

STEAK & SHAKE CO  
Form PRE 14A  
February 24, 2010

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

SCHEDULE 14A  
(Rule 14a-101)

INFORMATION REQUIRED IN PROXY STATEMENT

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934

Filed by the Registrant  x  
Filed by a party other than the Registrant  o

Check the appropriate box:

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

THE STEAK N SHAKE COMPANY  
(Name of Registrant as Specified in its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- x No fee required.
- o Fee computed on table below per Exchange Act Rules 14a-16(i)(1) and 0-11.
  - 1) Title of each class of securities to which transaction applies:
  - 2) Aggregate number of securities to which transaction applies:
  - 3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):
  - 4) Proposed maximum aggregate value of transaction:
  - 5) Total fee paid:
- o Fee paid previously with preliminary materials.
- o Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

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- 1) Amount Previously Paid:
  - 2) Form, Schedule or Registration Statement No.:
  - 3) Filing Party:
  - 4) Date Filed:
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THE STEAK N SHAKE COMPANY  
175 East Houston Street, Suite 1300  
San Antonio, Texas 78205

NOTICE OF ANNUAL MEETING OF SHAREHOLDERS

April 8, 2010

TO THE SHAREHOLDERS:

Notice is hereby given that the Annual Meeting of the Shareholders of The Steak n Shake Company will be held at The St. Regis Hotel, Two East 55th Street at Fifth Avenue, New York, New York 10022 on April 8, 2010, at 1:00 p.m.

1. To elect directors.
2. To ratify the selection by the Audit Committee of the Board of Directors of Deloitte & Touche LLP as the Corporation's independent registered public accounting firm for the 2010 fiscal year.
3. To amend the Restated Articles of Incorporation to delete an unnecessary post office address, remove nonessential detailed language about the business's purpose, and to change the name of the holding company.
4. To consider and act upon any other matters that may properly come before the meeting or any adjournment thereof.

The Board of Directors has fixed the close of business on March 1, 2010 as the record date for determining the shareholders having the right to vote at the meeting or any adjournment thereof.

You are requested to date, sign and return the enclosed proxy which is solicited by the Board of Directors of the Corporation and will be voted as indicated in the accompanying proxy statement and proxy. A return envelope is provided which requires no postage if mailed in the United States. If mailed elsewhere, foreign postage must be affixed.

By order of the Board of Directors

San Antonio, Texas  
March 6, 2010

SARDAR BIGLARI, Chairman and Chief Executive Officer

If you plan to attend the meeting:

If you are a shareholder of record and you plan to attend the meeting, please keep the admission ticket that is attached to the enclosed proxy card, as you must present this ticket to be admitted to the meeting. Each shareholder may be asked to present valid picture identification, such as a driver's license or passport. Shareholders who do not present an admission ticket will need to present proof of ownership of shares. Those shareholders holding shares in brokerage accounts ("street-name shareholders") will need to bring a copy of a brokerage statement, a legal proxy or letter from the broker confirming ownership of The Steak n Shake Company shares. Registration will begin at 12:00. Cameras, recording devices and other electronic devices will not be permitted at the meeting.

THE STEAK N SHAKE COMPANY  
175 East Houston Street, Suite 1300  
San Antonio, Texas 78205

PROXY STATEMENT  
FOR ANNUAL MEETING OF SHAREHOLDERS  
April 8, 2010

This statement is furnished in connection with the solicitation by the Board of Directors of The Steak n Shake Company (hereinafter “we”, “our”, “Corporation” or “Company”) of proxies in the accompanying form for the Annual Meeting of Shareholders to be held on Thursday, April 8, 2010 at 1:00 p.m. and at any adjournment thereof. This proxy statement and the enclosed form of proxy were first sent to shareholders on or about March 6, 2010. If the form of proxy enclosed herewith is executed and returned as requested, it may nevertheless be revoked at any time prior to exercise by filing an instrument revoking it or a duly executed proxy bearing a later date. Solicitation of proxies may be made by mail and through telephonic or telegraphic communications to, or by meetings with, shareholders or their representatives by directors, officers and other employees of the Corporation who will receive no additional compensation for this service.

In addition, the Corporation has engaged Morrow & Co., LLC (“Morrow”), to act as our proxy solicitation agent. Morrow will be paid a fee of \$5,000 and will be reimbursed for disbursements made on our behalf. You may obtain information from Morrow as follows: 470 West Avenue—3rd Floor, Stamford, CT 06902; banks and brokerage firms, please call (203) 658-9400; shareholders please call (800) 607-0088. The Corporation will reimburse brokerage firms, banks, trustees and others for their actual out-of-pocket expenses in forwarding proxy material to the beneficial owners of its Common Stock.

As of the close of business on March 1, 2010, the record date for the Annual Meeting, the Corporation had outstanding and entitled to vote \_\_\_\_ shares of Common Stock. Each share of Common Stock is entitled to one vote per share on all matters submitted to a vote of shareholders of the Corporation. Only shareholders of record at the close of business on March 1, 2010 are entitled to vote at the Annual Meeting or at any adjournment thereof.

The presence at the meeting, in person or by proxy, of the holders of Common Stock holding in the aggregate a majority of the voting power of the Corporation’s stock entitled to vote shall constitute a quorum for the transaction of business. A plurality of the votes properly cast for the election of directors by the shareholders attending the meeting, in person or by proxy, will elect directors to office. However, pursuant to the Corporation’s Corporate Governance Guidelines, if a director nominee in an uncontested election receives a greater number of votes “withheld” from his or her election than votes “for” that director’s election, the nominee shall promptly offer his or her resignation to the Board. A committee consisting of the Board’s independent directors (which will specifically exclude any director who is required to offer his or her own resignation) shall consider all relevant factors and decide on behalf of the Board the action to be taken with respect to such offered resignation and will determine whether to accept the resignation or take other action. The Corporation will publicly disclose the Board’s decision with regard to any resignation offered under these circumstances with an explanation of how the decision was reached, including, if applicable, the reasons for rejecting the offered resignation.

The number of votes cast in favor of any other question must exceed the votes cast against the question in order for the matter to pass. Abstentions and broker non-votes will count for purposes of establishing a quorum, but will not count as votes cast for the election of directors or any other question and accordingly will have no effect. Shareholders who send in proxies but attend the meeting in person may vote directly if they prefer and withdraw their proxies or may allow their proxies to be voted with the similar proxies sent in by other shareholders.

IMPORTANT NOTICE REGARDING THE AVAILABILITY OF PROXY MATERIALS FOR THE  
SHAREHOLDER MEETING TO BE HELD ON APRIL 8, 2010.

The Proxy Statement for the Annual Meeting of Shareholders to be held on April 8, 2010 and the 2009 Annual Report on Form 10-K, as amended, are available at [www.steaknshake.com](http://www.steaknshake.com).

## 1. ELECTION OF DIRECTORS

At the 2010 Annual Meeting of Shareholders, a Board of Directors consisting of five members will be elected, each director to hold office until a successor is elected and qualified, or until the director resigns, is removed or becomes disqualified.

Upon the recommendation of the Governance, Compensation and Nominating Committee, the members of the Board of Directors have nominated for election the five current directors of the Corporation. Certain information with respect to nominees for election as directors is contained in the following table:

Name	Age	Director Since	Business Experience
Sardar Biglari	32	2008	Chairman and Chief Executive Officer of the Company; Chairman and Chief Executive Officer of Biglari Capital Corp., the general partner of the Lion Fund, L.P. (“Lion Fund”), a private investment fund, since its inception in 2000. He has also served as the Chairman of the Board of Western Sizzlin Corp. (“Western Sizzlin”), a diversified holding company, since March 2006 and as its Chief Executive Officer and President since May 2007.
Philip L. Cooley	66	2008	Prassel Distinguished Professor of Business at Trinity University, San Antonio, Texas, since 1985. Served as an advisory director of Biglari Capital Corp. since 2000 and as Vice Chairman of the Board of Western Sizzlin Corp. since March 2006.
Ruth J. Person	64	2002	Chancellor and Professor of Management, University of Michigan-Flint; Former Chancellor, Indiana University Kokomo and Professor of Management from 1999 through 2008; Member, Board of Managers, Hurley Medical Center, Flint, Michigan; President, American Association of University Administrators 2003 through 2004; Former President, Board of Directors, Workforce Development Strategies, Inc.; Former Member, Key Bank Advisory Board – Central Indiana.
William J. Regan, Jr.	63	2008	Private Investor; Chief Financial Officer, California Independent System Operator Corporation from June 1999 until retirement in April 2008. Formerly held senior financial positions at Entergy Corporation, United Services Automobile Association (USAA), and American Natural Resources.
John W. Ryan	80	1996	Private Investor; Chancellor, State University System of New York from 1996 through 1999; President, Indiana University from 1971 through 1987.

The Governance, Compensation and Nominating Committee (“Governance Committee”) of the Board of Directors has concluded that the following directors are independent in accordance with the director independence standards of the New York Stock Exchange, and has determined that none of them has a material relationship with the Corporation

which would impair his or her independence from management or otherwise compromise his or her ability to act as an independent director: Philip L. Cooley, John W. Ryan, Ruth J. Person and William J. Regan, Jr.

When the accompanying proxy is properly executed and returned, the shares it represents will be voted in accordance with the directions indicated thereon or, if no direction is indicated, the shares will be voted in favor of the election of the five nominees identified above. The Corporation expects each nominee to be able to serve if elected, but if any nominee notifies the Corporation before the annual meeting that he or she is unable to do so, then the proxies will be voted for the remainder of those nominated and, as designated by the directors, may be voted (i) for a substitute nominee or nominees, or (ii) to elect such lesser number to constitute the whole Board as equals the number of nominees who are able to serve.

#### Board of Directors' Meeting, Committees, Directors' Compensation and Nominations

Board of Directors' actions were taken at twelve meetings held during fiscal year 2009. Each director attended at least 75% of all meetings of the Board and of the Committees of the Board on which he or she served. Directors are encouraged but not required to attend annual meetings of the Corporation's shareholders. All current directors of the Corporation at the date of the 2009 Annual Meeting of Shareholders attended that meeting except John W. Ryan.

The Board of Directors has established an Audit Committee in accordance with Section 3(a)(58)A of the Securities Exchange Act of 1934. The Audit Committee consists of Philip L. Cooley, Ruth J. Person, John W. Ryan and William J. Regan, Jr. The Board of Directors has determined that all Audit Committee members meet the definition of "audit committee financial expert" as that term is used in Item 401(h) of Regulation S-K promulgated under the Securities Exchange Act. All current members of the Audit Committee meet the criteria for independence set forth in Rule 10A-3 under the Securities Exchange Act and in Section 303A of the New York Stock Exchange Listed Company Manual. The Audit Committee assists the Board with oversight of a) the integrity of the Corporation's financial statements, b) the Corporation's compliance with legal and regulatory requirements and c) the qualifications and independence of the Corporation's independent public accountants and the Corporation's internal audit function. The Audit Committee meets periodically with the Corporation's independent public accountants, head of internal audit and members of management and reviews the Corporation's accounting policies and internal controls. The Audit Committee also selects the firm of independent public accountants to be retained by the Corporation to perform the audit. The Audit Committee held seven formal meetings during fiscal year 2009. The Board of Directors amended and restated the Charter on January 25, 2010. The amended Audit Committee Charter is available on the Corporation's website at [www.steaknshake.com](http://www.steaknshake.com) and may also be obtained a no charge by written request to the attention of the Secretary of the Corporation at 175 East Houston Street, Suite 1300, San Antonio, Texas 78205.

The Board of Directors has established a Governance, Compensation and Nominating Committee and adopted a charter to define and outline the responsibilities of its members. A copy of the Governance, Compensation and Nominating Committee Charter is available on the Corporation's website at [www.steaknshake.com](http://www.steaknshake.com) and may also be obtained at no charge by written request to the attention of the Secretary of the Corporation at 175 East Houston Street, Suite 1300, San Antonio, Texas 78205. The Governance, Compensation and Nominating Committee consists of Philip L. Cooley, Ruth J. Person, John W. Ryan and William J. Regan, Jr., all of whom are independent directors in accordance with the New York Stock Exchange director independence standards.

The role of the Governance, Compensation and Nominating Committee is to assist the Board of Directors by a) recommending governance guidelines applicable to Steak n Shake; b) identifying, evaluating and recommending the nomination of Board members; c) setting the compensation of Steak n Shake's Chief Executive Officer and performing other compensation oversight; d) reviewing related persons transactions; and e) assisting the Board with other related tasks, as assigned from time to time. The Governance, Compensation and Nominating Committee did not meet in fiscal year 2009 as it was not yet formed, and has met once in 2010. Prior to the formation of the combined committee, during fiscal year 2009, the Compensation Committee met four times and the Nominating and Governance Committee met three times.

In identifying director nominees, the Governance, Compensation and Nominating Committee looks for individuals who have a meaningful interest in the Corporation's stock, are shareholder-oriented and possess business savvy. With respect to the selection of director nominees at the 2010 Annual Meeting of Shareholders, the Governance, Compensation and Nominating Committee recommends the Board nominate each of the five directors currently serving on the Board.

The Corporation's Governance, Compensation and Nominating Committee has a policy under which it will consider recommendations presented by shareholders. A shareholder wishing to submit such a recommendation should send a letter to the Secretary of the Corporation at 175 East Houston Street, Suite 1300, San Antonio, Texas 78205. The mailing envelope must contain a clear notation that the enclosed letter is a "Director Nominee Recommendation". The Secretary must receive the recommendation not less than 120 days prior to the date we released our proxy materials for the preceding year's annual meeting for it to be considered by the Committee for the 2011 Annual Meeting of Shareholders. The letter must identify the author as a shareholder and provide a brief summary of the candidate's qualifications. At a minimum, candidates recommended for nomination to the Board of Directors must meet the director independence standards of the New York Stock Exchange. The Committee's policy provides that candidates



recommended by shareholders will be evaluated using the same criteria as are applied to all other candidates.

Directors of the Corporation who are employees or spouses of employees do not receive fees for attendance at directors' meetings. A director who is not an employee or a spouse of an employee receives an annual cash retainer of \$22,000. The Chairs of the Audit Committee and Governance, Compensation and Nominating Committee receive an annual retainer of \$37,000. In addition, non-employee directors receive cash meeting attendance fees as follows:

- \$3,500 for each in-person Board meeting attended;
- \$1,250 for each committee meeting attended in-person not held in conjunction with a Board meeting;
- \$500 for each committee meeting attended held in conjunction with a Board meeting; and
- \$500 for any meeting (Board or committee) in which the director participated by phone.

From November 2008 to March 2009 we paid all retainers in Company stock. We have discontinued that practice to minimize equity dilution. Effective April 1, 2009, all annual retainers have been paid in cash only.

In addition to the foregoing payments, directors may participate in the Nonqualified Deferred Compensation Plan. There are no matching payments made to directors under the Nonqualified Deferred Compensation Plan and no guaranteed return is offered. Instead, it provides directors with an opportunity to defer the receipt of retainer and/or meeting fees and obtain them at a later date, together with the gains or losses associated with investments against which they choose to track their accounts.

The following table provides compensation information for the fiscal year ended September 30, 2009 for each non-management member of the Corporation's Board of Directors, and six former directors who received compensation in fiscal year 2009.

Name	Fees Earned or Paid in Cash	Stock Awards <sup>a</sup>	Option Awards <sup>b</sup>	All Other Compensation <sup>c</sup>	Total
Geoffrey Ballotti (resigned in November 2008)	\$ 4,500	\$ 7,331	\$ (2,722)	\$ 590	\$ 9,699
Philip L. Cooley	\$ 40,420	\$ 5,559	\$ —	\$ —	\$ 45,979
Wayne Kelley (resigned in March 2009)	\$ 13,708	\$ 13,484	\$ 248	\$ 590	\$ 28,030
Ruth J. Person	\$ 41,647	\$ 5,559	\$ 14,910	\$ 590	\$ 62,706
William J. Regan, Jr.	\$ 46,669	\$ 4,432	\$ —	\$ —	\$ 51,101
J. Fred Risk (did not stand for re-election in 2009)	\$ 18,089	\$ 22,683	\$ 14,910	\$ 590	\$ 56,272
John W. Ryan	\$ 43,646	\$ 8,089	\$ 14,910	\$ —	\$ 66,645
Steven M. Schmidt (did not stand for re-election in 2009)	\$ 6,610	\$ 22,683	\$ 15,610	\$ 590	\$ 45,493
Edward Wilhelm (did not stand for re-election in 2009)	\$ 13,936	\$ 22,683	\$ 14,039	\$ 590	\$ 51,248
James Williamson, Jr. (resigned in March 2008)	\$ —	\$ —	\$ —	\$ 295	\$ 295

a. Represents the dollar amount of equity compensation cost recognized for financial reporting purposes with respect to grants of restricted stock under our Non-Employee Restricted Stock Plan in fiscal 2009. Dr. Cooley received a grant of 50 shares of restricted stock on March 12, 2008, the grant date fair value of which was \$8,070. Messrs. Schmidt and Wilhelm received a grant of 50 shares of restricted stock each on February 6, 2007, the grant date fair value of which was \$17,840. Mr. Ballotti received a grant of 50 shares of restricted stock on April 23, 2007, the grant date fair value of which was \$16,840. These are all of the shares of restricted stock held by our directors. The numbers of shares granted have been adjusted to reflect the 1-for-20 reverse stock split effective as of the end of business December 18, 2009.

b. Represents the dollar amount of equity compensation cost recognized for financial reporting purposes with respect to grants of stock options in fiscal 2009 as follows:

Fiscal 2009 Expense for Stock Option Grants to Non-Employee Directors

Name