

LIVEPERSON INC  
Form DEF 14A  
April 28, 2004

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

INFORMATION REQUIRED IN PROXY STATEMENT  
SCHEDULE 14A INFORMATION

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

Filed by the Registrant    
Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement  
 Confidential, for Use of the Commission Only  
(as permitted by Rule 14a-6(e)(2))  
 Definitive Proxy Statement  
 Definitive Additional Materials  
 Soliciting Material Pursuant to Rule 14a-11(c) or Rule 14a-12

LIVEPERSON, INC.

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(Name of Registrant as Specified In Its Charter)

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

Payment of Filing Fee (Check the appropriate box):

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

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

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2. Aggregate number of securities to which transaction applies:

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

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4. Proposed maximum aggregate value of transaction:

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5. Total fee paid:

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Fee paid previously with preliminary materials.

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.

1. Amount Previously Paid:

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2. Form, Schedule or Registration Statement No.:

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3. Filing Party:

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4. Date Filed:

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April 26, 2004

Dear LivePerson Stockholders:

On behalf of the Board of Directors of LivePerson, Inc., I cordially invite you to attend our Annual Meeting of Stockholders, which will be held on Thursday, May 27, 2004 at 10:00 a.m. (Eastern Daylight time) at the Courtyard by Marriott Hotel (Manhattan Times Square South), Meeting Room A, 114 West 40th Street, New York, New York 10018 (Tel: 212-391-0088).

The purposes of this meeting are:

- the election of one director;
- the approval of the amendment and restatement of the LivePerson, Inc. 2000 Stock Incentive Plan;
- the ratification of the appointment of KPMG LLP as independent public accountants; and
- to act upon such other business as may properly come before the Annual Meeting.

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You will find attached a Notice of Annual Meeting of Stockholders and a Proxy Statement that contain more information about the matters to be considered at the Annual Meeting. Please give all of this information your careful attention. The Board of Directors recommends a vote **FOR** the director nominee pursuant to Item 1 in the Notice and a vote **FOR** the proposals listed as Items 2 and 3 in the Notice.

You will also find enclosed a Proxy Card appointing proxies to vote your shares at the Annual Meeting. If you do not plan to attend the Annual Meeting in person, please sign, date and return your Proxy Card as soon as possible so that your shares can be represented and voted in accordance with your instructions. If you decide to attend the Annual Meeting and wish to change your proxy vote, you may do so automatically by voting in person at the Annual Meeting.

The Proxy Statement and the enclosed Proxy Card are first being mailed on or about April 27, 2004 to stockholders entitled to vote. Our 2003 Annual Report to Stockholders is being mailed with the Proxy Statement.

We look forward to seeing you at the Annual Meeting.

Sincerely,

Robert P. LoCascio  
*Chairman of the Board and  
Chief Executive Officer*

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### LIVEPERSON, INC.

462 Seventh Avenue, 21st Floor  
New York, New York 10018

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#### NOTICE OF ANNUAL MEETING OF STOCKHOLDERS TO BE HELD AT 10:00 A.M. MAY 27, 2004

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#### TO THE STOCKHOLDERS OF LIVEPERSON, INC.:

NOTICE IS HEREBY GIVEN that the Annual Meeting of Stockholders (the Annual Meeting) of LivePerson, Inc., a Delaware corporation (the Company), will be held at the Courtyard by Marriott Hotel (Manhattan Times Square South), Meeting Room A, 114 West 40th Street, New York, New York 10018 on Thursday, May 27, 2004 at 10:00 a.m. (Eastern Daylight time) for the following purposes, as more fully described in the Proxy Statement accompanying this notice:

- (1) To elect one Class I director to serve until the 2007 Annual Meeting of Stockholders or until such director's successor shall have been duly elected and qualified;
- (2) To approve the amendment and restatement of the LivePerson, Inc. 2000 Stock Incentive Plan;
- (3) To ratify the appointment of KPMG LLP as independent public accountants of the Company for the fiscal year ending December 31, 2004; and
- (4) To transact such other business as may properly come before the Annual Meeting or any adjournments or postponements thereof.

Only stockholders of record at the close of business on April 8, 2004 will be entitled to notice of, and to vote at, the Annual Meeting, and any adjournments or postponements thereof. The stock transfer books of the Company will remain open between the record date and the date of the Annual Meeting, and any adjournments or postponements thereof. A list of stockholders entitled to vote at the Annual Meeting, and any adjournments or postponements thereof, will be available for inspection at the Annual Meeting, and any adjournments or postponements thereof,

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and for a period of 10 days prior to the meeting during regular business hours at the offices of the Company listed above.

All stockholders are cordially invited to attend the Annual Meeting in person. Whether or not you plan to attend the Annual Meeting in person, your vote is important. To assure your representation at the Annual Meeting, please sign and date the enclosed Proxy Card and return it promptly in the enclosed envelope, which requires no additional postage if mailed in the United States or Canada. Should you receive more than one Proxy Card because your shares are registered in different names and addresses, each Proxy Card should be signed and returned to assure that all your shares will be voted. You may revoke your proxy in the manner described in the Proxy Statement at any time prior to it being voted at the Annual Meeting. If you attend the Annual Meeting and vote by ballot, your proxy will be revoked automatically and only your vote at the Annual Meeting will be counted.

By Order of the Board of Directors

Timothy E. Bixby

*President, Chief Financial Officer, Secretary and Director*

New York, New York  
April 26, 2004

**YOUR VOTE IS VERY IMPORTANT, REGARDLESS OF THE NUMBER OF SHARES YOU OWN. PLEASE READ THE ATTACHED PROXY STATEMENT CAREFULLY, COMPLETE, SIGN AND DATE THE ENCLOSED PROXY CARD AS PROMPTLY AS POSSIBLE AND RETURN IT IN THE ENCLOSED ENVELOPE.**

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## LIVEPERSON, INC.

462 Seventh Avenue, 21st Floor  
New York, New York 10018

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### PROXY STATEMENT

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#### General

This Proxy Statement is furnished to the stockholders of record of LivePerson, Inc., a Delaware corporation ( LivePerson or the Company ), as of April 8, 2004, in connection with the solicitation of proxies on behalf of the Board of Directors of the Company for use at the Annual Meeting of Stockholders to be held on Thursday, May 27, 2004, and at any adjournments or postponements thereof. The Annual Meeting will be held at 10:00 a.m. (Eastern Daylight time) at the Courtyard by Marriott Hotel (Manhattan Times Square South), Meeting Room A, 114 West 40th Street, New York, New York 10018 (Tel: 212-391-0088). This Proxy Statement and the accompanying Proxy Card and Notice of Annual Meeting of Stockholders are first being mailed on or about April 27, 2004 to all stockholders entitled to vote at the Annual Meeting and at any adjournments or postponements thereof.

#### Voting

The specific matters to be considered and acted upon at the Annual Meeting are:

- (i) the election of one director;
- (ii) the approval of the amendment and restatement of the LivePerson, Inc. 2000 Stock Incentive Plan;
- (iii) the ratification of the Audit Committee's appointment of KPMG LLP as the Company's independent public accountants for the fiscal year ending December 31, 2004; and
- (iv) to act upon such other business as may properly come before the Annual Meeting or any adjournments or postponements thereof.

These matters are described in more detail in this Proxy Statement.

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On April 8, 2004, the record date for determination of stockholders entitled to notice of and to vote at the Annual Meeting and any adjournments or postponements thereof, 37,276,409 shares of the Company's Common Stock were issued and outstanding. No shares of the Company's Preferred Stock, par value \$0.001 per share, were outstanding. Each stockholder is entitled to one vote for each share of Common Stock held by such stockholder on April 8, 2004. Stockholders may not cumulate votes in the election of directors.

The stock transfer books of the Company will remain open between the record date and the date of the Annual Meeting, and any adjournments or postponements thereof. A list of stockholders entitled to vote at the Annual Meeting, and any adjournments or postponements thereof, will be available for inspection at the Annual Meeting, and any adjournments or postponements thereof, and for a period of ten days prior to the meeting during regular business hours at the offices of the Company listed above.

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The presence, in person or by proxy, of the holders of a majority of the votes entitled to be cast at the Annual Meeting is necessary to constitute a quorum in connection with the transaction of business at the Annual Meeting. All votes will be tabulated by the inspector of election appointed for the meeting, who will separately tabulate affirmative and negative votes, abstentions and broker non-votes (*i.e.*, proxies from brokers or nominees indicating that such persons have not received instructions from the beneficial owner or other persons entitled to vote shares as to a matter with respect to which the brokers or nominees do not have discretionary power to vote). Abstentions and broker non-votes are counted as present for purposes of determining the presence or absence of a quorum for the transaction of business.

If a quorum is present, the nominee who receives the greatest number of votes properly cast (in person or by proxy) will be elected as a Class I Director. Neither abstentions nor broker non-votes will have any effect on the outcome of voting with respect to the election of the Class I director.

Proposals other than for the election of the Class I director shall be approved by the affirmative vote of the holders of a majority of the shares of the Common Stock present at the Annual Meeting, in person or by proxy, and entitled to vote thereon. Abstentions will be counted towards the tabulations of votes cast on these proposals presented to the stockholders and will have the same effect as negative votes, whereas broker non-votes will not be counted for purposes of determining whether such a proposal has been approved.

Under the General Corporation Law of the State of Delaware, stockholders are not entitled to dissenter's rights with respect to any matter to be considered and voted on at the Annual Meeting, and the Company will not independently provide stockholders with any such right.

### Proxies

If the enclosed Proxy Card is properly signed and returned, the shares represented thereby will be voted at the Annual Meeting in accordance with the instructions specified thereon. If a signed and returned Proxy Card does not specify how the shares represented thereby are to be voted, the proxy will be voted **FOR** the election of the Class I director proposed by the Board, unless the authority to vote for the election of such director is withheld. In addition, if no contrary instructions are given, the proxy will be voted **FOR** the approval of Proposals 2 and 3 described in this Proxy Statement, and as the proxy holders deem advisable for all other matters as may properly come before the Annual Meeting. You may revoke or change your proxy at any time before the Annual Meeting by filing with the Secretary of the Company, at the Company's principal executive offices at 462 Seventh Avenue, 21st Floor, New York, New York 10018, a notice of revocation or another signed Proxy Card with a later date. You may also revoke your proxy by attending the Annual Meeting and voting in person.

### Solicitation

The Company will bear the entire cost of solicitation, including the preparation, assembly, printing and mailing of this Proxy Statement, the enclosed Proxy Card and any additional solicitation materials furnished to the stockholders. Copies of solicitation materials will be furnished to brokerage houses, fiduciaries and custodians holding shares in their names that are beneficially owned by others so that they may forward this solicitation material to such beneficial owners. In addition, the Company may reimburse such persons for their costs in forwarding the solicitation materials to such beneficial owners. The original solicitation of proxies by mail may be supplemented by a solicitation by telephone, telegram or other means by directors, officers or employees of the Company. No additional compensation will be paid to these individuals for any such services. Except as described above, the Company does not presently intend to solicit proxies other than by mail.

In order to be considered for inclusion in the Company's Proxy Statement and Proxy Card relating to the 2005 Annual Meeting of Stockholders, any proposal by a stockholder submitted pursuant to Rule 14a-8 of the Securities Exchange Act of 1934, as amended, must be received by the Company at its principal executive offices in New York, New York, on or before December 27, 2004. In addition, under the Company's bylaws, any proposal for consideration at the 2005 Annual Meeting of Stockholders submitted by a stockholder other than pursuant to Rule 14a-8 will be considered timely if it is received by the Secretary of the Company at its principal executive offices between the close of business on January 27, 2005 and the close of business on February 26, 2005, and is otherwise in compliance with the requirements set forth in the Company's bylaws. The proxy solicited by the Board of Directors for the 2005 Annual Meeting of Stockholders will confer discretionary authority to vote as the proxy holders deem advisable on such stockholder proposals which are considered untimely.

**MATTERS TO BE CONSIDERED AT ANNUAL MEETING**

**PROPOSAL ONE ELECTION OF DIRECTOR**

**General**

The Company's Fourth Amended and Restated Certificate of Incorporation provides for a classified Board of Directors, consisting of three classes of directors with staggered three-year terms, with each class consisting, as nearly as possible, of one-third of the total number of directors. At the annual meeting of stockholders in the year in which the term of a class of directors expires, director nominees in such class will stand for election to three-year terms. With respect to each class, a director's term will be subject to the election and qualification of such director's successor, or the earlier death, resignation or removal of such director.

The Board currently consists of six persons, as follows:

<u>Class I</u> (current term ends upon this Annual Meeting)	<u>Class II</u> (current term ends upon 2005 Annual Meeting)	<u>Class III</u> (current term ends upon 2006 Annual Meeting)
Richard L. Fields Emmanuel Gill	Steven Berns Timothy E. Bixby	Kevin C. Lavan Robert P. LoCascio

The term of office for the two Class I directors listed above expires at the Annual Meeting. The Board has selected Mr. Gill, a current Class I director, as nominee for Class I director whose term of office will expire at the 2007 Annual Meeting of Stockholders. Mr. Fields has decided not to stand for re-election to the Board, and the Board has determined not to designate a nominee for Class I director to succeed him. Mr. Fields intends to step down from the Board on the date of the Annual Meeting, at which time the Board expects to reduce its size by one, such that after the Annual Meeting, the Board is expected to consist of five persons, with Class I consisting of one director and Classes II and III consisting of two directors each. Under the Company's Second Amended and Restated Bylaws, as amended, the Board may act by resolution to increase the size of the Board in the future, and fill any newly created directorships resulting from such increase by the affirmative vote of the majority of the directors then in office.

Mr. Gill has agreed to serve, if elected, and management has no reason to believe that he will be unavailable to serve. In the event Mr. Gill is unable or declines to serve as a director at the time of the Annual Meeting, the proxies will be voted for any nominee who may be designated by the present Board of Directors to fill the vacancy. Unless otherwise instructed, the proxy holders will vote the proxies received by them **FOR** Mr. Gill. The proxies solicited by this Proxy Statement cannot be voted for a greater number of persons than the number of nominees named.

**Required Vote**

The Class I director shall be elected by the affirmative vote of a plurality of the shares of the Common Stock present at the Annual Meeting, in person or by proxy, and entitled to vote in the election of directors. Pursuant to applicable Delaware law, abstentions and broker non-votes will have no effect on the outcome of the vote.

**Nominee for Term Ending upon the 2007 Annual Meeting of Stockholders (Class I)**

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*Emmanuel Gill*, 65, has been a director since July 2001. Since 1999, Mr. Gill has been President and Chief Executive Officer of Gilbridge Holdings Ltd., a private company which invests in Israeli technology start-up businesses and assists them in entering the United States market. Mr. Gill was a director of our subsidiary HumanClick Ltd., which we acquired in October 2000. Between 1979 and 1999, Mr. Gill was President and Chief Executive Officer of Elbit Ltd., an Israeli manufacturer of electronics for the defense, communications and medical industries. In 1996, Elbit completed a strategic spin-off, forming three separate publicly-traded companies, and Mr. Gill remained Chairman of each of the Elbit spin-offs until forming Gilbridge in 1999. Mr. Gill received a B.S. from the Technion, Israel Institute of Technology.

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### Recommendation of the Board of Directors

**THE BOARD OF DIRECTORS RECOMMENDS THAT THE STOCKHOLDERS VOTE FOR THE ELECTION OF MR. GILL.**

### Continuing Directors for Term Ending upon the 2005 Annual Meeting of Stockholders (Class II)

*Steven Berns*, 39, has been a director since April 2002. Since August 1999, Mr. Berns has been Senior Vice President and Treasurer of The Interpublic Group of Companies, Inc., a major organization of advertising agencies and marketing services companies. Before that, Mr. Berns held a variety of positions in finance at Revlon, Inc. from April 1992 to August 1999, becoming Vice President and Treasurer in 1996. Prior to joining Revlon, Mr. Berns worked at Paramount Communications Inc. and at a predecessor public accounting firm of Deloitte & Touche. Mr. Berns received a M.B.A. from New York University and a B.S. from Lehigh University.

*Timothy E. Bixby*, 39, has been our Chief Financial Officer since June 1999, our Secretary and a director since October 1999 and our President since March 2001. In addition, Mr. Bixby was an Executive Vice President from January 2000 until March 2001. From March 1999 until May 1999, Mr. Bixby was a private investor. From January 1994 until February 1999, Mr. Bixby was Vice President of Finance for Universal Music & Video Distribution Inc., a manufacturer and distributor of recorded music and video products, where he was responsible for internal financial operations, third party distribution deals and strategic business development. From October 1992 through January 1994, Mr. Bixby was Associate Director, Business Development, with the Universal Music Group. Prior to that, Mr. Bixby spent three years in Credit Suisse First Boston's mergers and acquisitions group as a financial analyst. Mr. Bixby received a M.B.A. from Harvard University and an A.B. from Dartmouth College.

### Continuing Directors for Term Ending upon the 2006 Annual Meeting of Stockholders (Class III)

*Kevin C. Lavan*, 51, has been a director since January 2000. Since October 2000, Mr. Lavan has been serving as an independent consultant to marketing services organizations. In addition, between January 2001 and September 2002, Mr. Lavan was President and Chief Operating Officer of Elbit VFlash, Inc. From March 1999 until October 2000, Mr. Lavan was an Executive Vice President of Wunderman, the direct marketing and customer relationship marketing division of Young & Rubicam Inc. From February 1997 to March 1999, Mr. Lavan was Senior Vice President of Finance at Young & Rubicam. From 1984 to February 1997, Mr. Lavan held various positions at Viacom Inc., including Controller, and Chief Financial Officer for Viacom's subsidiary, MTV Networks. Mr. Lavan received a B.S. from Manhattan College.

*Robert P. LoCascio*, 35, has been our Chief Executive Officer and Chairman of our Board of Directors since our inception in November 1995. In addition, Mr. LoCascio was our President from November 1995 until January 2001. Mr. LoCascio founded our company as Sybarite Interactive Inc., which developed a community-based web software platform known as TOWN. Before founding Sybarite Interactive, through November 1995, Mr. LoCascio was the founder and Chief Executive Officer of Sybarite Media Inc. (known as IKON), a developer of interactive public kiosks that integrated interactive video features with advertising and commerce capabilities. Mr. LoCascio was named a New York City 2001 Ernst & Young Entrepreneur of the Year finalist. Mr. LoCascio received a B.B.A. from Loyola College.

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### Non-Continuing Director

*Richard L. Fields*, 47, has been a director since July 1999. Mr. Fields is a Managing Director of the investment banking firm Allen & Company LLC, where he has been employed since 1986. Mr. Fields is a director of the Telecommunications Development Fund. Mr. Fields received a J.D. from Harvard University, a M.B.A. from Stanford University and a B.S. from the Massachusetts Institute of Technology. Mr. Fields intends to step down from the Board on the date of the Annual Meeting.

## Director Independence

The Board of Directors has affirmatively determined that a majority of its directors (Messrs. Berns, Fields, Gill and Lavan) are independent under the listing standards of The Nasdaq Stock Market. The Board will continue to be comprised of a majority of independent directors after Mr. Fields leaves the Board.

All of our directors, except for Mr. Berns and Mr. Gill, were elected or appointed pursuant to the terms of an agreement among certain of our stockholders. This agreement terminated upon the initial public offering of our Common Stock.

## Board Committees and Meetings

The Board of Directors held four meetings and acted by unanimous written consent on three occasions during the fiscal year ended December 31, 2003 (the 2003 Fiscal Year). The Board of Directors has an Audit Committee and a Compensation Committee and does not have a Nominating Committee. In the 2003 Fiscal Year, each director attended or participated in 75% or more of the aggregate of (i) the total number of meetings of the Board of Directors, and (ii) the total number of meetings held by all committees of the Board on which such director served (in each case for meetings held during the period in the 2003 Fiscal Year for which such director served).

Beginning in 2004, all directors who are not members of the Company's management are scheduled to meet at regularly scheduled executive sessions without members of management present. The position of presiding director at these meetings is expected to rotate among the non-employee directors. At least one of these meetings each year is to include only those directors who are independent under the current listing standards of The Nasdaq Stock Market (currently all non-employee directors are independent).

All members of the Board of Directors are encouraged to attend the Company's annual meeting of stockholders. At the 2003 Annual Meeting, three of our six directors attended.

The Audit Committee appoints our independent auditors, subject to ratification by our stockholders, reviews the plan for and the results of the independent audit, approves the fees of our independent auditors, reviews with management and the independent auditors our quarterly and annual financial statements and our internal accounting, financial and disclosure controls, reviews and approves transactions between LivePerson and its officers, directors and affiliates and performs other duties and responsibilities as set forth in a charter approved by the Board of Directors. The Audit Committee charter is attached to this proxy statement as Appendix I. The members of the Audit Committee are Mr. Fields, Mr. Gill and Mr. Lavan (Chair). Each member of the Audit Committee is independent, as independence is defined for purposes of Audit Committee membership by the listing standards of Nasdaq and the applicable rules and regulations of the Securities and Exchange Commission (SEC). The Audit Committee held five meetings and acted by written consent on two occasions during the 2003 Fiscal Year.

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The Board has determined that each member of the Audit Committee is able to read and understand fundamental financial statements, including LivePerson's balance sheet, income statement and cash flow statement, as required by Nasdaq rules. In addition, the Board has determined that Mr. Lavan satisfies the Nasdaq rule requiring that at least one member of our Board's Audit Committee have past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background which results in the member's financial sophistication, including being, or having been, a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities. The Board has also determined that Mr. Lavan is a financial expert as defined by the SEC.

The Compensation Committee of our Board of Directors recommends, reviews and oversees the salaries, benefits and stock option plans for our employees, consultants, directors and other individuals whom we compensate. The Compensation Committee also administers our compensation plans. The Compensation Committee also performs other duties and responsibilities as set forth in a charter approved by the Board of Directors. The members of the Compensation Committee are Mr. Berns, Mr. Fields and Mr. Gill (Chair). Each member of the Compensation Committee is independent, as independence is defined for purposes of Compensation Committee membership by the listing standards of Nasdaq. The Compensation Committee acted by written consent on two occasions during the 2003 Fiscal Year.

The Board of Directors does not have a standing nominating committee or committee performing similar functions. The Board has determined that it is appropriate not to have a nominating committee because of the relatively small size of the Board. The Board has determined by resolution that a majority of the independent directors of the Board will recommend nominees for director. The independent directors of the Board, in carrying out the nomination function, will not operate under a charter. As disclosed below, each of the directors of the Board who will carry out the nomination function is independent, as defined by the listing standards of Nasdaq. The independent directors of the Board intend to consider director nominees on a case-by-case basis, and therefore have not formalized any specific, minimum qualifications that they believe



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must be met by a director nominee, identified any specific qualities or skills that they believe are necessary for one or more of our directors to possess, or formalized a process for identifying and evaluating nominees for director, including nominees recommended by stockholders.

The Board of Directors has determined, in connection with the Board's nomination function described above, that it is the policy of the independent directors acting in such capacity to consider director candidates that are recommended by stockholders. The independent directors will evaluate nominees for director recommended by stockholders in the same manner as nominees recommended by other sources. Stockholders wishing to bring a nomination for a director candidate at a stockholders meeting must give written notice to LivePerson's Corporate Secretary, pursuant to the procedures set forth under "Communicating with the Board of Directors" and subject to the deadline set forth under "Deadline for Stockholder Proposals." The stockholder's notice must set forth all information relating to each person whom the stockholder proposes to nominate that is required to be disclosed under applicable rules and regulations of the SEC and LivePerson's bylaws. Our bylaws can be accessed in the "Investor Relations Corporate Governance" section of our web site at [www.liveperson.com](http://www.liveperson.com).

### Director Compensation

Directors who are also our employees receive no additional compensation for their services as directors. Directors who are not our employees do not receive a fee for attendance in person at meetings of the Board of Directors or committees of the Board of Directors, but they are reimbursed for reasonable travel expenses and other reasonable out-of-pocket costs incurred in connection with attendance at meetings. Non-employee directors are granted options to purchase 15,000 shares of our Common Stock upon their election to the Board of Directors. In addition, non-employee directors are granted options to purchase 5,000 shares of our Common Stock on the date of each annual meeting of stockholders. These non-employee director option grants are made under our 2000 Stock Incentive Plan.

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### Communicating with the Board of Directors

In order to communicate with the Board of Directors as a whole, with non-employee directors or with specified individual directors, correspondence may be directed to LivePerson, Inc. at 462 Seventh Avenue, 21st Floor, New York, New York 10018, Attention: Corporate Secretary. All such correspondence will be forwarded to the appropriate director or group of directors.

### Corporate Governance Documents

The Board has adopted a Code of Conduct that applies to all officers, directors and employees, and a Code of Ethics for the Chief Executive Officer and Senior Financial Officers. Both codes of conduct can be accessed in the "Investor Relations Corporate Governance" section of our web site at [www.liveperson.com](http://www.liveperson.com), as well as any amendments to, or waivers under, the Code of Ethics for the Chief Executive Officer and Senior Financial Officers. Copies may be obtained by writing to LivePerson, Inc., 462 Seventh Avenue, 21st Floor, New York, New York 10018, Attention: Investor Relations. Copies of the charters of our Board's Audit Committee and Compensation Committee, as well as copies of LivePerson's certificate of incorporation and bylaws, can also be accessed in the "Investor Relations Corporate Governance" section of our web site.

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## OWNERSHIP OF SECURITIES

The following table sets forth information with respect to the beneficial ownership of our outstanding Common Stock as of April 8, 2004, by:

- each person or group of affiliated persons whom we know to beneficially own more than five percent of our Common Stock;
- each of our directors and director nominees;
- each of our executive officers named in the Summary Compensation Table of the Executive Compensation and Other Information section of this Proxy Statement; and
- each of our directors and executive officers as a group.

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The following table gives effect to the shares of Common Stock issuable within 60 days of April 8, 2004 upon the exercise of all options and other rights beneficially owned by the indicated stockholders on that date. Beneficial ownership is determined in accordance with the rules of the SEC and includes voting and investment power with respect to shares. Percentage of beneficial ownership is based on 37,276,409 shares of Common Stock outstanding at April 8, 2004. Unless otherwise indicated, the persons named in the table directly own the shares and have sole voting and sole investment control with respect to all shares beneficially owned.

Name and Address	Number of Shares Beneficially Owned	Percentage of Common Stock Outstanding
<b>5% Stockholders</b>		
Gilder, Gagnon, Howe & Co. LLC(1)	4,510,794	12.1%
Arbor Capital Management, LLC and Rick D. Leggott(2)	2,001,900	5.4%
Constitution Research & Management, Inc.(3)	1,860,620	5.0%
<b>Directors and Executive Officers</b>		
Robert P. LoCascio(4)	5,671,963	15.2%
Steven Berns(5)	15,000	*
Timothy E. Bixby(6)	868,750	2.3%
Richard L. Fields(7)	253,856	*
Emmanuel Gill(8)	1,564,886	4.2%
Kevin C. Lavan(9)	15,000	*
Directors and Executive Officers as a group (6 persons)(10)	8,389,455	22.0%

\* Less than 1%.

(1) Based solely on our review of the Schedule 13G filed with the SEC on February 17, 2004 by Gilder, Gagnon Howe & Co. LLC ( GGHC ), whose address is 1775 Broadway, 26th Floor, New York, New York 10019. GGHC shares power to dispose or to direct the disposition of all of the shares listed above, which include 4,295,964 shares held in customer accounts over which partners and/or employees of GGHC have discretionary authority to dispose of or direct the disposition of the shares, 127,960 shares held in accounts owned by the partners of GGHC and their families, and 86,870 shares held in the account of the profit-sharing plan of GGHC, over which GGHC has sole voting power.

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- (2) Based solely on our review of the Schedule 13G filed with the SEC on February 9, 2004 by Arbor Capital Management, LLC ( Arbor ) and Rick D. Leggott, each of whose address is One Financial Plaza, 120 South Sixth Street, Suite 1000, Minneapolis, Minnesota 55402. Each of Arbor and Leggott may be deemed to have sole voting power over 1,642,300 shares and sole dispositive power over 2,001,900 shares. Arbor is an investment adviser registered under Section 203 of the Investment Advisers Act of 1940. Mr. Leggott is Chief Executive Officer of Arbor and beneficially owns a controlling percentage of its outstanding voting securities. As a result of his position with and ownership of securities of Arbor, Mr. Leggott could be deemed to have voting and/or investment power with respect to the shares beneficially owned by Arbor. The Schedule 13G states that neither its filing nor any information contained therein shall be construed as an admission by Mr. Leggott of his control or power to influence the control of Arbor. Arbor has been granted discretionary dispositive power over its clients' securities and in some instances has voting power over such securities. Any and all discretionary authority which has been delegated to Arbor may be revoked in whole or in part at any time. Not more than five percent of LivePerson's Common Stock is owned by any one of Arbor's clients subject to the investment advice of Arbor or its affiliates. Arbor and Mr. Leggott each expressly disclaim beneficial ownership of the shares listed above (except for such shares, if any, beneficially owned by Arbor for its own account or by Mr. Leggott for his individual account and not as a result of his position with and ownership of securities of Arbor).
- (3) Based solely on our review of the Schedule 13G filed with the SEC on February 17, 2004 by Constitution Research & Management, Inc. ( Constitution ), whose address is 175 Federal Street, 12th Floor, Boston, Massachusetts 02110. Constitution is an investment adviser registered under Section 203 of the Investment Advisers Act of 1940 which furnishes investment advice and serves as investment manager to certain separate accounts for various advisory clients (the Constitution Accounts ). In its role as investment adviser or manager, Constitution possesses sole voting and/or investment power over all of the shares listed above. Constitution disclaims beneficial ownership of all of the shares listed above, all of which are held in the Constitution Accounts. No Constitution Account, to the knowledge of Constitution, owns more than five percent of LivePerson's Common Stock.

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- (4) The address for Mr. LoCascio is c/o LivePerson, Inc., 462 Seventh Avenue, 21st Floor, New York, New York 10018.
- (5) Consists of 15,000 shares of Common Stock issuable upon exercise of options exercisable within 60 days of April 8, 2004.
- (6) Consists of 868,750 shares of Common Stock issuable upon exercise of options exercisable within 60 days of April 8, 2004.
- (7) Includes 30,000 shares of Common Stock issuable upon exercise of options exercisable within 60 days of April 8, 2004.
- (8) Includes 850,413 shares of Common Stock held by Gilbridge Holdings Ltd., an entity over which Mr. Gill indirectly exercises control. The address for Mr. Gill is c/o Gilbridge Holdings Ltd., 152 West 57th Street, 54th Floor, New York, New York 10019. Also includes 5,000 shares of Common Stock issuable upon exercise of options exercisable within 60 days of April 8, 2004.
- (9) Consists of 15,000 shares of Common Stock issuable upon exercise of options exercisable within 60 days of April 8, 2004.
- (10) Includes 933,750 shares of Common Stock issuable upon exercise of options or warrants exercisable within 60 days of April 8, 2004.

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### EXECUTIVE COMPENSATION AND OTHER INFORMATION

#### Executive Officers

The executive officers of LivePerson, and their ages and positions as of April 1, 2004, are:

Name	Age	Position
Robert P. LoCascio	35	Chief Executive Officer and Chairman of the Board
Timothy E. Bixby	39	President, Chief Financial Officer, Secretary and Director

#### Summary Compensation Table

The following table sets forth the compensation earned for all services rendered to us in all capacities in the fiscal years ended December 31, 2003, 2002 and 2001 by our Chief Executive Officer and our other executive officer (the Named Executive Officers).

Name and Principal Position	Year	Annual Compensation		Long-Term Compensation Awards
		Salary (\$)	Bonus (\$)	Securities Underlying Options (#)
Robert P. LoCascio Chief Executive Officer	2003	205,000	62,000	
	2002	185,000	25,000	
	2001	185,000	50,000	
Timothy E. Bixby President and Chief Financial Officer	2003	205,000	62,000	
	2002	185,000	25,000	275,000
	2001	185,000		550,000

#### Aggregated Option Exercises During the 2003 Fiscal Year and Year-End Option Values

The following table provides certain summary information concerning stock options exercised during the 2003 Fiscal Year and stock options held at December 31, 2003 by each of the Named Executive Officers. The value realized from exercised options is deemed to be the market value of our Common Stock on the date of exercise, less the exercise price of the option, multiplied by the number of shares underlying the option. The value of each unexercised in-the-money option at December 31, 2003 is based on the market value of our Common Stock at December 31, 2003, less the exercise price of the option, multiplied by the number of shares underlying the option.

Name	Shares Acquired on Exercise (#)	Value Realized (\$)	Number of Securities Underlying Unexercised Options at December 31, 2003 (#)		Value of Unexercised In-the-Money Options at December 31, 2003 (\$) (1)	
			Exercisable	Unexercisable	Exercisable	Unexercisable
Robert P. LoCascio						
Timothy E. Bixby	150,000	1,000,500	793,750	481,250	2,866,638	2,169,000

- (1) The last quoted bid price of our Common Stock on The Nasdaq SmallCap Market on the last trading day of the 2003 Fiscal Year was \$5.00 per share.

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### Employment Agreements

Robert P. LoCascio, our Chief Executive Officer, is employed pursuant to an employment agreement entered into as of January 1, 1999. After its initial term, which expired on January 1, 2002, our agreement with Mr. LoCascio extended automatically for one-year terms ending on each of January 1 in 2003, 2004 and 2005. The agreement will again automatically extend on January 1, 2005 for a one-year term, unless either we or Mr. LoCascio gives notice not to extend the term of the agreement. Pursuant to the agreement, Mr. LoCascio is entitled to receive an annual base salary of not less than \$125,000, plus an annual discretionary bonus of up to \$50,000, determined by our Board of Directors based upon achievement of performance objectives. Our Board raised Mr. LoCascio's annual salary to \$185,000, effective April 2000. The Compensation Committee of our Board raised Mr. LoCascio's annual salary to \$225,000, effective July 2003. If Mr. LoCascio is terminated by us without cause or following a material change or diminution in his duties, a reduction in his salary or bonus, or if we are sold or following a change in control of our company, or if we relocate him to a location outside the New York metropolitan area, we must pay him an amount equal to the amount of his salary for the 12 months following the date of termination, and the pro rata portion of the bonus he would have been entitled to receive for the fiscal year in which the termination occurred. These amounts are payable in three monthly installments beginning 30 days after his termination. Pursuant to the agreement, for a period of one year from the date of termination of Mr. LoCascio's employment, he may not directly or indirectly compete with us, including, but not limited to, being employed by any business which competes with us, or otherwise acting in a manner intended to advance an interest of a competitor of ours in a way that will or may injure an interest of ours.

Timothy E. Bixby, our President and Chief Financial Officer, is employed pursuant to an employment agreement entered into as of June 23, 1999, which shall continue until it is terminated by either party. Pursuant to the agreement, Mr. Bixby receives an annual base salary of not less than \$140,000 and an annual discretionary bonus. Our Board raised Mr. Bixby's annual salary to \$185,000, effective April 2000. The Compensation Committee of our Board raised Mr. Bixby's annual salary to \$225,000, effective July 2003. Mr. Bixby is also eligible to receive long-term incentive awards determined by our Board consisting of options to purchase Common Stock. If Mr. Bixby is terminated following a change in control of our company or if he terminates his employment with us following a reduction in his salary or a material change or diminution in his duties, all of his options then outstanding will vest immediately, and we must pay him a lump-sum amount equal to his annual salary, and the pro rata portion of the bonus he would have been entitled to receive for the year in which the termination occurred. Pursuant to the agreement, for a period of one year from the date of termination of Mr. Bixby's employment, he may not directly or indirectly compete with us, including, but not limited to, being employed by any business which competes with us, or otherwise acting in a manner intended to advance an interest of a competitor of ours in a way that will or may injure an interest of ours.

### Compensation Committee Interlocks and Insider Participation

The members of the Compensation Committee of our Board of Directors during the 2003 Fiscal Year were Mr. Berns, Mr. Fields and Mr. Gill. None of these members was an officer or employee of LivePerson during the 2003 Fiscal Year or at any time prior to that. No executive officer of LivePerson serves or has served during the 2003 Fiscal Year as a member of the board of directors or compensation committee of any entity which has one or more executive officers serving as a member of our Board of Directors or Compensation Committee.

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## REPORT OF THE COMPENSATION COMMITTEE OF THE BOARD OF DIRECTORS

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The Compensation Committee of the Board of Directors is composed of three independent non-employee directors. It is the duty of the Compensation Committee to review and determine the salaries and bonuses of executive officers of the Company, including the Chief Executive Officer, and to establish the general compensation policies for such individuals. The Compensation Committee also has the sole and exclusive authority to make discretionary option grants to the Company's executive officers under the Company's 2000 Stock Incentive Plan.

The Compensation Committee believes that the compensation programs for the Company's executive officers should reflect the Company's performance and the value created for the Company's stockholders. In addition, the compensation programs should support the short-term and long-term strategic goals and values of the Company and should reward individual contribution to the Company's success. The Company is engaged in a very competitive industry, and the Company's success depends upon its ability to attract and retain qualified executives through the competitive compensation packages it offers to such individuals.

*General Compensation Policy.* The Compensation Committee's policy is to provide the Company's executive officers with compensation opportunities which are based upon their personal performance, the financial performance of the Company and their contribution to that performance and which are competitive enough to attract and retain highly skilled individuals. Generally, each executive officer's compensation package is comprised of three elements: (i) base salary that is competitive with the market and reflects individual performance, (ii) annual variable performance awards payable in cash and tied to the Company's achievement of annual financial performance goals and (iii) long-term stock-based incentive awards designed to strengthen the mutuality of interests between the executive officers and the Company's stockholders. As an officer's level of responsibility increases, a greater proportion of his or her total compensation will be dependent upon the Company's financial performance and stock price appreciation rather than base salary.

*Factors.* The principal factors that were taken into account in establishing each executive officer's compensation package for the 2003 Fiscal Year are described below. However, the Compensation Committee may in its discretion apply entirely different factors, such as different measures of financial performance, for future fiscal years.

*Base Salary.* In setting base salaries, the Compensation Committee reviewed published compensation survey data for its industry. The base salary for each officer reflects the salary levels for comparable positions in comparable companies, as well as the individual's personal performance and internal alignment considerations. The relative weight given to each factor varies with each individual in the sole discretion of the Compensation Committee. Each executive officer's base salary is reviewed each year on the basis of (i) the Compensation Committee's evaluation of the officer's personal performance for the year and (ii) the competitive marketplace for persons in comparable positions. The Company's performance and profitability may also be a factor in determining the base salaries of executive officers.

*Annual Incentives.* Bonuses for executive officers are based on the Company's actual performance compared to plan.

*Long Term Incentives.* Stock option grants are made by the Compensation Committee to the Company's executive officers, generally upon hire, upon a material change in responsibilities or at other times at the discretion of the Compensation Committee. Each grant is designed to align the interests of the executive officer with those of the stockholders and provide each individual with a significant incentive to manage the Company from the perspective of an owner with an equity stake in its business. Each grant allows the officer to acquire shares of the Company's Common Stock at a fixed price per share (the market price on the grant date) over a specified period of time (up to ten years). Generally, each option becomes exercisable in a series of installments over a 4-year period, contingent upon the officer's continued employment with the Company. Accordingly, the option will provide a return to the executive officer only if he or she remains employed by the Company during the vesting period, and then only if the market price of the shares appreciates over the option term.

The size of the option grant to each executive officer is set by the Compensation Committee at a level that is intended to create a meaningful opportunity for stock ownership based upon the individual's current position with the Company, the individual's personal performance in recent periods and his or her potential for future responsibility and promotion over the option term. The Compensation Committee also takes into account the number of unvested options held by the executive officer in order to maintain an appropriate level of equity incentive for that individual. The relevant weight given to each of these factors varies from individual to individual. The Compensation Committee has established certain guidelines with respect to the option grants made to the executive officers, but has the flexibility to make adjustments to those guidelines at its discretion.

*CEO Compensation.* In setting the total compensation payable to the Company's Chief Executive Officer for the 2003 Fiscal Year, the Compensation Committee sought to make that compensation competitive with the compensation paid to the chief executive officers of similar companies, while at the same time assuring that a significant percentage of compensation was tied to Company performance and stock price appreciation.

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The Compensation Committee sought to maintain Robert P. LoCascio's base salary at a competitive level when compared with the base salary levels in effect for similarly situated chief executive officers. With respect to Mr. LoCascio's base salary, it is the Compensation Committee's intent to provide him with a level of stability and certainty each year and not have this particular component of compensation affected to any significant degree by Company performance factors. The remaining components of Mr. LoCascio's 2003 Fiscal Year compensation, however, were primarily dependent upon corporate performance. Mr. LoCascio is eligible for a cash bonus for each year conditioned on the Company's attainment of certain goals with additional consideration to be given to individual business plan objectives.

*Compliance with Internal Revenue Code Section 162(m).* Section 162(m) of the Internal Revenue Code of 1986, as amended, disallows a tax deduction to publicly-held companies for compensation paid to certain of their executive officers, to the extent that compensation exceeds \$1 million per covered officer in any fiscal year. The limitation applies only to compensation that is not considered to be performance-based. Non-performance based compensation paid to the Company's executive officers for the 2003 Fiscal Year did not exceed the \$1 million limit per officer, and the Compensation Committee does not anticipate that the non-performance based compensation to be paid to the Company's executive officers for the fiscal year ending December 31, 2004 will exceed that limit. The Company's 2000 Stock Incentive Plan has been structured so that any compensation deemed paid in connection with the exercise of option grants made under that plan with an exercise price equal to the fair market value of the option shares on the grant date will qualify as performance-based compensation which will not be subject to the \$1 million limitation. In addition, if the stockholders approve the proposal to amend and restate the 2000 Stock Incentive Plan, certain stock grants (such as restricted stock) may be made in a manner to qualify as performance-based compensation not subject to the \$1 million limitation. Because it is unlikely that the cash compensation payable to any of the Company's executive officers in the foreseeable future will approach the \$1 million limit, the Compensation Committee has decided at this time not to take any action to limit or restructure the elements of cash compensation payable to the Company's executive officers. The Compensation Committee will reconsider this decision should the individual cash compensation of any executive officer ever approach the \$1 million level.

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It is the opinion of the Compensation Committee that the executive compensation policies and plans provide the necessary total remuneration program to properly align the Company's performance and the interests of the Company's stockholders through the use of competitive and equitable executive compensation in a balanced and reasonable manner, for both the short and long-term.

**Submitted by the Compensation Committee of the Company's Board of Directors:**

**Steven Berns  
Richard L. Fields  
Emmanuel Gill**

**April 22, 2004**

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### **Stock Performance Graph**

The graph depicted below compares the monthly percentage changes in the Company's cumulative total stockholder return with the cumulative total return of the Standard & Poor's SmallCap 600 Index and the Standard & Poor's Information Technology Index.

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Notes:

- (1) The graph covers the period from the market close on April 7, 2000, the first trading day of the Common Stock following the Company's initial public offering, to December 31, 2003.
- (2) The graph assumes that \$100 was invested at the market close on April 7, 2000 in the Company's Common Stock, and on March 31, 2000 in the Standard & Poor's SmallCap 600 Index and in the Standard & Poor's Information Technology Index, and that all dividends were reinvested. No cash dividends have been declared on the Company's Common Stock.
- (3) Stockholder returns over the indicated period should not be considered indicative of future stockholder returns.

## REPORT OF THE AUDIT COMMITTEE OF THE BOARD OF DIRECTORS

### *Membership and Role of the Audit Committee*

The Audit Committee consists of the following members of the Company's Board of Directors: Richard L. Fields, Emmanuel Gill and Kevin C. Lavan (Chair). Each member of the Audit Committee is independent, as independence is defined for purposes of Audit Committee membership by the listing standards of Nasdaq and the applicable rules and regulations of the SEC. The Board has determined that each member of the Audit Committee is able to read and understand fundamental financial statements, including LivePerson's balance sheet, income statement and cash flow statement, as required by Nasdaq rules. In addition, the Board has determined that Mr. Lavan satisfies the Nasdaq rule requiring that at least one member of our Board's Audit Committee have past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background which results in the member's financial sophistication, including being or having been a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities. The Board has also determined that Mr. Lavan is a financial expert as defined by the SEC.

The Audit Committee appoints our independent auditors, subject to ratification by our stockholders, reviews the plan for and the results of the independent audit, approves the fees of our independent auditors, reviews with management and the independent auditors our quarterly and annual financial statements and our internal accounting, financial and disclosure controls, reviews and approves transactions between LivePerson and its officers, directors and affiliates and performs other duties and responsibilities as set forth in a charter approved by the Board

of Directors. The Audit Committee charter is attached to this proxy statement as Appendix I.

*Review of the Company's Audited Consolidated Financial Statements for the 2003 Fiscal Year*

The Audit Committee has reviewed and discussed the audited consolidated financial statements of the Company for the 2003 Fiscal Year with the Company's management. The Audit Committee has separately discussed with KPMG LLP, the Company's independent public accountants, the matters required to be discussed by Statement on Auditing Standards No. 61 (Communication with Audit Committees), as amended, which includes, among other things, matters related to the conduct of the audit of the Company's consolidated financial statements.

The Audit Committee has also received the written disclosures and the letter from KPMG LLP required by Independence Standards Board Standard No. 1 (Independence Discussions with Audit Committees), as amended, and the Audit Committee has discussed with KPMG LLP the independence of that firm from the Company.

*Conclusion*

Based on the Audit Committee's review and discussions noted above, the Audit Committee recommended to the Board of Directors that the Company's audited consolidated financial statements be included in the Company's Annual Report on Form 10-K for the 2003 Fiscal Year for filing with the Securities and Exchange Commission.

**Submitted by the Audit Committee of the Company's Board of Directors:**

**Richard L. Fields  
Emmanuel Gill  
Kevin C. Lavan**

**April 22, 2004**

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*Notwithstanding anything to the contrary set forth in any of the Company's previous or future filings under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, that might incorporate by reference this Proxy Statement or future filings made by the Company under those statutes, the Compensation Committee Report, the Audit Committee Report, reference to the independence of the Audit Committee members and the Stock Performance Graph are not deemed filed with the Securities and Exchange Commission, are not deemed soliciting material and shall not be deemed incorporated by reference into any of those prior filings or into any future filings made by the Company under those statutes, except to the extent that the Company specifically incorporates such information by reference into a previous or future filing, or specifically requests that such information be treated as soliciting material, in each case under those statutes.*

**Section 16(a) Beneficial Ownership Reporting Compliance**

The members of our Board of Directors, our executive officers and persons who hold more than ten percent of our outstanding Common Stock are subject to the reporting requirements of Section 16(a) of the Securities Exchange Act of 1934, as amended, which requires them to file reports with respect to their ownership of our Common Stock and their transactions in such Common Stock. Based solely upon a review of (i) the copies of Section 16(a) reports which LivePerson has received from such persons or entities for transactions in our Common Stock and their Common Stock holdings for the 2003 Fiscal Year, and (ii) the written representations received from one or more of such persons or entities that no annual Form 5 reports were required to be filed by them for the 2003 Fiscal Year, LivePerson believes that all reporting requirements under Section 16(a) for such fiscal year were met in a timely manner by its directors, executive officers and beneficial owners of more than ten percent of its Common Stock, except that Mr. Gill filed one late report with respect to three transactions.

**Certain Relationships And Related Transactions**

None.

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**PROPOSAL TWO APPROVAL OF AMENDED AND  
RESTATED 2000 STOCK INCENTIVE PLAN**

**General**

We maintain the 2000 Stock Incentive Plan in order to provide employees, consultants and directors with the opportunity to acquire a proprietary interest, or otherwise increase their proprietary interest, in LivePerson as an incentive for them to remain in our service. On April 22, 2004, the Board unanimously approved an amendment and restatement of the 2000 Stock Incentive Plan, subject to stockholder approval at the 2004 Annual Meeting, to incorporate certain performance criteria to preserve the tax deductibility of certain stock awards. The amendment and restatement of the 2000 Stock Incentive Plan also clarifies that consultants or other independent advisors that are entities may be granted stock awards under the plan, and includes certain other changes that are not required to be approved by stockholders. The amendment and restatement of the 2000 Stock Incentive Plan does not increase the maximum number of shares of Common Stock authorized for issuance under the plan. The Board believes that it is desirable to amend and restate the 2000 Stock Incentive Plan in order to incentivize and retain key persons and to give us the ability to grant performance-based stock and preserve the tax deductibility with respect to such awards.

As of March 31, 2004, options to purchase 5,810,150 shares of Common Stock were outstanding under the 2000 Stock Incentive Plan. The weighted average exercise price of these awards was \$1.62 per share, and the weighted average remaining life of these awards was 7.49 years. As of March 31, 2004, 5,414,962 shares of Common Stock were available for future grant under the 2000 Stock Incentive Plan (excluding any shares that may become available as a result of the expiration or termination without exercise of currently outstanding options). In addition, 1,020,049 shares of Common Stock were available for future issuance under the LivePerson, Inc. Employee Stock Purchase Plan. The 2000 Stock Incentive Plan and the Employee Stock Purchase Plan are the only plans pursuant to which shares will be issued. Effective October 2001, we suspended the Employee Stock Purchase Plan until further notice.

The following description of the 2000 Stock Incentive Plan, as amended and restated, is a summary of its principal provisions and is qualified in its entirety by reference to the 2000 Stock Incentive Plan, as amended and restated. A copy of the 2000 Stock Incentive Plan, as amended and restated, will be filed electronically with the Securities and Exchange Commission as Appendix II to this Proxy Statement. Any stockholder may obtain a printed copy of the amended and restated plan, without charge, by writing to our corporate Secretary at our principal executive offices located at 462 Seventh Avenue, 21st Floor, New York, New York 10018.

**Description of the 2000 Stock Incentive Plan, as Amended and Restated**

The 2000 Stock Incentive Plan became effective upon its adoption by the Board on March 21, 2000 and was ratified by our stockholders on March 23, 2000.

The maximum number of shares of Common Stock authorized for issuance under the 2000 Stock Incentive Plan is 14,164,869 (subject to adjustment for stock splits and similar changes to the Common Stock as a class). Of this maximum number, 2,939,757 shares of Common Stock have already been issued as a result of stock option exercises through March 31, 2004, and these shares are not available for future grant or issuance. The number of shares authorized for issuance automatically increases on the first trading day in each calendar year by a number of shares equal to 3% of the total number of shares of Common Stock outstanding on the last trading day of the immediately preceding calendar year, but in no event may such annual increase exceed 1,500,000 shares. In addition, in no event may any one participant in the 2000 Stock Incentive Plan receive option grants or direct stock issuances for more than 500,000 shares in the aggregate per calendar year.

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The 2000 Stock Incentive Plan has five separate programs:

- the discretionary option grant program under which eligible individuals who are employed by LivePerson or provide services to LivePerson (including officers, non-employee directors and consultants or other independent advisors (whether or not such consultants or advisors are natural persons or entities)) may be granted options to purchase shares of our Common Stock;
- the stock issuance program under which such individuals may be issued shares of Common Stock directly, through the purchase of such shares or as a bonus tied to the performance of services and/or attainment of performance goals;
- the salary investment option grant program under which executive officers and other highly compensated employees may elect to apply a portion of their base salary to the acquisition of special below-market stock option grants;

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- the automatic option grant program under which option grants will automatically be made at periodic intervals to eligible non-employee directors; and
- the director fee option grant program under which non-employee directors may elect to apply a portion of their retainer fee to the acquisition of special below-market stock option grants.

As of March 31, 2004, two executive officers, four non-employee directors and approximately 78 other employees and consultants were eligible to participate in the discretionary option grant and stock issuance programs. The two executive officers were also eligible to participate in the salary investment option grant program, and the four non-employee directors were also eligible to participate in the automatic option grant program and the director fee option grant program. We have not yet implemented the stock issuance, salary investment option grant or director fee option grant programs.

The 2000 Stock Incentive Plan as a whole may be administered by the Board or by a committee (or subcommittee) of two or more directors appointed by the Board, each of whom qualifies as a non-employee director within the meaning of Rule 16b-3 promulgated under the Securities Exchange Act of 1934, as amended (the Exchange Act), an outside director within the meaning of Section 162(m) of the Internal Revenue Code of 1986, as amended (the Code) and an independent director within the meaning of Rule 4200(a)(15) of the Nasdaq listing standards.

The 2000 Stock Incentive Plan permits a committee of one or more directors to administer the discretionary option grant and the stock issuance programs for persons not subject to Section 16(b) of the Exchange Act. Currently, the discretionary option grant and stock issuance programs are administered by the Board's Compensation Committee. The Compensation Committee will determine which eligible individuals are to receive option grants or stock issuances, the time or times when such option grants or stock issuances are to be made, the number of shares subject to each such grant or issuance, the exercise or purchase price for each such grant or issuance (which may be less than, equal to or greater than the fair market value of the shares), the status of any granted option as either an incentive stock option or a non-statutory stock option under the federal tax laws, the vesting schedule to be in effect for the option grant or stock issuance and the maximum term for which any granted option is to remain outstanding. The Compensation Committee will also select the executive officers and other highly compensated employees who may participate in the salary investment option grant program in the event that program is activated for one or more calendar years. Neither the Compensation Committee nor the Board will exercise any administrative discretion with respect to option grants made under the salary investment option grant program or under the automatic option grant program or director fee option grant program for the non-employee directors.

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Awards of stock under the stock issuance program that are intended to comply with the performance-based compensation exception under Section 162(m) of the Code will be granted or vest based upon the attainment of pre-established objective performance goals established by the Compensation Committee by reference to one or more of the following: (i) enterprise value or value creation targets, after-tax or pre-tax profits, operational cash flow, earnings per share or earnings per share from continuing operations, net sales, revenues, net income or earnings before income tax or other exclusions, return on capital, market share or after-tax or pre-tax return on our stockholder equity; (ii) our bank debt or other long-term or short-term public or private debt or other similar financial obligations, which may be calculated net of cash balances and/or other offsets and adjustments as may be established by the Compensation Committee; (iii) the fair market value of the shares of our Common Stock; (iv) the growth in the value of an investment in our Common Stock assuming the reinvestment of dividends; (v) our controllable expenses or costs or other expenses or costs; or (vi) economic value added targets based on a cash flow return on investment formula. The performance goals may be based upon the attainment of specified levels by the whole Company or by a subsidiary, division, other operational unit or administrative department of the Company.

The exercise price for options may be paid in cash or in shares of our Common Stock valued at fair market value on the exercise date. Options may also be exercised through a same-day sale program without any cash outlay by the optionee.

In the event that we are acquired, whether by merger or asset sale or Board-approved sale by our stockholders of more than 50% of our voting stock, each outstanding option under the discretionary option grant program which is not to be assumed by the successor corporation or otherwise continued will automatically accelerate in full, and all unvested shares under the discretionary option grant and stock issuance programs will immediately vest, except to the extent the repurchase rights with respect to those shares are to be assigned to the successor corporation or otherwise continued in effect. The

Compensation Committee may grant options and issue shares which will accelerate (i) in the acquisition even if the options are assumed and repurchase rights assigned, (ii) in connection with a hostile change in control (effected through a successful tender offer for more than 50% of our outstanding voting stock or by proxy contest for the election of directors) or (iii) upon a termination of the individual's service following a change in control or hostile takeover. In the event of an acquisition of the Company (by merger or asset sale), options currently outstanding that

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were issued under our 1998 Stock Option and Restricted Stock Purchase Plan will be assumed by the successor corporation. Such options were incorporated into the 2000 Stock Incentive Plan as of that plan's adoption by the Board on March 21, 2000, but continue to be governed by their existing terms, and are not subject to acceleration in connection with any other change in control or hostile takeover.

Stock appreciation rights may be issued under the discretionary option grant program which will provide the holders with the election to surrender their outstanding options for an appreciation distribution from us equal to the fair market value of the vested shares subject to the surrendered option less the aggregate exercise price payable for such shares. Such appreciation distribution may be made in cash or in shares of Common Stock.

The Compensation Committee has the authority to cancel outstanding options under the discretionary option grant program, with the consent of the holder, in return for the grant of new options for the same or different number of option shares with an exercise price per share based upon the fair market value of our Common Stock on the new grant date.

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In the event the Compensation Committee elects to activate the salary investment option grant program for one or more calendar years, each of our executive officers and other highly compensated employees selected for participation may elect to reduce his or her base salary for that calendar year by a specified dollar amount not less than \$5,000 nor more than \$50,000. In return, the individual will automatically be granted, on the first trading day in the calendar year for which the salary reduction is to be in effect, a non-statutory option to purchase that number of shares of Common Stock determined by dividing the salary reduction amount by two-thirds of the fair market value per share of our Common Stock on the grant date. The option exercise price will be equal to one-third of the fair market value of the option shares on the grant date. As a result, the fair market value of the option shares on the grant date less the exercise price payable for those shares will be equal to the salary reduction amount. The option will become exercisable in a series of 12 equal monthly installments over the calendar year for which the salary reduction is to be in effect and will be subject to full and immediate vesting in the event of an acquisition or change in control of the Company.

Under the automatic option grant program, each individual who joins the Board as a non-employee director will automatically be granted an option for 15,000 shares of our Common Stock at the time of his or her commencement of Board service, provided such individual has not been in our prior employ. In addition, on the date of each annual meeting of our stockholders, each individual who is to continue to serve as a non-employee director after such meeting and who has served as a non-employee director for at least six months will receive an option grant to purchase 5,000 shares of Common Stock. Each automatic grant will have an exercise price equal to the fair market value per share of our Common Stock on the grant date and will have a maximum term of 10 years, subject to earlier termination following the optionee's cessation of Board service. Each option will be immediately exercisable, subject to our right to repurchase any unvested shares, at the original exercise price, at the time of the director's cessation of service. Each 15,000-share option grant will vest, and the repurchase right will lapse, in a series of three equal successive annual installments upon the optionee's completion of each year of Board service over the three-year period measured from the grant date. Each 5,000-share option grant will vest, and the repurchase right will lapse, upon the optionee's completion of one year of Board service measured from the grant date. However, each such outstanding option will immediately vest upon a change in control, a hostile takeover or the death or disability of the optionee while serving as a director.

If the director fee option grant program is put into effect in the future, then each non-employee director may elect to apply all or a portion of any cash retainer fee for the year to the acquisition of a below-market option grant. The option grant will automatically be made on the first trading day in the calendar year for which the non-employee director would otherwise be paid the cash retainer fee in the absence of his or her election. The option will have an exercise price per share equal to one-third of the fair market value of the option shares on the grant date, and the number of shares subject to the option will be determined by dividing the amount of the retainer fee applied to the program by two-thirds of the fair market value per share of our Common Stock on the grant date. As a result, the fair market value of the option shares on the grant date less the exercise price payable for those shares will be equal to the portion of the retainer fee applied to that option. The option will become exercisable in a series of 12 equal monthly installments over the calendar year f