

22nd Century Group, Inc.  
Form PRE 14A  
February 18, 2014

**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

**WASHINGTON, DC 20549**

**SCHEDULE 14A**

**(RULE 14a-101)**

**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 §240.14a-12

22nd Century Group, Inc.  
(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):

No fee required.

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(4) Proposed maximum aggregate value of transaction:

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(1) Amount Previously Paid:

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(3) Filing Party:

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## NOTICE OF ANNUAL MEETING OF STOCKHOLDERS

The 2014 annual meeting of stockholders of 22nd Century Group, Inc. (the “Company”) will be held at Spaulding Lake Clubhouse, 4805 Spaulding Drive, Clarence, New York 14031, on Saturday, April 12, 2014, beginning at 2:00 P.M. local time. At the meeting, the holders of the Company’s outstanding common stock will act on the following matters:

(1) The approval of an amendment to our articles of incorporation to provide for a classified Board of Directors;

(2) The election of the five nominees named in the attached proxy statement as directors to serve terms expiring at the annual meeting of stockholders to be held in 2015 (unless Proposal No. 1 above is approved, in which case the directors will be elected to the class and for the terms provided in Proposal No. 1) and until their successors have been elected and qualified;

(3) The approval, on an advisory basis, of the 2013 compensation of the Company’s named executive officers;

(4) The approval of the 22nd Century Group, Inc. 2014 Omnibus Incentive Plan;

(5) The ratification of the appointment of Freed Maxick CPAs, P.C. as the Company’s independent registered certified public firm for fiscal 2014; and

(6) The transaction of any other business as may properly come before the meeting or any adjournment or postponement thereof.

Stockholders of record at the close of business on February 28, 2014 are entitled to notice of and to vote at the annual meeting and any postponements or adjournments thereof.

It is hoped you will be able to attend the meeting, but in any event, please vote according to the instructions on the enclosed proxy as promptly as possible. If you are able to be present at the meeting, you may revoke your proxy and vote in person.

**Important Notice Regarding the Availability of Proxy Materials for the Annual Meeting of Stockholders to be Held on April 12, 2014:** The 2013 Annual Report on Form 10-K and proxy statement of 22nd Century Group, Inc. are available online at <http://www.xxiicentury.com/sec-filings/>. For directions to the annual meeting, please contact Henry Sicignano III at 716-270-1523 or through [www.xxiicentury.com/contact](http://www.xxiicentury.com/contact).

By Order of the Board of Directors,  
/s/ Joseph Pandolfino  
Joseph Pandolfino  
Chairman and Chief Executive Officer

Dated: March 4, 2014

TABLE OF CONTENTS

ABOUT THE ANNUAL MEETING	1
PRINCIPAL STOCKHOLDERS	4
PROPOSAL NO. 1 AMENDMENT TO THE ARTICLES OF INCORPORATION TO PROVIDE FOR A CLASSIFIED BOARD OF DIRECTORS	6
PROPOSAL NO. 2 ELECTION OF DIRECTORS	7
CORPORATE GOVERNANCE	9
EXECUTIVE OFFICERS	11
EXECUTIVE COMPENSATION	12
CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS	16
PROPOSAL NO. 3 ADVISORY RESOLUTION ON EXECUTIVE COMPENSATION	17
PROPOSAL NO. 4 APPROVAL OF THE 22ND CENTURY GROUP, INC. 2014 OMNIBUS INCENTIVE PLAN	18
PROPOSAL NO. 5 THE RATIFICATION OF THE APPOINTMENT OF FREED MAXICK CPAs, PC AS THE COMPANY'S INDEPENDENT REGISTERED CERTIFIED PUBLIC ACCOUNTING FIRM FOR FISCAL YEAR 2014	29
AUDIT COMMITTEE REPORT	30
STOCKHOLDER PROPOSALS FOR THE 2015 MEETING	31
OTHER MATTERS	31

22nd Century Group, Inc.

9530 Main Street

Clarence, New York 14031

## ANNUAL MEETING OF STOCKHOLDERS

To Be Held April 12, 2014

## PROXY STATEMENT

The Board of Directors of 22nd Century Group, Inc. is soliciting proxies from its stockholders to be used at the annual meeting of stockholders to be held at Spaulding Lake Clubhouse, 4805 Spaulding Drive, Clarence, New York 14031, on Saturday, April 12, 2014, beginning at 2:00 P.M. local time, and at any postponements or adjournments thereof. This proxy statement contains information related to the annual meeting. This proxy statement and the accompanying form of proxy are first being sent to stockholders on or about March 4, 2014.

## ABOUT THE ANNUAL MEETING

Why did I receive these materials?

Our Board of Directors is soliciting proxies for the 2014 annual meeting of stockholders. You are receiving a proxy statement because you owned shares of our common stock on February 28, 2014 and that entitles you to vote at the meeting. By use of a proxy, you can vote whether or not you attend the meeting. This proxy statement describes the matters on which we would like you to vote and provides information on those matters so that you can make an informed decision.

What information is contained in this proxy statement?

The information in this proxy statement relates to the proposals to be voted on at the annual meeting, the voting process, our Board, the compensation of Directors and Executive Officers and other information that the Securities and Exchange Commission requires us to provide annually to our stockholders.

Who is entitled to vote at the meeting?

Holders of common stock as of the close of business on the record date, February 28, 2014, will receive notice of, and be eligible to vote at, the annual meeting and at any adjournment or postponement of the annual meeting. At the close of business on the record date, we had outstanding and entitled to vote 58,252,770 shares of common stock.

How many votes do I have?

Each outstanding share of our common stock you owned as of the record date will be entitled to one vote for each matter considered at the meeting. There is no cumulative voting.

Who can attend the meeting?

Only persons with evidence of stock ownership as of the record date or who are invited guests of the Company may attend and be admitted to the annual meeting of the stockholders. Stockholders with evidence of stock ownership as of the record date may be accompanied by one guest. Photo identification may be required (a valid driver's license, state identification or passport). If a stockholder's shares are registered in the name of a broker, trust, bank or other nominee, the stockholder must bring a proxy or a letter from that broker, trust, bank or other nominee or their most recent brokerage account statement that confirms that the stockholder was a beneficial owner of shares of stock of the Company as of the record date. Since seating is limited, admission to the meeting will be on a first-come, first-served basis.

Cameras (including cell phones with photographic capabilities), recording devices and other electronic devices will not be permitted at the meeting.

What constitutes a quorum?

The presence at the meeting, in person or by proxy, of the holders of one-third (33.33%) of the voting power of common stock issued and outstanding on the record date will constitute a quorum, permitting the conduct of business at the meeting. Proxies received but marked as abstentions or broker non-votes, if any, will be included in the calculation of the number of votes considered to be present at the meeting for purposes of a quorum.

How do I vote?

If you are a holder of record (that is, your shares are registered in your own name with our transfer agent), you can vote either in person at the annual meeting or by proxy without attending the annual meeting. We urge you to vote by proxy even if you plan to attend the annual meeting so that we will know as soon as possible that enough votes will be present for us to hold the meeting.

Each stockholder receiving proxy materials by mail may vote by proxy by using the accompanying proxy card. When you return a proxy card that is properly signed and completed, the shares represented by your proxy will be voted as you specify on the proxy card.

If you hold your shares in “street name,” you must either direct the bank, broker or other record holder of your shares as to how to vote your shares, or obtain a proxy from the bank, broker or other record holder to vote at the meeting. Please refer to the voter instruction cards used by your bank, broker or other record holder for specific instructions on methods of voting, including by telephone or by using the Internet.

Your shares will be voted as you indicate. If you return the proxy card but you do not indicate your voting preferences, then your shares will not be voted with respect to any proposal. The Board and management do not intend to present any matters at this time at the annual meeting other than those outlined in the notice of the annual meeting. Should any other matter requiring a vote of stockholders arise, stockholders returning the proxy card confer upon the individuals designated as proxy’s discretionary authority to vote the shares represented by such proxy on any such other matter in accordance with their best judgment.

Can I change my vote?



Yes. If you are a stockholder of record, you may revoke or change your vote at any time before the proxy is exercised by filing a notice of revocation with our Secretary or by mailing a proxy bearing a later date or by attending the annual meeting and voting in person. For shares you hold beneficially in "street name," you may change your vote by submitting new voting instructions to your bank, broker, other record holder of your shares or other nominee or, if you have obtained a legal proxy from your bank, broker, other record holder of your shares or other nominee giving you the right to vote your shares, by attending the meeting and voting in person. In either case, the powers of the proxy holders will be suspended if you attend the meeting in person and so request, although attendance at the meeting will not by itself revoke a previously granted proxy.

How are we soliciting this proxy?

We are soliciting this proxy on behalf of our Board of Directors and will pay all expenses associated with this solicitation. In addition to mailing these proxy materials, certain of our officers and other employees may, without compensation other than their regular compensation, solicit proxies through further mailing or personal conversations, or by telephone, facsimile or other electronic means. We will also, upon request, reimburse brokers and other persons holding stock in their names, or in the names of nominees, for their reasonable out-of-pocket expenses for forwarding proxy materials to the beneficial owners of our stock and to obtain proxies.

Will stockholders be asked to vote on any other matters?

To the knowledge of the Company and its management, stockholders will vote only on the matters described in this proxy statement. However, if any other matters properly come before the meeting, the persons named as proxies for stockholders will vote on those matters in the manner they consider appropriate.

What vote is required to approve each item?

The five nominees receiving the highest vote totals of the eligible shares of our common stock will be elected as our directors. The approval of the advisory resolution on executive compensation, the approval of the 2014 Omnibus Incentive Plan and the ratification of the appointment of Freed Maxick CPAs, P.C. (“Freed”) require the affirmative vote of the majority of the votes present, in person or by proxy, and entitled to vote at the meeting. The approval of the amendment to our articles of incorporation to provide for a classified board of directors requires the affirmative vote of the majority of the outstanding shares of our common stock.

How are votes counted?

With regard to the election of directors, votes may be cast in favor or withheld and votes that are withheld will be excluded entirely from the vote and will have no effect. You may not cumulate your votes for the election of directors.

For the other proposals, you may vote “FOR,” “AGAINST” or “ABSTAIN.” Abstentions are considered to be present and entitled to vote at the meeting and, therefore, will have the effect of a vote against each of the proposals.

If you hold your shares in “street name,” the Company has supplied copies of its proxy materials for its 2014 annual meeting of stockholders to the broker, bank or other nominee holding your shares of record and they have the responsibility to send these proxy materials to you. Your broker, bank or other nominee that have not received voting instructions from their clients may not vote on any proposal other than the appointment of Freed. These so-called “broker non-votes” will be included in the calculation of the number of votes considered to be present at the meeting for purposes of determining a quorum, but will not be considered in determining the number of votes necessary for approval of any of the proposals and will have no effect on the outcome of any of the proposals other than the approval of the amendment to our articles of incorporation to provide for a classified board of directors. Your broker, bank or other nominee is permitted to vote your shares on the appointment of Freed as our independent auditor without receiving voting instructions from you.

What should I do if I receive more than one set of voting materials?

You may receive more than one set of voting materials, including multiple copies of this proxy statement and multiple proxy cards or voting instruction cards. For example, if you hold your shares in more than one brokerage account, you may receive a separate voting instruction card for each brokerage account in which you hold shares. If you are a stockholder of record and your shares are registered in more than one name, you will receive more than one proxy

card. Please vote your shares applicable to each proxy card and voting instruction card that you receive.

## PRINCIPAL STOCKHOLDERS

The following table sets forth information regarding the beneficial ownership of our common stock as of February 7, 2014 by (i) each person who, to our knowledge, owns more than 5% of our common stock, (ii) each of our current directors and executive officers, and (iii) all of our current directors and executive officers as a group. Derivative securities exercisable or convertible into shares of our common stock within sixty (60) days of February 7, 2014 are deemed to be beneficially owned and outstanding for computing the share ownership and percentage of the person holding securities, but are not deemed outstanding for computing the percentage of any other person. Beneficial ownership representing less than 1% is denoted with an asterisk (\*). The address of named beneficial owners that are officers and/or directors is: c/o 22nd Century Group, Inc., 9530 Main Street, Clarence, New York 14031. The following table is based upon information supplied by officers and directors, and with respect to 5% or greater stockholders who are not officers or directors, information filed with the SEC.

Name of Beneficial Owner	Number of Shares Beneficially Owned	Percentage Beneficially Owned (1)	
Management and Directors:			
Joseph Pandolfino (2)	8,380,206	13.8	%
Henry Sicignano, III (3)	6,467,418	10.8	%
Michael R. Moynihan, Ph.D. (4)	1,793,733	3.1	%
John T. Brodfuehrer (5)	250,000	*	
Joseph Alexander Dunn, Ph.D. (6)	226,500	*	
James W. Cornell (7)	286,500	*	
Richard M. Sanders (8)	35,000	*	
All directors and executive officers as a group (7 persons) (2)-(8)	17,439,357	27.8	%
Other 5% Owners:			
Angelo J. Tomasello (9)	4,679,196	7.9	%
Richard G. Saffire (10)	4,087,246	6.8	%

(1) Based on 58,252,770 shares of common stock issued and outstanding (including outstanding restricted stock), as of February 7, 2014.

(2) Includes (a) 2,382,271 shares of common stock issuable to Mr. Pandolfino upon exercise of warrants and (b) 5,997,935 shares of common stock. Under the Company's 2010 Employee Incentive Plan, 320,000 of the shares issued to Mr. Pandolfino are grants that are subject to potential forfeiture over time in the event Mr. Pandolfino ceases employment with the Company prior to January 27, 2015.

(3) Consists of (a) 2,327,603 shares of common stock held by Henry Sicignano III (including 475,000 restricted shares issued as equity incentive awards under the Company's Equity Incentive Plan), (b) 2,542,347 shares of common stock held by Henry Sicignano III Group, LLC, (c) 414,277 shares of common stock issuable to Mr. Sicignano upon exercise of warrants, (d) 100,000 shares of common stock issuable to Mr. Sicignano upon exercise of stock options and (e) 1,083,191 shares of common stock issuable to Henry Sicignano III Group, LLC upon exercise of warrants. Mr. Sicignano is Managing Member of Henry Sicignano III Group, LLC and, accordingly, exercises voting and investment power with respect to the shares held by Henry Sicignano III Group, LLC. 375,000 of the shares issued to Mr. Sicignano under the Company's 2010 Employee Incentive Plan are grants that are subject to potential forfeiture over time in the event Mr. Sicignano ceases employment with the Company prior to April 1, 2015. On January 27, 2015, April 1, 2014 and April 1, 2015, the number of shares subject to forfeiture decreases by 75,000, 150,000 and 150,000 shares, respectively. Mr. Sicignano also holds 100,000 performance based shares of restricted stock issued as equity incentive awards under the Company's 2010 Employee Incentive Plan, which are subject to forfeiture unless certain performance milestones are achieved.

(4) Includes (a) 1,138,934 shares of common stock, (b) 479,799 shares of common stock issuable upon exercise of warrants and (c) 175,000 shares issuable upon the exercise of stock options. 160,000 of the shares issued to Dr. Moynihan under the Company's 2010 Employee Incentive Plan are grants that are subject to potential forfeiture over time in the event Dr. Moynihan ceases employment with the Company prior to January 27, 2015.

(5) Consists of 250,000 shares of common stock. 240,000 of the shares issued to Mr. Brodfuehrer under the Company's 2010 Employee Incentive Plan are grants that are subject to potential forfeiture over time in the event Mr. Brodfuehrer ceases employment with the Company prior to January 27, 2015. On March 19, 2014 and January 27, 2015 the number of shares subject to forfeiture decreases by 100,000 and 140,000 shares, respectively.

(6) Includes (a) 85,000 shares of common stock, (b) 31,500 shares of common stock issuable upon exercise of warrants and (c) 110,000 shares issuable upon the exercise of stock options. 35,000 of the shares issued to Dr. Dunn under the Company's 2010 Employee Incentive Plan are grants that are subject to potential forfeiture over time in the event Dr. Dunn ceases being a director of the Company prior to January 27, 2015.

(7) Includes (a) 145,000 shares of common stock, (b) 31,500 shares of common stock issuable upon exercise of warrants and (c) 110,000 shares issuable upon the exercise of stock options. 35,000 of the shares issued to Mr. Cornell under the Company's 2010 Employee Incentive Plan are grants that are subject to potential forfeiture over time in the event Mr. Cornell ceases being a director of the Company prior to January 27, 2015.

(8) Consists of 35,000 shares of common stock. The 35,000 shares issued to Mr. Sanders under the Company's 2010 Employee Incentive Plan are grants that are subject to potential forfeiture over time in the event Mr. Sanders ceases being a director of the Company prior to January 27, 2015.

(9) Includes (a) 3,576,336 shares of common stock, and (b) 1,102,860 shares of common stock issuable upon exercise of warrants. The address of Angelo Tomasello is 4720 Spaulding Drive, Clarence, New York 14031.

(10) Includes (a) 2,541,986 shares of common stock held by Richard G. Saffire, (b) 58,081 shares of common stock held by Clearwater Partners, LLC, and (c) 1,487,179 shares of common stock issuable upon exercise of warrants held by Clearwater Partners, LLC. Richard G. Saffire, Managing Member of Clearwater Partners, LLC exercises voting and investment power with respect to shares owned by Clearwater Partners, LLC. The address of Clearwater Partners, LLC is 34 Sunburst Circle, East Amherst, New York 14051.

#### SECTION 16(a) BENEFICIAL OWNERSHIP REPORTING COMPLIANCE

Section 16(a) of the Exchange Act requires our directors, executive officers, and stockholders holding more than 10% of our outstanding common stock to file with the SEC initial reports of ownership and reports of changes in beneficial ownership of our common stock. Executive officers, directors and greater-than-10% stockholders are required by SEC regulations to furnish us with copies of all Section 16(a) reports they file. Based on a review of the Securities and

Exchange Commission filed ownership reports during 2013, the Company believes that all Section 16(a) filing requirements were met during 2013, except Joseph Dunn filed a late Form 4 on November 5, 2013 reporting the sale of shares, and Clearwater Partners, LLC and Richard G Saffire each filed a late Form 4 on November 12, 2013 reporting the sale of shares.

PROPOSAL NO. 1

AMENDMENT TO THE ARTICLES OF INCORPORATION TO PROVIDE FOR A CLASSIFIED BOARD OF DIRECTORS

The amendment to the Articles of Incorporation that you are being asked to approve pursuant to this Proposal No. 1 will be substantially in the form of Appendix A attached to this Proxy Statement. Our directors are currently elected annually for a term of one year. Nevada law permits provisions in the bylaws or the articles of incorporation approved by stockholders that provide for a classified board of directors. The proposed classified board amendment to the Articles of Incorporation would provide that directors will be classified into three classes as nearly equal in number as possible.

The Class I directors would hold office initially for a term expiring at the 2015 annual meeting of stockholders; the Class II directors would hold office initially for a term expiring at the 2016 annual meeting of stockholders; and the Class III directors would hold office initially for a term expiring at the 2017 annual meeting of stockholders. At each annual meeting of stockholders following this initial classification and election, the successors to each class of directors whose terms expire at that annual meeting would be elected for a term of office to expire at the third succeeding annual meeting after their election and until their successors have been duly elected and qualified. Vacancies which occur during the term of office of any class of director may be filled by a person selected by the Board of Directors, with such appointee to serve for the remainder of the unexpired portion of the term of the class of director in which such vacancy occurred.

In the event that this Proposal No. 1 is approved, the Board of Directors has nominated the following persons to serve in each of the following classes of directors: (i) Henry Sicignano, III and Richard M. Sanders for election as Class I directors, and, if elected, their initial term will expire at the 2015 annual meeting of stockholders; (ii) Joseph Pandolfino and Joseph Alexander Dunn for election as Class II directors, and, if elected, their initial term will expire at the 2016 annual meeting of stockholders; and (iii) James W. Cornell for election as a Class III director, and, if elected, his initial term will expire at the 2017 annual meeting of stockholders. As stated above, at each annual meeting of stockholders following this initial classification and election, the successors to each class of directors whose terms expire at that annual meeting would be elected for a three-year term of office. Information concerning the current nominees for election as directors at this annual meeting is set forth below under "Election of Directors."

Our Board of Directors believes that staggered terms for directors provide stability and continuity in the Board of Directors' leadership and policies ensuring that a majority of directors will always be familiar with our long-term strategy and goals. This knowledge will assist the directors in fulfilling their duties to our stockholders, providing for greater effectiveness, which ultimately creates value for our stockholders. While management has not experienced any problems with such continuity in the past, it wishes to ensure that this experience will continue. Electing directors to three-year terms will not reduce their accountability to our stockholders. Regardless of their term, all directors will have the same duties and responsibilities to our stockholders.



The Board of Directors also believes that the classified board will assist the Board of Directors in protecting the interests of our stockholders against potentially coercive takeover tactics where a party might attempt to acquire control of our Company on terms that do not offer the greatest value to all stockholders. The proposed classified board amendment will significantly extend the time required to effect a change in control of the Board of Directors and may discourage hostile takeover bids for the Company. Currently, a change in control of the Board of Directors can be made by stockholders at a single annual meeting. If we implement a classified board of directors, it will take at least two annual meetings for even a majority of stockholders to make a change in control of the Board of Directors, because only a minority of the directors will be elected at each annual meeting of stockholders.

A classified board can be seen as a disadvantage on the other hand, because of the additional time required to change control of the Board of Directors, as the classified board proposal will tend to perpetuate the then current majority of the members of our Board of Directors. Without the ability to obtain immediate control of the Board of Directors, a takeover bidder will not be able to take action to remove other impediments to its acquisition of the Company. While this proposal is not intended as a takeover-resistive measure in response to a specific threat, it may discourage certain persons or groups from acquiring large blocks of our shares by causing it to take longer for such a person or group of persons who acquire such a block of shares to effect a change in a majority of the members of our Board of Directors.

If the proposal is approved, we will file the amendment to the Articles of Incorporation with the Nevada Secretary of State, which will become effective on the date the filing is accepted by the Secretary of State.

**The Board of Directors recommends a vote FOR the amendment of the Articles of Incorporation providing for a classified Board of Directors.**

PROPOSAL NO. 2  
ELECTION OF DIRECTORS

General

The number of authorized directors as of the date of this proxy statement is five (5). All of the nominees have indicated to the Company that they will be available to continue to serve as directors. If any nominee named herein for election as a director should for any reason become unavailable to serve prior to the annual meeting, the Board may, prior to the annual meeting, (i) reduce the size of the Board to eliminate the position for which that person was nominated, (ii) nominate a new candidate in place of such person or (iii) leave the position vacant to be filled at a later time. Directors elected at the 2014 annual meeting will hold office for a one year term expiring at the annual meeting in 2015 (unless Proposal No. 1 above is approved, in which case the directors will be elected to the class and for the terms provided in Proposal No. 1) and until their respective successors are elected and qualified, or until their earlier death, resignation or removal. All of the nominees are currently directors of the Company. The experience, qualifications, attributes and skills that led to the conclusion that the persons should serve as a director of our Company are described below in each director nominee's biography.

Director Nominees:

*Joseph Pandolfino, MBA.* Mr. Pandolfino, age 45, founded 22nd Century Limited, LLC in 1998 and has over 20 years of experience in all aspects of the tobacco industry, including over 15 years with genetically-engineered tobacco. He has served as our Chief Executive Officer and as a Director since the closing of the merger in January 2011 between the Company and 22nd Century Limited, LLC. Mr. Pandolfino previously served as President of 22nd Century Limited, LLC from 1998 until April 2010 and served as Chief Executive Officer of 22nd Century Limited, LLC since April 2010. Mr. Pandolfino oversees our operations, strategy and product development. He holds a B.S. Degree in Business Administration from Medaille College and an M.B.A. Degree from the State University of New York at Buffalo. Mr. Pandolfino's significant experience in all aspects of the tobacco industry and the fact that he founded and managed 22nd Century Limited, LLC since inception led to our conclusion that he should serve as a director of our Company. He was elected Chairman of the Board of Directors in February 2014.

Henry Sicignano, III, MBA. Mr. Sicignano, age 46, has served as our President and Secretary since the closing of the merger in January 2011 between the Company and 22nd Century Limited, LLC, as a Director since March 4, 2011, and as interim Chief Financial Officer from July 6, 2012 to April 1, 2013. From August 2005 to April 2009, Mr. Sicignano served as a General Manager and as the Director of Corporate Marketing for NOCO Energy Corp., a petroleum products company; and from March 2003 to July 2005, as Vice President of Kittinger Furniture Company, Inc., a fine furniture manufacturer. From February 1997 through July 2002, he served as Vice President and Marketing Director of Santa Fe Natural Tobacco Company, a specialty tobacco company, prior to the sale of that company to R.J. Reynolds Tobacco Company in 2002. Mr. Sicignano holds a B.A. Degree in Government from Harvard College

and an M.B.A. Degree from Harvard University. Mr. Sicignano's extensive experience in management, including in the tobacco industry, led to our conclusion that he should serve as a director of our Company.

James W. Cornell. Mr. Cornell, age 57, has served as a Director since March 4, 2011. Mr. Cornell is currently the President and Chief Executive Officer of Praxiis, LLC, an enterprise that provides support for clients in organizational change, leadership development and transactional advisory services. He has served in this capacity since October, 1988. Mr. Cornell is also the current Manager of Larkin Center Management, LLC, a real estate development company, and has served in this capacity since October 2010. From September 2006 until September 2010, Mr. Cornell served as Managing Director of New York New Jersey Rail, LLC, which is part of the national transportation rail system and moves rail freight by rail barge across New York City Harbor, and he now continues to serve as principal business advisor to that firm. From March 2005 until September 2008, Mr. Cornell served as the Chairman of the Board of Directors of New York Regional Rail Corp., which operates as a short-haul regional trucking company. From April 2006, until February 2007, Mr. Cornell served as Chief Restructuring Officer of Regus Industries, a waste management firm, and from January 2001 until November 2004, he served as Special Advisor to Pinkerton Government Services, Inc. and Securitas Nuclear and Government Services Unit, security services providers to the energy industry and government. Mr. Cornell holds a B.S. Degree in Business, Management, and Economics and an M.B.A. Degree, both from the State University of New York, Empire College. Mr. Cornell's extensive business management, strategy, and leadership experience led to our conclusion that he should serve as a director of our Company.

Joseph Alexander Dunn, Ph.D. Dr. Dunn, age 60, has served as a Director since March 4, 2011. Dr. Dunn is currently Associate Dean for Research and Professor of Pharmaceutical Sciences at D'Youville College of Pharmacy in Buffalo, New York and has served in this capacity since April 1, 2010. Dr. Dunn has also served as Chief Executive Officer of the National Center for Food and Agricultural Policy in Washington, D.C. since November 1, 2009 and as Chief Executive Officer and Director of Research at OmniPharm Research International, Inc., a drug company, and affiliated entities, Therex Technologies Inc., a drug company, and Therex LLC, a drug company, each located in Buffalo, New York since January, 1994. From May 1, 2008, until January 20, 2009, Dr. Dunn served as Deputy Under Secretary and from August 1, 2006, until April 30, 2008 Dr. Dunn served as Senior Scientific Advisor at the United States Department of Agriculture, Research, Education and Economics Mission Area in Washington, D.C. From December 1, 2006, until April 30, 2008 Dr. Dunn served as Executive Director of the United States Department of Agriculture NAREEE Advisory Board. From July, 1998 until July 1, 2006, Dr. Dunn served as Research Associate Professor in the Department of Oral Biology, School of Dental Medicine, at the State University of New York at Buffalo. Since June 1, 2010, Dr. Dunn has served as a member of the Board of Directors of Brothers of Mercy, Inc., a not-for-profit nursing and rehabilitation concern. Dr. Dunn holds a B.S. Degree in Medical Chemistry and a Ph.D. Degree in Pharmacology, both from the State University of New York at Buffalo School of Pharmacy. Dr. Dunn also served as a Postdoctoral Fellow in the Department of Pharmacology at Harvard Medical School and as a Staff Fellow at the National Institutes of Health, National Cancer Institute Laboratory of Cellular Carcinogenesis and Tumor Promotion. Dr. Dunn's extensive scientific and regulatory background led to our conclusion that he should serve as a director of our Company.

*Richard M. Sanders.* Mr. Sanders, age 61, has served as a Director since December 9, 2013. Since August 2009, Mr. Sanders has served as a General Partner of Phase One Ventures, LLC, a venture capital firm which focuses on nanotechnology and biotechnology start-up opportunities in New Mexico and surrounding states. From January 2002 until June 2009, Mr. Sanders served as President and CEO of Santa Fe Natural Tobacco Company (SFNTC), a division of Reynolds American, Inc., which manufactures and markets the Natural American Spirit cigarette brand. During his 7-year tenure as head of SFNTC, Mr. Sanders tripled Natural American Spirit's market share and SFNTC's operating earnings and directed the successful expansion of Natural American Spirit into international markets in Western Europe and Asia. Prior to directing SFNTC's spectacular growth, Mr. Sanders worked for R.J. Reynolds Tobacco Company where he began his career as a marketing assistant in 1977. From 1987 to 2002 he served in a wide spectrum of executive positions including, among others, Senior Vice President of Marketing and Vice President of Sales. A native of Minneapolis, Mr. Sanders earned a bachelor's degree in political science from Hamline University in St. Paul and an MBA from Washington University in St. Louis, Missouri. Mr. Sanders' extensive experience in management, including in the tobacco industry, led to our conclusion that he should serve as a director of our Company.

**Our Board of Directors recommends a vote FOR each of the Director nominees listed above.**

## CORPORATE GOVERNANCE

### Board Composition

Directors currently hold office for one year (unless Proposal No. 1 above is approved, in which case the directors will be elected to the class and for the terms as provided in Proposal No. 1) or until the earlier of their death, resignation, removal or until their successors have been duly elected and qualified. There are no family relationships among our Directors. Our bylaws provide that the number of members of our Board of Directors may be changed from time to time by resolutions adopted by the Board of Directors and/or the stockholders. Our Board of Directors currently consists of five (5) members.

### Board Leadership Structure

Our Board does not have a policy on whether the same person should serve as both the Chief Executive Officer and Chairman of the Board or, if the roles are separate, whether the Chairman should be selected from the non-employee directors or should be an employee. Our Board believes that it should have the flexibility to periodically determine the leadership structure that it believes is best for the Company. The Board believes that its current leadership structure, with Mr. Pandolfino serving as both Chief Executive Officer and Board Chairman, is appropriate given the efficiencies of having the Chief Executive Officer also serve in the role of Chairman. Our lead director is currently Mr. Cornell. The Chairman and Chief Executive Officer consults periodically with the lead director on Board matters and on issues facing the Company. In addition, the lead director serves as the principal liaison between the Chairman of the Board and the independent directors and presides at an executive session of non-management directors at each regularly scheduled Board meeting.

### Board Role in Risk Oversight

Risk is inherent with every business and we face a number of risks. Management is responsible for the day-to-day management of risks we face, while our Board of Directors is responsible for overseeing our management and operations, including overseeing its risk assessment and risk management functions.

### **Number of Meetings of the Board of Directors**

The Board held 10 meetings during 2013. Directors are expected to attend Board meetings and to spend time needed to meet as frequently as necessary to properly discharge their responsibilities. Each active director attended at least 75% of the aggregate number of meetings of the Board during 2013.

#### Attendance at Annual Meetings of the Stockholders

The Company has no policy requiring Directors and Director Nominees to attend its annual meeting of stockholders; however, all Directors and Director Nominees are encouraged to attend.

#### Director Independence

Joseph Alexander Dunn, Ph.D., James W. Cornell and Richard M. Sanders qualify as “independent” Directors under the applicable definition of the listing standards of each of the NASDAQ Capital Market (“NASDAQ”) and the New York Stock Exchange MKT (“NYSE”).

#### Stockholder Communications

Stockholders may send communications to the Company's directors as a group or individually, by writing to those individuals or the group: c/o the Chief Executive Officer c/o 22nd Century Group, Inc., 9530 Main Street, Clarence, New York 14031. The Chief Executive Officer will review all correspondence received and will forward all correspondence that is relevant to the duties and responsibilities of the Board or the business of the Company to the intended director(s). Examples of inappropriate communication include business solicitations, advertising and communication that is frivolous in nature, relates to routine business matters (such as product inquiries, complaints or suggestions), or raises grievances that are personal to the person submitting the communication. Upon request, any director may review communication that is not forwarded to the directors pursuant to this policy.

## **Committees of the Board of Directors**

Our Board of Directors has established three standing committees: an audit committee, a compensation committee and a nominating and corporate governance committee, which are described below. Members of these committees are elected annually at the regular board meeting held in conjunction with the annual stockholders' meeting. The charter of each committee is available on our website at [www.xxiiicentury.com](http://www.xxiiicentury.com).

### *Nominating and Governance Committee*

The Nominating and Governance Committee consists of Messrs. Cornell, Dunn and Sanders, with Dr. Dunn serving as chair. The Nominating and Governance Committee is responsible for: (a) developing and recommending corporate governance principles and procedures applicable to our board and employees; (b) recommending committee composition and assignments; (c) overseeing periodic self-evaluations by the board, its committees, individual directors and management with respect to their respective performance; (d) identifying individuals qualified to become directors; (e) recommending director nominees; (f) assisting in succession planning; (g) recommending whether incumbent directors should be nominated for re-election to our Board; and (h) reviewing the adequacy of the Nominating and Governance Committee charter on an annual basis.

Nominations of persons for election to the Board at the annual meeting may also be made by any stockholder entitled to vote for the election of directors at the meeting who complies with the notice procedures set forth in our bylaws. Such nominations by any stockholder shall be made pursuant to timely notice in writing to the Secretary. To be timely, a stockholder's notice shall be delivered to the Secretary at our principal executive offices not later than the close of business on the ninetieth (90th) day nor earlier than the close of business on the one hundred twentieth (120th) day prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is more than thirty (30) days before or more than seventy (70) days after such anniversary date, notice by the stockholder must be so delivered not earlier than the close of business on the one hundred twentieth (120th) day prior to such annual meeting and not later than the close of business on the later of the ninetieth (90th) day prior to such annual meeting or the tenth (10th) day following the day on which public announcement of the date of such meeting is first made.

### *Audit Committee*

The Audit Committee consists of Messrs. Cornell, Dunn and Sanders, with Mr. Cornell serving as chair. Our Board has determined that Mr. Cornell is the audit committee financial expert as defined under the rules of the U.S. Securities and Exchange Commission ("SEC"), and all Audit Committee members are independent under the applicable listing standards of each of NASDAQ and the NYSE and applicable rules of the SEC. The Audit Committee oversees

our accounting and financial reporting processes and the audits of our financial statements.

The Audit Committee has sole authority for the appointment, compensation and oversight of the work of our independent registered public accounting firm, and responsibility for reviewing and discussing with management and our independent registered public accounting firm our audited consolidated financial statements included in our Annual Report on Form 10-K, our interim financial statements and our earnings press releases. The Audit Committee also reviews the independence and quality control procedures of our independent registered public accounting firm, reviews management's assessment of the effectiveness of internal controls, discusses with management the Company's policies with respect to risk assessment and risk management and will review the adequacy of the Audit Committee charter on an annual basis.

### *Compensation Committee*

The Compensation Committee consists of Messrs. Cornell, Dunn and Sanders, with Mr. Sanders serving as chair. The Compensation Committee establishes, administers and reviews our policies, programs and procedures for compensating our executive officers and directors.

The Compensation Committee is responsible for: (a) assisting our Board in fulfilling its fiduciary duties with respect to the oversight of the Company's compensation plans, policies and programs, including assessing our overall compensation structure, reviewing all executive compensation programs, incentive compensation plans and equity-based plans, and determining executive compensation; and (b) reviewing the adequacy of the Compensation Committee charter on an annual basis.

### **Director Compensation**

Directors that are not members of management receive cash compensation of \$15,000 each annually and in 2013 received restricted stock awards of 25,000 shares each which vested immediately and non-qualified stock options for 50,000 shares each. The following table sets forth information regarding the compensation of our non-executive directors for their service on our Board of Directors for fiscal year 2013:



Name	Year	Fees Earned or paid in cash	Stock Awards (4)	Option Awards(1)	Non-Equity Incentive Plan Compensation	Non-Qualified Deferred		Total
						Earnings	All Other Compensation(3)	
James W. Cornell	2013	\$ 15,000	\$20,000	\$ 34,375	\$ -	\$ -	\$ 1,680	\$71,055
Joseph A. Dunn, Ph.D.	2013	\$ 15,000	\$20,000	\$ 34,375	\$ -	\$ -	\$ 1,680	\$71,055
Richard M. Sanders (2)	2013	\$ -	\$-	\$ -	\$ -	\$ -	\$ -	\$-

Represents the grant date fair value calculated pursuant to ASC Topic 718. The fair value of each option grant is (1) estimated on the date of grant using the Black-Scholes option-pricing model. The following assumptions were used:

Risk-free interest rate	1.89%
Expected dividend yield	0%
Expected stock price volatility	90%
Expected life of options	10 years

(2) Mr. Sanders term began on December 9, 2013, and he received no compensation during 2013.

(3) Represents taxes paid by the Company on behalf of the Director on their stock awards.

(4) The amounts included in this column are the aggregate grant date fair value determined in accordance with FASB ASC 718.

In 2014 non-executive Directors will each receive an annual retainer of \$10,000 plus a restricted stock award of 35,000 sh