

IsoRay, Inc.
Form DEF 14A
May 17, 2017

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

SCHEDULE 14A

**PROXY STATEMENT PURSUANT TO SECTION 14(A) OF
THE SECURITIES EXCHANGE ACT OF 1934**

Filed by the Registrant ☒ x

Filed by a Party other than the Registrant ☐ ..

Check the appropriate box:

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

ISORAY, INC.

(Name of Registrant as Specified in Its Charter)

N/A

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

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☒ No fee required.

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(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:

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(1) Amount Previously Paid:

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

(3) Filing Party:

(4) Date Filed:

May 17, 2017

Dear Shareholder:

You are cordially invited to attend a Special Meeting of Shareholders, and any adjournment, postponement or other delay thereof (the “*Special Meeting*”), of IsoRay, Inc., a Minnesota corporation (“*IsoRay*” or the “*Company*”), which will be held at the Pinnacle Peak Country Club, 8701 East Pinnacle Peak Road, Scottsdale, Arizona 85255-3589 at 11:00 a.m. local time on Thursday, June 15, 2017.

The enclosed Notice of Special Meeting and Proxy Statement describe the formal business to be transacted at the Special Meeting. This Notice of Special Meeting, Proxy Statement and accompanying proxy card are being distributed on or about May 17, 2017.

As we have done in the past, this year, in accordance with U.S. Securities and Exchange Commission (“*SEC*”) rules, we are using the Internet as our primary means of furnishing proxy materials to shareholders. Consequently, most shareholders will not receive paper copies of our proxy materials. We will instead send these shareholders a notice with instructions for accessing the proxy materials and voting via the Internet. The notice also provides information on how shareholders may obtain paper copies of our proxy materials if they so choose. We believe this procedure makes the proxy distribution process more efficient, less costly and helps in conserving natural resources.

Whether or not you expect to attend in person, we urge you to vote your shares as soon as possible. As an alternative to voting in person at the meeting, you may vote via the Internet, by telephone or, if you receive a paper proxy card in the mail, by mailing the completed proxy card. Voting by any of these methods will ensure your representation at the meeting and will help ensure the presence of a quorum at the meeting.

Your vote is important. Whether or not you are able to attend in person, it is important that your shares be represented at the Special Meeting. Accordingly, we ask that you *please vote over the Internet or by telephone at your earliest convenience*, or, if you receive a paper proxy card and voting instructions by mail, that you complete, sign and date the proxy card and return it in the enclosed envelope (to which no postage need be affixed if mailed in the United States) as soon as possible. If you do attend the Special Meeting, you may revoke your proxy and vote personally on each matter brought before the meeting.

We look forward to seeing you at the Special Meeting.

If You Plan to Attend in Person:

Please note that space limitations make it necessary to limit attendance to shareholders. Admission to the meeting will be on a first-come, first-served basis. Shareholders holding stock in brokerage accounts (“street name” holders) will need to bring a copy of a brokerage statement reflecting stock ownership as of the record date to enter the meeting. Cameras, recording devices and other electronic equipment will not be permitted in the meeting.

Sincerely,

Thomas LaVoy

Chief Executive Officer and Chairman of the Board

350 Hills Street, Suite 106

Richland, Washington 99354-5511

www.isoray.com

ISORAY, INC.

**NOTICE OF SPECIAL MEETING
OF SHAREHOLDERS**

TIME AND DATE	11:00 a.m., local time, on Thursday, June 15, 2017.
PLACE	Pinnacle Peak Country Club, 8701 East Pinnacle Peak Road, Scottsdale, Arizona 85255-3589.
ITEMS OF BUSINESS	1. To approve the Company's 2014 Employee Stock Option Plan; 2. To approve the stock options granted under the 2014 Employee Stock Option Plan; 3. To approve the Company's 2017 Equity Incentive Plan; and 4. To ratify the appointment of DeCoria, Maichel & Teague, P.S. as the independent registered public accounting firm of the Company for the fiscal year ending June 30, 2018.
BOARD OF DIRECTORS RECOMMENDATION	The Board of Directors recommends that you vote " FOR " Items 1, 2, 3 and 4.
ADJOURNMENTS AND POSTPONEMENTS	Any action on the items of business described above may be considered at the Special Meeting at the time and on the date specified above or at any time and date to which the Special Meeting may be properly adjourned or postponed. You may vote at the Special Meeting if you were a shareholder of record at the close of business on May 11, 2017. If your shares are held in an account at a brokerage firm, bank or similar organization, that organization is considered the record holder for purposes of voting at the Special Meeting and will provide you with instructions on how you can direct that organization to vote your shares.
RECORD DATE	
INTERNET ACCESS TO PROXY MATERIALS	Under rules adopted by the SEC, we are providing access to our 2017 Special Meeting materials, which include the accompanying Proxy Statement, over the Internet in lieu of mailing printed copies. We will begin mailing, on or about May 17, 2017, a " <i>Notice of Internet Availability of Proxy Materials</i> " (which is different than this Notice of Special Meeting of Shareholders) to our shareholders. The Notice of Internet Availability of Proxy Materials will contain instructions on how to access and review the Special Meeting materials and vote online. The Notice of Internet Availability of Proxy Materials also will contain instructions on how you can request a printed copy of the Special Meeting materials, including a proxy card if you are a record holder or a voting

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instruction form if you are a beneficial owner.

VOTING

Your vote is very important. Whether or not you plan to attend the Special Meeting, we encourage you to read the accompanying Proxy Statement and vote as soon as possible. For specific instructions on how to vote your shares, please refer to the instructions in the Notice of Internet Availability of Proxy Materials and the section entitled “*General Information About the Special Meeting and Voting*” beginning on page 1 of the accompanying Proxy Statement.

ADMISSION

Space limitations make it necessary to limit attendance at the Special Meeting to shareholders. If your shares are held in an account at a brokerage firm, bank or similar organization and you wish to attend the Special Meeting, you must obtain a letter from that brokerage firm, bank or similar organization confirming your beneficial ownership of the shares as of the record date and bring it to the Special Meeting. Admission to the Special Meeting will be on a first-come, first-served basis. Cameras and recording devices and other electronic equipment will not be permitted at the Special Meeting.

By Order of the Board of Directors,

Krista Cline
Secretary

This Notice of Special Meeting, Proxy Statement and accompanying proxy card are being distributed on or about May 17, 2017.

ISORAY, INC.

350 Hills Street, Suite 106

Richland, Washington 99354-5511

PROXY STATEMENT

Special Meeting of Shareholders

June 15, 2017

We are providing these proxy materials in connection with the solicitation by the Board of Directors (the “*Board*”) of IsoRay, Inc. of proxies to be voted at the Special Meeting of Shareholders to be held on June 15, 2017 (the “*Special Meeting*”), and at any adjournment or postponement of the Special Meeting. These proxy materials were first sent on or about May 17, 2017 to shareholders entitled to vote at the Special Meeting. **This proxy is solicited on behalf of the Board.**

GENERAL INFORMATION ABOUT THE SPECIAL MEETING AND VOTING

Why am I receiving these materials?

You are receiving a proxy statement from us because you were the shareholder of record or beneficial owner of shares of our common or Series B Preferred Stock at the close of business on the record date of May 11, 2017 (the “*Record Date*”) for the Special Meeting. This Proxy Statement contains important information about the Special Meeting and the items of business to be transacted at the Special Meeting. You are strongly encouraged to read this Proxy Statement, which includes information that you may find useful in determining how to vote.

Who is entitled to attend and vote at the Special Meeting?

Shareholders as of the Record Date are entitled to attend and to vote at the Special Meeting. If your shares are held in an account at a brokerage firm, bank or similar organization, that organization is considered the record holder for

purposes of voting at the Special Meeting and will provide you with instructions on how to direct that organization to vote your shares.

How many shares are outstanding?

On the Record Date, 55,017,419 shares of our Common Stock were issued and outstanding and 59,065 shares of our Series B Preferred Stock were issued and outstanding. Each share of Common Stock and Series B Preferred Stock outstanding on the Record Date is entitled to one vote on each item brought before the shareholders at the Special Meeting.

How many shares must be present or represented to conduct business at the Special Meeting?

The presence, in person or by proxy, of a majority of the outstanding shares of our Common Stock and Series B Preferred Stock voting together as one class is necessary to constitute a quorum at the Special Meeting. In counting the votes to determine whether a quorum exists at the Special Meeting, we will use the proposal receiving the greatest number of all votes “for” or “against” and abstentions (including instructions to withhold authority to vote). As of May 9, 2017, there were 55,017,419 shares of Common Stock and 59,065 shares of Series B Preferred Stock outstanding.

What shares can I vote at the Special Meeting?

You may vote all of the shares you owned as of the Record Date, including shares held directly in your name as the shareholder of record and all shares held for you as the beneficial owner through a broker or other nominee, such as a bank.

What is the difference between holding shares as a shareholder of record and as a beneficial owner?

Most of our shareholders hold their shares through a bank, broker or other nominee rather than directly in their own name. As summarized below, there are some distinctions between shares held of record and those beneficially owned.

Shareholders of Record. If your shares are registered directly in your name with our transfer agent, Computershare, you are considered, with respect to those shares, the shareholder of record, and we are sending our Notice of Internet Availability for Proxy Materials, which contains instructions on how to access and review the Special Meeting materials and vote online. The Notice of Internet Availability for Proxy Materials also contains instructions on how you can request a printed copy of the Special Meeting materials. As the shareholder of record, you have the right to vote in person or direct a proxyholder to vote your shares on your behalf at the Special Meeting by signing and dating the enclosed proxy card and returning it to us in the enclosed postage-paid return envelope, or by following the procedures for voting over the Internet or by telephone.

Beneficial Owner. If your shares are held by a bank, broker or other nominee, you are considered the beneficial owner of those shares and they are considered to be held in “street name” for your account. That institution will send you separate instruction describing the procedure for voting your shares. Please follow the directions you are given carefully so that your vote is counted. As a beneficial owner, you may also vote in person at the Special Meeting, but only after you obtain and present a “legal proxy” from your bank, broker or other nominee, giving you the right to vote your shares at the Special Meeting.

How can I vote my shares without attending the Special Meeting?

Whether you hold shares directly as the shareholder of record or as a beneficial owner, you may direct how your shares are voted without attending the Special Meeting by voting on the Internet, by phone or by proxy card. If you provide specific instructions with regard to items of business to be voted on at the Special Meeting, your shares will be voted as you instruct on those items. When you sign and return the proxy card, you appoint Thomas LaVoy and

Philip Vitale, and each of them individually, as your representatives at the meeting. Thomas LaVoy and Philip Vitale will vote your shares at the meeting as you have instructed them. This way your shares will be voted regardless of whether you attend the Special Meeting. Even if you plan to attend the meeting, it is a good idea to complete, sign and return the enclosed proxy card in advance of the meeting just in case your plans change. Returning the proxy card will not affect your right to attend or vote at the Special Meeting.

If you just sign your proxy card with no further instructions, or if you electronically transmit your proxy card but do not direct your vote on particular items, your shares will be voted in accordance with the Board's recommendation on those items. If you hold your shares in "street name" as a beneficial owner and you do not instruct your bank, broker or other nominee how to vote your shares, your bank, broker or other nominee will only be able to vote your shares with respect to the routine matter of appointment of DeCoria, Maichel & Teague, P.S. as our independent registered public accounting firm for the fiscal year ending June 30, 2018. Please see "What is a broker non-vote?" below.

What proposals will be voted on at the Special Meeting?

Four proposals are scheduled to be voted on at the Special Meeting. The first is the approval of the 2014 Employee Stock Option Plan. The second is the approval of the stock options granted under the 2014 Employee Stock Option Plan. The third is the approval of the 2017 Equity Incentive Plan. The fourth is the ratification of the appointment by the Audit Committee of DeCoria, Maichel & Teague, P.S. as the Company's independent registered public accounting firm for the fiscal year ending June 30, 2018.

Why are these proposals being submitted at a special meeting instead of an annual meeting?

The Board believes that the longer we wait to approve the 2014 Employee Stock Option Plan and 2017 Equity Incentive Plan, the greater the risk will be that we will not be able to retain employees who are essential to the future growth and success of our business. Therefore, the Board did not believe that it would be prudent to wait until the Company's Fiscal 2018 Annual Meeting to act on these proposals.

How can I attend the Special Meeting?

Whether you hold shares in your name as the shareholder of record or beneficially own shares held in "street name," you should be prepared to present photo identification for admittance to the Special Meeting. Please also note that if you are a "street name" holder, you will need to provide proof of beneficial ownership as of the Record Date, such as your most recent brokerage account statement, a copy of the voting instruction card provided by your bank, broker or other nominee, or other similar evidence of ownership for admittance to the Special Meeting. The Special Meeting will begin promptly at 11 a.m. local time. Check-in will begin at 10:30 a.m. local time. However, if you are a "street name" holder, you may not vote at the Special Meeting unless you have obtained a proxy from your broker, bank or other nominee. *Even if you plan to attend the Special Meeting, we recommend that you also vote by Internet, telephone or sign and date the proxy card or voting instruction card and return it promptly in order to ensure that your vote will be counted if you later decide not to, or are unable to, attend the Special Meeting.*

Can I change my vote or revoke my proxy?

You may change your vote or revoke your proxy at any time prior to the vote at the Special Meeting. If you are the shareholder of record, you may change your vote by (i) granting a new proxy bearing a later date, which automatically revokes your earlier proxy, (ii) providing a written notice of revocation to our Corporate Secretary at our principal

executive offices prior to the Special Meeting, or (iii) attending the Special Meeting, revoking your proxy, and voting in person. However, attendance at the Special Meeting but not voting in person will not cause your previously granted proxy to be revoked unless you specifically so request. If you are a beneficial owner, you may change your vote by (i) submitting a new voting instruction card to your bank, broker or other nominee, or (ii) if you have obtained a legal proxy from your broker or other nominee giving you the right to vote your shares, by attending the Special Meeting, revoking your proxy, and voting in person.

What is a “broker non-vote”?

A broker holding your shares in “street name” must vote those shares according to any specific instructions it receives from you. In the absence of such instructions, your broker does not have discretion to vote your shares on any proposal that is considered to be “non-discretionary,” and may, but is not required to, vote your shares on any “discretionary” proposal. We believe that Proposal 4 is the only discretionary proposal. If your broker does not vote your shares at the Special Meeting on a matter, it gives rise to what is called a “broker non-vote.”

How are “broker non-votes” counted?

Under the rules of the New York Stock Exchange (the “*Exchange*”) that govern most domestic stock brokerage firms, member firms that hold shares in “street name” for beneficial owners may, to the extent that such beneficial owners do not furnish voting instructions with respect to any or all proposals submitted for shareholder action, vote in their discretion upon proposals which are considered “discretionary” proposals under the rules of the Exchange. These votes by brokerage firms are considered as votes cast in determining the outcome of any discretionary proposal. Member brokerage firms that have received no instructions from their clients as to “non-discretionary” proposals do not have discretion to vote on these proposals. If the brokerage firm returns a proxy card without voting on a non-discretionary proposal because it received no instructions, this is referred to as a “broker non-vote” on the proposal. “Broker non-votes” are considered in determining whether a quorum exists at the Special Meeting, but are not considered as votes cast in determining the outcome of any proposal.

In summary, if you do not vote your proxy, your brokerage firm or other nominee may either:

vote your shares on discretionary matters (Proposal 4) and cast a “broker non-vote” on non-discretionary matters (Proposals 1, 2 and 3); or

leave your shares unvoted altogether.

We encourage you to provide instructions to your brokerage firm or other nominee by voting your proxy. This action ensures that your shares will be voted in accordance with your wishes at the Special Meeting.

How many votes are required to approve the proposals?

The vote required to approve the proposals is governed by Minnesota law, and is the affirmative vote of the greater of (i) a majority of the voting power of the shares present and entitled to vote on that item of business, or (ii) a majority of the voting power of the minimum number of the shares entitled to vote that would constitute a quorum for the transaction of business at the meeting. As a result, abstentions will be considered in determining whether a quorum is present and the number of votes required obtaining the necessary majority vote, and therefore will have the same legal effect as voting against Proposals 1, 2, 3 and 4.

Because your vote on Proposal 4 is advisory, it will not be binding on the Board or the Company. However, the Board and the Audit Committee will consider the outcome of the advisory vote when making future decisions regarding the selection of our independent registered public accounting firm.

You may either vote “FOR”, “AGAINST” or “ABSTAIN” on Proposals 1, 2, 3 and 4. If you sign and submit your proxy card without voting instructions, your shares will be voted “FOR” Proposals 1, 2, 3 and 4.

What happens if the Special Meeting is adjourned?

If the Special Meeting is adjourned until another time, no additional notice will be given regarding the time or location that the Special Meeting will be continued, if this information is announced at the time of the adjournment, unless the adjournment is for more than 120 days, in which case a notice of the time and location will be given to each shareholder of record entitled to vote at the Special Meeting. Any items of business that might have been properly transacted at the Special Meeting may be transacted after any adjournment.

Who will serve as inspector of elections?

The Secretary of the Company, Krista Cline, will tabulate the votes cast at the meeting in combination with the votes cast prior to the meeting and act as the Inspector of Elections at the Special Meeting.

Will I be receiving printed copies of the 2017 Special Meeting materials?

You will not receive printed copies unless you request them by following the instructions in the “*Notice of Internet Availability of Proxy Materials*” (the “*Notice*”) that you will receive in the mail. The Notice is different than the Notice of Special Meeting of Shareholders that accompanies this Proxy Statement. We will begin mailing the Notice to shareholders on or about May 17, 2017.

Under rules adopted by the SEC, we are providing access to our Special Meeting materials, which include this Proxy Statement, over the Internet in lieu of mailing printed copies. The Notice will contain instructions on how to access and review the Special Meeting materials and vote online. This electronic access process is designed to expedite shareholders’ receipt of materials, lower the cost of the Special Meeting and help conserve natural resources. The Company encourages you to take advantage of the availability of the proxy materials on the Internet.

The Notice also will contain instructions on how you can request, at no cost, a printed copy of the Special Meeting materials, including a proxy card if you are a record holder or a voting instruction form if you are a beneficial owner. By following the instructions in the Notice, you may request to receive, at no cost, a copy via e-mail of the Special Meeting materials or future proxy solicitations. Your request to receive materials via e-mail will remain in effect until you terminate it.

Can I mark my votes on the Notice and send it back to the Company or my broker?

No. The Notice is not a ballot. You cannot use it to vote your shares. If you mark your vote on the Notice and send it back to the Company or your broker, your vote will not count.

How can I get electronic access to the Special Meeting materials?

The Notice will provide you with instructions regarding how to view the Special Meeting materials on the Internet.

This Proxy Statement is also available without charge on the Company's website at *isoray.com* and the SEC's website at *sec.gov*. By referring to our website, we do not incorporate the website or any portion of the website by reference into this Proxy Statement.

The Notice will also contain instructions on how you can elect to receive future proxy materials electronically by e-mail. Choosing to receive future proxy materials by e-mail will save the Company the cost of printing and mailing documents to you and will reduce the impact of the Company's Special Meetings on the environment. If you choose to receive future proxy materials by e-mail, you will receive an e-mail message next year with instructions containing a link to those materials and a link to the proxy voting website. Your election to receive proxy materials by e-mail will remain in effect until you terminate it.

Where can I find the voting results of the Special Meeting?

We intend to announce preliminary voting results at the Special Meeting and publish the final voting results in a Current Report on Form 8-K filed with the SEC within four business days following the Special Meeting.

What is the deadline for submitting proposals for consideration at the next Annual Meeting of shareholders or to nominate individuals to serve as directors?

As a shareholder, you may be entitled to present proposals for action at the Fiscal 2018 Annual Meeting of shareholders, including director nominations. Please refer to “*Shareholder Proposals and Director Nominations*” below.

How many shares of common and Series B Preferred Stock are held or controlled by the officers and directors?

As of March 31, 2017, our directors and executive officers held or controlled approximately 265,523 shares of our Common Stock, constituting approximately 0.48% of the outstanding Common Stock. As of March 31, 2017, our directors and executive officers did not hold or control any shares of our Series B Preferred Stock. We believe that these holders will vote all of their shares of Common Stock in accordance with the Board’s recommendations on the proposal.

How does the Board recommend that I vote?

The Board recommends that you vote your shares “FOR” each of the proposals.

How do I vote my shares without attending the Special Meeting?

Shareholders of record can vote as follows:

Via the Internet: Shareholders may vote through the Internet by following the instructions included with your Notice Regarding the Availability of Proxy Materials.

By Telephone: Shareholders may vote by telephone by following the instructions included with your Notice Regarding the Availability of Proxy Materials.

By Mail: Those shareholders who receive a paper proxy card in the mail may sign, date and return their proxy cards in the pre-addressed, postage-paid envelope that is provided with the mailed proxy materials. If you have misplaced your return envelope or need to return a proxy card from outside the United States, you may mail your proxy card to the address listed on the proxy card.

At the Meeting: If you attend the Special Meeting, you may vote in person by ballot, even if you have previously returned a proxy card or otherwise voted.

If your shares are held in “street name” through a broker, bank or other nominee, that institution will send you separate instructions describing the procedure for voting your shares. Please follow the directions you are given carefully so your vote is counted. “Street name” shareholders who wish to vote in person at the Special Meeting will need to obtain a proxy form from the institution that holds your shares and present it to the inspector of elections with your ballot.

How do I vote my shares in person at the Special Meeting?

If you are a shareholder of record and prefer to vote your shares at the Special Meeting, you should bring the enclosed proxy card or proof of identification to the Special Meeting. You may vote shares held in “street name” at the Special Meeting only if you obtain a signed proxy from the record holder (broker or other nominee) giving you the right to vote the shares.

Even if you plan to attend the Special Meeting, we encourage you to vote in advance by Internet, telephone or proxy card so your vote will be counted even if you later decide not to attend the Special Meeting.

May shareholders ask questions at the Special Meeting?

Yes. Representatives of the Company will answer a limited number of shareholders’ questions of general interest at the end of the Special Meeting. In order to give a greater number of shareholders an opportunity to ask questions, individuals or groups will be allowed to ask only one question and no repetitive or follow-up questions will be permitted.

What does it mean if I receive more than one proxy card?

It generally means you hold shares registered in more than one account. To ensure that all your shares are voted, sign and return each proxy card.

PROPOSAL 1 – APPROVE THE COMPANY’S 2014 EMPLOYEE STOCK OPTION PLAN

On January 16, 2014, the Board unanimously adopted, subject to shareholder approval, the Company’s 2014 Employee Stock Option Plan (the “2014 Plan”). We do not believe that the corporate laws of the State of Minnesota require shareholder approval of option plans in general or of the 2014 Plan specifically. However, to meet the ongoing listing statements of the NYSE MKT, where the Company’s common stock is publicly traded, the Company was required to meet the approval threshold set forth in the NYSE MKT Company Guide. We believed that this approval was obtained when the 2014 Plan was approved by a majority of shares present in person or represented by proxy and entitled to vote on the matter at the Annual Meeting held on March 5, 2014.

On January 31, 2017, a putative class action complaint captioned *Griffith, et al. v. LaVoy, et al.*, No. 17-2-00194-2, was filed in the Superior Court of Washington in and for Benton and Franklin Counties against the Company, the Board, and a former director and officer of the Company. The complaint alleges that the defendants violated Section 302A.437 of the Minnesota Business Corporation Act because, due to a significant number of broker non-votes at the respective meetings, the Company did not receive at least a majority of the voting power of the minimum number of shares entitled to vote that would constitute a quorum in favor of proposals to approve the 2014 Plan and the 2016 Equity Incentive Plan (“*2016 Plan*”) (collectively, the “*Plans*”). The complaint alleges that since these Plans were not properly approved by shareholders under Minnesota law, the Plans and the Company’s equity awards under the Plans are invalid. The complaint also alleges that members of the Board breached their fiduciary duties by deeming these Plans approved by shareholders when they were not under Minnesota law and by authorizing equity awards to be made under these Plans. Unless the Company obtains the requisite shareholder approvals under Minnesota law, the complaint seeks cancellation of the Plans and rescission of all awards made under the Plans, an injunction prohibiting the Company from making further awards under the Plans, and an award of fees and costs to plaintiffs’ counsel. The Company and the other defendants have not yet answered or otherwise responded to the complaint.

The Company, members of the Board, and the former director and officer of the Company deny that they violated Minnesota law and, as to the non-company defendants, that they breached any fiduciary duty. No awards were issued to then-outside directors under the 2014 Plan. No awards made to anyone under the 2014 Plan have been exercised. No awards were issued under the 2016 Plan. In order to correct mistakes, if any, in connection with the approvals of these Plans or the issuance of these equity awards under the 2014 Plan, we have reached an agreement with the plaintiffs to settle this lawsuit in order to remedy the claims alleged in the complaint and to eliminate the burden and expense of further litigation. As part of the settlement, in addition to a payment of \$195,000 in plaintiffs' attorneys' fees and costs, the Board agreed to seek approval of the 2014 Plan (Proposal 1), and approval of prior grants under the 2014 Plan (Proposal 2), each from shareholders pursuant to the higher voting threshold imposed by Minnesota corporate laws, and to cancel the 2016 Plan altogether. Section 302A.437 of the Minnesota Business Corporation Act includes an approval threshold for shareholder votes on any matter (other than the election of directors) that is higher than that imposed by the NYSE MKT listing standards. Under the Minnesota statute, the shareholder vote necessary to approve the 2014 Plan was the affirmative vote of the holders of the greater of (i) a majority of the voting power of the shares present and entitled to vote on the item of business, or (ii) a majority of the voting power of the minimum number of the shares entitled to vote that would constitute a quorum for the transaction of business at the meeting. The Company and the Board have agreed that they will count the votes of the shareholder meeting as to Proposals 1 and 2 in accordance with Section 302A.437 of the Minnesota Business Corporation Act, and if the votes required by the statute for shareholder approval are not received, the Company will cancel the 2014 Plan and rescind equity awards granted under the 2014 Plan. In short, the Board is now seeking in Proposal 1 re-approval of the 2014 Plan by the shareholders at this Special Meeting in order to satisfy the higher approval threshold required by Minnesota law, thereby ratifying the shareholder approval taken at the March 5, 2014, Annual Meeting, and in Proposal 2 approval of all equity awards previously granted under the 2014 Plan.

The purpose of the 2014 Plan is to encourage selected employees, consultants, and advisors to improve operations and increase profits of the Company and to accept or continue employment or association with the Company or its affiliates, to increase the interest of such persons in the Company's welfare through participation in the growth in value of the Company's common stock, and to enable the Company to attract and retain top-quality employees, officers and consultants and provide them with an incentive to enhance shareholder return. Up to 2,000,000 shares of Common Stock (subject to adjustment in the event of stock splits and other similar events) may be issued pursuant to awards granted under the 2014 Plan. As the Company has already issued options to purchase approximately 1,400,000 shares to employees as further described in Proposal 2 below, less than approximately 600,000 options remain available under the 2014 Plan. The full text of the 2014 Plan appears as Appendix A to this Proxy Statement and the description of the 2014 Plan herein is qualified in its entirety by reference to the text of the Plan.

The closing sales price of the Company's common stock as reported on the NYSE MKT on January 16, 2014 was \$0.83.

The Board believes that the future success of the Company depends, in large part, upon the ability of the Company to maintain a competitive position in attracting, retaining and motivating key personnel. The Company's existing Amended and Restated 2005 Employee Stock Option Plan expired in 2015, leaving the Company with no equity incentive plans available for grants to its employees. If the 2014 Plan is not approved, all grants made under the 2014

Plan will be cancelled and the 2014 Plan will not be available to provide incentives to our employees.

Description of the 2014 Plan

Under the 2014 Plan, awards may be made in Common Stock of the Company. Subject to adjustment as provided by the terms of the 2014 Plan, the maximum number of shares of Common Stock with respect to which awards may be granted under the 2014 Plan is 2,000,000, but as already 1,390,500 option to purchase shares of Common Stock have been awarded, only 609,500 remain available for issuance. At present, approximately 35 persons are eligible to participate in the 2014 Plan.

The 2014 Plan will be administered by the Board or a committee of the Board. The administrator will have complete discretion to select the optionees and to establish the terms and conditions of each option, subject to the provisions of the 2014 Plan. Options granted under the 2014 Plan may be “incentive stock options” as defined in Section 422 of the Internal Revenue Code of 1986, as amended (the “Code”), or nonqualified options, and will be designated as such. Because the 2014 Plan was not approved within 12 months of adoption by the Board by shareholders pursuant to the corporate laws of the State of Minnesota, none of the options issued under the 2014 Plan may be awarded to qualify as incentive stock options.

The exercise price of options granted under the 2014 Plan may be not less than the fair market value of the Company’s Common Stock on the date of grant. Fair market value will be determined as provided in the 2014 Plan, which valuation methodology is intended to come within the parameters of Section 409A of the Code and the regulations thereunder.

In general, upon termination of employment of an optionee (except for cause), all options granted to such person which were not exercisable on the date of such termination will immediately terminate, and any options that are exercisable on such termination date will be exercisable for a period of six months (one year in the case of termination by reason of death or disability) following termination of employment.

Options may not be exercised more than ten years after the date of grant (five years after the date of grant if the grant is an incentive stock option to an employee who owns more than 10% of the total combined voting power of all classes of capital stock of the Company). Options granted under the 2014 Plan are not transferable and may be exercised only by the respective grantees during their lifetime or by their heirs, executors, or administrators in the event of death. The exercise price under any option may be paid in cash or shares of common stock already owned, as may be determined by the administrator, or through a cashless exercise. Tax withholding is required at the time of exercise. Under the 2014 Plan, shares subject to canceled or terminated options are available for subsequently granted options. The number of options outstanding and the exercise price thereof are subject to adjustment in the event of changes in the outstanding common stock by reason of stock dividends, stock splits, reverse stock splits, split-ups, consolidations, recapitalizations, reorganizations, or like events. The 2014 Plan is effective for ten years, unless sooner terminated or suspended.

The Board may at any time amend, alter, suspend, or discontinue the 2014 Plan. Without the consent of an optionee, no amendment, alteration, suspension, or discontinuance may adversely affect outstanding options except to conform to the 2014 Plan and options granted hereunder to the requirements of federal or other tax laws relating to such stock options. No amendment, alteration, suspension, or discontinuance will require shareholder approval unless (i) it increases the maximum aggregate number of shares of stock that may be issued under the 2014 Plan (not including any adjustments for changes in the Company's capital structure), (ii) shareholder approval is required under any applicable law, regulation or rule, including but not limited to applicable exchange rules, or (iii) the Board otherwise concludes that shareholder approval is advisable. In this case, the Board has concluded that shareholder approval is advisable.

2014 Plan Benefits

Awards under the 2014 Plan are granted at the discretion of the Board, which acts upon recommendations of the Compensation Committee of the Board (the “*Compensation Committee*”). The Board determines the key employees who will receive options under the 2014 Plan and the terms of those options. Accordingly, the nature and amounts of any future awards to be made to participants in the 2014 Plan are not presently determinable.

Since the grants of option awards under the 2014 Plan will be determined at the discretion of the Board, the Company is not presently able to determine, with the exception of the option awards already granted under the 2014 Plan, the number of options that may be granted to each named executive officer, all current executive officers as a group, and all other employees. Non-employee directors are not eligible to participate in the 2014 Plan.

Certain Federal Income Tax Consequences

The following is a brief summary of the principal federal income tax consequences to the Company and an eligible person (who is a citizen or resident of the United States for U.S. federal income tax purposes) of non-qualified stock options and incentive stock options granted under the 2014 Plan. The summary is not intended to be exhaustive and, among other things, does not describe state, local, or foreign tax consequences. The federal income tax consequences of an eligible person's award under the 2014 Plan are complex, are subject to change and differ from person to person. Each person should consult with his or her own tax adviser as to his or her own particular situation.

This discussion is based on the Code, Treasury Regulations promulgated under the Code, Internal Revenue Service rulings, judicial decisions, and administrative rulings as of the date of this Proxy Statement, all of which are subject to change or differing interpretations, including changes and interpretations with retroactive effect. No assurance can be given that the tax treatment described herein will remain unchanged at the time that grants of incentive stock options and/or non-qualified stock options are made under the 2014 Plan.

Non-Qualified Options. An optionee generally recognizes no taxable income as the result of the grant of a non-qualified stock option. Upon exercise of such an option, the optionee generally recognizes ordinary income in the amount of the excess of the fair market value of the shares on the date of exercise over the option price for such shares. Upon the sale of stock acquired by the exercise of a non-qualified stock option, any gain or loss, based on the difference between the sale price and the adjusted basis of the stock (i.e., the exercise price plus the amount recognized as ordinary income upon exercise of the option), will be taxed as short-term or long-term capital gain or loss, depending upon the length of time the optionee has held the stock from the date of exercise. Special rules apply under Section 16(b) of the Securities Exchange Act of 1934 (the “*Exchange Act*”) if a participant exercises an option

within six months of the date of grant.

No tax deduction is available to the Company upon either the grant of a non-qualified stock option or the sale of stock acquired pursuant to the exercise of such option. Subject to the limits on deductibility of employee remuneration under Section 162(m) of the Code, the Company will generally be entitled to a tax deduction at the time the non-qualified stock option is exercised in an amount equal to the amount of ordinary income recognized by the optionee upon the exercise of the option. Non-qualified stock options granted to executive officers under the 2014 Plan are intended to qualify as performance-based compensation for purposes of Section 162(m) of the Code, and the Company should be entitled to a tax deduction in the amount of ordinary income recognized by such officers upon the exercise of the options. However, no tax authority or court has ruled on the applicability of Section 162(m) to the 2014 Plan. The Company retains the right to grant options under the 2014 Plan in accordance with the terms of the 2014 Plan regardless of whether the Internal Revenue Service or a court having final jurisdiction with respect to the matter ultimately determines that the non-qualified stock options granted to executive officers are not deductible under Section 162(m) of the Code.

Incentive Stock Options. Upon the grant or exercise of an incentive stock option, the grantee thereof will not recognize any income for regular federal income tax purposes. If a grantee exercises an incentive stock option and retains the shares received for at least two years after the date of grant of such option and at least one year from the date of the option exercise, any gain realized upon the subsequent sale of the shares will be characterized as long term capital gain. If a grantee disposes of shares acquired upon exercise of an incentive stock option within two years after the date of grant of such option or within one year after the date of exercise of such option, the disposition will be treated as a disqualifying disposition and an amount equal to the lesser of (i) the fair market value of the shares on the date of exercise minus the purchase price, or (ii) the amount realized on the disposition minus the purchase price, will be taxed as ordinary income to the grantee in the taxable year in which the disposition occurs. The excess, if any, of the amount realized upon disposition over the fair market value at the time of the exercise of the option will be treated as long or short-term capital gain, depending on the length of time the optionee has held the stock from the date of exercise.

The exercise of an incentive stock option may subject a grantee to alternative minimum tax liability because the excess of the fair market value of the shares at the time an incentive stock option is exercised over the exercise price of the shares is included in income for purposes of the alternative minimum tax, even though it is not included in taxable income for purposes of determining the regular tax liability of a grantee. Consequently, a grantee may be obligated to pay alternative minimum tax in the year he or she exercises an incentive stock option. As the application of the alternative minimum tax is complex and depends on each person's individual tax situation, a grantee should consult his or her own tax advisor in order to determine whether the exercise of an incentive stock option will subject the grantee to the alternative minimum tax.

In general, there will be no federal income tax deduction allowed to the Company upon the grant, exercise, or termination of an incentive stock option, or upon the sale of shares acquired pursuant to the exercise of an incentive stock option. However, in the event of a disqualifying disposition, the Company will be entitled to a deduction for federal income tax purposes in an amount equal to the ordinary income, if any, recognized by a grantee upon disposition of the shares, provided that the deduction is not otherwise disallowed under the Code.

Both non-qualified stock options and incentive stock options granted pursuant to the 2014 Plan are intended to be exempt from Section 409A of the Code. The final Treasury Regulations under Section 409A, issued in April 2007, exclude from the provisions of that section (i) any stock options that are incentive stock options under Section 422 of the Code, and (ii) any non-qualified stock options granted with an exercise price of not less than the fair market value of the stock on the grant date, provided that the number of shares subject to the option is fixed on the grant date. The 2014 Plan contains definitions of "fair market value" and "grant date" that are consistent with those set forth in the Treasury Regulations. As a result, both non-qualified stock options and incentive stock options granted pursuant to the 2014 Plan should not be subject to the accelerated income tax and excise tax provisions of Section 409A of the Code.

Interest of Certain Persons

Thomas LaVoy, the Company's Chief Executive Officer, has a substantial interest in the approval of the 2014 Plan, as he has received grants of 350,000 stock options under the plan. Brien Ragle, the Company's former Chief Financial Officer, has a substantial interest in the approval of the 2014 Plan, as he has received grants of 58,000 stock options under the plan. Matthew Branson, the Company's Controller, has a substantial interest in the approval of the 2014 Plan, as he has received grants of 40,000 stock options under the 2014 Plan. William Cavanagh, the Company's Chief Operating Officer, has a substantial interest in the approval of the 2014 Plan, as he has received grants of 145,000 stock options under the plan. Michael Krachon, the Company's Vice President, Sales & Marketing, has a substantial interest in the approval of the 2014 Plan, as he has received grants of 125,000 stock options under the plan.

The following persons or categories of person have received the following stock options under the 2014 Plan.

2014 Employee Stock Option Plan

Name and Position	Common Stock Options Granted	Exercise Price	Grant Date	Vesting Period	Market Price as of May 15, 2017
Thomas LaVoy	250,000	\$0.69	2/15/2016	Vested	\$ 0.56
Chairman & CEO	100,000	\$0.93	6/21/2016	5 years	
Brien Ragle ⁽¹⁾	20,000	\$1.47	6/17/2015	3 years	\$ 0.56
Former CFO	38,000	\$0.93	6/21/2016	5 years	
Matthew Branson	15,000	\$1.53	3/10/2015	3 years	\$ 0.56
Controller	25,000	\$0.93	6/21/2016	5 years	
William Cavanagh	20,000	\$1.47	6/17/2015	3 years	\$ 0.56
COO	125,000	\$0.93	6/21/2016	5 years	
Michael Krachon	125,000	\$0.83	3/7/2016	3 years	\$ 0.56
VP, Sales & Marketing					
Dwight Babcock	-	-	-	-	-
Former Chairman & CEO					
Executive Officers as a Group	718,000	0.87 \$ Weighted Average	Ranging from 3/10/15 to 6/21/16	Ranging from Vested to 5 years	\$ 0.56
Non-Executive Officer Directors as a Group	0	N/A	N/A	N/A	\$ 0.56
Non-Executive Officer Employee Group	672,500	1.10 \$ Weighted Average	Ranging from 3/10/15 to 12/12/16	Ranging from 1 year to 5 years	\$ 0.56

(1) Mr. Ragle served as CFO until January 16, 2017. Pursuant to the terms of his Separation Agreement, he has until July 16, 2017 to exercise his unexpired options, except for the unvested options that terminated as of his separation date, provided that the Company extended his exercise period for vested options to purchase 6,666 shares of common stock to January 16, 2018.

The Board unanimously recommends that the shareholders vote “FOR” Proposal 1 to approve the IsoRay, Inc. 2014 Employee Stock Option Plan.

PROPOSAL 2 – APPROVE THE STOCK OPTIONS GRANTED UNDER THE COMPANY’S 2014 EMPLOYEE STOCK OPTION PLAN

As noted in the discussion to Proposal 1 above, the shareholders of the Company approved the 2014 Plan by a majority of shares present in person or represented by proxy at the Annual Meeting held on March 5, 2014 and entitled to vote on the matter. But, in conjunction with the settlement described in Proposal 1 above, the Board is now seeking a higher threshold vote to comply with Section 302A.437 of the Minnesota Business Corporation Act. Under this Minnesota statute, the shareholder vote necessary to approve the 2014 Plan was the affirmative vote of the holders of the greater of (i) a majority of the voting power of the shares present and entitled to vote on the item of business, or (ii) a majority of the voting power of the minimum number of the shares entitled to vote that would constitute a quorum for the transaction of business at the meeting. Also, as part of the settlement, the Board is seeking in Proposal 2 separate shareholder approval of all previous grants of stock options issued pursuant to the 2014 Plan. As of the 30-day period ending on the mailing date of this Proxy Statement, only one of the option grants, totaling 10,000 options, previously granted had an exercise price at or above the closing price of the Company’s Common Stock, and none of the options previously granted have been exercised. Exercise prices of these grants which have been issued since March 10, 2015 vary between \$0.55 and \$1.53 per share of Common Stock. While the Board could have decided to cancel the 2014 Plan altogether and issue options for shares of Common Stock at more favorable prices under another plan approved by shareholders, if any, they wanted to honor the integrity of the pricing of the prior grants and so instead are seeking ratification of these options instead. If prior grants of options under the 2014 Plan are not approved, as part of the settlement, they will be cancelled.

As of May 9, 2017, grants totaling 1,390,500 Common Stock options were made under the 2014 Plan, with exercise prices ranging from \$0.55 to \$1.53.

The Board unanimously recommends that the shareholders vote “FOR” Proposal 2 to approve the stock options granted under the 2014 Employee Stock Option Plan.

PROPOSAL 3 – APPROVE THE COMPANY’S 2017 EQUITY INCENTIVE PLAN

On May 4, 2017, the Board, at the recommendation of the Compensation Committee, unanimously adopted, subject to shareholder approval, the Company’s 2017 Equity Incentive Plan (the “*2017 Plan*”). On May 4, 2017, the Board also cancelled the 2016 Plan as part of the settlement described in Proposal 1. The 2016 Plan was approved by a majority of shares present in person or represented by proxy at the Annual Meeting held on June 8, 2016 and entitled to vote on the matter. Pursuant to Section 302A.437 of the Minnesota Business Corporation Act, the shareholder vote necessary to approve the 2016 Plan was the affirmative vote of the holders of the greater of (i) a majority of the voting power of the shares present and entitled to vote on the item of business, or (ii) a majority of the voting power of the minimum number of the shares entitled to vote that would constitute a quorum for the transaction of business at the meeting.

While the 2016 Plan reserved an aggregate of four million shares, no options or other equity incentives were issued under the 2016 Plan, its termination did not result in the revocation of any options granted to employees, consultants, or directors. It is important that the 2017 Plan is approved as it provides equity incentives that the 2014 Plan does not provide. These additional incentives include the following:

The 2014 Plan permits stock options to be granted to employees, consultants and advisors. The 2017 Plan permits awards to consultants, directors, and those individuals whom the committee of the Board administering the 2017 Plan (the “*Committee*”) determines are reasonably expected to become employees, consultants, and directors following the grant date.

The 2017 Plan, if approved by shareholders within 12 months of adoption, permits the issuance of incentive stock options which provide favorable tax treatment to employees and officers of the Company; and