reflect Western Sizzlin's economic interest in Western Mustang through MCA's investment management operations, but exclude its claim in the combined net assets of the Funds as of September 30, 2009, which are valued separately:

	Low	Mean	High
Equity Value	\$ 321,168	\$ 356,854	\$ 392,539

No transaction utilized in the precedent transaction analysis is identical to Western Sizzlin or Western Mustang. In evaluating the transactions, B. Riley made judgments and assumptions with regard to industry performance, general business, economic, market and financial conditions and other matters, many of which are beyond the control of either the Western Sizzlin or Steak n Shake. Mathematical analysis of comparable transaction data (such as determining means and medians) in isolation from other analysis is not an effective method of evaluating transactions.

**Net Asset Value Test/Liquidation Value:**

B. Riley reviewed and analyzed Western Sizzlin's separate economic claims in the investment assets held by Western Sizzlin's holding company investments ( HCI ), Western Properties, Western Investments and Western Mustang entities by conducting mark-to-market tests and incorporating the applicable balance sheet data. Western Sizzlin's economic claim in each entity's investment assets, and the resulting valuations, are summarized as follows:

Western Sizzlin HCI (Western Sizzlin Economic Claim 100.0%)	Mark-Market Value	Mark to Market Redeemable Non- Controlling Interest	Western Sizzlin's Residual Economic Interest, Mark to Market
Cash <sup>(1)</sup>	\$ 825,483		\$ 825,483
Money Market Investments <sup>(1)</sup>	\$ 395		\$ 395
Mark to Market Value of Public Holdings <sup>(2)</sup>	\$ 1,293,952		\$ 1,293,952
Total Assets	\$ 2,119,830		\$ 2,119,830
Line of Credit <sup>(1)</sup>	\$ 100,000		\$ 100,000
Other Liabilities <sup>(1)</sup>	\$ 90,427		\$ 90,427
Linnartz Put Obligation <sup>(3)</sup>	\$ 527,770		\$ 527,770
Total Liabilities	\$ 718,197		\$ 718,197
Net Asset Value	\$ 1,401,633		\$ 1,401,633

(1) Balance sheet positions as of September 30, 2009.

(2) Market to market values as of October 21, 2009.

(3) Linnartz put obligation as of September 30, 2009.

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Western Properties (Western Sizzlin Economic Claim 100.0%)	Mark-Market Value	Mark to Market Redeemable Non- Controlling Interest	Western Sizzlin s Residual Economic Interest, Mark to Market
Investment Real Estate	\$ 4,100,000		\$ 4,100,000
Real Estate Note Payable	\$ 2,377,098		\$ 2,377,098
Net Asset Value	\$ 1,722,902		\$ 1,722,902

(1)

Positions as of October 21, 2009.

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	Mark-Market Value	Mark to Market Redeemable Non-Controlling Interest	Western Sizzlin s Residual Economic Interest, Mark to Market
Western Investments (Western Sizzlin Economic Claim 92.06%)			
Cash and Money Market Investments <sup>(1)</sup>	\$ 3,076	\$ 244	\$ 2,832
Mark to Market Value of Public Holdings <sup>(2)</sup>	\$ 16,176,930	\$ 1,284,449	\$ 14,892,482
Other Assets <sup>(2)</sup>	\$ 4,036	\$ 320	\$ 3,716
Total Assets	\$ 16,184,043	\$ 1,285,013	\$ 14,899,030
Margin Loan Balance <sup>(1)</sup>			
Other Liabilities <sup>(1)</sup>	\$ 1,590	\$ 126	\$ 1,464
Total Liabilities	\$ 1,590	\$ 126	\$ 1,464
Contribution to RNI		\$ 1,284,887	
Net Asset Value	\$ 16,182,453		\$ 14,897,566

(1) Balance sheet positions as of September 30, 2009.

(2) Market to market values as of October 21, 2009.

	Mark-Market Value	Mark to Market Redeemable Non-Controlling Interest	Western Sizzlin s Residual Economic Interest, Mark to Market
Western Mustang (Western Sizzlin Economic Claim 1.4%)			
Cash <sup>(1)</sup>	\$ 6,140	\$ 5,968	\$ 172
Money Market Investments <sup>(2)</sup>	\$ 2,101,789	\$ 2,042,939	\$ 58,850
Mark to Market Value of Public Holdings <sup>(2)</sup>	\$ 9,736,927	\$ 9,464,294	\$ 272,634
Other Assets <sup>(2)</sup>	\$ 6,377	\$ 6,198	\$ 179
Total Assets	\$ 11,851,234	\$ 11,519,399	\$ 331,835
Margin Loan Balance <sup>(1)</sup>			
Other Liabilities <sup>(1)</sup>	\$ 59,573	\$ 57,905	\$ 1,668
Total Liabilities	\$ 59,573	\$ 57,905	\$ 1,668
Contribution to RNI		\$ 11,461,494	
Net Asset Value	\$ 11,791,661		\$ 330,167
Western Sizzlin 1.4% Interest:			\$165,083

(1) Western HCI s economic claim is 1.4%, but 2.8% is consolidated (and displayed above).

(2) Balance sheet positions as of September 30, 2009.

(3) Market to market values as of October 21, 2009.

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The results of B. Riley analyses, which calculated and aggregated the equity values of the separate entities that comprise Western Sizzlin to derive a price per share valuation range for the consolidated company, on a pre-Steak n Shake stock distribution basis, are summarized in the following table:

	Low	Mean	High
WSFC	\$9,890,673	\$11,242,192	\$12,730,858
WSSI	\$4,033,668	\$4,586,648	\$5,352,170
GAP	\$1,111,180	\$1,130,834	\$1,151,085
Western Sizzlin HCI	\$1,401,633	\$1,401,633	\$1,401,633
Western Properties	\$1,722,902	\$1,722,902	\$1,722,902
Western Investments	\$14,897,566	\$14,897,566	\$14,897,566
Western Mustang	\$441,490	\$472,201	\$502,913
Total	\$33,499,111	\$35,453,977	\$37,759,127
Shares Outstanding	2,840,384	2,840,384	2,840,384
Price Per Share	\$11.79	\$12.48	\$13.29

**Post-Steak n Shake Stock Distribution**

The results of B. Riley analyses, which calculated and aggregated the equity values of the separate entities that comprise Western Sizzlin to derive a price per share valuation range for the consolidated company, on a post-Steak n Shake stock distribution basis, and compared the range to the price per share merger consideration, are summarized in the following table:

	Low	Mean	High
WSFC	\$9,890,673	\$11,242,192	\$12,730,858
WSSI	\$4,033,668	\$4,586,648	\$5,352,170
GAP	\$1,111,180	\$1,130,834	\$1,151,085
Western Sizzlin HCI	\$1,401,633	\$1,401,633	\$1,401,633
Western Properties	\$1,722,902	\$1,722,902	\$1,722,902
Western Investments	\$161,502	\$161,502	\$161,502
Western Mustang	\$441,490	\$472,201	\$502,913
Total	\$18,763,047	\$20,717,913	\$23,023,063
Shares Outstanding	2,840,384	2,840,384	2,840,384
Price Per Share	\$6.61	\$7.29	\$8.11
Proposed Consideration	\$22,959,000	\$22,959,000	\$22,959,000
Per Share Consideration <sup>(1)</sup>	\$8.08	\$8.08	\$8.08

Per Share Consideration is based on dividing \$22,959,000 (the principal amount of debentures to be issued by Steak n Shake in the merger) by the number of shares of Western Sizzlin common stock that were issued and (1) outstanding as of the date of B. Riley's analysis. Subsequent to that time, as the result of exercise of stock options, the number of shares of Western Sizzlin common stock has increased, and the Per Share Consideration as of February 17, 2010, was \$8.07 per share.



The price per share valuation for the consolidated company, on a post-Steak n Shake stock distribution basis assumed an aggregate value of the shares of Steak n Shake stock beneficially owned by Western Sizzlin of \$14.7 million. The value of the Steak n Shake stock was calculated based upon the closing price of \$11.14 per share of Steak n Shake stock on October 21, 2009 multiplied by 1,322,806 shares of Steak n Shake stock beneficially owned by Western Sizzlin.

The valuation ranges for the consolidated entities that comprise Western Sizzlin set forth above, both before and after giving effect to the Steak n Shake stock distribution, were calculated and aggregated utilizing a combination of the analyses described above, weighted as follows: (i) 75% of the enterprise value calculated utilizing the discounted cash flow analysis and 25% of the enterprise value calculated utilizing the comparable public company analysis for each of WSFC and WSSI; (ii) 100% of the enterprise value calculated utilizing the discounted cash flow analysis for GAP; (iii) 100% of the mark-to-market value of investment assets for each of Western Sizzlin HCI, Western Properties, Western Investments; and (iv) mark-to-market value of investment assets for Western Mustang Holdings combined with the valuation of the entity's investment

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management arm based upon 1/3 of the enterprise value calculated utilizing the precedent M&A transactions analysis and 2/3 of the enterprise value calculated utilizing the comparable public company analysis.

### **Additional Considerations**

The summary set forth above describes the principal analyses performed by B. Riley in connection with its Opinion. The preparation of a fairness opinion involves various determinations as to the most appropriate and relevant methods of financial analysis and the application of these methods to the particular circumstances and, therefore, the analyses underlying the Opinion are not readily susceptible to summary description. Each of the analyses conducted by B. Riley was carried out in order to provide a different perspective on the merger and add to the total mix of information available. B. Riley did not form a conclusion as to whether any individual analysis, considered in isolation, supported or failed to support an opinion as to fairness from a financial point of view. Rather, in reaching its conclusions, B. Riley considered the results of the analyses in light of each other and ultimately reached its Opinion based upon the results of all analyses taken as a whole. Except as indicated above, B. Riley did not place particular reliance on an individual analysis, but instead concluded that its analyses, taken as a whole, support its determination. Accordingly, notwithstanding the separate factors summarized above, B. Riley believes that its analyses must be considered as a whole and that selecting portions of its analysis and the factors considered by it, without considering all analyses and factors, could create an incomplete or misleading view of the evaluation process underlying its Opinion. In performing its analyses, B. Riley made numerous assumptions with respect to industry performance, business and economic conditions and other matters. The analyses performed by B. Riley are not necessarily indicative of actual value or future results, which may be significantly more or less favorable than suggested by the analyses.

Pursuant to the terms of the engagement letter with Western Sizzlin's special committee, B. Riley was paid a \$50,000 initial retainer for its financial advisory services and was paid a fee of \$150,000 for rendering its Opinion on October 22, 2009. If the merger is completed, B. Riley will be paid an additional amount equal to approximately \$100,000 for its financial advisory services. Western Sizzlin also agreed to indemnify B. Riley against certain liabilities arising out of its engagement. B. Riley is actively involved in the investment banking business and regularly undertakes the valuation of investment securities in connection with public offerings, private placements, business combinations and similar transactions. B. Riley had no relationships with Western Sizzlin, Steak n Shake, or their respective affiliates during the two years prior to engagement by the Western Sizzlin special committee.

### **Western Sizzlin Financial Projections**

Western Sizzlin does not as a matter of course make public long-term projections as to future revenues, earnings or other results due to, among other reasons, the uncertainty of the underlying assumptions and estimates. However, in connection with the review of the proposed merger between Western Sizzlin and Steak n Shake, Western Sizzlin's management (other than Mr. Biglari) prepared unaudited prospective financial information on a standalone, pre-merger basis. Western Sizzlin is electing to provide the unaudited prospective financial information in this proxy statement/prospectus to provide the stockholders of Western Sizzlin and shareholders of Steak n Shake access to certain non-public unaudited prospective financial information that was made available to the Western Sizzlin board of directors, the Western Sizzlin special committee, the Steak n Shake board of directors and Western Sizzlin's and Steak n Shake's financial advisors in connection with the merger. The unaudited prospective financial information was not prepared with a view toward public disclosure and the inclusion of this information should not be regarded as an indication that any of Western Sizzlin, Steak n Shake or any other recipient of this information considered, or now considers, it to be necessarily predictive of actual future results. None of Western Sizzlin, Steak n Shake or their respective affiliates assumes any responsibility for the accuracy of this information.

The unaudited prospective financial information was, in general, prepared solely for internal use and is subjective in many respects and thus subject to interpretation. While presented with numeric specificity, the unaudited prospective financial information reflects numerous estimates and assumptions made by the management of Western Sizzlin (other than Mr. Biglari) with respect to industry performance and competition, general business, economic, market and financial conditions and matters specific to Western Sizzlin's business, all of which are difficult to predict and many of which are beyond Western Sizzlin's control. As a result, there

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can be no assurance that the unaudited prospective financial information will be realized or that actual results will not be significantly higher or lower than estimated. Since the unaudited prospective financial information covers multiple years, such information by its nature becomes less predictive with each successive year. Western Sizzlin stockholders and Steak n Shake shareholders are urged to review Risk Factors beginning on page 72 of this proxy statement/prospectus for a description of risk factors with respect to Western Sizzlin's business. See also Cautionary Statement Concerning Forward-Looking Statements beginning on page 100 of this proxy statement/prospectus. The projections below have been prepared by, and are the responsibility of Western Sizzlin management (other than Mr. Biglari). The projections were prepared on a basis consistent with the historical accounting policies included in Management's Discussion and Analysis of Financial Condition and Results of Operations of Western Sizzlin beginning on page 132 of this proxy statement/prospectus. The unaudited prospective financial information was not prepared with a view toward complying with the published guidelines of the SEC regarding projections or the guidelines established by the American Institute of Certified Public Accountants for preparation and presentation of prospective financial information. Neither Western Sizzlin's independent registered public accounting firm, nor any other independent accountants, have compiled, examined, or performed any procedures with respect to the unaudited prospective financial information contained herein, nor have they expressed any opinion or any other form of assurance on such information or its achievability, and assume no responsibility for, and disclaim any association with, the unaudited prospective financial information. The report on the historical financial statements included in this proxy statement/prospectus relates to Western Sizzlin's historical financial information. It does not extend to the prospective financial information and should not be read to do so. Furthermore, the unaudited prospective financial information does not take into account any circumstance or event occurring after the date it was prepared.

The following table presents summary selected unaudited prospective financial information for the fiscal quarter ending December 31, 2009 and for the fiscal years ending 2010 through 2014, which is referred to in this proxy statement/prospectus (including in Special Factors Opinion of the Financial Advisor of the Western Sizzlin Special Committee beginning on page 38 this proxy statement/prospectus) as the Western Sizzlin's financial projections:

## Summary of Western Sizzlin Financial Projections

	Fiscal Quarter December 31, 2009E	Fiscal Year Ending December 31,				
		2010P	2011P	2012P	2013P	2014P
Sales						
WSFC	\$1,083,486	\$3,549,597	\$3,899,597	\$4,295,043	\$4,642,144	\$4,996,187
WSSI	\$3,201,559	\$13,616,215	\$13,897,082	\$14,036,053	\$14,176,414	\$14,318,178
GAP	\$1,279,651	\$5,327,302	\$5,433,848	\$5,542,525	\$5,653,375	\$5,766,443
Operating income (loss)						
WSFC	\$254,784	\$1,254,752	\$1,534,440	\$1,864,038	\$2,124,176	\$2,388,279
WSSI	(\$40,923)	\$537,851	\$669,532	\$660,536	\$987,838	\$994,072
GAP	\$117,655	\$722,639	\$740,921	\$759,598	\$778,677	\$798,166
Net income (loss)						
WSFC	\$157,963	\$777,946	\$951,353	\$1,155,703	\$1,316,989	\$1,480,733
WSSI	(\$33,005)	\$308,383	\$397,964	\$401,162	\$611,777	\$616,325
GAP	\$67,732	\$533,044	\$546,129	\$577,640	\$604,196	\$631,005

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EBITDA<sup>(1)</sup>

WSFC	\$262,317	\$1,286,217	\$1,558,070	\$1,872,038	\$2,134,176	\$2,399,612
WSSI	\$48,517	\$900,612	\$1,037,294	\$1,033,297	\$1,028,489	\$1,022,822
GAP	\$195,429	\$958,664	\$978,375	\$998,480	\$1,018,988	\$1,039,905

(1) Western Sizzlin management believes that the presentation of EBITDA from continuing operations provides useful information to investors regarding Western Sizzlin's results of operations because this non-GAAP financial measure is among the primary metrics by which management evaluates operating performance of Western Sizzlin's business and on which internal budgets are based.

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No assurances can be given that these assumptions will accurately reflect future conditions. In addition, although presented with numerical specificity, the above unaudited prospective financial information reflects numerous assumptions and estimates as to future events made by Western Sizzlin's management that Western Sizzlin's management believed were reasonable at the time the unaudited prospective financial information was prepared. The above unaudited prospective financial information does not give effect to the merger.

Western Sizzlin's stockholders and Steak n Shake's shareholders are urged to review Management's Discussion and Analysis of Financial Condition and Results of Operations of Western Sizzlin beginning on page 132 of this proxy statement/prospectus for a description of Western Sizzlin's reported results of operations, financial condition and capital resources during 2009.

Readers of this proxy statement/prospectus are cautioned not to place undue reliance on the unaudited prospective financial information set forth above. No representation is made by Western Sizzlin, Steak n Shake, or any other person to any stockholder of Western Sizzlin or any shareholder of Steak n Shake regarding the ultimate performance of Western Sizzlin or, following the merger, Steak n Shake, compared to the information included in the above prospective financial information. The inclusion of unaudited prospective financial information in this proxy statement/prospectus should not be regarded as an indication that such prospective financial information will be an accurate prediction of future events nor construed as financial guidance, and they should not be relied on as such.

**WESTERN SIZZLIN DOES NOT INTEND TO UPDATE OR OTHERWISE REVISE THE ABOVE PROSPECTIVE FINANCIAL INFORMATION TO REFLECT CIRCUMSTANCES EXISTING AFTER THE DATE WHEN MADE OR TO REFLECT THE OCCURRENCE OF FUTURE EVENTS, EVEN IN THE EVENT THAT ANY OR ALL OF THE ASSUMPTIONS UNDERLYING SUCH PROSPECTIVE FINANCIAL INFORMATION ARE NO LONGER APPROPRIATE.**

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# **Recommendation of the Steak n Shake Special Committee; Reasons for, and Effects and Fairness of, the Merger**

The Steak n Shake special committee, comprised entirely of directors with no relationship with Western Sizzlin, and acting with the advice and assistance of legal, tax, accounting and financial advisors, evaluated and negotiated the merger agreement with Western Sizzlin. The Steak n Shake Board of Directors imposed no limitation on the authority of the Steak n Shake special committee. There was no special compensation schedule established for service on the special committee; rather, the members of the special committee were entitled (pursuant to existing board policy regarding compensation for committee service) to a payment of \$500 for each telephonic meeting and \$1,250 for each in-person meeting.

At a meeting first convened on October 20, 2009, and then continued on October 21, 2009, the Steak n Shake special committee on October 21, 2009, after considering a wide range of factors, including:

the financial presentation of Duff & Phelps on October 21, 2009, in support of the oral opinion received by the special committee on October 21, 2009 from Duff & Phelps, to the effect that, as of that date, the terms of the merger agreement were fair, from a financial point of view, to the public shareholders of Steak n Shake, and the results of the reviews and investigations of the business, properties, assets, liabilities, financial statements, and businesses and affairs, financial and otherwise, of Western Sizzlin and its subsidiaries that had been undertaken by Steak n Shake's legal, financial, tax, accounting, environmental and other consultants and advisers; unanimously approved, and recommended to the Steak n Shake board of directors that it approve, the merger, the merger agreement and related transaction documents including the two voting agreements and the form of indenture for the debentures to be issued in the merger.

In determining to recommend approval to the Steak n Shake board of directors on October 21, 2009 of the merger, the merger agreement, the voting agreements, and the form of indenture for the debentures to be issued in the merger, the Steak n Shake special committee considered a number of factors. The material factors included, but were not limited to:

the special committee's belief that the merger consideration of debentures issued by Steak n Shake in the aggregate principal amount of \$22,959,000 (subject to potential adjustment) was fair to the public stockholders of Steak n Shake (other than Mr. Sardar Biglari, Mr. Philip Cooley and their affiliates and associates);

the special committee's belief that investing capital in other businesses is consistent with Steak n Shake's transformation into a holding company and its economic objective of maximizing intrinsic value on a per share basis;

the special committee's belief that the acquisition of Western Sizzlin would increase Steak n Shake's relative position in the restaurant industry;

the special committee's belief that Western Sizzlin's subsidiaries, including interests in private investment vehicles and a registered investment adviser, would be attractive additions to Steak n Shake's portfolio of investments;

the special committee's belief that Steak n Shake would benefit by enabling its Chairman, President and Chief Executive Officer to focus on managing a single diversified holding company;

the special committee's belief that the merger would provide the opportunity to reduce costs and improve efficiency by combining businesses, including costs associated with running two separate public companies, consisting of Western Sizzlin's listing fees, transfer agent fees, legal and accounting fees related to SEC filings and shareholder mailings, printing and mailing expenses for periodic reports and proxy statements, annual meeting expenses and other related

expenses, costs associated with marketing, supply chain, administrative, finance and accounting and the fact that such cost savings will inure to the benefit of the combined company;

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the fact that no external financing would be required for the transaction, thus increasing the likelihood that the merger will be consummated;

the opinion the special committee received from Duff & Phelps, which was delivered orally at the special committee meeting on October 21, 2009, and subsequently confirmed in writing, that, as of October 21, 2009, the date of the opinion, and based upon and subject to the factors, assumptions, limitations, qualifications and other conditions set forth in the opinion, the consideration to be paid by Steak n Shake in the merger was fair, from a financial point of view, to the public shareholders of Steak n Shake (other than Mr. Sardar Biglari, Mr. Philip Cooley and their affiliates and associates);

the presentation by Duff & Phelps to the special committee on October 21, 2009 in connection with the foregoing opinion, which is described under the section of this proxy statement/prospectus entitled "Opinion of the Financial Advisor of the Steak n Shake Special Committee";

the efforts made by the special committee and its advisors to negotiate and execute a merger agreement favorable to Steak n Shake under the circumstances;

the terms and conditions of the merger agreement, including:

Steak n Shake would have the ability to offset Western Sizzlin's liability for income taxes resulting from the distribution by Western Sizzlin of the shares of Steak n Shake common stock owned by Western Sizzlin by reducing the principal amount of debentures to be issued in the merger, to the extent that the average of the low price and high price of Steak n Shake stock on the date of distribution of such stock exceeded \$12.00;

the provisions of the merger agreement that provide that, subject to compliance with the terms of and conditions of the merger agreement, if a third party were to propose an alternative transaction constituting a Superior Proposal (as defined in the merger agreement) at any time prior to obtaining approval of the merger by Western Sizzlin's stockholders and Western Sizzlin's board changes its recommendation, Western Sizzlin would be required to pay a termination fee of \$1,250,000 (or \$837,500 under certain circumstances) in order to terminate the merger agreement and enter into a definitive agreement with respect to the Superior Proposal, as more fully described below under the section of this proxy statement/prospectus entitled "The Merger Agreement - Change in Recommendation"; and

the provisions of the merger agreement that contain restrictions on the conduct of Western Sizzlin's business prior to the completion of the merger, generally requiring Western Sizzlin to conduct its business only in the ordinary course;

the terms and conditions of the indenture, including:

that Steak n Shake's failure to satisfy a financial ratio set forth in the indenture does not automatically constitute an event of default under the indenture unless Steak n Shake declares or pays dividends on its equity securities, redeems more than \$2 million of equity securities during a twelve-month period, prepays certain indebtedness or issues additional indebtedness during the time which it fails to satisfy such financial ratio;

Steak n Shake's obligations under the debentures are not guaranteed by any of its subsidiaries; and

the debentures are subordinated to all of Steak n Shake's senior secured debt, subject to certain maximum limits, and leverage restrictions, and structurally subordinated to all of the debt of Steak n Shake's subsidiaries;

the special committee's belief that the special committee was fully informed about the extent to which the interests of Messrs. Biglari and Cooley differed from those of Steak n Shake's other stockholders, which are discussed in the section of this proxy statement/prospectus entitled "Interests of Steak n Shake and Western Sizzlin Directors and Executive Officers in the Merger"; and

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Steak n Shake's maximum exposure for wrongfully failing to close or breaching the merger agreement under certain circumstances, even if the breach was willful or deliberate, would be limited to its payment of a fee in the amount of \$500,000.

The Steak n Shake special committee considered the following factors to be generally negative or unfavorable in making its determination and recommendation:

the steady declines Western Sizzlin has experienced in its existing franchise base for the past several years;

the fact that Western Sizzlin's restaurant base, both franchised and company-owned, is smaller and less geographically diverse than many other restaurant chains with which Western Sizzlin competes;

the fact that there has been substantial uncertainty and disruption in the capital and credit markets over the past twelve months, which could have an adverse effect on Western Sizzlin's business, including the future operating results of Western Sizzlin's restaurants and the value of Western Sizzlin's investments;

the fact that there has been substantial uncertainty and disruption in the capital and credit markets over the past twelve months, which could have an adverse effect on Steak n Shake's business, including the future operating results of Steak n Shake;

that Western Sizzlin's restaurants are predominantly family steak houses, which continues Steak n Shake's reliance upon restaurants primarily serving beef as a significant source of revenue;

that if Steak n Shake does not satisfy a financial ratio set forth in the indenture, it will not be permitted to declare or pay dividends on its equity securities, redeem more than \$2 million of equity securities during a twelve-month period, prepay certain indebtedness or issue additional indebtedness, which may limit Steak n Shake's ability to raise debt or equity or otherwise manage its capital resources in the future;

the merger agreement contains restrictions on the conduct of Steak n Shake's business prior to the completion of the merger, generally requiring Steak n Shake to conduct its business only in a manner that complies with the covenants set forth in the indenture, which may delay or prevent Steak n Shake from undertaking business opportunities that may arise pending completion of the merger;

the risks and costs to Steak n Shake if the merger does not close, including the diversion of management and employee attention, potential employee attrition and the potential effect on business and customer relationships;

the merger agreement's provisions that permit Western Sizzlin to solicit other offers during the go-shop period;

the possibility that, in the event of termination of the merger agreement due to Steak n Shake wrongfully failing to close or breaching the merger agreement under certain circumstances, Steak n Shake may be required to pay a fee in the amount of \$500,000;

legal uncertainties associated with the risk that Western Sizzlin could (contrary to its legal position) be determined to be an investment company as defined by the Investment Company Act of 1940, as amended; and

that Western Sizzlin's obligation to consummate the merger would be subject to certain conditions outside of Steak n Shake's control.

The foregoing discussion of the information and factors considered by the Steak n Shake special committee is not intended to be exhaustive, but includes the material factors considered by the Steak n Shake special committee. In view of the variety of factors considered in connection with its evaluation of the merger, the merger agreement, the voting agreements, and the other transactions contemplated by the merger agreement, the Steak n Shake special committee did not find it practicable to, and did not, quantify or otherwise assign specific weights to the factors considered in reaching its determination and recommendation. In addition, each of the members of the Steak n Shake special committee may have given differing weights to different factors. On balance, the Steak n Shake special committee believed that the positive factors discussed above outweighed the negative factors discussed above.

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## **Approval of the Steak n Shake Board of Directors; Reasons for, and Effects and Fairness of, the Merger**

Promptly following the approval of the merger and the merger agreement by the Steak n Shake special committee on October 21, 2009 meeting, the Steak n Shake board of directors convened and, after considering the conflicts of interest presented by the role of Mr. Biglari and Mr. Cooley with Western Sizzlin described elsewhere in this document, and acting in part upon the recommendation of the Steak n Shake special committee, unanimously:

approved the merger and the merger agreement and related transaction documents, including the indenture; authorized Mr. Regan as Chairman of the special committee to execute and deliver on behalf of Steak n Shake the merger agreement and other documents to Western Sizzlin; and continued the special committee of Steak n Shake for purposes of exercising all of the authority of the board of directors of Steak n Shake in respect of the merger including with respect to the indenture and the debentures.

In determining that the merger and the merger agreement are advisable, fair to and in the best interests of Steak n Shake and its stockholders, the full board of directors of Steak n Shake considered:

the unanimous determination and recommendation of the special committee; and the factors considered by the special committee, including the positive factors and potential benefits of the merger agreement and the merger, the risks and potentially negative factors relating to the merger and the merger agreement, and the fairness opinion received by the special committee.

The foregoing discussion of the information and factors considered by Steak n Shake's board of directors includes the material factors considered by the board of directors. In view of the variety of factors considered in connection with its evaluation of the merger, Steak n Shake's board of directors did not find it practicable to, and did not quantify or otherwise assign relative weights to the specific factors considered in reaching its determination. In addition, individual directors may have given different weights to different factors. The Steak n Shake board of directors approved the merger agreement and the merger based upon the totality of the information presented to and considered by it.

## **Opinion of the Financial Advisor of the Steak n Shake Special Committee**

On October 21, 2009, Duff & Phelps rendered its oral opinion to the special committee of Steak n Shake (which was subsequently confirmed in writing by delivery of Duff & Phelps's written opinion dated October 21, 2009), to the effect that, as of October 21, 2009, the consideration to be paid by Steak n Shake in the merger was fair, from a financial point of view, to the public shareholders of Steak n Shake (other than Mr. Sardar Biglari, Mr. Philip Cooley and their affiliates and associates).

**Duff & Phelps's opinion was directed to the special committee of Steak n Shake and only addressed the fairness from a financial point of view of the consideration to be paid by Steak n Shake in the merger and did not address any other aspect or implication of the merger. The summary of Duff & Phelps's opinion in this prospectus is qualified in its entirety by reference to the full text of its written opinion, which is included as Annex C to this proxy statement/prospectus and sets forth the procedures followed, assumptions made, qualifications and limitations on the review undertaken and other matters considered by Duff & Phelps in preparing its opinion. We encourage you to carefully read the full text of Duff & Phelps's written opinion.**

**However, neither Duff & Phelps's written opinion nor the summary of its opinion and the related analyses set forth in this proxy statement/prospectus are intended to be, and do not constitute advice or a recommendation to any stockholder as to how such stockholder should act or vote with respect to the merger.**

In connection with its opinion, Duff & Phelps made such reviews, analyses and inquiries as it deemed necessary and appropriate under the circumstances. Duff & Phelps also took into account its assessment of general economic, market and financial conditions, as well as its experience in securities and business valuation, in general, and with respect to similar transactions, in particular. Duff & Phelps' procedures,

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investigations, and financial analysis with respect to the preparation of its opinion included, but were not limited to, the items summarized below:

1. Discussed the operations, financial conditions future prospects and projected operations and performance of Steak n Shake and Western Sizzlin, and the merger with the management of Steak n Shake and Western Sizzlin;
  2. Reviewed certain publicly available financial statements and other business and financial information of Steak n Shake and Western Sizzlin, and the industries in which they operate;
  3. Reviewed certain internal financial statements and other financial and operating data concerning Steak n Shake and Western Sizzlin, which Steak n Shake and Western Sizzlin have identified as being the most current consolidated financial statements available as of June 30, 2009;
  4. Reviewed certain internal unconsolidated financial statements and other financial and operating data concerning Western Sizzlin as of July 31, 2009 and August 31, 2009;
  5. Reviewed certain financial forecasts of Steak n Shake prepared by the management of Steak n Shake;
  6. Reviewed certain financial forecasts of Western Sizzlin prepared by the management of Western Sizzlin and adjusted by the management of Steak n Shake;
  7. Reviewed certain information relating to potential strategic, financial and operational benefits anticipated from the merger, referred to as the Strategic Benefits, as prepared by Western Sizzlin and adjusted by the management of Steak n Shake;
  8. Reviewed a draft of the merger agreement dated October 19, 2009, a draft of the form of the voting agreement dated October 19, 2009 and a draft of Steak n Shake indenture dated October 19, 2009;
  9. Reviewed the historical trading price and trading volume of Steak n Shake common stock and Western Sizzlin common stock;
  10. Compared the financial performance of Steak n Shake and Western Sizzlin and the prices and trading activity of Steak n Shake common stock and Western Sizzlin common stock with those of certain other publicly traded companies that we deemed relevant;
  11. Compared certain financial terms of the merger to financial terms, to the extent publicly available, of certain other business combination transactions that we deemed relevant; and
  12. Conducted such other analyses and considered such other factors as we deemed appropriate.
- In performing its analyses and rendering its opinion with respect to the merger, with the consent of the special committee, Duff & Phelps:

- Relied upon the accuracy, completeness, and fair presentation of all information, data, advice, opinions and
1. representations obtained from public sources or provided to it from private sources, including Steak n Shake management, and did not independently verify such information;
  2. Assumed that any estimates, evaluations, forecasts and projections, as well as the Strategic Benefits, furnished to Duff & Phelps were reasonably prepared and based upon the best currently available information and good faith judgment of the person furnishing the same; and that the Strategic Benefits will be realized at the times and in the amounts projected by Western Sizzlin as adjusted by Steak n Shake;
  3. Assumed that the final versions of all documents reviewed by Duff & Phelps in draft form conform in all material respects to the drafts reviewed;
  4. Assumed that information supplied to Duff & Phelps and representations and warranties made in each of the agreement, the indenture and the voting agreements are substantially accurate;
  5. Assumed that all of the conditions required to implement the merger will be satisfied and that the merger (including the permitted special distribution of the Steak n Shake common stock owned by
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Western Sizzlin to the Western Sizzlin stockholders that was subsequently distributed on November 6, 2009) will be completed in accordance with the agreement without any amendments thereto or any waivers of any terms or conditions thereof;

6. Relied upon the fact that the special committee and Steak n Shake have been advised by counsel as to all legal matters with respect to the merger, including the terms of the indenture and whether all procedures required by law to be taken in connection with the merger have been duly, validly and timely taken; and

7. Assumed that all governmental, regulatory or other consents and approvals necessary for the consummation of the merger will be obtained without any adverse effect on Steak n Shake or the contemplated benefits expected to be derived in the merger.

In Duff & Phelps' analysis and in connection with the preparation of its opinion, Duff & Phelps has made numerous assumptions with respect to industry performance, general business, market and economic conditions and other matters, many of which are beyond the control of any party involved in the merger. To the extent that any of the foregoing assumptions or any of the facts on which Duff & Phelps' opinion is based prove to be untrue in any material respect, its opinion cannot and should not be relied upon.

Duff & Phelps did not make any independent evaluation, appraisal or physical inspection of Steak n Shake's solvency or of any specific assets or liabilities (contingent or otherwise). Duff & Phelps' opinion should not be construed as a valuation opinion, credit rating, solvency opinion, an analysis of Steak n Shake's credit worthiness, as tax advice, or as accounting advice. Duff & Phelps has not been requested to, and did not, (a) initiate any discussions with, or solicit any indications of interest from, third parties with respect to the merger, the assets, businesses or operations of Steak n Shake, or any alternatives to the merger, (b) negotiate the terms of the merger, and therefore, Duff & Phelps assumed that such terms are the most beneficial terms, from Steak n Shake's perspective, that could, under the circumstances, be negotiated between the special committee and Western Sizzlin, or (c) advise the special committee of the Steak n Shake Board of Directors or any other party with respect to alternatives to the merger. In addition, Duff & Phelps did not express any opinion as to the market price or value of Steak n Shake common stock or Western Sizzlin common stock after announcement of the merger. Duff & Phelps did not make, and assumed no responsibility to make, any representation, or render any opinion, as to any legal matter.

In rendering its opinion, Duff & Phelps did not express any opinion with respect to the amount or nature of any compensation to any of Steak n Shake's officers, directors, or employees, or any class of such persons, relative to the consideration to be received by the public shareholders of Steak n Shake in the merger, or with respect to the fairness of any such compensation.

The basis and methodology for Duff & Phelps' opinion were designed specifically for the express purposes of the special committee and may not translate to any other purposes. Duff & Phelps' opinion (a) does not address the merits of the underlying business decision to enter into the merger versus any alternative strategy or transaction; (b) is not a recommendation as to how the special committee, the board of directors of Steak n Shake or any stockholder should vote or act with respect to any matters relating to the merger, or whether to proceed with the merger or any related transaction, and (c) does not indicate that the consideration paid is the best possibly attainable under any circumstances; instead, it merely states whether the consideration in the merger is within a range suggested by certain financial analyses. The decision as to whether to proceed with the merger or any related transaction may depend on an assessment of factors unrelated to the financial analysis on which its opinion is based. Duff & Phelps' opinion should not be construed as creating any fiduciary duty on the part of Duff & Phelps to any party.

Duff & Phelps prepared its opinion effective as of October 21, 2009. Duff & Phelps' opinion is necessarily based upon market, economic, financial and other conditions as they existed and can be evaluated as of October 21, 2009, and Duff & Phelps disclaims any undertaking or obligation to advise any person of any change in any fact or matter affecting its opinion which may come or be brought to the attention of Duff & Phelps after October 21, 2009.



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Duff & Phelps acted as financial advisor to the special committee and will receive a fee for its services. No portion of Duff & Phelps' fee is contingent upon either the conclusions expressed in its opinion or whether or not the merger is successfully consummated.

In preparing its opinion to the special committee, Duff & Phelps performed a variety of analyses, including those described below. The summary of Duff & Phelps' valuation analyses is not a complete description of the analyses underlying Duff & Phelps' opinion. The preparation of an opinion regarding fairness is a complex process involving various quantitative and qualitative judgments and determinations with respect to the financial, comparative and other analytic methods employed and the adaptation and application of these methods to the unique facts and circumstances presented. As a consequence, neither an opinion regarding fairness nor its underlying analyses is readily susceptible to partial analysis or summary description. Duff & Phelps arrived at its opinion based on the results of all analyses undertaken by it and assessed as a whole and did not draw, in isolation, conclusions from or with regard to any individual analysis, analytic method or factor. Accordingly, Duff & Phelps believes that its analyses must be considered as a whole and that selecting portions of its analyses, analytic methods and factors or focusing on information presented in tabular format, without considering all analyses and factors or the narrative description of the analyses could create a misleading or incomplete view of the processes underlying its analyses and opinion.

In performing its analyses, Duff & Phelps considered general business, economic, industry and market conditions, financial and otherwise, and other matters as they existed on, and could be evaluated as of, the date of its written opinion. No company, transaction or business used in Duff & Phelps' analyses for comparative purposes is identical to Steak n Shake, Western Sizzlin or the merger. Duff & Phelps made judgments and assumptions with regard to industry performance, general business, economic, regulatory, market and financial conditions and other matters, many of which are beyond the control of Steak n Shake, such as the impact of competition on the business of Steak n Shake, Western Sizzlin and on the industry generally, industry growth and the absence of any adverse material change in the financial condition and prospects of Steak n Shake, Western Sizzlin or the industry or in the markets generally. Duff & Phelps believes that mathematical analyses (such as determining average and median) are not by themselves meaningful methods of using selected company data and must be considered together with qualities, judgments and informed assumptions to arrive at sound conclusions. While the results of each analysis were taken into account in reaching its overall conclusion with respect to fairness, Duff & Phelps did not make separate or quantifiable judgments regarding individual analyses. The implied reference range values indicated by Duff & Phelps' analyses are illustrative and not necessarily indicative of actual values or predictive of future results or values, which may be significantly more or less favorable than those suggested by the analyses. In addition, any analyses relating to the value of assets, businesses or securities do not purport to be appraisals or to reflect the prices at which businesses or securities actually may be sold, which may depend on a variety of factors, many of which are beyond the control of Steak n Shake and Duff & Phelps. Much of the information used in, and accordingly the results of, Duff & Phelps' analyses are inherently subject to substantial uncertainty.

Duff & Phelps' opinion was provided to the special committee in connection with its consideration of the merger and was only one of many factors considered by the special committee in evaluating the merger. Neither Duff & Phelps' opinion nor its analyses were determinative of the merger consideration or of the views of the special committee or management of Steak n Shake with respect to the merger.

The following is a summary of the material analyses prepared in connection with Duff & Phelps' opinion rendered on October 21, 2009. The order of the analyses does not represent relative importance or weight given to those analyses by Duff & Phelps. The fact that any specific analysis has been referred to in the summary below is not meant to indicate that such analysis was given greater weight than any other analysis. The analyses summarized below include information presented in tabular format. The tables alone do not constitute a complete description of the analyses. Considering the data in the tables below without considering the full narrative description of the analyses, as well as



the methodologies underlying and the assumptions, qualifications and limitations affecting each analysis, could create a misleading or incomplete view of Duff & Phelps's analyses.

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*Valuation of Restaurant Operations:* For purposes of its analyses, Duff & Phelps reviewed a number of financial and operating metrics in valuing the restaurant operations of Western Sizzlin including:

**Enterprise Value** generally the value as of a specified date of the relevant company's outstanding equity securities (taking into account its outstanding warrants and other convertible securities) plus the value of its net debt (the value of its outstanding indebtedness, preferred stock and capital lease obligations less the amount of cash on its balance sheet) as of a specified date.

**EBITDA** generally the amount of the relevant company's earnings before interest, taxes, depreciation, and amortization for a specified time period.

Unless the context indicates otherwise, enterprise values used in the selected public companies analysis described below were calculated using the closing prices of such companies' common stock as of October 21, 2009, and the enterprise values for the target companies used in the selected mergers and acquisitions, or M&A, transaction analysis described below were calculated as of the announcement date of the relevant transaction based on the purchase prices paid in the selected M&A transaction analysis. Accordingly, this information does not necessarily reflect current or future market conditions. Estimates of 2009 and 2010 EBITDA for Western Sizzlin were based on estimates provided by Western Sizzlin management, as adjusted by Steak n Shake management. Estimates of 2009 and 2010 EBITDA for the selected public companies listed below were based on publicly available research analyst estimates for the selected public companies.

*Selected M&A Transaction Analysis.* Duff & Phelps calculated multiples of enterprise value to EBITDA for the last twelve-month period, or LTM, based on the purchase prices paid in 18 selected publicly-announced transactions.

The selected transactions were:

Date Announced	Target	Acquirer
10/14/2009	Rubio's Restaurants Inc. <sup>(1)</sup>	Levine Leichtman Capital Partners
6/9/2009	Cajun Operating Co. (d/b/a Church's Chicken)	Friedman Fleischer & Lowe, LLC
5/18/2009	Kona Grill Inc.	Mill Road Capital; Mill Road Capital I, L.P.
11/3/2008	Pizza Hut of America, Inc., 191 Pizza Hut Units	NPC International, Inc.
8/5/2008	BUCA, Inc.	Planet Hollywood International Inc.
4/23/2008	Wendy's International Inc.	Triarc Companies Inc. (nka: Wendy's/Arby's Group, Inc.)
7/15/2007	Applebee's International, Inc.	IHOP Corp. (nka: DineEquity, Inc.)
6/17/2007	Friendly Ice Cream Corp.	Sun Capital Partners, Inc.
5/31/2007	Champps Entertainment Inc.	Fox & Hound Restaurant Group
5/17/2007	Spectra Group of Great Restaurants Inc.	Madison Pacific Properties Inc.
2/26/2007	The Smith & Wollensky Restaurant Group, Inc.	Bunker Hill Capital
12/1/2006		