



## **I. PRELIMINARY STATEMENT**

Proposed Lead Plaintiffs, Anthony P. Davidson (“Davidson”) and Seymour Nebel (“Nebel”) (together the “Davidson Group”) submit this memorandum of law in response to the various motions for lead plaintiff filed in these consolidated actions (the “Securities Action”), and in further support of their motion to be appointed lead plaintiffs.

The unprecedented and stunning collapse of Enron Corporation (“Enron” or the “Company”) is unparalleled in the history of the financial markets. On October 16, 2001, Enron had a market capitalization of approximately \$25 billion. By December 2, 2001, the day it filed for bankruptcy protection, virtually the entire market capitalization of Enron, as well as billions of dollars of investors’ money, had evaporated. Its stock was trading at less than \$1.00 per share and its total market capitalization had dwindled to a mere \$580 million. Enron’s resulting bankruptcy filing under Chapter 11, is the largest ever by a public company. Enron’s demise has spawned numerous investigations by regulatory agencies and Congress, as well as a criminal investigation by the Department of Justice. Recent disclosures indicate that Arthur Andersen, LLP, Enron’s auditor, destroyed documents relating to Enron.

The effect of the alleged financial fraud has been wide-ranging and has had a devastating impact on all investors in Enron securities. Individual investors, institutional investors, money managers, pension plans and Enron employees, lost billions of dollars in a matter of weeks. Dozens of lawsuits have been filed on behalf of various groups of investors, and currently pending before the Court are eleven separate motions for lead plaintiff in the Securities Action.<sup>1</sup> The Davidson Group’s motion for lead plaintiff is the only one pending on behalf of individual investors in Enron common stock.

Indeed, the unprecedented scope, complexity, and magnitude of this securities litigation calls for a sensible lead plaintiff structure giving representation to the myriad of investor interests present in case.

In considering the unique issues presented in this Action, as well as the separate and distinct interests of the various proposed lead plaintiffs, the Court should adopt a structure that provides fair representation for the various constituent groups. Undoubtedly this litigation is one of the largest securities fraud class actions in history. As has been the case in numerous extremely large and complex class actions, the Court should create a hybrid lead plaintiff structure of various lead plaintiffs—including individual investors, institutional investors and possibly others, as the Court may deem appropriate. Such a structure will fairly accommodate the interests of the millions of individual investors such as the individuals in the Davidson Group, in addition to satisfying the concerns of all other investors.

The members of the Davidson Group are excellent candidates for lead plaintiff. Each has sophisticated business experience in finance, securities and accounting matters. Significantly, each of them has lost in excess of twenty-five percent (25%) of their investment portfolios as a result of Enron's collapse. This personal loss is unmatched (percentage-wise) by any other proposed lead plaintiff. Finally, given the broad policy concerns expressed by government and regulatory officials regarding the scope of damage to investors in Enron, appointment of the Davidson Group as lead plaintiffs furthers the policy that such interests be represented.

## **II. THE LEAD PLAINTIFF MOTIONS**

### **A. Motions By the Institutional Investors and Debt Purchasers<sup>2</sup>**

Currently pending before the Court are eleven lead plaintiff motions, including this one.<sup>3</sup> The other ten motions can be broken down into two principal groups: six motions brought on behalf of various groups of institutional investors and four motions brought on behalf of purchasers of Enron debt or preferred stock seeking separate representation. The Davidson Group's motion is brought on behalf of individual investors who purchased Enron common stock.

Each of the motions by the various institutional investors argues for appointment of solely their

group or entity as lead plaintiff in the action. Without regard to substantial personal losses of thousands of individual investors who lost their life savings or substantial portions of it, these institutions ask the Court to simply accept their “gross” dollar loss for their entire group of beneficiaries as the largest financial interest, for the purpose of appointing them lead plaintiff under the Private Securities Litigation Reform Act of 1995 (“PSLRA”), without any further analysis. As demonstrated below, under proper scrutiny, those losses, although substantial in dollar amount, are not nearly as devastating to the assets of the respective institutions or their beneficiaries, compared with the losses suffered personally by individual investors represented in the Davidson Group.

The Davidson Group takes no position on which of the numerous institutional investors, if any, may be the most appropriate to serve as lead plaintiffs for the class. The Davidson Group acknowledges the PSLRA’s intent to encourage a role of institutional plaintiffs in securities class actions. *In re Waste Management, Inc. Securities Litig.*, 128 F. Supp. 2d 401, 411 (S.D. Tex. 2001). However, blind adherence to that policy, to the exclusion of individual investors is not appropriate in this case. As discussed below, the institutional investors may have certain shortcomings which potentially raise the appearance of a conflict of interest. Therefore, the presence of individual investors as part of a lead plaintiff group obviates any such appearance. Accordingly, the Davidson Group proposes that any designation of lead plaintiffs should include individual investors, such as themselves, to ensure full and fair representation.<sup>4</sup> “Allowing for diverse representation, including in this case a state pension fund, significant individual investors and a large institutional investor, ensures that the interests of all class members will be adequately represented in the prosecution of the action and in the negotiation and approval of a fair settlement, and that the settlement process will not be distorted by the differing aims of differently situated claimants.” *In re Oxford Health Plans, Inc. Securities Litig.*, 182 F.R.D. 42, 49 (S.D.N.Y. 1998) As described below, such investors, in the context of this unique securities fraud class

action, require proper representation of their interests. Although the absolute dollar value of the institutional investor losses may seem large, they are in fact small when properly scrutinized and compared with the "*personal losses*" suffered by each member of the Davidson Group.

**B. Relative Losses of the Various Lead Plaintiffs**

In absolute numbers, each member of the Davidson Group lost in excess of \$60,000. In context, the impact on their personal finances was severe. Davidson's losses in Enron common stock amount to approximately 25% of his personal portfolio and Nebel's losses amount to approximately 28% of this personal portfolio. Without a doubt, those losses in Enron common stock were, on an individual basis, significant. *See* Affidavit of Andrew Davidson and Affidavit of Seymour Nebel, attached hereto as Exhibit A..

By comparison, FSBA, which purportedly lost approximately \$335 million, has a portfolio of over \$123 billion. *See* Motion of the Florida State Board of Administration for Appointment as Lead Plaintiff and Approval of Its Selection of Co-Lead and Liaison Counsel at pp. 1-2. The losses from its investments in Enron amounted to a mere .0027 of its assets or .27%.<sup>5</sup> Similarly, the losses suffered by the University of California amounted to \$144 million of a \$54 billion portfolio or .26% of its assets. *See* Memorandum Of Law In Support Of Motion To Appoint Amalgamated Bank, The Regents Of The University Of California, Deutsche Asset Management, HBK Investments, And The Central States Pension Fund As Lead Plaintiff And To Approve Lead Plaintiff's Choice Of Co-Lead And Co-Liaison Counsel. The NYC Fund lost \$109 million on assets of \$98.9 billion or .11%. *See* Memorandum Of Points And Authorities In Support Of Motion For Appointment Of Lead Plaintiff And Approval Of Lead Counsel pp. 3, 5 ("NYC Fund Motion"). The losses for Ohio Teachers is similar -- \$114 million of \$53 billion in assets -- or .21%. *See* Memorandum of Law of State Retirement Systems Group. Indeed, the financial impact on each member of the Davidson Group is personally more than *one hundred times*

*greater* than the financial impact on these institutional investors.

The institutional losses presented to the Court are even less significant when one looks at the beneficiary population for these institutional investors. Thus, the Court should not blithely accept the rhetoric that the institutional investors have the greatest financial interest in this litigation. For example, NYC Fund has represented it has over 547,000 members. *See* NYC Fund Motion p.5. Thus, the losses in Enron common stock for those members of the NYC Fund, \$109 million, amounts to approximately \$199 per beneficiary.<sup>6</sup> Such "personal losses" of its members' pale in comparison to the losses suffered by Plaintiffs here -- each of whom individually suffered over \$60,000 in losses -- more than *three hundred times greater* than the losses of the NYC Fund beneficiaries.

The Davidson Group respectfully submits that based on the clearly significant impact on individual investors, their participation as lead plaintiffs in this Action is warranted. Simply put, their personal stake in this action is substantial.

**C. The Importance of Individual Investors to the Lead Plaintiff Group**

As indicated in public reports, approximately twenty-five percent (25%) of Enron's outstanding common stock is held by individual investors. (*See* Ex. B attached hereto -- Institutional Holdings reflected as 74%).<sup>7</sup> This substantial block of small investors, many of whom lost a large percentage of their assets, are entitled to representation among the lead plaintiff group. Because the intent of Congress in passing the PSLRA was to encourage investors who had a real stake in the outcome of the litigation to step forward and serve as lead plaintiffs, the Davidson Group, whose individual personal losses are substantial, fulfills that policy. *See Oxford*, 182 F.R.D. 42. Furthermore, the personal significance and importance to individual investors is manifest. For example, at the end of the day, employees of the institutional investors leave work whether there is a recovery or not -- with no stake in the outcome. Every day, the Davidson Group and individual investors like them must deal with the

reality that a substantial portion of their retirement and savings and personal wealth has disappeared as a result of this fraud. There is no greater personal stake in the outcome of this litigation.

Indeed, one policy of the PSLRA is to encourage those plaintiffs who are appointed lead plaintiff, to vigorously litigate these cases to conclusion -- whether trial or settlement. *In re Oxford*, 182 F.R.D. at 47. In theory, lead plaintiff must have substantial motivation to maximize the recovery for injured investors. Here, given the large personal losses of each member of the Davidson Group, substantial personal motivation exists for each of them to obtain as large a recovery as possible. For example, for every ten cents recovered for each dollar lost by the individuals in the Davidson Group, the personal impact on their portfolios may be as much or more than one hundred times greater than the impact of such a recovery on the institutional investors (*see pp.4-5, infra*)

The qualifications of the Davidson Groups members strongly support their ability to serve as lead plaintiffs. Davidson, is a commercial real estate broker and a former securities broker who has had many years experience in the finance and securities business. He served as a Director for the management company that ran several value oriented open-end equity mutual funds. Nebel, is a retiree, who worked as an investigative accountant for the New York State Attorney General. Given the nature of this case and the role of Arthur Andersen, Nebel's background is important to any lead plaintiff group. *See, Affidavits of Andrew Davidson and Seymour Nebel.*

Finally, the enormous publicity surrounding this financial debacle has highlighted the harm individual investors have suffered as a result of Enron's fraudulent accounting and business practices. Congress and government officials alike have expressed concern over the harm suffered by investors, particularly individuals, who have been devastated from this fraud. In light of the overwhelming policy concerns for individuals damaged from investing in Enron Securities, it is appropriate to appoint the Davidson Group as one of the lead plaintiffs in the Securities Action. *In Laborers Local 1298 Pension*

*Fund v. Campbell Soup Company*, 2000 WL 486596\*3 (D.N.J. April 24, 2000), the Court held that “it [is] desirable to have both an institutional investor ... and individual investors ... included as lead plaintiffs since each may bring a unique perspective to the litigation.” *See also In re Microstrategy Inc. Securities Litigation*, 110 F. Supp. 2d 427, 439 (E.D.Va. 2000), (different types of investors ensures that all of the class members’ interests were adequately represented.)

Accordingly, given the unique circumstances of this case (*Oxford*, 182 F.R.D. at 49), it is appropriate under the PSLRA for those with the “greatest financial interest” to be appointed one of the lead plaintiffs, the Davidson Group should be included in any lead plaintiff group designated by the Court.

### III. THE COURT HAS THE AUTHORITY TO APPOINT SEVERAL LEAD PLAINTIFFS

“[T]he plain language of the PSLRA expressly contemplates the appointment of more than one lead plaintiff,” *see In re Oxford Health Plans, Inc. Sec. Litig.*, 182 F.R.D. 2, 47(S.D.N.Y. 1998). The appointment of co-lead plaintiffs comprised of individuals and institutions “provides the proposed class with the substantial benefits of joint decision-making and joint funding and is consistent with the language of the PSLRA and the purpose of Congress ... *Id.* at 45. Numerous courts have appointed several lead plaintiffs in cases where proposed lead plaintiffs have asserted different interests arising out of a related set of events. *See, e.g., In re Cendant Corp. Litig.*, 182 F.R.D. 144, 149 (D.N.J. 1998); *Chill v. Greentree Fin. Corp.*, 181 F.R.D. 398, 402 (D. Minn. 1998); *Mark v. Fleming Cos., Inc. et al.*, Case No. CIV 96 506 M, Order (W.D. Okla, Mar. 26, 1997) (“*Mark*”); *Harbour Court LPI v. Nanophase Techn. Corp., et al.*, 98 C 7447, Memorandum Opinion and Order (N.D. Ill. Sept. 27, 1999)(“*Harbour Court*”); *Oxford Health Plans*, 182 F.R.D. at 49. Thus, like in *Oxford*, there is no question that this Court has the authority to appoint a group of lead plaintiffs and counsel as proposed by the Davidson Group.

#### **IV. The Appointment of Individual Investors to the Lead Plaintiff Group Ensures Any Potential Conflicts of the Institutional Investors Will Be Avoided**

The events surrounding Enron have involved a wide variety of entities some of which will likely become defendants in the action. Not only are Enron's auditors, Arthur Andersen, implicated in the wrongdoing, but reports in the press suggest that other entities may have facilitated Enron's fraud. Among those entities are Enron's investment banks, lenders and consultants. Reports have indicated that Citibank/Salomon Smith Barney, J.P. Morgan Chase, Credit Suisse First Boston, BNP-Paribas, Deutsche Bank, Merrill Lynch & Co., Goldman Sachs Group, Bank of America Securities and Lehman Brothers all had roles as underwriters, agents and/or advisers to Enron during the relevant period, earning hundreds of millions of dollars in fees. *See* Ex. B. Similarly, Enron's attorneys and consultants also played critical roles.

The presence of these other entities raise concerns regarding potential conflict of interest issues relating to the institutional investors as lead plaintiffs and the potential liability of these third-parties. Clearly, some of the proposed institutional investors have long-standing financial ties to some of these institutions as lenders or investment advisers to the institutions.

For example, one bank which provided syndicated loans to Enron is Deutsche Bank. One of the proposed lead plaintiffs is Deutsche Asset Management -- a subsidiary of the Bank. This past week, an article appeared suggesting that the Florida Retirement System had a close relationship with Alliance Capital, who had a member of the firm on Enron's Board and which had purchased substantial amounts of Enron stock for the Florida Retirement System. *See* Ex. C. Similarly, J.P. Morgan Chase provides investment services for the Public Employees Retirement System of Ohio (*see* Ex. D) and Bank of America provides investment advice to the Teachers Retirement System of Georgia (*see* Ex. E). Given the size of the investment relationships that may exist with the institutional investors and their advisers the presence of individual plaintiffs assures no conflicts will arise.

Not only is Arthur Andersen implicated in the wrongdoing, but the entire big five accounting industry is under attack. Ex. F Many of the institutions proposed as lead plaintiffs have one of the big five accounting firms as their auditors. For example, the University of California uses PricewaterhouseCoopers as its auditor. See Ex. G. Similarly, the State of Georgia uses Deloitte & Touche as its auditors. See Ex. E. Given the pressure being brought to bear on the accounting industry generally as a result of the Enron situation, institutional investors ties to the accounting industry cannot be discounted.

Thus, the investigation of all potential defendants will be aided by a completely independent and conflict free individual lead plaintiffs. The presence of the individuals from the Davidson Group as lead plaintiffs, who have none of these institutional or industry relationships, provides such assurance.

#### **V. THE SCOPE AND COMPLEXITY OF THIS ACTION SUPPORT A LEAD COUNSEL STRUCTURE CAPABLE OF MANAGING THE LITIGATION**

The massive scope of this Securities Action warrants a lead plaintiff and lead counsel structure competent to manage the litigation. Under the Davidson Group's proposal that a hybrid lead plaintiffs group be appointed, each of their designated counsel should serve on an executive committee with a designated chairman.<sup>8</sup> See *e.g. Oxford* 182 F.R.D. at 51.

There is little doubt that this litigation will take place on multiple fronts requiring a tremendous effort by counsel on behalf of the class. The effort necessary to prosecute this case and develop the litigation strategy on behalf of the class will require far more work from counsel in this case than usual. For example, counsel will necessarily need to monitor (or, if necessary), participate in the proceedings of numerous pending governmental investigations. Enron's Chapter 11 reorganization proceedings will require class counsel's participation and involvement in order to protect class members rights during those proceedings. Counsel's participation in the Chapter 11 proceeding is critical because the securities fraud claims of Enron's stockholders and bondholders will likely be last in priority in the bankruptcy

proceeding. In addition to the Securities Action, also pending are various derivative cases, cases on behalf of Enron employees, and various state court cases. Counsel's efforts will also entail coordinating and/or monitoring those actions as well.

Beyond the pending litigations and investigations, the investigation of investors' claims in this action by class counsel is a tremendous undertaking. Enron's business and financial operations are extraordinarily complex involving complicated derivative financial instruments and hedging strategies. Enron had hundreds of subsidiaries and operating companies worldwide. Many of the off-balance sheet transactions which are central issues in this case involve entities separate from Enron, each of which must be investigated to determine its role in the fraudulent conduct. Complex financing transactions involving Enron's banks, credit lines, and investment banking relationships will be examined. Indeed, these events and transactions, involving a multi-billion dollar company, stretch back over three years.

The litigation also will involve the investigation and prosecution of multiple defendants -- individual officers and directors; Enron's auditors; Enron's investment bankers involved in securities offerings; the related parties (limited partnerships) operated by defendant Fastow; other entities involved in off-balance sheet financing transactions; possibly Enron's banks which may have enabled Enron to operate in a fraudulent manner; as well as other potential defendants who are as yet undetermined. Because most of these defendants also are involved in the various investigations and ancillary legal proceedings, counsel's close oversight, if not direct participation, will be required in many of these proceedings.

### CONCLUSION

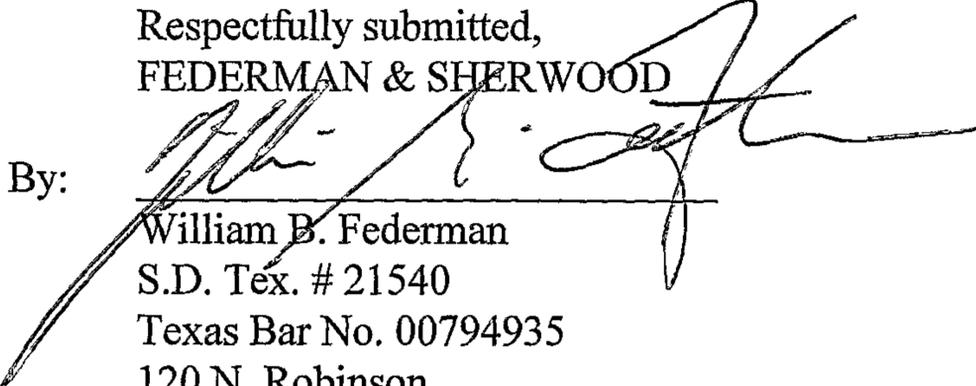
The Davidson Group respectfully submits that the Court adopt a lead plaintiff group including individual investors from the Davidson Group, institutional investors and, if the Court determines necessary, investors in Enron debt securities. The Davidson Group further submits that due to the

magnitude and complexity of the action, that counsel selected by the various lead plaintiffs each be appointed a member of an executive committee representing the class.

Dated: January 21, 2002

Respectfully submitted,  
FEDERMAN & SHERWOOD

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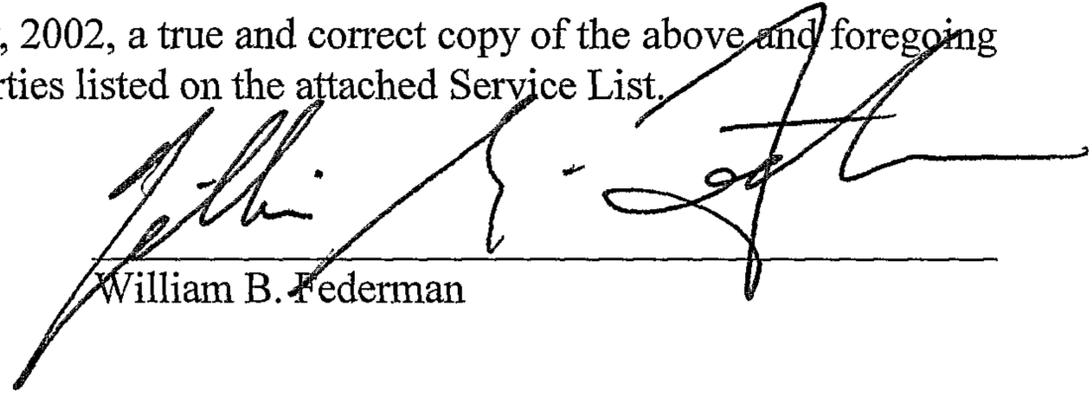
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## Footnotes

1. Counsel is aware that additional Led Plaintiff motions have been filed in at least one other district, the Eastern District of Texas.
2. For the purposes of this response, the Davidson Group includes Enron's preferred stockholders with its debt holders. In fact, the Preferred Stockholder Group itself argues that its investment is in the nature of debt. Memorandum of Law in Support of Motion for Appointment of Separate Lead Plaintiffs for Enron Preferred Shareholders and Approval of the Proposed Lead Plaintiffs' Selection of Counsel at pp. 12-15.
3. Institutional investors have filed lead plaintiff motions on behalf of the following groups of entities: (i) The State Retirement System Group including the Employees Retirement System of Georgia; The Teachers Retirement System of Georgia; Public Employees Retirement System of Ohio, Teachers Retirement System of Ohio and the Washington State Investment Board; (ii) Local 710 Pension Fund; (iii) The Amalgamated Bank Group including the Regents of the University of California, Deutsche Asset Management, HBIC Investments and the Central States Pension Fund; (iv) Private Asset Management; (v) Florida State Board of Administration; and (vi) NYC Funds.  
  
Debt purchasers and preferred stock purchasers have filed motions for separate representation of a class for those securities only. Those plaintiffs are: (i) Pulsifer & Associates; (ii) the Archdiocese of Milwaukee Supporting Fund; (iii) the Preferred Purchaser Lead Plaintiffs; and (iv) JMG/TQA.
4. The Davidson Group respectfully submits that the Lead Plaintiff Group should be comprised of two or three institutional investors, The Davidson Group's two individual investors and, if the Court deems separate representation of debt purchasers is necessary, no more than two purchasers from that group. Thus, the lead plaintiffs groups would have no more than six members, an easily manageable group.
5. The Davidson Group does not mean to suggest that the losses of institutional investors seeking lead plaintiff status are either inconsequential or *de minimus*. There is no question those numbers are large in absolute terms. Rather, the Davidson Group simply asks the Court to look at such large monetary losses in the context they are presented – and compared with the personal stake of individual investors. Nor does the Davidson Group suggest that institutional investors should be excluded from the lead plaintiff group.
6. Similarly, losses for the 400,000 members of the Ohio Teachers Fund approximate \$295 per member.
7. All Exhibits are attached to the Affidavit of William B. Federman dated January 21, 2002.
8. The Court may designate one or more of the Firm's selected as chair or co-chair of any executive committee appointed.

CERTIFICATE OF SERVICE

On this 21<sup>st</sup> day of January, 2002, a true and correct copy of the above and foregoing was served by First Class mail to all parties listed on the attached Service List.



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William B. Federman

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Hill, Parker & Roberson LLP  
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Houston, TX 77007-8292

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White Plains, NY 10601

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Houston, TX 77010

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Graves Dougherty Hearon & Moody  
515 Congress, Suite 2300  
Austin, TX 78767

AFFIDAVIT

STATE OF ILLINOIS )  
 )  
COUNTY OF COOK ) SS:

1. This Affidavit is made by ANTHONY DAVIDSON based upon his personal knowledge, information and belief.

2. I am over the age of twenty-one (21), a resident of the State of Illinois, and am qualified and capable to serve as the Lead or Co-Lead Plaintiff or on a Lead Plaintiff Committee in the Enron Securities Litigation.

3. I am currently employed as a licensed commercial real estate broker and have been employed as such since 1975.

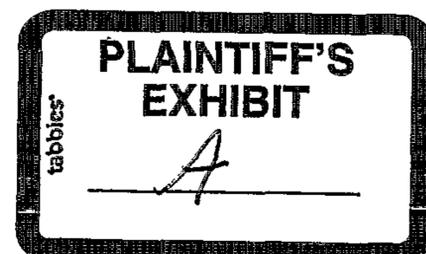
4. From 1963 to 1975, I was a licensed stock broker registered with the NASD for a firm that has subsequently become a part of Shearson American Express, Inc.

5. I lost approximately twenty (20%) of my investment portfolio through my investment in securities of Enron.

6. During the course of my employment as a licensed real estate broker, I routinely receive and process confidential financial information on individuals and companies that are provided to me in the normal course of my business.

7. I understand as a Lead Plaintiff or participant on a Lead Plaintiff Committee I will receive confidential information which I pledge to keep confidential pursuant to any order entered by this Court.

8. I served for twelve (12) years on the Board of Directors of a management company overseeing the operations of two open-end value oriented equity mutual funds, as well as monies for



institutions, pensions and endowment funds.

Further affiant sayeth not.

*Anthony P. Davidson*

ANTHONY DAVIDSON

SUBSCRIBED and SWORN TO before me this 17<sup>th</sup> day of January, 2002.

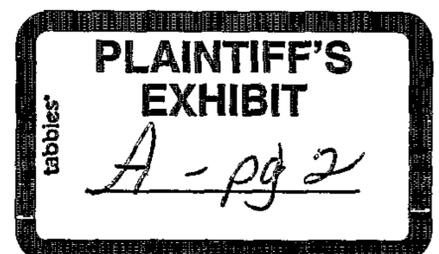
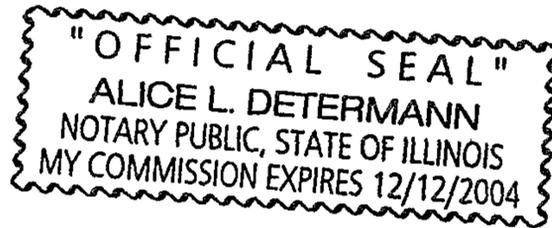
*Alice L. Determann*

NOTARY PUBLIC

My Commission Expires:

12-12-04

I:\Enron\aff.davidson.wpd



**AFFIDAVIT**

STATE OF FLORIDA )  
 )  
COUNTY OF BROWARD ) SS:

1. This Affidavit is made by SEYMOUR NEBEL based upon his personal knowledge, information and belief.

2. I am over the age of twenty-one (21), a resident of the State of Florida, and am qualified and capable to serve as the Lead or Co-Lead Plaintiff or on a Lead Plaintiff Committee in the Enron Securities Litigation.

3. I lost approximately twenty-eight (28%) of my investment portfolio through the loss I suffered in Enron Corp. common stock.

4. I am currently retired and living on a fixed income. My primary employment prior to retirement was as an investigative accountant for the Attorney General for the State of New York.

5. During the course of my employment as an investigative accountant for the Attorney General for the State of New York, I would routinely receive and process confidential financial information on individuals and companies that were provided to me in the normal course of my business.

6. I understand as a Lead Plaintiff or participant on a Lead Plaintiff Committee that I will receive confidential information which I pledge to keep confidential pursuant to any order entered by this Court.

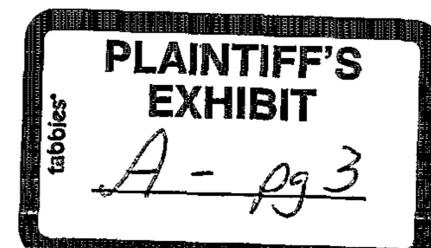
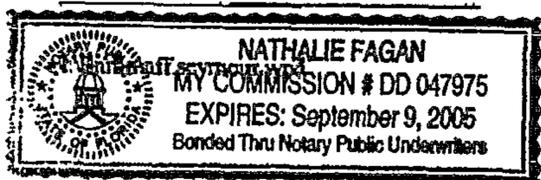
Further affiant sayeth not.

Seymour Nebel  
SEYMOUR NEBEL

SUBSCRIBED and SWORN TO before me this 16 day of January, 2002.

Nathalie Fagan  
NOTARY PUBLIC

My Commission Expires:



[ [Stock Screener](#) | [Company & Fund Index](#) | [Financial Glossary](#) ]

Enter symbol:  symbol lookup

More Info: [Quote](#) | [Chart](#) | [News](#) | [Profile](#) | [Research](#) | [SEC](#) | [Msgs](#) | [Insider](#) | [Options](#) | [Financials](#) | [Reports](#)

**Recent Events**

Sep 27 Price hit new 52-week low (\$24.46)  
 Oct 16 Earnings Announcement

**Upcoming Events**

Dec 20 Dividend payment of \$0.125

**Location**

Enron Building, 1400 Smith Street  
 Houston, TX 77002  
 Phone: (713) 853-6161  
 Fax: (713) 853-3129  
 Email: [investor-relations@enron.com](mailto:investor-relations@enron.com)  
 Employees (last reported count): 20,600

**Financial Links**

- [Top Institutional Holders](#)
- [Top Mutual Fund Holders](#)
- [Analyst Upgrade/Downgrade](#)

**History**

- [Historical Quote Data](#)
- [Raw SEC Filings at sec.gov](#)

**Competitors:**

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- [Industry: Natural Gas Utilities](#)

**Company Websites**

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- [Investor Relations](#)
- [Employment](#)
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**Ownership**

- **Insider and 5%+ Owners: 12%**
- **Over the last 6 months:**
  - one [insider buy](#); 10.0K shares
  - 28 [insider sells](#); 2.04M shares (2.2% of insider shares)
- **Institutional: 65% (73% of float)** (1,882 institutions)

**Business Summary**

Enron Corp. provides products and services related to natural gas, electricity and communications to wholesale and retail customers. Enron's operations are conducted through its subsidiaries and affiliates, which are principally engaged in: the transportation of natural gas through pipelines to markets throughout the United States; the generation, transmission and distribution of electricity to markets in the northwestern United States; the marketing of natural gas, electricity and other commodities and related risk management and finance services worldwide; the development, construction and operation of power plants, pipelines and other energy related assets worldwide; the delivery and management of energy commodities and capabilities to end-use retail customers in the industrial and commercial business sectors; and the development of an intelligent network platform to provide bandwidth management services and the delivery of high bandwidth communication applications.

More from Market Guide: [Expanded Business Description](#)

**Financial Summary**

ENE makes markets in electricity and natural gas, delivers energy and other physical commodities, and provides financial and risk management services. For the nine months ended 9/30/01, revenues rose from \$60.04 billion to \$139.69 billion. Net income applicable to Common before acct. changes fell 85% to \$131 million. Revenues reflect growth in the wholesale and retail energy businesses and the natural gas pipelines. Net income was offset by \$1.01 billion in non-recurring charges.

**Recent Earnings Announcement**

For the 3 months ended 09/30/2001, revenues were 47,613,000; after tax earnings were -618,000. (Preliminary; reported in thousands of dollars.)

More from Market Guide: [Significant Developments](#)

ADVERTISEMENT



PLAINTIFF'S EXHIBIT  
 B - pg 1

(1,882 institutions)  
 Net Inst. Selling: 7.76M shares  
 (+1.63%)  
 (prior quarter to latest quarter)

**More From Market Guide**

- [Highlights](#)
- [Performance](#)
- [Ratio Comparisons](#)

**Officers**

**Kenneth Lay, 58**  
 Chairman, CEO  
**Greg Whalley, 39**  
 Pres, COO  
**Mark Frevert, 46**  
 Vice Chairman  
**Andrew Fastow, 39**  
 CFO, Exec. VP  
**Mark Frevert, 46**  
 Chairman and CEO, Enron Wholesale Services

**Insider Trade Data**

**FY2000 Compensation**

Pay Exer

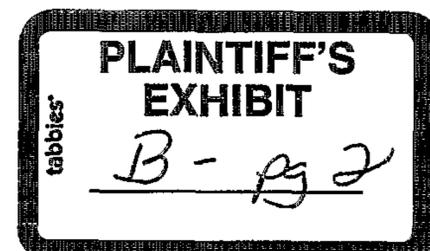
	Pay	Exer
Kenneth Lay	\$12.0M	\$123M
Greg Whalley	--	--
Mark Frevert	--	--
Andrew Fastow	--	--
Mark Frevert	7.1M	29M

Dollar amounts are as of 31-Dec-2000 and compensation values are for the fiscal year ending on that date; "Pay" is salary, bonuses, etc.; "Exer" is the value of options exercised during the fiscal year.

*More from Market Guide on Officers & Directors:  
 Expanded List, Bios, Compensation, Options*

**Statistics at a Glance - NYSE:ENE** As of 10-Sep-2001

Price and Volume		Per-Share Data		Management Effectiveness	
52-Week Low on 27-Sep-2001	\$24.46	Book Value (mrq*)	\$14.17	Return on Assets (ttm)	0.41%
Recent Price	\$29.00	Earnings (ttm)	\$0.13	Return on Equity (ttm)	1.82%
52-Week High on 29-Dec-2000	\$84.875	Earnings (mrq)	-\$0.84	<b>Financial Strength</b>	
Beta	0.96	Sales (ttm)	\$227.67	Current Ratio (mrq*)	1.08
Daily Volume (3-month avg)	5.41M	Cash (mrq*)	\$1.13	Debt/Equity (mrq*)	1.09
Daily Volume (10-day avg)	5.59M	<b>Valuation Ratios</b>		Total Cash (mrq)	\$0
<b>Stock Performance</b>		Price/Book (mrq*)	2.05	<b>Short Interest</b>	
<p>ENE 18-Oct-2001 (C) Yahoo!</p> <p>Jan Mar May Jul Sep</p> <p>big chart [1d   5d   3m   6m   1y   2y   5y   max]</p>		Price/Earnings (ttm)	219.70	As of 10-Sep-2001	
52-Week Change -63.3%		Price/Sales (ttm)	0.13	Shares Short	13.8M
52-Week Change relative to S&P500 -52.3%		<b>Income Statements</b>		Percent of Float	2.1%
<b>Share-Related Items</b>		Sales (ttm)	\$188.6B	Shares Short (Prior Month)	13.4M
Market Capitalization	\$21.7B	EBITDA (ttm*)	\$3.42B	Short Ratio	1.97
Shares Outstanding	749.9M	Income available to common (ttm)	\$190.0M	Daily Volume	7.00M
Float	659.9M	<b>Profitability</b>			
<b>Dividends &amp; Splits</b>		Profit Margin (ttm)	0.1%		
Annual Dividend (indicated)	\$0.50	Operating Margin (ttm)	1.5%		
		<b>Fiscal Year</b>			
		Fiscal Year Ends	Dec 31		
		Most recent quarter (fully updated)	30-June-2001		
		Most recent quarter (flash earnings)	30-Sep-2001		



Dividend (indicated)	
Dividend Yield	1.72%
Last Split: factor 2 on 16-Aug-1999	
<i>See Profile Help for a description of each item above; K = thousands; M = millions; B = billions;  mrq = most-recent quarter; ttm = trailing twelve months; (as of 30-Sep-2001, except mrq*/ttm* items as of 30-June-2001)</i>	

Market Guide offers more in-depth Company Research, Stock Screening, and Hottest Stocks and Industries on over 10,000 U.S. Equities.

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PLAINTIFF'S  
EXHIBIT  
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# How Wall Street Greased Enron's Money

## The Financial Firms' Many Well-Paid Roles Raised Many Conflicts

### DEALS & DEAL MAKERS

In March 1995, Enron Corp. executive Andrew Fastow approached Philip Pool, a banker at Donaldson, Lusk & Jenrette Inc. with a tantalizing offer.

As an official of a prized DLJ corporate client, Mr. Fastow wanted DLJ's help to raise money for a partnership the Houston energy company was putting together. The partnership, Mr. Fastow said, would help Enron by buying assets from the company and keeping debt off its balance sheet. Too much balance-sheet debt would lower Enron's credit rating and hinder growth.

But the proposal had an unusual feature. While remaining an Enron official, Mr. Fastow would head the independent partnership, which would have outside in-

*By Wall Street Journal staff reporters John R. Emshwiller, Anita Raghavan and Jason Sapsford.*

vestors and do business with Enron. DLJ said no. "There are too many conflicts here," Mr. Pool told Mr. Fastow, according to people familiar with the conversation.

A spokesman for Mr. Fastow confirmed that the 1995 meeting took place. But he said that by 1999 DLJ was expressing interest in doing private placement work for a similar partnership, known as LJM2 Co-Investment LP, which would eventually do hundreds of millions of dollars of business with Enron. Mr. Fastow, who by 1999 was Enron's chief financial officer, ran LJM2 and was a part owner until he severed ties with it last summer.

Mr. Pool, who is no longer with DLJ, says he talked with Enron in 1999 but says the private fund group that he co-headed decided that the conflict-of-interest concern was still too great. A spokesman for Credit Suisse First Boston, which acquired DLJ in 2000, declined to comment.

In the end, Merrill Lynch & Co., the nation's largest securities firm, took on the task of helping to market LJM2. Merrill committed \$22 million from the firm and its officials to the partnership as part of helping to raise nearly \$400 million from more than three dozen institutional and individual investors, according to partnership records.

A gaggle of other financial firms joined Merrill in investing in LJM2, apparently in hopes of further cultivating ties with Enron, which at the time was one of Wall Street's hottest clients. J.P. Morgan Chase, Citigroup Inc., Credit Suisse First Boston, Wachovia Corp. and others poured between \$10 million and \$25 million into the Enron partnership. A DLJ-related limited partnership even kicked in \$5 million.

A Merrill spokesman says "we believe that our relatively limited dealings with Enron and our involvement with LJM2 were entirely proper. We believe the poten-

### Doing Deals With Enron

Some of the investment banks that were underwriters, agents and/or advisers for Enron, 1999-2001

INVESTMENT BANK	STOCKS & CONVERTIBLES	DEBT	SYNDICATED LOANS	MERGERS & ACQUISITIONS
Citibank/Salomon Smith Barney	✓		✓	✓
J.P. Morgan Chase			✓	✓
Credit Suisse First Boston	✓	✓	✓	✓
Bank of America Securities			✓	
Deutsche Bank			✓	
Merrill Lynch & Co.				✓
Goldman Sachs Group	✓			✓
Bank of America Securities				✓
Lehman Brothers		✓		✓

Source: Thomson Financial

tial conflicts involved in LJM2 were fully disclosed to partnership investors."

Representatives for J.P. Morgan, Citigroup and Wachovia declined to comment on the investments.

The upshot: Some of the world's leading banks and brokerage firms provided Enron with crucial help in creating the intricate—and, in crucial ways, misleading—financial structure that fueled the energy trader's impressive rise but ultimately led to its spectacular downfall. Indeed, without the financial grease from Wall Street, Enron wouldn't have grown into the nation's biggest energy trader and seventh-biggest company. In return, Wall Street firms earned hundreds of millions of dollars in fees—\$214 million in underwriting alone, and much more in lending, derivatives trading and merger advice.

Now the banks are scrambling to re-

cover what they can in the wake of Enron's bankruptcy filing, the largest in U.S. history, last month. The debts include \$4 billion in loans and billions of dollars more in other obligations owed to banks, which could erase at least some of the considerable profits financial institutions made in financing Enron on the way up. When all is said and done, the question that ultimately will be raised is: Did the banks lower their lending standards to get all the other business from Enron? The banks vehemently say no.

"Enron was a cash cow for the banks," says Frank Partnoy, a former Morgan Stanley derivatives salesman who wrote a book on Wall Street's high-pressure sales tactics. "You can't do sophisticated limited partnerships and credit derivatives without the participation of the major banks."

Mr. Partnoy, now a professor at the University of San Diego, says his role of banks in "casino claiming roller playing on market. It's difficult the banks trying Enron, given the the game and the the Enron partner

Enron's demise dozens of share involvement—and banks and Wall Street possibility that they litigation maelstrom

Wall Street's throws the spotlight press-era legislation Steagall Act. The rate the business ing, largely because of the financial turmoil of 1992 followed, on speculation by the nation's banks posed to be the g

Bankers lobbied Steagall's repeal financial super and J.P. Morgan can offer credit mutual funds. O can lend and also filling out lucrative service ment banks, savings or mergers

Enron's decline faceted institution sides of big dealing with potent many hats worn Enron's main le  
*Please Turn*

PLAINTIFF'S EXHIBIT  
C - pg 1

# Wall Street Greased Enron's Money Engine

## Firms' Aid Roles Conflicts

### ERS

Corp. executive Philip Pool, a former Enron official, said, would help the company finance sheet. Too would lower Enron's growth. an unusual feature Enron official, the independent have outside in-

staff reporters Rita Rajhavan

with Enron. DLJ many conflicts astow, according to conversation. astow confirmed the place. But he expressing inter-ent work for a n as LJM2 Co-In-ld eventually do llars of business who by 1999 was fficer, ran LJM2 l he severed ties

ger with DLJ, a 1999 but says he co-headed f-interest con-spokesman for m, which ac-d to comment. & CO., the na-n, took on the 12. Merrill com-rm and its offi-rt of helping to om more than t individual in-rship records. al firms joined, apparently in ties with En-one of Wall J.P. Morgan it Suisse First others poured 5 million into LJM-related lim-1 in \$5 million. /s "we believe dealings with it with LJM2 leve the poten-

## Doing Deals With Enron

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J.P. Morgan Chase			✓	✓
Credit Suisse First Boston	✓	✓	✓	✓
BNP Paribas		✓	✓	
Deutsche Bank			✓	
Merrill Lynch & Co.				✓
Goldman Sachs Group	✓			✓
Bank of America Securities		✓		✓
Lehman Brothers		✓		✓

Source: Thomson Financial

tial conflicts involved in LJM2 were fully disclosed to partnership investors."

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"Enron was a cash cow for the banks," says Frank Partnoy, a former Morgan Stanley derivatives salesman who wrote a book on Wall Street's high-pressure sales tactics. "You can't do sophisticated limited partnerships and credit derivatives without the participation of the major banks."

Mr. Partnoy, now a professor at the University of San Diego School of Law, likens the role of banks in the Enron debacle to a "casino claiming hardship when a high roller playing on credit can't pay his marker. It's difficult to feel too sorry for the banks trying to recover debts owed by Enron, given that the same banks set up the game and were intimately involved in the Enron partnerships."

Enron's demise already has produced dozens of shareholder lawsuits. The deep involvement—and deep pockets—of big banks and Wall Street firms raises the possibility that they will get sucked into the litigation maelstrom.

Wall Street's role in the Enron saga throws the spotlight on the 1999 repeal of Depression-era legislation called the Glass-Steagall Act. The law was meant to separate the business of lending from underwriting, largely because many blamed the financial turmoil of 1929, and the depression that followed, on speculation in the stock market by the nation's banks, which also are supposed to be the guardians of deposits.

Bankers lobbied successfully for Glass-Steagall's repeal in hopes of creating huge financial supermarkets such as Citigroup and J.P. Morgan. These institutions now can offer credit cards and loans alongside mutual funds. On the corporate side, they can lend and arrange credit lines while also filling out such financings with other lucrative services once limited to investment banks, such as stock or bond offerings or mergers advisory.

Enron's decline shows how these multifaceted institutions are often on many sides of big deals in arrangements bristling with potential conflicts. Consider the many hats worn by J.P. Morgan as one of Enron's main lenders. (J.P. Morgan says *Please Turn to Page C12, Column 5*)

PLAINTIFF'S EXHIBIT

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tabbles

*Continued From Page C1*

its lending exposure to Enron is more than \$2.6 billion.) It has arranged billions of dollars in loans to Enron, keeping chunks of that financing on its own books. It also has underwritten bonds for Enron.

Less visible are other roles. J.P. Morgan trades currencies, bonds and derivative contracts, both with Enron and with other institutions that trade the debts and obligations issued by Enron. It has a research analyst covering Enron who until last fall had recommended investors buy Enron stock. J.P. Morgan also sold Enron credit derivatives, among other things, even as its asset-management arm managed a stock fund for the Employee Retirement System of Texas that held Enron stock. (The Enron stock was liquidated from the portfolio at the end of November, a spokeswoman for the Texas system says—more than a month after Enron's troubles were well known.)

A spokeswoman at J.P. Morgan says the asset-management arm is likely to join some of the shareholder suits against Enron even though teams from other areas of the bank were advising Enron on the same decisions that are now being called into question by lawsuits.

J.P. Morgan officials say they have strict "Chinese walls" separating these businesses to keep conflicts from compromising the bank's activities. But "it's very difficult to keep the Chinese walls in place," says David Hendler, an analyst at CreditSights, a debt market research firm.

J.P. Morgan says its many ties to Enron reflect diversification into a slew of different business lines that insulate it from the risks of lending. Such diversification reduces risk to the financial system as a whole, the bank argues, a view shared by the many big institutions with ties to Enron. And Enron's failure has yet to show any sign of bringing down a major financial institution.

Meanwhile, J.P. Morgan already is suing one of Enron's other big lenders, Citigroup, in New York federal court. The suit alleges that a group of insurers, including a Citigroup unit, are improperly refusing to pay about \$1 billion on surety-bond policies for Enron-related oil and natural gas delivery contracts.

In court papers, St. Paul Fire & Marine Insurance Co., says it can't find evidence of actual oil and gas deliveries and contends the entire arrangement was designed to obtain guarantees for J.P. Morgan on loans to Enron "in the guise" of insuring product-supply contracts. J.P. Morgan denies that allegation. Citigroup declines to comment, citing pending litigation.

It wasn't long ago that Enron was among the ripest of Wall Street's plum clients. It had a voracious appetite for capital and was constantly pioneering new businesses trading everything from electricity futures to hedges against bad weather. Its online trading operation, called EnronOnline, handled nearly \$1 trillion in transactions in the two years following its November 1999 opening.

Enron expected lots of help from Wall Street as it hacked out new trails in the wilderness of commerce. None of its ex-

placed as chief financial officer last October as controversy around him mounted—made more than \$30 million since 1999 running LJM2 and a smaller partnership, called LJM Cayman LP.

Not all prospective investors were immediately dazzled by the ample returns being dangled by those pitching the LJM2 partnership. Miami-area businessman Eugene Conese recalls that when his Merrill broker first described the LJM2 partnership, "I said I thought there was a conflict of interest ... that it didn't seem proper."

After repeated assurances from Merrill and Enron officials that everything was proper, Mr. Conese relented. He committed \$3 million personally and through a family partnership, LJM2 records show. Last year, after the surprise resignation in August of Enron President and Chief Executive Jeffrey Skilling, Mr. Conese tried to sell back his partnership interest and contacted LJM2, then being run by a former Enron executive and Fastow associate named Michael Kopper. LJM2 never acted on the request, says Mr. Conese. Recently, Mr. Conese and other limited partners hired a lawyer to explore their legal options in the face of a request by LJM2 management to put more money into the partnership.

Mr. Kopper has in the past declined to be interviewed. A call to LJM2's Houston office across the street from Enron headquarters was answered by a recording that said, "You've reached a nonworking number at Enron."

## Lazard's Wasserstein Lures Tashjian Back To Capital Markets

*By a WALL STREET JOURNAL Staff Reporter*

NEW YORK—Lazard LLC, continuing its expansion under deal maker Bruce Wasserstein, rehired top banker David Tashjian to build the firm's U.S. capital-markets group.

The move, expected to be announced today, is the latest effort by Mr. Wasserstein to restore Lazard's luster on Wall Street and create a diversified financial firm. Since taking over as head of Lazard this month, Mr. Wasserstein has spent millions of dollars to hire new bankers and expand the firm's business groups.

By hiring back Mr. Tashjian, Mr. Wasserstein is betting on Lazard's comeback in capital markets, the highly competitive business of buying and selling securities. While Lazard is known primarily as a merger advisory shop, its capital-markets group has long been one of its more profitable businesses.

The move signals a sudden about-face for the firm. Mr. Tashjian, 46 years old, resigned in November over a dispute with William Loomis, the company's chief executive at the time. Mr. Tashjian was seeking to expand the group, while Mr. Loomis wanted to shut it down to refocus Lazard's business. Both executives resigned, although Mr. Tashjian remained at the firm because his resignation didn't take effect until January.

Mr. Wasserstein, who joined Lazard af-

PLAINTIFF'S EXHIBIT  
C - pg 3

t  
truthout

# truthout • issues

Published Thursday, January 17, 2002  
Florida's Last-Minute Enron Stock Buys Probed  
BY JOHN DORSCHNER | Miami Herald

f  
forum

In the tangled web of suspicions resulting from the collapse of Enron, Florida officials are trying to determine whether an investment firm with links to Enron acted improperly when it made ill-timed purchases in the energy company's stock that resulted in a \$306 million loss for the state pension fund.

i  
invest

The concerns focus on Alliance Capital Management, a major New York financial firm. One of its executives was Frank Savage, who was also a board member of Enron and a major contributor to political campaigns. Altogether, Alliance bought 7.6 million Enron shares for the Florida fund, including 2.7 million shares after Oct. 22, when it was announced that the U.S. Securities and Exchange Commission was investigating the Houston company. Alliance paid from \$82 to \$9 for the shares. It sold all 7.6 million for 28 cents a share on Nov. 30, two days before Enron declared bankruptcy.

d  
denial

"We've been investigating," said Coleman Stipanovich, deputy executive director of the Florida State Board of Administration, which oversees the \$96 billion pension fund.

e  
evidence

"If Alliance did anything improper or was unduly influenced by Savage, we could sue Alliance, but we have made no decision on that." The staff of the state board terminated Alliance in early December. "It was a general performance issue. Enron was the straw that broke the camel's back," Stipanovich says. "Over the past several years, their performance had fallen off, and they had been on an informal watch list since mid-summer." DENIALS

Alliance has repeatedly denied any wrongdoing. Savage did not return two phone calls seeking a response.

L  
loss

Whatever the underlying motivation, Alliance's purchases of Enron was clearly a bad investment for the Florida Retirement System, which serves 650,000 employees, including public school teachers and county employees.

C  
cost

In November 2000, Alliance Capital started its string of purchases by paying \$78 a share. As the stock value sank, Alliance's purchases increased. Altogether, it bought 4.9 million shares since August, when Enron Chief Executive Jeffrey Skilling abruptly resigned. It kept buying after Oct. 17, when the company revealed that its assets were overstated by at least \$1 billion and that it had set up obscure partnerships with its own executives.

On Oct. 22, the day that it was announced that the U.S. Securities and Exchange Commission would investigate Enron, Alliance purchased 311,000 shares at \$22.82. On Oct. 24, the day that Enron's chief financial officer, Andrew Fastow, beneficiary of several partnerships, was fired, Alliance bought 302,500 shares at \$16.30. MORE SHARES

After that, as the bad news mounted, Alliance bought two million more shares for the Florida pension fund. Its last purchase was Nov. 16, two weeks

<http://www.truthout.com/01.19C.Enron.Florida.htm>

1/20/2002



before Enron filed for bankruptcy. Alliance was also buying Enron for other major clients. At one point, it had purchased more than 40 million shares.

Stipanovich says that near the end of this odyssey state officials learned that an Alliance executive was on Enron's board. In early December, Alfred Harrison, vice chairman of the 4,440-employee Alliance, flew to Tallahassee to meet with the upset staff of the state board. "We wanted to give Al a chance to talk about his performance and Enron," says Stipanovich.

In a meeting that lasted well over an hour, Harrison said that Savage had no influence in purchasing the Enron stock, which was done for purely financial reasons.

On Dec. 5, Harrison wrote a letter to the Florida board, saying Alliance considered Enron a good investment because it held a "dominant [45 percent] position in the newly deregulated area of the wholesale gas and electricity trading market."

Harrison pointed out that many stock analysts continued to recommend Enron well into October, when the company's problems began erupting in public.

#### FREQUENT VISITS

Enron representatives came to Alliance offices to promote the stock about 10 times in the past year, Harrison wrote. Enron never mentioned that it was using its officers' partnerships to keep billions of debt off its financial books.

"Analysts and portfolio managers must make the assumption that audited financial statements are not deficient through the nondisclosure of pertinent off balance sheet items and the details of private partnerships," Harrison wrote. Harrison added that Alliance remained enthusiastic even in November, because Dynegy, another Texas energy company, had offered to buy Enron.

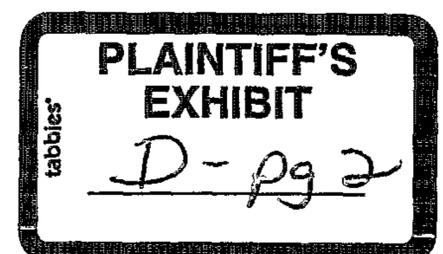
Savage was not mentioned in the two-page letter. A spokesman for Alliance Capital says the company can no longer speak on the record about its Enron dealings because several lawsuits have been filed against the company concerning the Savage connection. But in the past, Alliance has said that Savage was chairman of its international division, serving clients in the Middle East and Africa, and had no role in stock purchases.

#### LEFT THE COMPANY

Alliance has said that Savage left Alliance in early August — before it started its rapid purchase of 4.9 million shares of Enron. Savage, 62, now operates his own investment company, Savage Holdings, in New York. He has also served on the boards of Lockheed Martin, Qualcomm and Bloomberg LP. He is a trustee at Howard and Johns Hopkins universities.

Savage has long been a major contributor to Democratic candidates. During his three years on the Enron board, Savage has given at least \$125,000 to politicians and the Democratic Party, according to the records of the Center for Responsive Politics, a nonpartisan watchdog group in Washington.

Critics have pointed out that Enron's board was loaded with politically connected persons. Just for the 2000 election, Enron and its executives contributed \$2.4 million to candidates and parties nationwide. In recent years,



Florida politicians have received \$200,000 from Enron. The company gave Gov. Jeb Bush at least \$5,000 for his 1998 gubernatorial campaign.

**GOVERNOR'S ROLE**

Bush is one of three members on the board of trustees that oversees the state pension fund, but Stipanovich says the governor was never involved in the selection of Alliance, the purchase of Enron stock or the decision to terminate its contract.

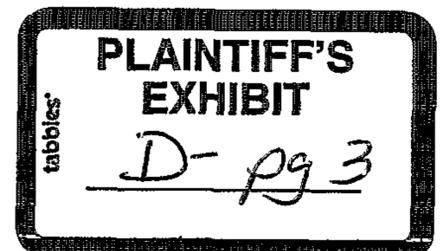
Elizabeth Hirst, spokeswoman for the governor, said "there is no linkage" between Bush and Alliance's purchase of the stock. Stipanovich emphasized that the \$300 million lost in the Enron investment accounted for less than 1 percent of the state's \$96 billion pension fund. No one receiving a pension will be affected because the fund provides defined benefits, guaranteed by the state. Alliance was one of 70 money managers the state uses for the fund.

*(In accordance with Title 17 U.S.C. Section 107, this material is distributed without profit to those who have expressed a prior interest in receiving the included information for research and educational purposes.)*

**Print**

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EAST COAST CONFERENCE

# pension funds

## US PENSION FUNDS

### Public Employees Retirement System of Ohio

	(\$ millions)
Total assets	58,707
Defined benefit	58,707
Employer contributions	1,284
Benefit payments	2,144
Asset mix:	
Domestic stocks	38.9%
Domestic fixed income	31.7%
Foreign stocks	19.8%
Cash equivalents	1.8%
Private equity	0.2%
Real estate equity	6.3%
Mortgages	1.3%
Internally managed assets	42,539

COLUMBUS, Ohio — As of Sept. 30, the Public Employees Retirement System of Ohio's total employee benefit assets, all defined benefit, increased 11% from a year earlier.

Employer contributions to the DEFINED BENEFIT PLAN increased 1.4%; benefits paid increased 16%.

During the past year, a law requiring the system to establish a DEFINED CONTRIBUTION PLAN was signed by Gov. Bob Taft. Such a plan for employees with fewer than five years of service is being designed and researched, and it is expected to be open by mid-2002.

The plan also boosted its venture capital portfolio to \$99 million from \$55 million, and increased its domestic and international equity portfolios to 39% and 19.8%, respectively, from 35.8% and 17%. Its domestic fixed-income portfolio was reduced to 31.7% from 36.5%.

Defined benefit managers:

International equities: AIG Global; Bank of Ireland; BGI; Baring; Brandes; Capital Guardian; Lazard; Marvin & Palmer; J.P. Morgan; Xylem; Driehaus; Nicholas-Applegate; Oechsle; Scudder Kemper; TT International.

Real estate: AFL-CIO Housing Investment Trust; Bristol Group; Faison; Great Point; Huntoon; Legg Mason; Liberty Lending; Lowe Enterprises; Rothschild; Sentinel; IGM.

Key personnel overseeing the investment management of the fund are

<http://www.pionline.com/pension/2001funds/PublicEmployeesRetirementOH.html>

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tabbles  
**PLAINTIFF'S  
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Herbert L. Dyer, executive director; Stephen A. Mitchell, deputy executive director, investments; and John K. Imboden and Betsy L. Lynch, assistant directors, investments.

[NEW SEARCH](#)

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<http://www.pionline.com/pension/2001funds/StateTeachersRetirementSys.html>

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EXHIBIT**  
E - pg 2

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# TEACHERS RETIREMENT SYSTEM OF GEORGIA

## COMPREHENSIVE ANNUAL FINANCIAL REPORT

A Component Unit of the State of Georgia

Fiscal Year Ended June 30, 2001



Jeffrey L. Ezell  
Executive Director

Teachers Retirement System of Georgia  
Two Northside 75, Suite 400  
Atlanta, Georgia 30318  
(404) 352-6500  
(800) 352-0650 (Within Georgia)  
[www.trsga.com](http://www.trsga.com)

PLAINTIFF'S  
EXHIBIT

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INTRODUCTORY SECTION

ADMINISTRATIVE STAFF AND ORGANIZATION



Jeffrey L. Ezell  
Executive Director



Stephen J. Boyers  
Controller  
Financial Services  
Division



Charles W. Cary, Jr.  
Director  
Investment Services  
Division



Susan E. Garrett  
Manager  
Member Services  
Division



M. Cathy Hart  
Manager  
Counseling  
Division



J. Gregory McQueen  
Director  
Information Technology  
Division

**Consulting Services**

Actuary  
Buck Consultants, Inc.

Auditor  
Deloitte & Touche LLP

Medical Advisors  
Gordon J. Azar, M.D.  
Atlanta, Georgia  
Arthur S. Booth, Jr.  
Atlanta, Georgia  
Joseph W. Stubbs, M.D.  
Albany, Georgia

**Investment Advisors**

Albritton Capital Management  
Atlanta Capital Management  
Banc of America Capital Management  
Diaz-Verson Capital Investments  
INVESCO Capital Management  
Montag & Caldwell  
Earnest Partners  
NCM Capital Management Group  
Synovus Trust

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# When Rules Keep Debt Off the I

## Enron Crisis Puts Spotlight On the FASB

About 20 years ago, the group that sets U.S. accounting rules began debating a critical issue: When should a company be allowed to keep debt it owed off its books? The group still hasn't decided, in large part because of objections by companies

By Wall Street Journal staff reporters Steve Liesman, Jonathan Weil and Scot Patrow in New York.

that would have to disclose that they owed more money than they were reporting to their shareholders.

Among those opponents were none other than Enron Corp., whose billions of dollars in debt hidden in related partnerships was a major cause of the company's downfall. In a 1996 letter to the Financial Accounting Standards Board, the body that sets the rules, Enron's chief accounting officer at the time stated, "The current rules governing ... are adequate." It warned, in a separate letter, that its stock price could be hurt by a rule change. Arthur Andersen LLP, Enron's auditor, which is facing questions about its work, also objected to the proposed rule change.

Critics say the FASB's failure to address, after two decades of debate, the off-balance-sheet debt question highlights what is wrong with the group, the private-sector standards-setter that governs generally accepted accounting principles (GAAP). Rather than being part of the solution, these people say, the FASB all too often is part of the problem, allowing corporations and their auditors to dominate the rule-making, often at the expense of clearer financial reporting that would help investors.

"Every time FASB proposes something controversial, corporate America and its allies invoke portents of doom as to why we shouldn't have honest accounting treatment for whatever it is that's being proposed," says James Chanos, president of Kynikos Associates, an investment company that sells short companies' stocks, betting they will fail, often looking for companies with questionable accounting.

Even others in the accounting industry say FASB should move faster and be more aggressive in tightening accounting loopholes, especially in light of a growing number of scandals. "Their processes need to change and probably some of the leaders need to change also," says Philip Livingston, president of Financial Executives International, an industry group.

In response, the FASB says it is dealing with complex issues that don't often lend themselves to simple one-size-fits-all answers. FASB Chairman Edmund L. Jenkins, who is retiring later this year, defends FASB's record, saying that due pro-

## Unraveling Andersen's Involvement

Some of the events that came to light recently involving Enron auditor Arthur Andersen

Feb. 6, 2001: Arthur Andersen officials discuss Enron's aggressive accounting practices and potential conflicts of interest at a meeting called to decide whether to retain the energy-trading company as a client. An internal memo, drafted Feb. 6, recounts the executives' discussion of many of the alleged problems that have become the focus of investigations into Enron's collapse. The memo was addressed to two Andersen officials, including David Duncan, who headed the Enron account.



Sherron Watkins

writes anonymously to Chairman and CEO Kenneth Lay with concerns about potential conflicts of interest and accounting practices.

Aug. 20, 2001: Date of, according to a second memo by another Andersen executive, a phone conversation between Watkins and an Andersen employee, who relays the issues to senior Andersen management, including lead auditor David Duncan.

Fall 2001: Vinson and Elkins, Andersen's law firm, conducts a preliminary investigation into Watkins' charges.

"Based on the findings and conclusions set forth with respect to each of the four areas of primary concern discussed above, the facts disclosed Source: The Wall Street Journal Online

"Ultimately, the conclusion was reached to retain Enron as a client [because] it appeared that we had the appropriate people and processes in place to serve Enron and manage our engagement risks."

August 2001: Enron Vice President Sherron Watkins, a former Andersen employee,

through our preliminary investigation do not, in our judgment, warrant a further widespread investigation by independent counsel and auditors."

Oct. 12, 2001: E-mail by in-house Andersen lawyer Nancy Temple reminds risk-management partner Michael Odom of document-and-retention policy. Temple later tells Andersen that she intended to refer only to work in progress.

Dec. 2, 2001: Enron, of Houston, files for bankruptcy-court protection under Chapter 11 of the U.S. Bankruptcy Code. Investigators focus on Andersen's role.

Jan. 10, 2002: Andersen reveals to investigators that "a significant but undetermined number" of documents relating to the Enron audit had been destroyed in recent months.

Jan. 15, 2002: Andersen fires David Duncan, saying that he led "an expedited effort to destroy documents" after he learned "that Enron had received a request for information from the SEC about its financial accounting and reporting."

Jan. 16, 2002: Mr. Duncan is questioned by the House Energy and Commerce Committee and the Justice Department, mostly about the February 2001 memo. Mr. Duncan told the investigators he called the meeting because he was aware the Enron account posed "significant risk," according to one person present during the questioning.



David Duncan

## Sluggest Is Seen Among Creditors Fighting for Slice of Enron Assets

There could be a lot less money available to Enron Corp. creditors than they had originally hoped.

As thousands of Enron creditors began jousting in earnest for a piece of the en-

By Wall Street Journal staff reporters Mitchell Pacelle, Henny Sender and Rebecca Smith.

ergy company's assets, those owed money—totaling billions of dollars—increasingly are concerned about the size of the recovery.

When Enron and some of its units filed for bankruptcy-court protection on Dec. 2, they listed assets totaling about \$50 billion and debts of \$12.7 billion.

Now, Enron's creditors are expected to fight aggressively for their piece of the shrinking pie.

"There's going to be a huge grab for this cash," predicted George Hickox, chief executive officer of Wiser Oil Co., which is owed about \$7 million on energy forward contracts with Enron's trading operation. "This case is going to dissolve into liquidation and litigation," he said.

It is too early to predict whether Enron will be able to execute successfully its plan to reorganize as a smaller entity under Chapter 11 of the federal Bankruptcy Code, or will have to resort to a liquidation. Yet the company already has faced setbacks: Enron's advisers failed to per-

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Journal

# LOWEY & INVERSTING

Commodities: Crude-oil futures fall below \$18 a barrel again Page C13.  
Bids & Offers: A \$63,100 stock and the Enron paper hunt Page C16.

## When Rules Keep Debt Off the Books

### Enron Crisis Puts Spotlight On the FASB

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Enron had received a request for information from the SEC about its financial



### Did Andersen Act Properly? Firm Is Fired

By KEN BROWN AND HENRY SENDEK Staff Reporters of The Wall Street Journal

As details of the Enron Corp. investigation pour out of Congress, it is becoming clearer what its auditor, Arthur Andersen, knew about the energy-trading firm's most-questionable practices and when it knew it.

The questions now hanging are these: What did Arthur Andersen do with its knowledge? And what should it have done? Based on disclosures so far, some accounting specialists and corporate-governance specialists say it appears that Arthur Andersen should have done more—but that it didn't is entirely typical.

Accounting for Enron Why are accounting firms often reluctant to make waves, and is self-regulation possible? More Enron coverage on page C18.

PLAINTIFF'S EXHIBIT G-92

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Zwerling, Schachter & Zwerling

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# Report of Independent Accountants

To The Regents of the University of California:

In our opinion, the accompanying balance sheet by fund group as of June 30, 2001 and the related statements of changes in funds balances (including Retirement System funds) and current funds revenues, expenditures and other changes for the year then ended, present fairly, in all material respects, the financial position of the University of California (the University) at June 30, 2001, the changes in its funds balances (including Retirement System funds), and its current funds revenues, expenditures and other changes for the year then ended in conformity with accounting principles generally accepted in the United States of America. These financial statements are the responsibility of the University's management; our responsibility is to express an opinion on these financial statements based on our audit. The prior year summarized comparative financial information has been derived from the University's 2000 financial statements, and in our report dated September 26, 2000, we expressed an unqualified opinion on those financial statements. We conducted our audit of these statements in accordance with auditing standards generally accepted in the United States of America, which require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As discussed in the summary of significant accounting policies, during the year ended June 30, 2001, the University adopted Governmental Accounting Standards Board Statement No. 33, "Accounting and Financial Reporting for Nonexchange Transactions."

*PricewaterhouseCoopers d.d.P*

San Francisco, California  
September 21, 2001

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...ny's balance sheet while also...osting earn-  
...ings. On Nov. 8, Enron restated its earnings  
...dating back to 1997, reducing the bottom  
...lines by more than \$500 million total.

"Basically, they have an obligation to go to the board of directors, particularly

## FASB Is Criticized for Debt Rules

Continued From Page C1

debt and assets into the parent company's books, "it has taken longer than any of us wanted it to," says Tim Lucas, director of research at FASB.

FASB officials also point out not all of Enron's problems were related to its off-balance-sheet debt. Some of the energy-trading company's financial reporting violated basic accounting principles, FASB officials say, indicating that the problem—as in many cases, not just Enron's—isn't so much with the current standards as it is with compliance.

Still, since FASB's beginning in 1973, critics have complained that FASB has been insulated from the public, slow to respond to nagging problems, and quick to cave into political pressure applied by large corporations and elected officials working on their behalf. Tucked away in a corporate campus in Norwalk, Conn., its public meetings usually are sparsely attended. The board and the advisory council that oversee it are dominated by members of the accounting industry, both past and present. When outsiders are included, they often are accounting executives at corporations who stand to benefit from favorable decisions by the board, or accounting professors whose endowed positions are financed by Big Five accounting firms.

In a recent interview, Mr. Jenkins acknowledged a lack of participation from investors at meetings where rules are set. "If you have any names of investors who would like to participate, we'll take them," he said.

Cutting-edge issues—the ones that need the most immediate attention—are handled by the board's Emerging Issues Task Force. Its members include representatives of large corporations and all the Big Five firms, whose corporate clients often lobby their auditors to push the task force to craft rules in their favor.

This often prevents necessary overhaul, critics say. For example, in the case of how it reported off-balance-sheet in its partnerships—special purpose entities, in accounting parlance—Enron appears to have used well-established, though creative and aggressive, techniques to keep from having to disclose to shareholders billions of dollars of debt.

When losses related to the partnerships finally forced Enron to disclose its actual debt obligations related to the special purpose entities, that led to a downgrade of its debt rating, a loss of investor confidence and, ultimately, a bankruptcy-court filing.

...some of its earnings was what they call  
...teelligent gambling." a phrase from the  
...ary memo, may haunt the auditor more than  
...anything else. "Any risk assessment is ulti-  
...mately going to be based on, do you trust the  
...person you're shaking hands with?" says  
...Gary J. Previts, a professor of accountancy  
...at Case Western Reserve in Cleveland.

The result, critics say: While Enron's individual accounting entries, technically speaking, often may have complied with existing GAAP rules, taken together they did not fairly represent the company's financial condition or performance. Moreover, they add, even if most of Enron's off-balance-sheet accounting was improper, the company wouldn't have been able to hide it for so long if the FASB had passed tougher disclosure rules in years past, forcing companies to actually show what they are doing.

The trouble, according to Douglas Carmichael, an accounting professor at Baruch College in New York, is that FASB has bogged down in the specifics. Rather than agree on a broad principle for what should be disclosed, it has insisted on detailing rules for every situation. The predictable result has been that creative Big Five accountants and chief financial officers have simply structured ever more ingenious ways around them, Mr. Carmichael says.

"FASB has had all along an unwillingness to specify the objectives of their pronouncements," Mr. Carmichael contends.

## Investigation Raises Oliver No Congressional Testimony Can Taint Pro

By KATHERYN KRANHOLD  
And TOM HAMBURGER

Staff Reporters of THE WALL STREET JOURNAL

Will the Justice Department investigation of Enron Corp. face an Oliver North problem?

In May 1989, the retired Marine lieutenant colonel was found guilty in the Iran-Contra scandal. But his conviction was later reversed, as was the conviction of former National Security Adviser John Poindexter, after two of three judges in Washington's Circuit Court of Appeals found that witnesses for the prosecution were tainted by the two men's public testimony before Congress.

Now, the Justice Department is ramping up to investigate Enron as Congress is also mounting major investigations. Just as prosecutors start interviewing people, Congress is negotiating with top executives at Enron and its auditor, Arthur Andersen LLP, to testify at public hearings.

People who testify before Congress in such situations are occasionally granted limited immunity, called "use immunity," that protects them from having their state-

ments used against them in a criminal investigation. But such a grant of immunity presents problems for prosecutors in a subsequent criminal case.

Dan Webb, who as deputy independent counsel prosecuted Mr. Poindexter, says prosecutors in any Enron case would have a "huge burden" of proof to show that their investigation and witnesses weren't influenced by any congressional testimony presented under a grant of immunity.

"That becomes very difficult and sometimes almost impossible to do," said Mr. Webb, of Winston & Strawn.

It isn't clear whether any of the major players in the Enron affair will be granted immunity in exchange for their congressional testimony. David Duncan, the Arthur Andersen auditor fired this week for shredding Enron documents, is scheduled to appear on Capitol Hill next week but that could change depending on the conditions attached to his testimony.

Before this week's explosion of revelations, Enron's chairman and chief executive, Kenneth Lay, was expected to testify Feb. 4. Enron's former chief executive, Jef-

...ments that would have triggered extensive financial disclosures about its operations.

The Enron scandal has raised numerous questions about the checks and balances in America's financial system. A major issue: How did such a major company get away with making indecipherable disclosures about its far-flung trading operations and complicated corporate structure, which Wall Street analysts and some Enron executives confessed they couldn't understand?

One answer that is starting to emerge from people familiar with the regulatory system is that the SEC failed to conduct a thorough review of the company's financial statements, even though the agency is responsible for reviewing investor disclosure documents to make sure companies clearly explain their operations, financial condition and risks. Rep. John Dingell of Michigan, the ranking Democrat on the House Energy and Commerce Committee, recently asked the SEC in a letter how it failed "to require adequate disclosures over the years."

An SEC spokesman declined yesterday to comment on the details of how the agency handled Enron over the past decade. An Enron spokesman also declined to comment.

But SEC Chairman Harvey Pitt yesterday outlined plans to upgrade corporate disclosure and financial reporting, as well as to overhaul oversight of the accounting industry. In conceding that "the SEC bears responsibility," Mr. Pitt added that he has "directed our staff in light of Enron to find out how can we do better."

Enron's problems escaped earlier detection in part because the SEC wasn't looking. Staff in the SEC's division of corporation finance, which reviews annual reports

...background information and  
...online Journal at [WSJ.com](http://WSJ.com)

...updated news, stock  
...Small Stock Focus... C9  
...U.S. Bonds

...gram Trading... C13  
...Stock Market Focus... C10  
...U.S. Bonds

...average annual  
...five years

...High Yield

