

PRICE LEGACY CORP
Form DEF 14A
February 11, 2004

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SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of
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Check the appropriate box:

- Preliminary Proxy Statement
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PRICE LEGACY CORPORATION

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

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(4) Date Filed:

February 11, 2004

Dear Stockholder:

It is my pleasure to invite you to a Special Meeting of Stockholders of Price Legacy Corporation. The meeting will be held on Thursday, March 11, 2004 at 10:00 a.m., Pacific time at the Rancho Bernardo Inn, 17550 Bernardo Oaks Drive, San Diego, California. Your board of directors and management look forward to meeting with you at this time.

At the special meeting, you will be asked to consider and vote upon an important recapitalization transaction that is aimed at simplifying and improving Price Legacy's capital structure. The proposed recapitalization has three components:

an offer to exchange, at the election of the holder, either 4.2 shares of common stock (or 1.05 shares of common stock after giving effect to a proposed 1-for-4 reverse stock split) or one share of a new series of preferred stock in exchange for each outstanding share of Price Legacy's Series A preferred stock,

the exchange of 1.39 shares of common stock (or 0.3475 of a share of common stock after giving effect to the proposed 1-for-4 reverse stock split) for each outstanding share of Price Legacy's Series B preferred stock, and

an amendment and restatement of Price Legacy's charter to:

effect a 1-for-4 reverse stock split of the common stock,

designate and establish the terms of the new series of preferred stock that may be issued in exchange for shares of Series A preferred stock,

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eliminate the Series B preferred stock following its exchange for common stock,

provide that the holders of common stock and Series A preferred stock (to the extent any shares of Series A preferred stock remain outstanding following the Series A exchange offer), but not the holders of Series 1 preferred stock, voting together as a single class, will be entitled to elect all of Price Legacy's directors following the recapitalization, and

change the authorized capital stock of Price Legacy to provide sufficient shares to complete the recapitalization transaction.

Concurrently with the mailing of the accompanying proxy statement, Price Legacy is commencing the Series A exchange offer through an offering circular distributed with this letter and the accompanying proxy statement to Series A preferred stockholders. If the recapitalization transaction is approved at the special meeting, the Series A exchange offer is expected to close as soon as practicable following the meeting. Series A preferred stockholders are encouraged to carefully read the offering circular and the related letter of transmittal. The Series B exchange transactions are also expected to close as soon as practicable following the special meeting, if the recapitalization is approved.

Price Legacy is proposing the recapitalization transaction at this time because it believes:

the recapitalization transaction should improve and simplify the capital structure of Price Legacy by eliminating the Series B preferred stock and all or a substantial portion of the Series A preferred stock in exchange for common stock and Series 1 preferred stock,

the recapitalization transaction is expected to reduce the aggregate dividends payable to Price Legacy's preferred stockholders and increase Price Legacy's ability to pay dividends on its common stock (and increase the earnings attributable to Price Legacy's common stock),

the recapitalization transaction provides Price Legacy the ability to eliminate the Series B preferred stock and all or a substantial portion of the Series A preferred stock without a large cash outlay by Price Legacy, and

the reverse stock split, and the increased likelihood of paying dividends on the common stock, are expected to increase the marketability and liquidity of the common stock.

The board of directors has determined that the recapitalization transaction is fair to Price Legacy's unaffiliated Series A preferred stockholders and unaffiliated common stockholders and is advisable, and recommends that Price Legacy's stockholders vote in favor of the recapitalization transaction. In making its determination, the board retained the services of a financial advisor, American Appraisal Associates, Inc. American Appraisal delivered a written opinion, dated January 12, 2004, to the effect that, based upon and subject to the factors and assumptions described in the opinion, including an assumption that all of the outstanding Series A preferred stock and Series B preferred stock will be exchanged for common stock in the recapitalization transaction, as of that date, the recapitalization transaction was fair, from a financial point of view, to Price Legacy's unaffiliated Series A preferred stockholders and unaffiliated common stockholders.

Information about the special meeting and the business to be considered and voted upon at the special meeting is included in the accompanying notice of special meeting and proxy statement. Your vote is important regardless of the number of shares you own. I urge you to complete, sign, date and return the enclosed proxy card as soon as possible, even if you currently plan to attend the meeting. Returning the proxy card will not prevent you from attending the meeting and voting in person, but will ensure that your vote is counted if you are unable to attend the meeting. I also urge you to review and consider carefully the matters presented in the attached proxy statement. Thank you for your interest and participation. I look forward to seeing you at the special meeting.

Sincerely,

Jack McGrory
Chief Executive Officer

The proxy statement is dated February 11, 2004 and is expected to be first mailed to stockholders on or about February 11, 2004.

**17140 Bernardo Center Drive, Suite 300
San Diego, California 92128**

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS

To the Stockholders of Price Legacy Corporation:

Notice is hereby given that a Special Meeting of Stockholders of Price Legacy Corporation will be held at the Rancho Bernardo Inn, 17550 Bernardo Oaks Drive, San Diego, California, on Thursday, March 11, 2004, at 10:00 a.m., Pacific time for the following purposes:

1. To approve the issuance of, at the election of the holder, either 4.2 shares of common stock (or 1.05 shares of common stock after giving effect to the proposed 1-for-4 reverse stock split) or one share of a new series of preferred stock of Price Legacy, to be designated 6.82% Series 1 Cumulative Redeemable Preferred Stock, in exchange for each outstanding share of Price Legacy's 8³/₄% Series A Cumulative Redeemable Preferred Stock.
2. To approve the issuance of 1.39 shares of common stock (or 0.3475 of a share of common stock after giving effect to the proposed 1-for-4 reverse stock split) in exchange for each outstanding share of Price Legacy's 9% Series B Junior Convertible Redeemable Preferred Stock.
3. To approve an amendment to Price Legacy's charter to effect a 1-for-4 reverse stock split of the common stock.
4. To approve an amendment to Price Legacy's charter to designate and establish the terms of the Series 1 preferred stock that may be issued in exchange for shares of Series A preferred stock.
5. To approve an amendment to Price Legacy's charter to eliminate the Series B preferred stock following its exchange for common stock.
6. To approve an amendment to Price Legacy's charter to change the manner of election of Price Legacy's board of directors to provide that the holders of common stock and Series A preferred stock, but not the holders of Series 1 preferred stock, will vote together as a single class to elect all of the directors of Price Legacy, with each share of common stock entitled to one vote and each share of Series A preferred stock entitled to one-tenth (¹/₁₀) of one vote.
- 7.

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To approve an amendment to Price Legacy's charter to change the authorized capital stock of Price Legacy to provide sufficient shares to complete the recapitalization transaction.

8.

To approve the amendment and restatement of Price Legacy's charter, in substantially the form of Articles of Amendment and Restatement attached as Annex B to the proxy statement that accompanies this notice, which will include the foregoing amendments in the event they are approved by the stockholders.

The Series A exchange offer, the Series B exchange transactions and the amendments to Price Legacy's charter will be implemented only if they are all approved at the special meeting by the stockholders entitled to vote thereon. If any of the Series A exchange offer, the Series B

exchange transactions or the amendments to Price Legacy's charter is not approved, then no portion of the recapitalization transaction as currently proposed will be implemented, regardless of whether an individual proposal is approved.

9.

To transact such other business as may properly come before the meeting or any adjournment or postponement thereof.

These proposals are more fully described in the proxy statement that accompanies this notice. Please read the proxy statement carefully when determining how to vote on these proposals.

These proposals will be submitted for approval to the holders of Price Legacy's common stock, Series A preferred stock and Series B preferred stock, all voting together as a single class. Each share of common stock is entitled to one vote, each share of Series A preferred stock is entitled to one-tenth ($1/10$) of one vote and each share of Series B preferred stock is entitled to a number of votes equal to the number of shares of common stock into which the share of Series B preferred stock is then convertible, which is currently one.

Entities affiliated with Sol Price, including The Price Family Charitable Fund, San Diego Revitalization Corp., The Price Group LLC, The Price Family Charitable Trust, the Sol & Helen Price Trust, the Robert & Allison Price Trust and the Robert & Allison Price Charitable Trust, which are referred to collectively as the Price Entities, hold an aggregate of 6,450,875 shares of common stock, 11,713,780 shares of Series A preferred stock and 2,062,257 shares of Series B preferred stock, which represent approximately 15.5% of the total combined voting power of Price Legacy. In addition, Sol Price and other individuals affiliated with the Price Entities, through their positions as co-managers of The Price Group and directors of The Price Family Charitable Fund and San Diego Revitalization Corp., including Robert E. Price, Jack McGrory, James F. Cahill and Murray Galinson, who are referred to collectively as the Price Managers, hold an aggregate of 10,666 shares of common stock and 501,880 shares of Series A preferred stock, which represent approximately 0.1% of the total combined voting power of Price Legacy. Price Legacy has been advised that each of these individuals and entities intends to vote all of the shares of common stock, Series A preferred stock and Series B preferred stock he or it holds in favor of the Series A exchange offer, the Series B exchange transactions and the amendments to Price Legacy's charter. In addition, Price Legacy has been advised that 520 Group, which purchased from the Warburg Pincus Entities, former significant holders of Series B preferred stock, 22,062,951 shares of Series B preferred stock and 5,000,000 shares of common stock, together representing approximately 43.4% of the total combined voting power of Price Legacy, intends to vote all of the shares it holds in favor of the Series A exchange offer, the Series B exchange transactions and the amendments to Price Legacy's charter. Because of this voting control, the Price Entities and 520 Group can cause the approval of the recapitalization transaction without the affirmative vote of any other stockholder of Price Legacy.

After careful consideration and after receiving a written opinion from American Appraisal Associates, Inc. as to the fairness, from a financial point of view, to Price Legacy's unaffiliated Series A preferred stockholders and unaffiliated common stockholders of the recapitalization transaction, Price Legacy's board of directors determined that the Series A exchange offer, the Series B exchange transactions and the amendments to Price Legacy's charter are fair to Price Legacy's unaffiliated Series A preferred stockholders and unaffiliated common stockholders and are advisable, and directed that they be submitted to Price Legacy's stockholders for their approval. Price Legacy's board recommends that you vote in favor of these proposals.

The board of directors has fixed the close of business on February 4, 2004 as the record date for the determination of stockholders entitled to notice of and to vote at the special meeting and at any adjournment or postponement thereof.

Accompanying this notice of special meeting and the proxy statement is a proxy. **Whether or not you expect to attend the special meeting, please complete, sign and date the enclosed proxy and return it promptly.** If you plan to attend the special meeting and wish to vote your shares personally, you may do so at any time before the proxy is voted.

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All stockholders are cordially invited to attend the meeting.

By Order of the Board of Directors

Robert M. Siordia
Secretary

San Diego, California
February 11, 2004

SUMMARY TERM SHEET

This summary term sheet highlights selected material information from this proxy statement, but may not contain all of the information that is important to you. Price Legacy urges you to carefully review the entire proxy statement before you decide how to vote.

Price Legacy Corporation (Page 107)

Price Legacy has existed in its current form since September 2001, following the merger of Price Enterprises, Inc. and Excel Legacy Corporation. Price Legacy operates as a real estate investment trust, or REIT, focused mainly on open-air retail properties throughout the United States. Its current property portfolio primarily consists of shopping centers leased to major retail tenants.

Terms of the Recapitalization Transaction (Pages 45-67)

At the special meeting, Price Legacy's common and preferred stockholders will be asked to approve a recapitalization transaction in which Price Legacy will:

offer to exchange, at the election of the holder, either shares of common stock or shares of Series 1 preferred stock for all outstanding shares of Series A preferred stock in an exchange offer Price Legacy is commencing concurrently with the mailing of this proxy statement,

exchange shares of common stock for all outstanding shares of Series B preferred stock,

amend its charter to effect a 1-for-4 reverse stock split of the common stock,

amend its charter to designate and establish the terms of the Series 1 preferred stock that may be issued in exchange for shares of Series A preferred stock,

amend its charter to eliminate the Series B preferred stock following its exchange for common stock,

amend its charter to change the manner of election of Price Legacy's board of directors to provide that the holders of common stock and Series A preferred stock, but not the holders of Series 1 preferred stock, will vote together as a single class to elect all of the directors of Price Legacy, with each share of common stock entitled to one vote

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and each share of Series A preferred stock entitled to one-tenth ($1/10$) of one vote,

amend its charter to change the authorized capital stock of Price Legacy to provide sufficient shares to complete the recapitalization transaction, and

amend and restate its charter, in substantially the form of Articles of Amendment and Restatement attached to this proxy statement as Annex B, which will include the foregoing amendments in the event they are approved by the stockholders.

The Series A exchange offer, the Series B exchange transactions and the amendments to Price Legacy's charter will be implemented only if they are all approved at the special meeting by the stockholders entitled to vote thereon, and are subject to other customary conditions described below under "Conditions to the Recapitalization Transaction." If any of the Series A exchange offer, the Series B exchange transactions or the amendments to Price Legacy's charter is not approved, then no portion of the recapitalization transaction as currently proposed will be implemented, regardless of whether an individual proposal is approved. Because of their voting control, the Price Entities and 520 Group can cause the approval of the Series A exchange offer, the Series B exchange transactions and the amendments to Price Legacy's charter without the affirmative vote of any other stockholder of Price Legacy.

i

Terms of the Series A Exchange Offer (Pages 45-50)

Concurrently with the mailing of this proxy statement, Price Legacy is commencing an offer to exchange, at the election of the holder, either 4.2 shares of common stock (or 1.05 shares of common stock after giving effect to the proposed 1-for-4 reverse stock split) or one share of Series 1 preferred stock for each outstanding share of Series A preferred stock.

The Series A exchange offer is expected to close as soon as practicable following the special meeting.

Terms of the Series B Exchange Transactions (Pages 51-57)

Price Legacy has entered into an agreement with the Price Entities to exchange 1.39 shares of common stock (or 0.3475 of a share of common stock after giving effect to the proposed 1-for-4 reverse stock split) for each outstanding share of Series B preferred stock owned by The Price Group.

Price Legacy also has been advised that 520 Group will exchange each share of Series B preferred stock it holds for 1.39 shares of common stock (or 0.3475 of a share of common stock after giving effect to the proposed 1-for-4 reverse stock split) in the Series B exchange transactions.

The Series B exchange transactions are expected to close as soon as practicable following the special meeting.

Reasons for the Recapitalization Transaction (Pages 26-28)

Price Legacy is proposing the recapitalization transaction at this time because it believes:

the recapitalization transaction should improve and simplify the capital structure of Price Legacy by eliminating the Series B preferred stock and all or a substantial portion of the Series A preferred stock in exchange for common stock and Series 1 preferred stock, and by Price Legacy subsequently redeeming any shares of Series A preferred stock that remain outstanding following the Series A exchange offer,

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due to the lower dividend rate on the Series 1 preferred stock (\$1.16 per annum, as compared to \$1.40 per annum on the Series A preferred stock), and because Price Legacy has been advised that holders of 44.5% of the Series A preferred stock intend to tender their shares of Series A preferred stock for common stock in the Series A exchange offer, the recapitalization transaction is expected to reduce the aggregate dividends payable to Price Legacy's preferred stockholders and increase Price Legacy's ability to pay dividends on its common stock (and increase the earnings attributable to Price Legacy's common stock),

the recapitalization transaction provides Price Legacy the ability to eliminate the Series B preferred stock and all or a substantial portion of the Series A preferred stock without a large cash outlay by Price Legacy, because the Series A exchange offer and the Series B exchange transactions require no cash payment (other than for fractional shares), and

the reverse stock split, and the increased likelihood of paying dividends on the common stock, are expected to increase the marketability and liquidity of the common stock.

ii

Impact of the Recapitalization Transaction on the Holders of Price Legacy's Capital Stock (Pages 40-44)

If the recapitalization transaction is approved by Price Legacy's stockholders at the special meeting, Price Legacy intends to complete the recapitalization transaction as soon as practicable following the special meeting. Following the effectiveness of the recapitalization:

Price Legacy's common stock will remain outstanding. However, each share of common stock will be converted into 0.25 of a share of common stock, as a result of the 1-for-4 reverse stock split, and will vote with the holders of Series A preferred stock (to the extent any shares of Series A preferred stock remain outstanding following the Series A exchange offer) to elect all of the directors to Price Legacy's board of directors,

shares of Series A preferred stock tendered in the Series A exchange offer will be retired, shares of Series A preferred stock not tendered in the Series A exchange offer will remain outstanding (subject to the expected redemption), and the holders of Series A preferred stock will no longer be entitled to vote separately to elect any directors to Price Legacy's board of directors, and

Price Legacy's Series B preferred stock will be retired, the Series B preferred stockholders will receive, in exchange for the Series B preferred stock outstanding immediately prior to the recapitalization, shares of common stock, and Price Legacy's charter will be amended to eliminate the authorized Series B preferred stock.

The Series A exchange offer is likely to significantly reduce the number of outstanding shares of Series A preferred stock and the number of holders of Series A preferred stock. Depending on the number of shares exchanged, the Series A preferred stock may not continue to meet the listing requirements of the Nasdaq National Market. If the Series A preferred stock fails to meet such listing requirements, Price Legacy does not intend to contest a delisting or to seek to list the shares on another trading market and cannot assure you that an active trading market for the Series A preferred stock will continue to exist. As a result, the Series A exchange offer may adversely affect the liquidity of and, consequently, the market price for the shares of Series A preferred stock, if any, that remain outstanding after completion of the Series A exchange offer.

The Series A preferred stock will continue to be redeemable by Price Legacy at a price per share of \$16.00, together with any accrued but unpaid dividends. Price Legacy intends, subject to the availability of requisite financing, to redeem any shares of Series A preferred stock that remain outstanding following the Series A exchange offer. Thus, shares of Series A preferred stock not tendered in the Series A exchange offer are expected to be redeemed after the recapitalization transaction, thereby eliminating the Series A preferred stock in its entirety.

Conditions to the Recapitalization Transaction

The completion of the Series A exchange offer, the Series B exchange transactions and the amendment and restatement of Price Legacy's charter depends upon the satisfaction or waiver of a number of conditions, including the following:

approval by the stockholders entitled to vote thereon at the special meeting of each of the Series A exchange offer, the Series B exchange transactions and the amendments to Price Legacy's charter, and

absence of any law or any injunction that effectively prohibits the recapitalization.

iii

Recommendation of the Board of Directors (Page 28-29)

After careful consideration and after receiving a written opinion from American Appraisal as to the fairness, from a financial point of view, to Price Legacy's unaffiliated Series A preferred stockholders and unaffiliated common stockholders of the recapitalization transaction, Price Legacy's board determined that the Series A exchange offer, the Series B exchange transactions and the amendments to Price Legacy's charter are fair to Price Legacy's unaffiliated Series A preferred stockholders and unaffiliated common stockholders and are advisable, and directed that they be submitted to Price Legacy's stockholders for their approval.

Price Legacy's board recommends that you vote in favor of these proposals.

iv

PROXY STATEMENT

TABLE OF CONTENTS

	Page
SUMMARY TERM SHEET	i
THE SPECIAL MEETING	
Questions and Answers About the Proxy Materials and the Recapitalization Transaction	1
Questions and Answers About the Special Meeting	11
SELECTED HISTORICAL AND PRO FORMA FINANCIAL DATA AND OTHER INFORMATION	16
Summary Historical Consolidated Financial Information of Price Legacy	16
Summary Pro Forma Consolidated Financial Information of Price Legacy	17
Price Range of Shares	19
Dividends	19
Ratio of Earnings to Fixed Charges	20
Book Value Per Share	20
FORWARD-LOOKING STATEMENTS	21
SPECIAL FACTORS	22
Background of the Transaction	22
Price Legacy's Reasons for the Transaction	26
Negative Factors Considered By Price Legacy's Board of Directors	28

	Page
Recommendation of Price Legacy's Board of Directors	28
Opinion of Price Legacy's Financial Advisor	29
Interests of Price Legacy's Executive Officers, Directors and Affiliated Parties in the Transaction	37
Position of the Price Entities and Affiliated Parties as to the Fairness of the Transaction	39
Effect of the Transaction	40
Fees and Expenses	44
PROPOSAL 1 SERIES A EXCHANGE OFFER	45
General	45
Reasons for the Exchange	45
Effects on the Capital Stock of Price Legacy	45
Basis for the Series A Preferred Stock Exchange Offer	45
Material Differences Between the Series A Preferred Stock, the Common Stock and the Series 1 Preferred Stock	45
Material Federal Income Tax Considerations Related to the Series A Preferred Stock Exchange Offer	49
Dividend Payments	49
No Appraisal Rights	49
Vote Required	50
Board Recommendation	50
PROPOSAL 2 SERIES B EXCHANGE TRANSACTIONS	51
General	51
Effects on the Capital Stock of Price Legacy	51
Basis of the Exchange	51
Series B Exchange Agreement with the Price Entities	51
Material Differences Between the Series B Preferred Stock and the Common Stock	52
Registration Rights Agreement	55
No Appraisal Rights	56
v	
Arrears in Dividends	56
Vote Required	56
Board Recommendation	57
PROPOSAL 3 AMENDMENT TO PRICE LEGACY'S CHARTER TO EFFECT THE REVERSE STOCK SPLIT	58
General	58
Reasons for the Reverse Stock Split	58
Effect of the Reverse Stock Split	58
Exchange of Stock Certificates	58
Elimination of Fractional Share Interests	59
No Appraisal Rights	59
Material Federal Income Tax Consequences	59
Vote Required	59
Board Recommendation	59
PROPOSAL 4 AMENDMENT TO PRICE LEGACY'S CHARTER TO DESIGNATE AND ESTABLISH THE TERMS OF THE SERIES 1 PREFERRED STOCK	60
General	60
Creation of Series 1 Preferred Stock	60
Vote Required	60
Board Recommendation	60
PROPOSAL 5 AMENDMENT TO PRICE LEGACY'S CHARTER TO ELIMINATE THE SERIES B PREFERRED STOCK	61
General	61

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Elimination of Series B Preferred Stock	61
Vote Required	61
Board Recommendation	61
PROPOSAL 6 AMENDMENT TO PRICE LEGACY'S CHARTER TO CHANGE THE MANNER OF ELECTION OF PRICE LEGACY'S BOARD OF DIRECTORS	62
General	62
Changes in the Manner of Election of the Board of Directors	62
Vote Required	62
Board Recommendation	63
PROPOSAL 7 AMENDMENT TO PRICE LEGACY'S CHARTER TO CHANGE THE AUTHORIZED CAPITAL STOCK OF PRICE LEGACY	64
General	64
Change to Authorized Capital Stock	64
Vote Required	64
Board Recommendation	65
PROPOSAL 8 AMENDMENT AND RESTATEMENT OF PRICE LEGACY'S CHARTER	66
General	66
The Amendment and Restatement	66
Vote Required	66
Board Recommendation	67
CAPITALIZATION	68
MATERIAL FEDERAL INCOME TAX CONSIDERATIONS RELATED TO THE TRANSACTION	69
DESCRIPTION OF PRICE LEGACY CAPITAL STOCK	91
General	91
Common Stock	91
Series A Preferred Stock	93

vi

Series B Preferred Stock	96
Series 1 Preferred Stock	100
Power to Reclassify Unissued Shares of Price Legacy's Stock	103
Restrictions on Transfer	103
Transfer Agent and Registrar	106
CERTAIN INFORMATION ABOUT PRICE LEGACY AND AFFILIATED PARTIES	107
Information About Price Legacy	107
Information About the Price Entities and Affiliates	108
MANAGEMENT	109
SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT	111
TRANSACTIONS AND AGREEMENTS INVOLVING PRICE LEGACY'S SECURITIES	114
CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS	115
INDEPENDENT ACCOUNTANTS	117
INCORPORATION BY REFERENCE	117
OTHER BUSINESS	118

Exhibits

Annex A	Exchange Agreement with the Price Entities
Annex B	Articles of Amendment and Restatement
Annex C	Opinion of American Appraisal Associates, Inc.

vii

17140 Bernardo Center Drive, Suite 300
San Diego, California 92128

PROXY STATEMENT

This proxy statement is being furnished to the stockholders of Price Legacy Corporation, a Maryland corporation, in connection with the solicitation of proxies by Price Legacy's board of directors from the holders of outstanding shares of Price Legacy's common stock, 8³/₄% Series A Cumulative Redeemable Preferred Stock and 9% Series B Junior Convertible Redeemable Preferred Stock for use at the Special Meeting of Stockholders of Price Legacy to be held on Thursday, March 11, 2004, and any adjournments or postponements thereof.

All stockholders who find it convenient to do so are cordially invited to attend the meeting in person. In any event, please complete, sign, date and return the proxy in the enclosed envelope.

**QUESTIONS AND ANSWERS ABOUT THE PROXY MATERIALS
AND THE RECAPITALIZATION TRANSACTION**

How has Price Legacy come to exist in its current form and how does the information presented in this proxy statement relate to Price Enterprises, Inc. and Excel Legacy Corporation?

Price Legacy has existed in its current form since September 2001, following the merger of Price Enterprises, Inc. and Excel Legacy Corporation. Price Enterprises was created and began operations in 1994 and became a self-administered, self-managed REIT in 1997. Excel Legacy was created and began operations in 1997 to pursue a variety of real estate opportunities including acquiring, developing and managing mixed-use and retail properties and real estate related operating companies throughout the United States and Canada. In connection with the merger, Excel Legacy became a wholly owned subsidiary of Price Enterprises, and Price Enterprises changed its name to Price Legacy Corporation. Price Legacy continues to operate as a REIT focused mainly on open-air retail properties throughout the United States. Its current property portfolio primarily consists of shopping centers leased to major retail tenants. Following the merger, Excel Legacy transferred its non-REIT assets to a wholly owned subsidiary, Excel Legacy Holdings, Inc., and Excel Legacy Holdings elected to be treated as a taxable REIT subsidiary.

Except as noted, information in this proxy statement referring to 2001 (prior to the merger) and 2000 relates to the operations of Price Enterprises. Information in this proxy statement referring to any time after the merger relates to the operations of Price Legacy Corporation as a combined entity.

Are there any recent developments concerning Price Legacy that I should be aware of?

On September 9, 2003, Price Legacy announced that the Warburg Pincus Entities, who owned shares of Price Legacy's Series B preferred stock, common stock and warrants to purchase common stock, entered into a purchase agreement with The Price Group to sell all of the securities of Price Legacy held by the Warburg Pincus Entities. The Price Group subsequently assigned its contractual right to purchase the Warburg Pincus Entities' securities to 520 Group, in a manner that will ensure

that the ownership of the securities will be in compliance with the REIT ownership limits in Price Legacy's charter.

On September 22, 2003, Price Legacy announced that it was considering a number of restructuring transactions intended to result in a significant simplification of Price Legacy's capital structure. The recapitalization transaction, including the Series A exchange offer (and

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subsequent redemption of any shares of Series A preferred stock that remain outstanding following the Series A exchange offer), the Series B exchange transactions and the amendments to Price Legacy's charter, is intended to implement these proposed restructuring transactions.

On September 22, 2003, Price Legacy announced the resignation of Gary B. Sabin, former Co-Chairman and Chief Executive Officer of Price Legacy, Richard B. Muir, former Vice-Chairman of Price Legacy and President of Price Legacy's Excel Legacy subsidiary, Graham R. Bullick, Ph.D., former President and Chief Operating Officer of Price Legacy, and S. Eric Ottesen, former Senior Vice President, General Counsel and Secretary of Price Legacy, including the resignation from Price Legacy's board of directors of Messrs. Sabin and Muir. These resignations became effective on October 15, 2003. Following the resignations of these individuals, Price Legacy's board of directors appointed Jack McGrory as President and Chief Executive Officer and Robert Siordia as Chief Operating Officer of Price Legacy.

On December 12, 2003, Price Legacy announced the appointment, effective January 2, 2004, of Jeffrey R. Fisher as Price Legacy's Chief Financial Officer. Mr. Fisher replaced James Y. Nakagawa, who resigned as Price Legacy's Chief Financial Officer effective January 2, 2004.

On January 5, 2004, Price Legacy announced that the Warburg Pincus Entities had completed their sale to 520 Group of all of the Series B preferred stock, common stock and warrants to purchase common stock of Price Legacy held by the Warburg Pincus Entities. As a result of the sale, the Warburg Pincus Entities are no longer entitled to separately elect directors to Price Legacy's board of directors. Accordingly, at that time, Reuben S. Leibowitz and Melvin L. Keating, the directors elected by the Warburg Pincus Entities, resigned from the board of directors.

On February 6, 2004, Price Legacy announced that in the fourth quarter of 2003 it will recognize a one-time non-cash charge of approximately \$93 million. The non-cash charge is the result of Price Legacy's decision to write down its investment in the Los Arcos land development project as a result of significant recent legal challenges to the development agreement with the City of Scottsdale, Arizona, and a plan approved by Price Legacy's board of directors to dispose of five non-core assets and to ultimately redeploy the proceeds from disposition into the acquisition of high quality income-generating properties; reduction of debt; or redemption of the Series A preferred stock. The assets identified for sale consist of land previously held for development located in Arizona, California and Utah, and notes receivable secured by an ownership interest in the Phoenix Coyotes hockey team. Price Legacy reported that none of these assets are currently income-producing, and that this charge should not impact Price Legacy's ability to pay dividends in the future.

Why am I receiving this proxy statement?

You have received this proxy statement and the enclosed proxy from Price Legacy because you hold shares of common stock, Series A preferred stock and/or Series B preferred stock. The board of directors of Price Legacy is soliciting your proxy to vote on the recapitalization transaction and other matters to be considered at the special meeting. As a stockholder, you are invited to attend the special meeting and are entitled to and requested to vote on the proposals described in this proxy statement.

2

What information is contained in this proxy statement?

The information included in this proxy statement relates to the proposals to be voted on at the special meeting, the board of directors' recommendations regarding the proposals, procedures for voting at the special meeting and other information required by federal securities laws.

What is the proposed recapitalization transaction?

The proposals to be voted on at the special meeting include proposals relating to a recapitalization of Price Legacy. In the proposed recapitalization transaction, Price Legacy will:

offer to exchange, at the election of the holder, either shares of common stock or shares of Series 1 preferred stock for all outstanding shares of Series A preferred stock in an exchange offer Price Legacy is commencing concurrently with the mailing of this proxy statement,

exchange shares of common stock for all outstanding shares of Series B preferred stock,

amend its charter to effect a 1-for-4 reverse stock split of the common stock,

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amend its charter to designate and establish the terms of the Series 1 preferred stock that may be issued in exchange for shares of Series A preferred stock,

amend its charter to eliminate the Series B preferred stock following its exchange for common stock,

amend its charter to change the manner of election of Price Legacy's board of directors,

amend its charter to change the authorized capital stock of Price Legacy to provide sufficient shares to complete the recapitalization transaction, and

amend and restate its charter, in substantially the form of Articles of Amendment and Restatement attached to this proxy statement as Annex B, which will include the foregoing amendments in the event they are approved by the stockholders.

The Series A exchange offer, the Series B exchange transactions and the amendments to Price Legacy's charter will be implemented only if they are all approved at the special meeting by the stockholders entitled to vote thereon, and are subject to other customary conditions described below under "What are the conditions to the recapitalization?" If any of the Series A exchange offer, the Series B exchange transactions or the amendments to Price Legacy's charter is not approved, then no portion of the recapitalization transaction as currently proposed will be implemented, regardless of whether an individual proposal is approved. Because of their voting control, the Price Entities and 520 Group can cause the approval of the Series A exchange offer, the Series B exchange transactions and the amendments to Price Legacy's charter without the affirmative vote of any other stockholder of Price Legacy.

Why is Price Legacy proposing the recapitalization transaction?

Price Legacy is proposing the recapitalization transaction at this time because it believes:

the recapitalization transaction should improve and simplify the capital structure of Price Legacy by eliminating the Series B preferred stock and all or a substantial portion of the Series A preferred stock in exchange for common stock and Series 1 preferred stock, and by Price Legacy subsequently redeeming any shares of Series A preferred stock that remain outstanding following the Series A exchange offer,

due to the lower dividend rate on the Series 1 preferred stock (\$1.16 per annum, as compared to \$1.40 per annum on the Series A preferred stock), and because Price Legacy has been advised that holders of 44.5% of the Series A preferred stock intend to tender their shares of

3

Series A preferred stock for common stock in the Series A exchange offer, the recapitalization transaction is expected to reduce the aggregate dividends payable to Price Legacy's preferred stockholders and increase Price Legacy's ability to pay dividends on its common stock (and increase the earnings attributable to Price Legacy's common stock),

the recapitalization transaction provides Price Legacy the ability to eliminate the Series B preferred stock and all or a substantial portion of the Series A preferred stock without a large cash outlay by Price Legacy, because the Series A exchange offer and the Series B exchange transactions require no cash payment (other than for fractional shares), and

the reverse stock split, and the increased likelihood of paying dividends on the common stock, are expected to increase the marketability and liquidity of the common stock.

Did Price Legacy consider any negative factors that could or do arise from the recapitalization transaction?

Price Legacy considered several negative factors that could or will arise from the proposed transaction, including:

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the anticipated aggregate transaction costs, which are estimated to be approximately \$1.5 million, that will be incurred,

the significant risk that the anticipated benefits of the transaction might not be fully realized,

the holders of common stock will have their percentage ownership in the outstanding common stock diluted due to the additional shares of common stock to be issued in the Series A exchange offer and Series B exchange transactions, and

the holders of common stock may see a reduction in the aggregate market value of the common stock because the market value of each share of common stock may not increase in proportion to the decrease in the number of outstanding shares resulting from the proposed 1-for-4 reverse stock split.

How does the recapitalization affect the holders of Price Legacy's capital stock?

Following the recapitalization:

Price Legacy's common stock will remain outstanding. However, each share of common stock will be converted into 0.25 of a share of common stock, as a result of the 1-for-4 reverse stock split, and will vote with the holders of Series A preferred stock (to the extent any shares of Series A preferred stock remain outstanding following the Series A exchange offer) to elect all of the directors to Price Legacy's board of directors,

shares of Series A preferred stock tendered in the Series A exchange offer will be retired, shares of Series A preferred stock not tendered in the Series A exchange offer will remain outstanding (subject to the expected redemption), and the holders of Series A preferred stock will no longer be entitled to vote separately to elect any directors to Price Legacy's board of directors,

Price Legacy's Series B preferred stock will be retired, the Series B preferred stockholders will receive, in exchange for the Series B preferred stock outstanding immediately prior to the recapitalization, shares of common stock, and Price Legacy's charter will be amended to eliminate the authorized Series B preferred stock, and

assuming all outstanding shares of Series A preferred stock and Series B preferred stock are exchanged for common stock, immediately following the recapitalization transaction, Price Legacy will have outstanding approximately 46.0 million shares of common stock (after giving effect to the proposed 1-for-4 reverse stock split). Assuming 50% of the outstanding shares of Series A preferred stock are exchanged for common stock, 50% of the outstanding shares of

4

Series A preferred stock are exchanged for Series 1 preferred stock and all outstanding shares of Series B preferred stock are exchanged for common stock, immediately following the recapitalization transaction, Price Legacy will have outstanding approximately 13.7 million shares of Series 1 preferred stock and approximately 31.6 million shares of common stock (after giving effect to the proposed 1-for-4 reverse stock split). In addition, immediately following the recapitalization transaction, Price Legacy will have outstanding warrants to purchase approximately 683,419 shares of common stock with an exercise price of \$33.00 per share (in each case, after giving effect to the proposed 1-for-4 reverse stock split).

The Series A exchange offer is likely to significantly reduce the number of outstanding shares of Series A preferred stock and the number of holders of Series A preferred stock. Depending on the number of shares exchanged, the Series A preferred stock may not continue to meet the listing requirements of the Nasdaq National Market. If the Series A preferred stock fails to meet such listing requirements, Price Legacy does not intend to contest a delisting or to seek to list the shares on another trading market and cannot assure you that an active trading market for the Series A preferred stock will continue to exist. As a result, the Series A exchange offer may adversely affect the liquidity of and, consequently, the market price for the shares of Series A preferred stock, if any, that remain outstanding after completion of the Series A exchange offer.

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The Series A preferred stock will continue to be redeemable by Price Legacy at a price per share of \$16.00, together with any accrued but unpaid dividends. Price Legacy intends, subject to the availability of requisite financing, to redeem any shares of Series A preferred stock that remain outstanding following the Series A exchange offer. Thus, shares of Series A preferred stock not tendered in the Series A exchange offer are expected to be redeemed after the recapitalization transaction, thereby eliminating the Series A preferred stock in its entirety.

Assuming all outstanding shares of Series A preferred stock and Series B preferred stock are exchanged for common stock, immediately following the recapitalization transaction, the Price Entities and the Price Managers will hold an aggregate of approximately 33.0% of the outstanding common stock. Assuming 50% of the outstanding shares of Series A preferred stock are exchanged for common stock, 50% of the outstanding shares of Series A preferred stock are exchanged for Series 1 preferred stock and all outstanding shares of Series B preferred stock are exchanged for common stock, immediately following the recapitalization transaction, the Price Entities and the Price Managers will hold an aggregate of approximately 47.9% of the outstanding common stock.

What are the conditions to the recapitalization?

The completion of the recapitalization depends on the satisfaction or waiver of a number of conditions, including the following:

approval of the Series A exchange offer, the Series B exchange transactions and the amendments to Price Legacy's charter by the stockholders of Price Legacy entitled to vote thereon, and

absence of any law or any injunction that effectively prohibits the recapitalization.

What are the terms of the Series A exchange offer?

Concurrently with the mailing of this proxy statement, Price Legacy is commencing an offer to exchange, at the election of the holder, either 4.2 shares of common stock (or 1.05 shares of common stock after giving effect to the proposed 1-for-4 reverse stock split) or one share of Series 1 preferred stock for each outstanding share of Series A preferred stock.

Series A preferred stockholders who tender their shares in the Series A exchange offer will be deemed holders of common stock or Series 1 preferred stock, as applicable, and cease to be holders of

Series A preferred stock as of the completion of the Series A exchange offer. Tendering Series A preferred stockholders will not receive any distribution payment on their Series A preferred stock for the shortened distribution period from February 1, 2004 to the date of exchange. Those who elect to receive Series 1 preferred stock will be entitled to receive a partial distribution payment on their Series 1 preferred stock for the shortened distribution period from the date of exchange to April 30, 2004 (on the payment date for the first full Series 1 distribution period following completion of the exchange offer), and will be entitled to receive full distribution payments thereafter. Those who elect to receive common stock will be entitled to receive distributions on their common stock if, as and when authorized and declared by Price Legacy's board of directors out of assets legally available for the payment of distributions. Price Legacy expects that quarterly distributions on the common stock will commence following the completion of the recapitalization transaction, although there can be no assurances as to the declaration, or payment, of such distributions.

In addition, Price Legacy has been advised that some of its executive officers, directors and entities affiliated with the Price Entities intend to tender their shares of Series A preferred stock for common stock in the Series A exchange offer. Collectively, the Price Entities and the other parties who have advised Price Legacy that they intend to tender shares of Series A preferred stock for common stock hold an aggregate of 12,215,660 shares of Series A preferred stock representing approximately 44.5% of the outstanding shares of Series A preferred stock.

What are the terms of the Series B exchange transactions?

Under the terms of an exchange agreement with the Price Entities, Price Legacy has agreed to exchange 1.39 shares of common stock (or 0.3475 of a share of common stock after giving effect to the proposed 1-for-4 reverse stock split) for each outstanding share of Series B preferred stock owned by The Price Group. Price Legacy also has been advised that 520 Group will exchange each share of Series B preferred stock it holds for 1.39 shares of common stock (or 0.3475 of a share of common stock after giving effect to the proposed 1-for-4 reverse stock split) in the Series B exchange transactions. Assuming all outstanding shares of Series B preferred stock and accrued dividends on the Series B preferred stock are exchanged for common stock, the Series B preferred stockholders will receive, in exchange for their Series B preferred stock,

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an aggregate of approximately 8.5 million shares of common stock (after giving effect to the proposed 1-for-4 reverse stock split), including an aggregate of approximately 0.7 million shares of common stock for all outstanding shares of Series B preferred stock owned by The Price Group and an aggregate of approximately 7.8 million shares of common stock for all outstanding shares of Series B preferred stock owned by 520 Group.

What are the terms of the reverse stock split?

If the recapitalization transaction is approved at the special meeting, each share of common stock outstanding immediately prior to the completion of the recapitalization will be converted into 0.25 of a share of common stock as a result of the 1-for-4 reverse stock split.

How will the recapitalization transaction change the manner in which Price Legacy's board of directors is elected?

If the recapitalization transaction is approved at the special meeting and consummated:

the holders of common stock and Series A preferred stock (to the extent any shares of Series A preferred stock remain outstanding following the Series A exchange offer), but not the holders of Series 1 preferred stock, voting together as a single class, will be entitled to elect all of Price Legacy's directors, with each share of common stock entitled to one vote and each share of Series A preferred stock entitled to one-tenth ($1/10$) of one vote,

6

neither the Series A preferred stockholders nor the Series B preferred stockholders will be entitled to vote separately to elect any directors to Price Legacy's board of directors (except that the Series A preferred stock will be entitled separately to elect two additional directors whenever distributions on the Series A preferred stock are in arrears for six or more quarterly periods), and

the directors in office at the time of the recapitalization will remain in office until the next annual meeting of stockholders and until their successors are duly elected and qualify.

Did Price Legacy's board of directors obtain an opinion as to the fairness of the recapitalization transaction to unaffiliated stockholders?

Price Legacy's board of directors retained the services of a financial advisor, American Appraisal Associates, Inc. American Appraisal has delivered a written opinion to the board of directors as to the fairness, from a financial point of view, to Price Legacy's unaffiliated Series A preferred stockholders and unaffiliated common stockholders of the recapitalization transaction. The full text of American Appraisal's written opinion is attached to this proxy statement as Annex C. Price Legacy encourages you to read this opinion carefully in its entirety for a description of the procedures followed, assumptions made, matters considered and limitations on the review undertaken. American Appraisal's opinion is directed to Price Legacy's board of directors and does not constitute a recommendation to any stockholder as to any matter relating to the recapitalization transaction.

How were the exchange ratios calculated?

The exchange ratios for the Series A exchange offer were calculated by:

valuing the Series A preferred stock and Series 1 preferred stock at approximately \$16.80 per share, and

valuing the common stock at approximately \$4.00 per share.

The values for the Series A preferred stock and common stock were approximately equal to or slightly greater than their respective market values at the time the recapitalization was announced. The value for the Series 1 preferred stock was based on the market value of the Series A preferred stock, because the Series A preferred stock is publicly traded and the most closely analogous security to the Series 1 preferred stock. In particular, Price Legacy considered the following terms of the Series A preferred stock and Series 1 preferred stock in making its determination to value them equivalently: (A) dividend payment of \$1.40 (Series A) and \$1.16 (Series 1) per share; (B) liquidation preference of \$16.00 (Series A) and \$17.00 (Series 1) per share; (C) redemption price of \$16.00 (Series A) and \$17.00 (Series 1) per share; and (D) voting rights of

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one-tenth ($1/10$) of one vote (Series A) and no vote (Series 1) per share. The values specified for the Series A preferred stock, Series 1 preferred stock and common stock were estimates utilized by Price Legacy for computational purposes only, and there can be no assurance that any such capital stock will attain, or maintain for any period of time, a market value approaching such estimate in the future.

The exchange ratio for the Series B exchange transactions, which is 1.39 shares of common stock (or 0.3475 of a share of common stock after giving effect to the proposed 1-for-4 reverse stock split) for each share of Series B preferred stock, was based on the above value for the common stock and valuing the Series B preferred stock at \$5.56 per share, its current conversion price, redemption price and liquidation preference.

As indicated above, American Appraisal has delivered a written opinion to Price Legacy's board of directors as to the fairness, from a financial point of view, to Price Legacy's unaffiliated Series A preferred stockholders and unaffiliated common stockholders of the recapitalization transaction.

7

What conflicts of interest do Price Legacy's directors and officers have in the recapitalization?

When considering the recommendation of Price Legacy's board of directors, you should be aware that some Price Legacy directors and officers have interests in the transaction that may be different from, or in addition to, yours. These interests include:

Jack McGrory, Chairman, President and Chief Executive Officer of Price Legacy, and James F. Cahill and Murray Galinson, each a director of Price Legacy elected by the holders of Series A preferred stock, hold shares of Series A preferred stock. Messrs. McGrory, Cahill and Galinson have indicated that they intend to tender all of their shares of Series A preferred stock for common stock in the Series A exchange offer.

In addition, Price Legacy has been advised that the Price Entities, which own Series A preferred stock, Series B preferred stock, common stock and warrants to purchase shares of common stock, intend to tender all of their shares of Series A preferred stock for common stock in the Series A exchange offer. In addition, under the terms of an exchange agreement with the Price Entities, Price Legacy has agreed to exchange an aggregate of approximately 0.7 million shares of common stock (after giving effect to the proposed 1-for-4 reverse stock split) for all outstanding shares of Series B preferred stock owned by The Price Group.

Price Legacy has also been advised that the Price Managers, who include Messrs. McGrory, Cahill and Galinson, intend to tender all of the shares of Series A preferred stock held by them for common stock in the exchange offer.

Immediately following the recapitalization transaction, the Price Entities and the Price Managers, including Jack McGrory, Chairman, President and Chief Executive Officer of Price Legacy, and James F. Cahill and Murray Galinson, each a director of Price Legacy elected by the holders of Series A preferred stock, will hold an aggregate of approximately 15.2 million shares of common stock (after giving effect to the proposed 1-for-4 reverse stock split) and no shares of Series A preferred stock, Series B preferred stock or Series 1 preferred stock. Assuming all outstanding shares of Series A preferred stock and Series B preferred stock are exchanged for shares of common stock, the shares of common stock held by the Price Entities and the Price Managers will represent approximately 33.0% of the outstanding common stock and total combined voting power of Price Legacy. Assuming 50% of the outstanding shares of Series A preferred stock are exchanged for shares of common stock, 50% of the outstanding shares of Series A preferred stock are exchanged for shares of Series 1 preferred stock and all outstanding shares of Series B preferred stock are exchanged for shares of common stock, the shares of common stock held by these parties will represent approximately 47.9% of the outstanding common stock and total combined voting power of Price Legacy. In addition, The Price Group will continue to hold warrants to purchase a total of approximately 58,419 shares of common stock (after giving effect to the proposed 1-for-4 reverse stock split).

Other than as described above and payments made to directors and officers in their capacities as such, no payments or benefits will be paid to Price Legacy's directors or officers as a result of the recapitalization.

Has Price Legacy been advised that any of its stockholders intend to vote in favor of the recapitalization?

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Price Legacy has been advised that the Price Entities, which control an aggregate of approximately 15.5% of the total combined voting power of Price Legacy, intend to vote in favor of the Series A exchange offer, the Series B exchange transactions and the amendments to Price Legacy's charter. In addition, Price Legacy has been advised that 520 Group, which has purchased from the Warburg Pincus Entities an aggregate of 22,062,951 shares of Series B preferred stock and 5,000,000 shares of common stock, together representing approximately 43.4% of the total combined voting power of Price Legacy, intends to vote all of its shares in favor of the Series A exchange offer, the Series B exchange

8

transactions and the amendments to Price Legacy's charter. Because of this voting control, the Price Entities and 520 Group can cause the approval of the recapitalization transaction without the affirmative vote of any other stockholder of Price Legacy.

Price Legacy has been advised that its executive officers, directors, the Price Entities and the Price Managers intend to tender their shares of Series A preferred stock for common stock in the Series A exchange offer. Collectively, the Price Entities and the other parties who have advised Price Legacy that they intend to tender shares of Series A preferred stock for common stock hold an aggregate of 12,215,660 shares of Series A preferred stock representing approximately 44.5% of the outstanding shares of Series A preferred stock.

Will I have appraisal rights as a result of the recapitalization?

Holders of common stock will not have appraisal rights as a result of the recapitalization or reverse stock split. The common stock will remain outstanding after the transaction.

Holders of Series A preferred stock will not have appraisal rights as a result of the recapitalization. The exchange offer is voluntary and any Series A preferred stock not tendered in the exchange offer will remain outstanding after the transaction, subject to the expected redemption.

Holders of Series B preferred stock will not have appraisal rights as a result of the recapitalization because all of the Series B preferred stock will be retired as a result of a negotiated transaction with the Series B preferred stockholders.

Are any regulatory approvals required in connection with the recapitalization?

Price Legacy is not aware of any federal or state regulatory approvals that must be obtained in connection with the recapitalization.

What are the principal trading markets of the Price Legacy capital stock?

The common stock is currently traded on the American Stock Exchange, or AMEX, under the symbol "XLG." In connection with the recapitalization transaction, Price Legacy intends to seek to list the common stock on the Nasdaq National Market, or Nasdaq. However, there can be no assurance that the common stock will meet such listing requirements, or that Price Legacy's efforts to list the common stock on Nasdaq will be successful. If not successful, Price Legacy expects that the common stock will continue to be listed on AMEX following the recapitalization transaction.

The Series A preferred stock is traded on Nasdaq under the symbol "PRENP." Depending on the number of shares of Series A preferred stock exchanged in the Series A exchange offer, the Series A preferred stock may not continue to meet the listing requirements of Nasdaq, in which case Price Legacy does not intend to contest a delisting or to seek to list the shares on another trading market and cannot assure you that an active trading market for the Series A preferred stock will continue to exist.

There is currently no active trading market for the Series B preferred stock or the Series 1 preferred stock. If the Series 1 preferred stock meets its initial listing requirements, Price Legacy intends to seek to list the Series 1 preferred stock on Nasdaq. However, there can be no assurance that the Series 1 preferred stock will meet such listing requirements, or that Price Legacy's efforts to list the Series 1 preferred stock on Nasdaq will be successful. If not successful, Price Legacy does not intend to seek to list the shares on another trading market and cannot assure you that an active trading market for the Series 1 preferred stock will exist.

9

What are the material federal income tax considerations of the transaction?

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The exchange of common stock for Series A preferred stock will be a recapitalization for United States federal income tax purposes. Although not entirely clear under current tax law, Price Legacy believes that there is a material risk that the Series 1 preferred stock received in the exchange could be treated as nonqualified preferred stock. If the Series 1 preferred stock is treated as nonqualified preferred stock, a holder of Series A preferred stock that receives Series 1 preferred stock in the exchange may recognize gain (but not loss) in the exchange for United States federal income tax purposes. Tax matters are very complicated and the tax consequences of the exchanges to you will depend on your own personal circumstances. You should consult your tax advisors for a full understanding of all of the tax consequences of the exchanges to you.

The reverse stock split, other than cash paid for fractional shares, will be tax-free to common stockholders for United States federal income tax purposes. Again, tax matters are very complicated and the tax consequences of the reverse stock split to you will depend on your own personal circumstances. You should consult your tax advisors for a full understanding of all of the tax consequences of the reverse stock split to you.

See "Material Federal Income Tax Considerations Related to the Transaction."

What is the anticipated accounting treatment of the transaction?

For accounting purposes, Emerging Issue Task Force (EITF) topic D-42 governs the effect on the calculation of earnings per share for the redemption or induced conversion of preferred stock. The exchange of the Series A preferred stock for either common stock or Series 1 preferred stock is being treated as a redemption and, accordingly, the excess of the fair value of the consideration transferred to the holders of the preferred stock over the carrying amount of the preferred stock on the balance sheet will be subtracted from net earnings to arrive at net earnings available to common stockholders in the calculation of earnings per share. Assuming 100% of the Series A preferred stock is exchanged for common stock, a deduction of approximately \$6.6 million will result from net earnings available for common stockholders. Assuming 50% of the Series A preferred stock is exchanged for Series 1 preferred stock and 50% of the Series A preferred stock is exchanged for common stock, a deduction of approximately \$30.3 million from net earnings available for common stockholders is anticipated assuming the Series 1 preferred stock is valued at \$16.24 per share which was the closing price of the Series A preferred stock on September 19, 2003, the date the recapitalization transaction was announced.

The exchange of the Series B preferred stock for common stock is being treated as an induced conversion. Assuming the conversion is consummated on February 15, 2004, the exchange of the Series B preferred stock for common stock at a ratio of 1.39 shares of common stock for each share of Series B preferred stock will result in a deduction of approximately \$32.9 million from the net earnings available for common stockholders.

The reverse stock split will not affect Price Legacy's results of operations. Because the number of outstanding shares of common stock will be reduced, the per share net income and net book value of common stock will be increased as a result of the reverse stock split.

What will be the sources and uses of funds in the transaction?

The common stock and Series 1 preferred stock issued in the Series A exchange offer and the common stock issued in the Series B exchange transactions are being issued in exchange for outstanding securities of Price Legacy. No funds will be required for the exchanges other than cash payments for fractional shares and transaction costs, which will be paid from working capital. Price Legacy will not receive any cash proceeds from the issuance of common stock and Series 1 preferred stock in the exchanges.

QUESTIONS AND ANSWERS ABOUT THE SPECIAL MEETING

Where and when is the special meeting being held?

The special meeting will be held at the Rancho Bernardo Inn, 17550 Bernardo Oaks Drive, San Diego, California, on Thursday, March 11, 2004, at 10:00 a.m., Pacific time.

What is the purpose of the special meeting?

The special meeting is being held to consider and vote upon:

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the issuance of, at the election of the holder, either shares of common stock or shares of Series 1 preferred stock in exchange for outstanding shares of Series A preferred stock,

the issuance of shares of common stock in exchange for outstanding shares of Series B preferred stock,

an amendment to Price Legacy's charter to effect a 1-for-4 reverse stock split of the common stock,

an amendment to Price Legacy's charter to designate and establish the terms of the Series 1 preferred stock that may be issued in exchange for shares of Series A preferred stock,

an amendment to Price Legacy's charter to eliminate the Series B preferred stock following its exchange for common stock,

an amendment to Price Legacy's charter to change the manner of election of Price Legacy's board of directors,

an amendment to Price Legacy's charter to change the authorized capital stock of Price Legacy to provide sufficient shares to complete the recapitalization transaction,

the amendment and restatement of Price Legacy's charter, in substantially the form of Articles of Amendment and Restatement attached to this proxy statement as Annex B, which will include the foregoing amendments in the event they are approved by the stockholders, and

such other business as may properly come before the meeting or any adjournment or postponement thereof.

The board of directors knows of no other business that will be presented for consideration at the special meeting. However, if any matters are properly presented at the special meeting or any adjournment or postponement of the special meeting the proxy holders will be granted discretionary authority with respect to any such matter.

Who is entitled to vote at the special meeting?

All holders of record of shares of common stock, Series A preferred stock and/or Series B preferred stock as of the close of business on February 4, 2004, the record date fixed by the board of directors, will be entitled to receive notice of and to vote at the special meeting.

As of the record date, there were 35,427,325 shares of common stock issued, outstanding and entitled to be voted at