

NATIONAL BEVERAGE CORP  
Form DEF 14A  
August 27, 2010  
Table of Contents

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

(Amendment No.)

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

NATIONAL BEVERAGE CORP.

---

(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.
- 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:   |

Edgar Filing: NATIONAL BEVERAGE CORP - Form DEF 14A

- o Fee paid previously with preliminary materials.
- o 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:
-

Table of Contents

NATIONAL BEVERAGE CORP.  
NOTICE OF ANNUAL MEETING OF SHAREHOLDERS

TIME: 2:00 p.m. (local time)  
DATE: October 1, 2010  
PLACE: Hyatt Regency Orlando International Airport  
9300 Airport Boulevard  
Orlando, Florida 32827

At the Annual Meeting of Shareholders of National Beverage Corp. (the “Company”) and any adjournments or postponements thereof (the “Meeting”), the following proposals are on the agenda for action by the shareholders:

1. To elect two directors to serve as Class II directors for a term of three years;
2. To elect one director to serve as a Class III director for a term of one year; and
3. To transact such other business as may properly come before the Meeting.

Only holders of record of common stock, par value \$.01 per share, of the Company, at the close of business on August 16, 2010 are entitled to notice of, and to vote at, the Meeting.

A complete list of the shareholders entitled to vote at the Meeting will be available for examination by any shareholder, for any proper purpose, at the Meeting and during ordinary business hours for a period of ten days prior to the Meeting at the principal executive offices of the Company at 8100 SW Tenth Street, Suite 4000, Fort Lauderdale, Florida 33324.

All shareholders are cordially invited to attend the Meeting in person. Admittance to the Meeting will be limited to shareholders. Shareholders who plan to attend are requested to so indicate by marking the appropriate space on the enclosed proxy card. Shareholders whose shares are held in “street name” (the name of a broker, trust, bank or other nominee) should bring with them a legal proxy, a recent brokerage statement or letter from the “street name” holder confirming their beneficial ownership of shares.

Whether or not you plan to attend the Meeting, please complete and return the proxy in the enclosed envelope addressed to the Company or vote electronically by using the Internet or by telephone, since a majority of the outstanding shares entitled to vote at the Meeting must be represented at the Meeting in order to transact business. Shareholders have the power to revoke any such proxy at any time before it is voted at the Meeting and the giving of such proxy will not affect your right to vote in person at the Meeting. Your vote is very important.

By Order of the Board of Directors,

/s/ Nick A. Caporella  
Nick A. Caporella  
Chairman of the Board  
and Chief Executive Officer

August 27, 2010  
Fort Lauderdale, Florida

TABLE OF CONTENTS

PROXY STATEMENT

SECURITY OWNERSHIP

MEMBERSHIP AND MEETINGS OF THE BOARD OF DIRECTORS AND ITS COMMITTEES

INFORMATION REGARDING MEETINGS AND COMMITTEES OF THE BOARD

QUORUM AND VOTING PROCEDURE

MATTER TO BE CONSIDERED AT ANNUAL MEETING

ELECTION OF DIRECTORS

INFORMATION AS TO NOMINEES AND OTHER DIRECTORS

EXECUTIVE COMPENSATION AND OTHER INFORMATION

REPORT OF THE COMPENSATION AND STOCK OPTION COMMITTEE

MANAGEMENT SERVICES AGREEMENT — COMPENSATION

SUMMARY COMPENSATION TABLE

GRANTS OF PLAN-BASED AWARDS IN FISCAL 2010

OUTSTANDING EQUITY AWARDS AT END OF FISCAL 2010

OPTION EXERCISES AND STOCK VESTED IN FISCAL 2010

EQUITY COMPENSATION PLAN INFORMATION

DIRECTOR COMPENSATION

COMPENSATION COMMITTEE INTERLOCKS AND INSIDER PARTICIPATION

REPORT OF THE AUDIT COMMITTEE

INDEPENDENT AUDITORS

CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

PROXY SOLICITATION

CONTACTING THE BOARD OF DIRECTORS

DISCRETIONARY VOTING OF PROXIES ON OTHER MATTERS

Table of Contents

PROXY STATEMENT

This Proxy Statement is furnished to shareholders of National Beverage Corp., a Delaware corporation (the “Company”), in connection with the solicitation, by order of the Board of Directors of the Company (the “Board of Directors” or the “Board”), of proxies to be voted at the Annual Meeting of Shareholders of the Company to be held at the Hyatt Regency Orlando International Airport, 9300 Airport Boulevard, Orlando, Florida 32827 on October 1, 2010, at 2:00 p.m., local time, or any adjournment or postponement thereof (the “Meeting”). The accompanying proxy is being solicited on behalf of the Board of Directors. The mailing address of the principal executive offices of the Company is P.O. Box 16720, Fort Lauderdale, Florida 33318. The approximate date on which this Proxy Statement and the accompanying form of proxy were first sent to shareholders is September 1, 2010.

Only holders of record of common stock, par value \$.01 per share, of the Company (the “Common Stock”) at the close of business on August 16, 2010 (the “Record Date”) are entitled to notice of, and to vote at, the Meeting. Each holder of Common Stock is entitled to one vote for each share held at the close of business on the Record Date.

A shareholder who gives a proxy may revoke it at any time before it is exercised by sending a written notice to the Corporate Secretary, at the address set forth above, by returning a later dated signed proxy, or by attending the Meeting and voting in person. Unless the proxy is revoked, the shares represented thereby will be voted as specified at the Meeting.

The Annual Report of the Company for the fiscal year ended May 1, 2010 (the “Annual Report”) is being mailed with this Proxy Statement to all holders of record of Common Stock. Additional copies of the Annual Report will be furnished to any shareholder upon request.

Table of Contents

## SECURITY OWNERSHIP

## Principal Shareholders

As of the Record Date, 46,156,515 shares of Common Stock were outstanding and, as of such date, the only persons known by the Company to beneficially own more than 5% of the outstanding Common Stock were the following:

Name and Address Of Beneficial Owner	Amount and Nature of Beneficial Ownership	Percent of Class
Nick A. Caporella 8100 SW Tenth Street Fort Lauderdale, Florida 33324	34,241,5291	74.2%
IBS Partners Ltd. 16000 Barker's Point Lane Suite 155 Houston, Texas 77079	33,302,246	72.2%

<sup>1</sup> Includes 33,302,246 shares owned by IBS Partners Ltd. ("IBS"). IBS is a Texas limited partnership whose sole general partner is IBS Management Partners, Inc., a Texas corporation. IBS Management Partners, Inc. is owned by Mr. Nick A. Caporella. By virtue of Rule 13d-3 promulgated under the Exchange Act, Mr. Caporella would be deemed to beneficially own the shares of Common Stock owned by IBS. Also includes 24,000 shares held by the wife of Mr. Caporella as to which Mr. Caporella disclaims beneficial ownership.

## Management

The table below reflects as of the Record Date, the number of shares of Common Stock beneficially owned by the directors and each of the executive officers named (the "Executive Officers") in the Summary Compensation Table that follows and the number of shares of Common Stock beneficially owned by all directors and Executive Officers as a group:

Name of Beneficial Owner	Amount and Nature of	
	Beneficial Ownership	Percent of Class
Nick A. Caporella	34,241,5291	74.2%
Joseph G. Caporella	387,1642	*
Cecil D. Conlee	26,240	*
Samuel C. Hathorn, Jr.	134,6763	*
Joseph P. Klock, Jr.	14,6524	*
Stanley M. Sheridan	26,7045	*
George R. Bracken	117,0436	*
Edward F. Knecht	80,9807	*
Dean A. McCoy	65,2508	*
All Executive Officers and directors as a group (9 in number)	35,094,2389	76.0%

---

\*

Less than 1%.

1 Includes 33,302,246 shares held by IBS. The sole general partner of IBS is IBS Management Partners, Inc., a Texas corporation. IBS Management Partners, Inc. is owned by Mr. Nick A. Caporella. Also includes 24,000 shares held by the wife of Mr. Caporella, as to which Mr. Caporella disclaims beneficial ownership.

2 Includes 65,164 shares issuable upon exercise of currently exercisable options.

3 Includes 20,676 shares issuable upon exercise of currently exercisable options.

4 Includes 11,052 shares issuable upon exercise of currently exercisable options.

2

---

Table of Contents

5 Includes 21,520 shares held by the Joyce M. Sheridan Family Trust dated January 12, 2009 of which Mr. Sheridan is trustee and the principal beneficiary. Also includes 5,184 shares held by the Stanley M. Sheridan Living Trust dated April 10, 1995 of which Mr. Sheridan is trustee and principal beneficiary.

6 Includes 3,223 shares issuable upon exercise of currently exercisable options.

7 Includes 3,900 shares issuable upon exercise of currently exercisable options.

8 Includes 4,080 shares issuable upon exercise of currently exercisable options.

9 Includes 108,095 shares issuable upon exercise of currently exercisable options.

## Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Securities Exchange Act of 1934, as amended, (the “Exchange Act”) requires the Company’s Executive Officers, directors and persons who own more than ten percent (10%) of a registered class of the Company’s equity securities to file reports of ownership and changes in ownership with the Securities and Exchange Commission (the “Commission”). Executive Officers, directors and greater than ten percent (10%) beneficial owners are required by regulation of the Commission to furnish the Company with copies of all Section 16(a) forms so filed.

To our knowledge, based solely on review of Form 3, 4 and 5 reports and amendments thereto and certain representations furnished to the Company, the Company believes that during the fiscal year ended May 1, 2010 (“Fiscal 2010”), its Executive Officers, directors and greater than ten percent (10%) beneficial owners complied with all applicable filing requirements.

## MEMBERSHIP AND MEETINGS OF THE BOARD OF DIRECTORS AND ITS COMMITTEES

The Company is managed under the direction of the Board of Directors. The Board meets to review significant developments affecting us and to act on matters requiring Board approval.

Current committee membership is shown in the table below.

Name	Board	Audit	Compensation and Stock Option	Nominating	Strategic Planning
Nick A. Caporella	Chairman	—	—	Member	Chairman
Joseph G. Caporella	Member	—	Member	—	—
Cecil D. Conlee	Member	Member	Chairman	—	Member
Samuel C. Hathorn, Jr.	Member	Chairman	Member	Member	Member
Joseph P. Klock, Jr.	Member	Member	—	Chairman	—
Stanley M. Sheridan	Member	Member	—	—	—

## INFORMATION REGARDING MEETINGS AND COMMITTEES OF THE BOARD

The Board of Directors held six meetings during Fiscal 2010. The Board of Directors has standing Audit, Compensation and Stock Option, Nominating and Strategic Planning committees.

Until October 2009, the Audit Committee was comprised of three independent members – Messrs. Samuel C. Hathorn, Jr. (Chairman), Cecil D. Conlee and Joseph P. Klock, Jr. On October 13, 2009, Stanley M. Sheridan was appointed to the Audit Committee upon his election to the Board of Directors. The Audit Committee held four meetings during Fiscal 2010. The principal functions of the Audit Committee are to appoint the independent auditors of the Company and review with the independent auditors and the Company’s internal audit department the scope and results of audits, the internal accounting controls of the Company, audit practices and the professional services furnished by the



independent auditors. The Company's Board of Directors has determined that Messrs. Conlee, Hathorn and Sheridan satisfy the requirements for an audit committee financial expert under the rules and regulations of the Commission. The Board of Directors has concluded that the members of the Audit Committee are "independent" as defined in the NASDAQ listing standards. The Audit Committee has a charter as required under the NASDAQ listing standards. The charter is available on our website at [www.nationalbeverage.com](http://www.nationalbeverage.com) under "The Business – Investors – Corporate Governance."

## Table of Contents

The current members of the Company's Compensation and Stock Option Committee are Messrs. Cecil D. Conlee (Chairman), Joseph G. Caporella and Samuel C. Hathorn, Jr. During Fiscal 2010, the Compensation and Stock Option Committee held two meetings. The principal functions of the Compensation and Stock Option Committee are to consider, review and approve all compensation arrangements, including base salary, annual incentive awards and stock option grants, for officers and employees of the Company and to administer the Company's employee benefit programs. The Compensation and Stock Option Committee does not have a charter.

The current members of the Company's Nominating Committee are Messrs. Joseph P. Klock, Jr. (Chairman), Nick A. Caporella and Samuel C. Hathorn, Jr. During Fiscal 2010, the Nominating Committee held three meetings. The Nominating Committee recommends to the Board of Directors candidates for election to the Board. The Nominating Committee considers possible candidates from any source, including shareholders, for nominees for directors. In evaluating the qualifications of nominees, the Nominating Committee considers a variety of factors, such as education, work experience, knowledge of the Company and the beverage industry, membership on the Board of Directors of other corporations, civic involvement and diversity. The Nominating Committee does not have a specific policy with respect to diversity on the Board of Directors. Recommendations for director candidates, which shall include written materials with respect to the potential candidate, should be sent to Corporate Secretary, National Beverage Corp., P.O. Box 16720, Fort Lauderdale, Florida 33318. All shareholder nominees for director will be considered by the Nominating Committee in the same manner as any other nominee. All recommendations should be accompanied by a complete statement of such person's qualifications (including education, work experience, knowledge of the Company's industry, membership on the Board of Directors of another corporation, and civic activity) and an indication of the person's willingness to serve. The Nominating Committee does not have a charter.

The current members of the Company's Strategic Planning Committee are Messrs. Nick A. Caporella (Chairman), Cecil D. Conlee and Samuel C. Hathorn, Jr. The Strategic Planning Committee did not meet separately during Fiscal 2010 as the election of Mr. Conlee to the Board in January 2009 allowed the advice and consultation of the committee members to be discussed during the regular meetings of the Board.

In addition to the above standing committees, the Board of Directors from time to time has appointed certain ad hoc committees. During Fiscal 2010, such committees included the Special Committee, formed to evaluate capital deployment options, and the Litigation Advisory Committee, formed to assist Company management with certain legal matters.

Each director attended all of the meetings of the Board and Committees on which he serves. We have no formal policy regarding directors' attendance at annual meetings of shareholders but all our directors have attended past annual shareholder meetings, and we anticipate that all directors will attend the 2010 Meeting.

Mr. Nick A. Caporella currently beneficially owns 74.2% of the Company's outstanding Common Stock. As a result, the Company is a "controlled company" within the meaning of the NASDAQ listing standards and is therefore not currently required to have independent directors comprise a majority of its Board of Directors or to have independent directors comprise its Compensation and Stock Option Committee or its Nominating Committee. However, during Fiscal 2010, independent directors comprised the majority of both the Nominating Committee and the Compensation and Stock Option Committee. Messrs. Cecil D. Conlee, Samuel C. Hathorn, Jr., Joseph P. Klock, Jr. and Stanley M. Sheridan qualify as independent directors under the NASDAQ listing standards.

In compliance with NASDAQ listing standards, the independent directors have regularly scheduled meetings at which only independent directors are present.

## QUORUM AND VOTING PROCEDURE

The presence, in person or by proxy, of the holders of a majority of the outstanding shares of Common Stock entitled to vote at the Meeting is necessary to constitute a quorum. Votes cast by proxy or in person at the Meeting will be tabulated by the inspectors of election appointed for the Meeting and will be counted in determining whether or not a quorum is present. A proxy submitted by a shareholder may indicate that all or a portion of the shares represented by such proxy are not being voted by such shareholder with respect to a particular matter (“non-voted shares”). This could occur, for example, when a broker is not permitted to vote shares held in “street name” on certain matters in the absence of instructions from the beneficial owner of the shares. Non-voted shares with respect to a particular matter will not be considered shares present and entitled to vote on such matter, although such shares may be considered present and entitled to vote for other purposes and will be counted for purposes of determining the presence of a quorum. Shares voting to abstain as to a particular matter and directions to “withhold authority” to vote for directors will not be considered non-voted shares and will be considered present and entitled to vote with respect to such matter. Non-voted shares and abstentions will have no effect on the matters brought to a vote at the Meeting. As a result of Mr. Nick A. Caporella’s beneficial ownership of approximately 74.2% of the outstanding shares of Common Stock of the Company, the election of two Class II directors and one Class III director will be approved by vote of shareholders at the Meeting.

Table of Contents

MATTER TO BE CONSIDERED AT ANNUAL MEETING

ELECTION OF DIRECTORS

Currently, the Board is comprised of six directors elected in three classes (the “Classes”). Directors in each class hold office for three-year terms and the terms of the Classes are staggered so that the term of one Class terminates each year. The terms of the current Class II directors expire at the 2010 Meeting.

During Fiscal 2010, the Board of Directors increased the number of directors of the Board from five to six. Stanley M. Sheridan was recommended to the Nominating Committee by the Chairman and Chief Executive Officer to fill the vacancy created and was elected by the Board on October 13, 2009. Under the Company’s Restated Certificate of Incorporation, the increase in the number of directors requires the Board to apportion the directors among the three classes so as to make all classes as nearly equal in number as possible. Therefore, the Nominating Committee has nominated Cecil D. Conlee and Stanley M. Sheridan to serve as Class II directors for a term of three years until 2013 and has nominated Mr. Joseph P. Klock, Jr., who presently serves as a Class II director whose term expires in 2010, to serve as a Class III director, whose term will expire in 2011. Mr. Klock’s prior election to serve as a Class II director was amended by his nomination as a Class III director at a Nominating Committee held on August 25, 2010. Upon recommendation of the Nominating Committee, the Board of Directors at a meeting held subsequently, has nominated Cecil D. Conlee and Stanley M. Sheridan for election as Class II directors with a term of office of three years expiring at the Annual Meeting of Shareholders to be held in 2013 and has nominated Mr. Joseph P. Klock, Jr. to serve as a Class III director with a term of office of one year expiring at the Annual Meeting of Shareholders to be held in 2011.

In order to be elected as a director, a nominee must receive a plurality of affirmative votes cast by the shares present or represented at a duly convened meeting. Shareholders have no right to vote cumulatively.

THE BOARD OF DIRECTORS RECOMMENDS THAT SHAREHOLDERS VOTE FOR THE NOMINEES FOR THE CLASS II DIRECTORS AND THE CLASS III DIRECTOR.

INFORMATION AS TO NOMINEES AND OTHER DIRECTORS

The following information concerning principal occupation or employment, including any directorships with public companies or registered investment companies during the past five years and age, has been furnished to the Company by the nominees for Class II and Class III directors and by the directors in Classes III and I whose terms expire at the Company’s Annual Meeting of Shareholders in 2011 and 2012, respectively, and when their respective successors have been duly elected and qualified.

Table of Co