

ENGLOBAL CORP
Form 10-K/A
April 29, 2013

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
Form 10-K/A

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 29, 2012

or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission File No. 001-14217

ENGlobal Corporation
(Exact name of registrant as specified in its charter)

Nevada
(State or other jurisdiction of
incorporation or organization)

88-0322261
(I.R.S Employer Identification
No.)

654 North Sam Houston Parkway
East, Suite 400
(Address of principal executive
offices)

77060-5914
(Zip code)

Registrant's telephone number, including area code: (281) 878-1000

Securities registered pursuant to Section 12(b) of the Exchange Act:

Title of each class	Name of each exchange on which registered
Common Stock, \$0.001 par value	NASDAQ

Securities registered pursuant to Section 12(g) of the Exchange Act:
None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act
Yes No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15 (d) of the Act Yes No

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Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shortened period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. Yes

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" per Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

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

The aggregate market value of the registrant's common stock held by non-affiliates of the registrant on June 30, 2012 was \$40,624,292 (based upon the closing price for shares of common stock as reported by the NASDAQ on June 29, 2012).

The number of shares outstanding of the registrant's \$0.001 par value common stock on March 15, 2013 is as follows: 27,082,861 shares

Documents incorporated by reference: None.

EXPLANATORY NOTE

We are filing this Amendment No. 1 on Form 10-K/A (this “Amended Form 10-K”) to amend our Annual Report on Form 10-K for the fiscal year ended December 29, 2012, as originally filed with the Securities and Exchange Commission on April 15, 2013 (the “Original Form 10-K”), to include the information required by Items 10 through 14 of Part III of Form 10-K. This information was previously omitted from the Original Form 10-K in reliance on General Instruction G(3) to Form 10-K, which permits the information in Part III to be incorporated in the Form 10-K by reference from our definitive proxy statement if such statement is filed no later than 120 days after our fiscal year-end. We are filing this Amended Form 10-K to include Part III information in our Form 10-K because we will not file a definitive proxy statement containing such information within 120 days after the end of the fiscal year covered by the Form 10-K. The reference on the cover of the Original Form 10-K to the incorporation by reference to portions of our definitive proxy statement into Part III of the Original Form 10-K is hereby deleted.

In accordance with Rule 12b-15 under the Securities and Exchange Act of 1934, as amended, Part III, Items 10 through 14 of Part III of the Original Form 10-K, are hereby amended and restated in their entirety, and Part IV, Item 15 of the Original Form 10-K is hereby amended and restated in its entirety. This Amended Form 10-K does not amend or otherwise update any other information in the Original Form 10-K. Accordingly, this Amended Form 10-K should be read in conjunction with the Original Form 10-K and with our subsequent filings with the SEC. All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Original Form 10-K.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

Directors and Executive Officers

The names of our directors and executive officers and their ages, positions, and biographies as of December 29, 2012, are set forth below. Our executive officers are appointed by, and serve at the discretion of, our board of directors. There are no family relationships among any of our directors and executive officers. The Board of Directors did not select any current director or executive officer pursuant to any arrangement or understanding between a current director and any other person.

Director and Named Executive Officer: William A. Coskey, P.E.

Officer:

Position: Chairman of the Board, President and Chief Executive Officer

Director Since: 1985

Age: 60

Present positions and offices with the Company, principal occupations and other directorships during the past five years:

Mr. Coskey founded ENGlobal in 1985 and has served in various positions, including service as Chairman of the Board since June 2005 and as President and Chief Executive Officer since August 2012. From April 2007 until May 2010, he served as Chief Executive Officer. Prior to that, he served as Chairman of the Board, Chief Executive Officer and President from 1985 until 2001; Chief Operating Officer from 2001 to 2003; and President from 2001 to June 2005. Mr. Coskey, an honors graduate, received a Bachelor of Science in Electrical Engineering from Texas A&M University in 1975 and is a Registered Professional Engineer. Mr. Coskey has served on the Texas A&M University Electrical Engineering Department Advisory Council since 1999, and as Chairman of the Council since 2006.

Qualifications for Consideration:

The Board selected Mr. Coskey to serve as a director because it believes that, as the founder of ENGlobal, he provides a unique perspective to the Board. He was responsible for ENGlobal's initial public offering in 1994, listing on the American Stock Exchange in 1998, and listing on the NASDAQ Stock Market in 2007. In June 2009, he was awarded the Ernst & Young Entrepreneur Of The Year® in the Energy Services category for the Houston & Gulf Coast Area. The Board believes Mr. Coskey's industry knowledge and business experiences give him invaluable insights into the Company's challenges, opportunities and operations.

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Director: David W. Gent, P.E.
Position: Lead Independent Director
Director Since: 1994
Age: 60

Present positions and offices with the Company, principal occupations and other directorships during the past five years:

Mr. Gent has served as a director of ENGlobal since June 1994, is Chairman of the Nominating & Corporate Governance Committee and is a member of the Audit and Compensation Committees. Mr. Gent has served as the Company's Lead Independent Director since 2002. Since 2011, Mr. Gent has served as the Chairman of SofTest Designs Corporation, an automation and test systems company that he founded in 1980. From 1991 through 2011, Mr. Gent held various positions for Bray International, Inc., an industrial flow control manufacturer located in Houston, Texas. From 2005 to 2011, Mr. Gent served as Senior Vice President of Bray International and was responsible for overseeing worldwide engineering, information services, and training. Mr. Gent, an honors graduate, received a Bachelor of Science in Electrical Engineering from Texas A&M University in 1975 and an MBA from Houston Baptist University. He is a Registered Professional Engineer and a senior member of the Instrument Society of America. Mr. Gent serves on the Texas A&M University Electrical Engineering Department Advisory Council, chairs the Bray International, Inc. 401(k) committee and is the Bray International representative on various industry councils including the Open DeviceNet Vendors Association and American Water Works Association. He also holds several patents in the field of industrial flow controls.

Qualifications for Consideration:

The Board selected Mr. Gent to serve as a director, and as Lead Independent Director, because it believes he possesses valuable engineering expertise, including extensive experience managing multinational engineering, research and development, information technology, and manufacturing operations, including domestic and international operations obtained through start-ups and acquisition. He provides the perspective of a leader who has faced and effectively dealt with economic and governance issues. In addition, Mr. Gent offers a valuable perspective on global operations and strategy, which informs his judgment as a Board member.

Director: Randall B. Hale
Position: Independent Director
Director Since: 2001
Age: 50

Present positions and offices with the Company, principal occupations and other directorships during the past five years:

Mr. Hale has served as a director of ENGlobal since December 2001, and is Chairman of the Audit Committee and a member of the Compensation and Nominating & Corporate Governance Committees. Mr. Hale is the founder of Rock Hill Capital Group, LLC, an investment management firm, and serves as its Managing Director. Mr. Hale is responsible for managing all aspects of the investment activities of the firm including capital raising, deal sourcing and investment management of portfolio companies. Prior to founding Rock Hill, he served as an Executive Vice President and a Director of Equus Capital Management Corporation, investment advisor to several private equity funds, from November 1992 to November 2002. As a principal investment officer for Equus, Mr. Hale negotiated and executed multiple purchase and sale transactions involving public and private companies. In conjunction with these transactions, he was directly responsible for identifying the investment opportunities, arranging the necessary capital to complete the transactions including senior and subordinated debt and equity, and serving in an oversight capacity until the ultimate divestiture of the investment. Prior to joining Equus in November 1992, Mr. Hale served in an audit, consulting and advisory capacity with a public accounting firm in Houston, Texas. In September 2004, he co-founded ConGlobal Industries, Inc., a provider of intermodal services to the shipping industry, and currently serves

as its Executive Chairman. ConGlobal was formed in September 2004 to facilitate the merger of Container-Care International, Inc., an intermodal services company, with Global Intermodal Systems, Inc. Prior to the merger, Mr. Hale served as the President and Chief Executive Officer of Container-Care from February 2003 to September 2004. Mr. Hale serves on several private company boards. He is the past President and Director of the Houston Venture Capital Association and is an active member of the Association for Corporate Growth. Mr. Hale received a BBA in Business Administration from Texas A&M University in 1985 and is a certified public accountant.

Qualifications for Consideration:

The Board selected Mr. Hale to serve as a director because it believes he possesses valuable financial expertise, including extensive experience with capital markets transactions and investments in both public and private companies. Mr. Hale's CPA background assists ENGlobal with financial and accounting issues and is invaluable to our Board's discussions of the Company's capital and liquidity needs. ENGlobal also benefits from Mr. Hale's entrepreneurial experience and his service as a director and chairman on several private company boards.

Director: David C. Roussel
Position: Independent Director
Director Since: 2001
Age: 63

Present positions and offices with the Company, principal occupations and other directorships during the past five years:

Mr. Roussel has served as a Director of the Company since December 2001, and is Chairman of the Compensation Committee and a member of the Audit and Nominating & Corporate Governance Committees. Mr. Roussel has worked for Jefferies Energy Investment Banking, a leading mergers and acquisitions advisor in the global oil and gas industry, or its predecessor companies since 2003 and serves as a Senior Vice President responsible for managing acquisition and divestiture projects on behalf of clients. Jefferies Energy Investment Banking is a division of Jefferies & Company, Inc., a global investment bank and institutional securities firm. Mr. Roussel received a Bachelor of Science degree in Mechanical Engineering from Iowa State University in 1971 and completed the Harvard Advanced Management Program in 1992.

Qualifications for Consideration:

The Board selected Mr. Roussel to serve as a director because it believes he possesses valuable engineering experience, including a sound background in the energy industry, business operations and business development practices. Mr. Roussel's experience in senior and general management roles helps the Board address the challenges the Company faces with respect to development of its growth strategy, mergers and acquisitions, and joint venture formation. ENGlobal also benefits from Mr. Roussel's ability to address diverse matters that come before the Board.

Named Executive Officer: Mark A. Hess
Position: Chief Financial Officer and Treasurer
Age: 54

Present positions and offices with the Company, principal occupations during the past five years:

Mr. Hess has served as Chief Financial Officer of ENGlobal since September 2012 and served as interim Chief Financial Officer from June 2012 to September 2012. Mr. Hess previously served as the Company's Corporate Controller from July 2011 until June 2012. Prior to joining ENGlobal, Mr. Hess served as Vice President and Chief Accounting Officer of Geokinetics, Inc., a seismic data service company, from April 2008 to April 2010. From November 2004 to April 2008, he served as Director of Finance for CGGVeritas, a seismic data service company. Mr. Hess is a CPA, holds a Bachelor of Business Administration in Accounting from the University of Houston and is an active member of Financial Executives International.

Named Executive Officer: Bruce B. Williams
Position: Senior Vice President, Midwest/Southwest Operations
Age: 60

Present positions and offices with the Company, principal occupations during the past five years:

Mr. Williams was appointed the Senior Vice President, Midwest/Southwest Operations of ENGlobal's Engineering and Construction segment in September 2012. He initially joined ENGlobal in 2004, and from November 2010 until September of 2012, he served in various roles at ENGlobal, including General Manager of the Tulsa Office, Vice President of Midwest and Southwest Operations, Senior Project Manager of Engineering/ Projects, and acting General Manager of ENGlobal Government Services, Inc. Prior to joining ENGlobal, Mr. Williams served as Vice President – Engineering for U.S. Transcarbon LLC, a petroleum coke gasification project developer, from April 2008 until October 2010. In total, he has over 35 years of domestic and international experience in engineering and project management, including several project management positions of increasing responsibility in the U.S., Middle East, Papua New Guinea, Asia, Mexico and Brazil. Mr. Williams has an undergraduate degree in Chemistry from the University of Northern Iowa, with post graduate studies in Environmental Management from the University of Houston and MBA studies at Incarnate Word University.

Section 16(a) Beneficial Ownership Reporting Compliance

Under U.S. securities laws, directors, executive officers and persons holding more than 10% of our common stock must report their initial ownership of our common stock and any changes in that ownership to the Securities and Exchange Commission. The SEC has designated specific due dates for such reports and ENGlobal must identify in this Amended Form 10-K those persons who did not file such reports when due.

Based solely upon a review of Forms 3 and 4 and any amendments thereto furnished to ENGlobal during our fiscal year ended December 29, 2012, and Forms 5 and any amendments thereto furnished to ENGlobal with respect to the same fiscal year, we believe that our directors, officers, and greater than 10% beneficial owners timely filed all required Section 16 reports, except that Messrs. Hess, Smith, and Williams were late filing Form 3s reporting their status as executive officers on September 10, 2012.

Audit Committee

During the fiscal year ended December 29, 2012, the Audit Committee consisted of Randal P. Hale (Chairperson), David W. Gent, and David C. Roussel. The duties and responsibilities of the Audit Committee are to oversee:

- the quality and integrity of our financial statements;
- our compliance with legal and regulatory requirements; and
- our independent auditors' qualifications, independence and performance.

In addition, the Audit Committee annually reviews our disclosures regarding deficiencies, if any, in the design or operation of our internal controls.

The Board has determined that Mr. Hale is qualified as an audit committee financial expert under the SEC's rules and regulations. In addition, the Board has determined that each member of the Audit Committee has the requisite accounting and related financial management expertise under NASDAQ rules.

Code of Business Conduct and Ethics

The Company has adopted a Code of Business Conduct and Ethics that applies to all of the Company's directors, officers and employees in accordance with NASDAQ rules. The purpose and role of this code is to focus our officers, directors, and employees on areas of ethical risk, provide guidance to help them recognize and deal with ethical issues, provide mechanisms to report unethical or unlawful conduct, and help enhance and formalize our culture of integrity, honesty and accountability. We have posted this Code of Business Conduct and Ethics on the "Investor Relations" section of our website at www.englobal.com.

The Company also has a Code of Ethics applicable to the Chief Executive Officer and certain senior financial officers of the Company that complies with Item 406 of Regulation S-K of the Exchange Act and with applicable NASDAQ rules. We have posted this Code of Ethics on the "Investor Relations" section of our website at www.englobal.com.

ITEM 11. EXECUTIVE COMPENSATION

Executive Compensation

The following table presents information for compensation awarded to, earned by, or paid to the named executive officers for our fiscal years ended December 29, 2012 and December 31, 2011.

Summary Compensation Table for 2012 and 2011

Name and Principal Position	Year	Salary (\$)	Bonus (\$)	Stock Awards(1) (\$)	All Other Compensation		Total (\$)
					(2)	(3)	
Mr. Coskey ~ President & Chief Executive Officer (3)	2012	151,035	1,000	--	5,682		157,717
Mr. Hess ~ Chief Financial Officer & Treasurer (4)	2012	158,101	4,000	52,102	3,379		217,582
Mr. Williams ~ Senior Vice President, Midwest/Southwest Operations (5)	2012	218,758	8,000	--	--		226,758
Edward L. Pagano ~ Former President & Chief Executive Officer (6)	2012	303,348	--	21,487	24,554		350,389
	2011	293,519	--	38,165	7,035		338,719
Timothy P. Rennie ~ Former Executive Vice President, Engineering & Construction (7)	2012	278,076	7,000	--	34,210		319,286
	2011	241,922	--	18,695	1,469		262,086

This column shows the grant date fair value of equity awards computed in accordance with stock-based compensation accounting rules (FASB ASC Topic 718). Values for awards subject to performance conditions are computed based upon the probable outcome of the performance condition as of the grant date. For a description of certain assumptions made in the valuation of stock awards, see Note 12 to the Company's audited consolidated financial statements, included in the Company's Annual Report on Form 10-K for the fiscal year ended December 29, 2012, as filed with the SEC on April 15, 2013.

- (1) Consists of benefits relating to the Executive Benefits Policy, including medical, dental, life, short-term disability, and long-term disability insurances. Also includes 401(k) matching contributions, personal leave benefits and reimbursements for the executive's annual physical exam.
- (2) Mr. Coskey reassumed the role of President and Chief Executive Officer in August 2012 and has served as Chairman of the Board since June 2005. Mr. Coskey did not receive an annual bonus payment in 2012.
- (3) Mr. Hess was appointed Chief Financial Officer of ENGlobal in September 2012 and served as interim Chief Financial Officer from July 2011 to September 2012. In connection with his promotion, Mr. Hess' base salary was increased to \$210,000 and he was awarded 150,000 shares of restricted stock. The shares were granted under the 2009 Equity Incentive Plan, and vest over a four-year period with 25% vesting each year beginning December 31, 2012. Mr. Hess received an annual bonus payment in the amount of \$4,000 in 2012.
- (4) In connection with a restructuring of our executive management team, Mr. Williams became Senior Vice President, Midwest/Southwest Operations in November 2011. Mr. Williams did not receive an annual bonus payment in 2012.
- (5) Effective July 31, 2012, Mr. Pagano resigned his role as President and Chief Executive Officer. Subsequently, Mr. Pagano received \$13,156 of accrued amounts owed to him for paid time-off and holidays during 2012 and was paid a severance in the amount of \$154,500 upon his resignation. Also includes \$3,423 received pursuant to the Executive Benefits Policy and 87,645 shares that vested on December 31, 2012 as a condition of his resignation.
- (6) In connection with a restructuring of our executive management team, Mr. Rennie's employment terminated in October 2012 and he was paid a severance in the amount of \$31,154. Does not include 11,808 unvested shares that were forfeited upon his termination.

Outstanding Equity Awards at Fiscal Year End 2012

The following table sets forth information as of December 29, 2012, regarding outstanding equity awards held by the Named Executive Officers. On December 29, 2012, the closing price on NASDAQ for the Company's common stock was \$0.59 per share.

Name	Number of Shares That Have Not Vested	Restricted Stock Awards		
		Market Value of Shares of Stock That Have Not Vested	Equity Incentive Plan Awards: Number of Unearned Shares That Have Not Vested	Equity Incentive Plan Awards: Market Value of Unearned Shares That Have Not Vested
Mr. Coskey	--	--	--	--
Mr. Hess (1)	150,000	\$88,500	--	--
	--	--	--	--

Mr. Williams				
Mr. Pagano	87,645	\$51,711	--	--
Mr. Rennie	--	--	--	--
(2)				

- (1) The shares were granted under the 2009 Equity Incentive Plan (the “Plan”) on December 18, 2012, and vest over a four-year period with 25% vesting each year beginning December 31, 2012.
- (2) Does not include 11,808 unvested shares that were forfeited upon his termination in October 2012.

Employment Agreements; Termination and Change-in-Control Arrangements

As of December 29, 2012, Messrs. Coskey and Hess were each a party to a written employment agreement (the “Employment Agreements”) with ENGlobal. The Employment Agreements provide for an annual base salary, subject to discretionary increases by the Board, and other compensation in the form of cash bonuses, incentive compensation, stock options, stock appreciation rights, and restricted stock awards. Additionally, the executives receive health, life, and other insurance benefits in accordance with the terms of the Company’s benefit plans, and the Company provides management level support services and reimbursement for specified business expenses.