CRACKER BARREL OLD COUNTRY STORE, INC
Form DFAN14A
November 09, 2012

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

SCHEDULE 14A
(Rule 14a-101)

INFORMATION REQUIRED IN PROXY STATEMENT
SCHEDULE 14A INFORMATION

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

(Amendment No.)

Filed by the Registrant o

Filed by a Party other than the Registrant x

Check the appropriate box:

o Preliminary Proxy Statement

¨ Confidential, for Use of the Commission Only (as permitted by Rule14a-6(e)(2))

¨ Definitive Proxy Statement

x Definitive Additional Materials

o Soliciting Material Under Rule 14a-12

CRACKER BARREL OLD COUNTRY STORE, INC.
(Name of Registrant as Specified in Its Charter)

BIGLARI HOLDINGS INC.
BIGLARI CAPITAL CORP.
THE LION FUND, L.P.
STEAK N SHAKE OPERATIONS, INC.
SARDAR BIGLARI
PHILIP L. COOLEY
(Name of Persons(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

x 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:

(2) Aggregate number of securities to which transaction applies:

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

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

¨ 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:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

Item 1: On November 9, 2012, Biglari Holdings Inc. issued the following press release:

BIGLARI HOLDINGS COMMENTS ON INSTITUTIONAL SHAREHOLDER SERVICES, INC.'S ERRONEOUS ANALYSIS OF CRACKER BARREL OLD COUNTRY STORE, INC. RETURN ON INVESTMENT

SAN ANTONIO, TX — November 9, 2012 — Biglari Holdings Inc. (NYSE: BH) today announced that the analysis conducted by Institutional Shareholder Services, Inc., a proxy advisory firm ("ISS"), on a critical financial metric for Cracker Barrel Old Country Store, Inc. (NASDAQ: CBRL) is fundamentally flawed and inaccurate.

It is incontrovertible that ISS' calculations of Cracker Barrel's return on investment on its 116 new stores opened between 2004 and 2009 simply do not add up.

Background

Cracker Barrel has been telling its shareholders that its return on investment on these 116 new stores is 16.2%. But Cracker Barrel failed to include relevant expenses. Cracker Barrel CFO Lawrence Hyatt has stated in an SEC filing that "the Company believes that making an allocation of general and administrative, interest and tax expenses to these [116] stores is not material to an investor's understanding of the results for these stores or the Company's decision-making in determining to build new stores." Biglari Holdings and ISS both disagree with Mr. Hyatt on excluding such expenses; in fact, both Biglari Holdings and ISS believe that general and administrative ("G&A") expenses must be factored into the determination of return on new store investment. ISS states, "The real calculation from a shareholder perspective should be whether the incremental investment, including all incremental costs such as taxes, returned incremental net income at greater than the cost of capital. Depreciation and G&A expense, therefore, should be included as expenses in the calculation to the extent they are incremental."

Cracker Barrel does disclose incremental depreciation even though it fails to factor it into its computation of return on investment. Mr. Hyatt discloses 'Store EBITDA' and depreciation for the 116 stores to be $61.8 million and $14.7 million, respectively. The only piece of data he does not disclose, nor apparently believes is important, are G&A expenses for these stores.

The key question is therefore the correct number to use for G&A expenses. We factored in $235,000 per store for it is Cracker Barrel's actual G&A per store for fiscal 2012. In our October 25, 2012 letter we also provided shareholders with per-store G&A expenses for the last 15 years; these data allow each shareholder to choose a different figure based on what he or she believes would be most appropriate. Nevertheless, ISS makes the following statement (referring to return on new store investment as ROIC):

"From 2005 through 2012 total G&A grew by $31.3 million, or an average of $270,000 incremental G&A for each of the 116 new stores opened in that period. If this were the true incremental G&A expense—and even assuming no further adjustments to [Biglari's] assumptions about depreciation and tax expense were necessary to get to true incremental numbers—the calculated ROIC rises from 3.7% to 10.7%."

ISS' above statement is factually wrong. An estimate of $270,000 per store of incremental G&A expense rather than $235,000 per store in our analysis would reduce return on investment. Yet ISS concludes that return increased from 3.7% to 10.7% — a mathematical impossibility! We urge shareholders to do their own analysis.

Even if we factor a zero for incremental G&A expense, the return becomes 8.7%. The following table sets forth the facts:

Calculation of Cracker Barrel's Return on Store Investment Analysis
($ in thousands)

	Damodaran	Cracker Barrel	Zero G&A	ISS Analysis
'Store EBITDA'	$ 61,800	$ 61,800	$ 61,800	$ 61,800
Depreciation	$ 14,700	$ 0	$ 14,700	$ 14,700
G&A	$ 27,300	$ 0	$ 0	$ 31,300
Operating income	$ 19,800	—	$ 47,100	$ 15,800
Taxes	$ 5,800	$ 0	$ 13,900	$ 4,700
NOPAT	$ 14,000	—	$ 33,200	$ 11,100
Invested capital	$ 382,000	$ 382,000	$ 382,000	$ 382,000
Return	3.7 %	16.2 %	8.7 %	2.9 %

Source: As Reported in SEC Filings.
Note: Taxes based on an effective tax rate of 30% based on Cracker Barrel's 2012 provision for income taxes of $40,575 divided by its 2012 pre-tax income of $137,376 (each, excluding the impact of the 53rd week).

It is clear to us that the correct return for Cracker Barrel's 116 new stores is between 3.7% and 8.7%. It is certainly not 16.2% as Cracker Barrel contends or even 10.7% as ISS erroneously computes. Clearly, any return on investment between 3.7%-8.7% is inadequate.

Cracker Barrel has referenced as an authority Aswath Damodaran's calculation on return analyses. However, Cracker Barrel has failed to follow Dr. Damodaran's definitive calculations, which stipulate that net operating profit after tax (NOPAT) divided by investment would be the appropriate formula.

One point on which we do agree with ISS is that Cracker Barrel's return on new store investment is, as ISS emphasizes, "an important consideration for shareholders: what is at issue is whether the board is adding or destroying value through its expansion strategy." (Emphasis added) It is clear to us that ISS' incorrect calculations led it to draw the wrong conclusion on this fundamental point in its analysis.

Cracker Barrel is going to continue to spend $155 million to open new stores based on a faulty assessment of return. It is clear this capital allocation will destroy value based on the aforementioned analysis. We are also concerned about new stores cannibalizing old stores. Furthermore, we demand that Cracker Barrel disclose relevant data on the 116 stores based on vintage so we see the performance of those stores. ISS also called upon Cracker Barrel to disclose this critical information to shareholders:

"[T]he management … presentations, however, have [not] broken out the view that would be most useful to shareholders considering this aspect of the board's stewardship: the trend in performance by vintage. If stores opened in 2009 are performing substantially better than those opened in 2005, for example, it may indicate that the company has substantially improved the process by which it targets new opportunities—or, if 2009 was substantially worse than 2005,

that the strategy is veering wildly off track."

We believe our analysis is sound and we urge shareholders to base their decisions on such facts. Biglari Holdings firmly believes that if a shareholder of Cracker Barrel is seeking to maximize the value of his or her investment, electing the nominees of a near 18% shareholder to the Board of Directors is the clear pathway to value creation.

Item 2: The following materials were posted by Biglari Holdings Inc. to http://www.enhancecrackerbarrel.com: