IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED
JUL 29 2002
Michael N. Milby, Clerk

In re Enron Corporation Securities Litigation	§	
Mark NEWBY, Plaintiff,	§	
v.	§	Consolidated Lead No. H-01-3624 for MDL #1446 only
ENRON CORP., et al., Defendants	§	

This pleading concerns:

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

PATRICK P. ROGERS Plaintiff	§	
VS.	§	CASE NO. A-02-CA-131 [Austin Docket No.]
DAVID BRUCE DUNCAN, ARTHUR ANDERSEN, L.L.P. KENNETH L. LAY, and JEFFREY K. SKILLING Defendants	§	

PLAINTIFF'S FIRST AMENDED ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiff, PATRICK P. ROGERS, by and through his attorneys, Porter, Rogers, Dahlman & Gordon, P.C. and files this Plaintiff's First Amended Original Complaint and for cause of action

ant

would show onto the Court the following:

1. **Nature of the Action/Scienter:**

(a) This lawsuit alleges causes of action as follows:

(i) Count No. 1: Negligent misrepresentation of facts (which misrepresentations herein referenced were of material facts and/or opinions and were also reckless misrepresentations and/or gross misrepresentations);

(ii) Count No. 2: Common law actual and/or constructive fraud [including, aiding and abetting the fraud];

(iii) Count No. 3: A civil conspiracy to defraud;

(iv) Count No. 4: For liability under the principals of Section 10(b) and 20(a) of the Securities Exchange Act of 1934 [15 U.S.C. §78j(b) and §78t(a)] and Rule 10(b)-5 (17CFR §240.10b-5) promulgated thereunder by the SEC.

[The facts and allegations regarding the above causes of action are inextricably intertwined and accordingly each paragraph of this complaint is incorporated to each cause of action]

(b) Plaintiff's claims asserted herein, including, but not limited to, under Section 10(b) of the Exchange Act and SEC Rule 10b-5 promulgated thereunder and pursuant to Section 20(a) of the Exchange Act were as a result of the Defendants' false and misleading statements about Enron's business and financial condition. These statements were made as part of a fraudulent scheme designed to deceive the investing public regarding Enron's business, operations and management, as well as, the true market value of Enron stock. More specifically, Defendants devised a scheme to create off balance sheet partnerships which were set up to hide Enron's financial problems, inflate profits, inflate earnings and personally benefit the executives of

Enron (including Lay and Skilling) and those Enron employees/executives who managed the partnerships. In violation of Generally Accepted Accounting Principles ("GAAP"), Defendants failed to consolidate the financial statements and balance sheets of certain of the partnerships into Enron's financial statement and balance sheet thereby falsely inflating earnings, stockholder equity and under reporting debt. Defendants failed to fully reveal, in Enron's financial statements, the true nature of Enron's direct and contingent liability that was created by these off-balance sheet entities. Indeed, some of these transactions required Enron to cover debt of nearly $4 billion if the price of Enron stock declined below a certain price and its credit rating dropped below investment grade. Accordingly, the scheme required the Defendants to keep Enron's stock price artificially inflated because Enron was in no position to cover its potential liabilities. Finally, on November 8, 2001, that truth about Enron's financial condition was revealed in a Form 8-K filed with the SEC. Enron disclosed that it had materially overstated its net income from 1997 through 2nd Quarter 2001 and was therefore restating its financial results for this time period because it had failed to consolidate the financial statements and balance sheets of certain joint ventures into the Enron's financial statements and balance sheet.

(c) Defendants have committed one of the largest securities frauds in the history of the country resulting in Enron, formerly the seventh largest company in the country, filing for protection under the federal bankruptcy laws on December 2, 2001 because it had no assets and its stock price had plummeted to $.30 per share.

(d) Plaintiff was damaged by purchasing shares of Enron common stock in the open market without knowledge of the false and misleading statements and omissions of the Defendants and without the knowledge that the price of Enron common stock was artificially inflated. Plaintiff directly

or indirectly relied upon the Defendants' public reports and representations about Enron. Plaintiff reasonably believed in the proposition that Enron's common stock was fairly priced and/or upon the integrity of the market for Enron securities. As a result, Plaintiff has been damaged by Defendants' wrongful conduct.

(e) The damage suffered by Plaintiff arises from Defendants' wrongful conduct as alleged in this Complaint. Specifically, Plaintiff's claims arise out of the false financial reporting and financial representations for the period of time from October, 1997 through the second quarter of 2001, when Enron filed a Form 8-K with the SEC and issued a press release on November 8, 2001 stating that it was going to restate its earnings for this period of time.

(f) The actionable conduct by Defendants as alleged herein throughout this petition was done by them negligently, knowingly, intentionally, recklessly and/or with malice.

(i) Defendants' conduct artificially inflated the market price of Enron common stock. Each of the Defendants were negligent and/or fraudulent in their representations as they knew or recklessly disregarded the facts that the statements and omissions described below which were false and misleading; that such statements would adversely affect the integrity of the market of Enron stock; and that such statements would deceive investors into purchasing Enron stock at artificially inflated prices.

(ii) The Defendants conduct disregarded facts at the time such conduct was performed (and representations made) and/or at the time they knew or reasonably should have known, prior to the dates in question in this lawsuit, their conduct was wrong and failed to timely correct same. Such wrongful conduct gave rise to the misdeeds of the Defendants and was a proximate cause of damages to Plaintiff. The Defendants' conduct included,

but was not limited to, accounting and financial misrepresentations (including, income, earnings, profits and debts) of Enron, and accounting/audit reporting as to the financial condition of Enron from 1997 through 2000 and the first and second quarters of 2001. The Defendants knew that their representations and the audits were false and that the Enron audits were not in compliance with GAAS and the accounting was not in compliance with GAAP as represented. The Defendants knew the financial information and represented financial and business condition of Enron was misleading and/or false when they made the representations. The Defendants knew that their conduct artificially inflated the true market value of Enron stock and/or their representations about same were misleading and false.

(g) The Plaintiff will also rely, in part, upon reliance established by the "fraud on the market doctrine". The market for Enron common stock was at all times an efficient market for the following reasons:

(i) Enron common stock met the requirements for listing and was listed on the New York Stock Exchange;

(ii) As a company registered pursuant to the provisions of the Exchange Act, Enron filed periodic public reports and the SEC and the National Association of Securities Dealers ("NASD") and was subject to the requirements for providing timely and accurate information to the investing public pursuant to the rules and regulations of the SEC and the NASD;

(iii) Enron securities trading volume was substantial;

(iv) Enron publicly published its financial results and was followed by various

securities analysts, who wrote reports that were available through various automated retrieval services;

(v) Enron regularly communicated with public investors, analysts and market professional generally regarding the release of current information, and generally assured that information was released over major newswire services on a current basis; and

(vi) The market price of Enron reacted efficiently to new information entering the market. The above facts demonstrate the existence of an efficient market for Enron stock and make applicable the fraud on the market doctrine. Thus, the Plaintiff is entitled to a presumption of reliance with respect to the misstatements and omission alleged in this Complaint.

2. **Jurisdiction and Venue:**

(a) This Court has jurisdiction over the subject matter of this action pursuant to §27 of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §78aa; and 28 U.S.C. §1331 (federal question jurisdiction).

(b) Venue is proper in Travis County, Texas and/or in the Western District of Texas as that is where, as to this Plaintiff, the negligent misrepresentations/fraud occurred due to the fact that this is a county/district where information and Defendants' representations were made available to the public and published and available to the Plaintiff and a county/district in which the Plaintiff reviewed public financial information and Defendants' representations concerning Enron Corp., which information was, in good faith, relied upon by the Plaintiff and where the negligent misrepresentations and Defendants' fraud were a direct and/or proximate cause of

damage to the Plaintiff. Therefore, this is where all or a substantial part of the events giving rise to the claims occurred and a county/district of proper venue. [Texas Civil Practice and Remedies Code Section 15.002(a)(1)]. Alternatively, Travis County, Texas/the Western District of Texas is an area in which Arthur Andersen, L.L.P. has a principal office which is located at 111 Congress Avenue, Austin, Travis County, Texas 78701. [Texas Civil Practice and Remedies Code Section 15.002(a)(3)]. Therefore, the other Defendants are properly sued in Travis County, Texas/Western District of Texas. [Section 15.005, Texas Civil Practice and Remedies Code; see also, 28 U.S.C. §1391(a)(1), (b)(1) and (2); 28 U.S.C. §1391(c)].

(c) [This case was originally filed in State Court, but removed to Federal Court by Arthur Andersen, L.L.P.].

3. **Parties:**

David Bruce Duncan has been served with process.

(a) Defendant Duncan ("Duncan") was a Senior Partner with Arthur Andersen, L.L.P. and the lead auditor in charge of the Enron account at all times relevant to this action. All references and allegations as to and against Arthur Andersen, L.L.P. ("Andersen") therefore also include its partner Duncan, who was one of the Andersen partners/employees acting on behalf of Andersen in the course and scope of his employment.

(b) Duncan was the Enron "engagement partner" of Andersen in charge of the Enron audits.

(i) Duncan was atop a large pyramid of Andersen/Enron personnel who reviewed Enron's books.

(ii) Duncan oversaw the Enron accounting for at least 1997 to 2000, and the first

two (2) quarters of 2001 and signed the final audit reports, (1997 to 2000).

(iii) Duncan was ingrained into the Enron culture. Duncan had his office at Enron's headquarters, 1400 Smith Street, Houston, Texas.

(iv) On behalf of Andersen, Duncan had been in charge of the Enron audit team since 1997.

(v) Duncan is or was on the Advisory Counsel of Accounting at Texas A & M University.

(vi) Duncan was also on Andersen's "Firm Wide Strategy Advisory Counsel" and was the Chairman of that Counsel at the time he was fired by Andersen.

Arthur Andersen, L.L.P. has been served with process.

(a) Defendant Arthur Andersen, LLP ("Andersen") is an international accounting and consulting firm, who acted herein by and through its partners and employees (including Duncan) in the course and scope of their employment. Andersen provided services to Enron and was engaged by Enron for many years to provide "independent" auditing, accounting and management consulting services, tax services, examination and review of filings with the SEC, audits and/or reviews of financial statements included in Enron's SEC filings, including audited and unaudited information, and annual reports. In addition to acting as Enron's outside auditor, Andersen performed internal auditing/consulting services for Enron. Andersen also opined on Enron's financial statements for the year 1997 through 2000, represented to audit Enron's financial statements in accordance with Generally Accepted Auditing Standards (GAAS) and issued materially false and misleading unqualified reports on the consolidated financial

statements of Enron for each audit year (1997 - 2000), falsely claiming that they were prepared in accordance with Generally Accepted Accounting Principles (GAAP). Because of the wide range of services that Andersen provided to Enron, Andersen's personnel were present at Enron's corporate offices and operations continuously from 1997 through 2001. Andersen had continual access to and knowledge of the private and confidential corporate and business information of Enron. Thus, Andersen participated in the scheme, plan and common course of conduct described herein.

Kenneth L. Lay and Jeffrey K. Skilling have been served with process.

(a) As officers, directors and/or controlling persons of a publicly held company (Enron Corp.) whose common stock is registered with the SEC under the Securities Act of 1933, traded on the New York Stock Exchange ("NYSE") and governed by the provisions of the Exchange Act, they had a duty to promptly disseminate accurate and truthful information with respect to Enron's operations, finances, financial condition, products, revenues and future business prospects, to correct any previously issued statements that had become untrue, and to disclose any trends that could materially affect earnings and the present and future operating results of Enron, so that the market price of Enron's publicly traded securities would be based on truthful and accurate information.

(b) Lay and Skilling were senior officers and/or directors of Enron and were privy to confidential and proprietary information concerning Enron, its operations, finances, financial condition, products, revenues and present and future business prospects. Because of their possession of such information, they acted with scienter in that they

knew that the public documents and statements, issued or disseminated by or in the name of Enron, and approved and/or signed by the Defendants, were materially false and misleading; knew or recklessly disregarded that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated in the issuance or dissemination of such statements or documents, and are primary violators of the federal securities laws. They, by virtue of their receipt of information reflecting the true facts regarding Enron, their control over Enron's materially misleading misstatements and/or their control over and close association with Enron which makes them privy to confidential information concerning all of Enron's activities and operations, were active and culpable participants in the fraudulent scheme as alleged herein. Also, they knew and/or recklessly disregarded the false and misleading nature of the information which they caused to be disseminated to the investing public.

(c) They had the knowledge, motive and opportunity to commit the fraud alleged herein in order to artificially inflate and maintain the price of Enron's common stock and to conceal the facts concerning the true financial condition of Enron and its operations, business, management and future prospects. Their motive to commit fraud included: (a) to protect and enhance their positions as officers and/or directors of Enron, upon which the Individual Defendants depended for their substantial compensation, benefits and prestige; and (b) to personally benefit themselves by enhancing the value of their personal holdings of Enron common stock.

4. **General Background on Enron, the Scam and the Fall of Enron**:

a. Enron Corp. ("Enron") represented to be the next new thing, a new economy company with substance to it. Reportedly, Enron had real businesses, real assets, revenues and what seemed or what was represented by the Defendants to be real income, profits and growth. It owned natural-gas pipelines and electricity-generating plants and water companies.

b. From humble beginnings as a natural-gas company, Enron rose in 15 years to No. 7 on the Fortune 500 list, and reported doing approximately $100 billion of business in 2000.

c. For six (6) years running, Enron was voted Most Innovative among Fortune's Most Admired Companies.

d. Enron claimed to be the nation's largest energy trading company and maintained a banner in its lobby: "The World's Leading Company".

e. Enron started out innocently enough, born of a mildly innovative 1985 deal to combine two businesses; an Omaha-based natural-gas-pipeline company called InterNorth and a Texas pipeline company called Houston Natural Gas.

f. Ken Lay who had a Ph.D. in economics was a principal founder of Enron.

g. Lay hired Jeffrey K. Skilling, a Harvard graduate in business, who was working in McKinsey & Co.'s energy practice in Houston.

h. Instead of just delivering gas to customers at a modest profit, Enron used deregulated pipelines to match buyers and sellers. In other words, Enron became a gas trader, as well as a gas company. Enron morphed into a trading company with a utility attached to it.

i. Rather than sticking to natural gas and electricity, Enron in the mid- and late- 90's branched into whatever struck its fancy: water, coal, fiber-optic capacity, weather derivatives (whatever those

are) and newsprint.

j. Many of Enron businesses tied up lots of capital while earning very little or going in the red so Enron engaged in billions of dollars of these off-balance-sheet deals, the total number of which is not known (but believed to be in the thousands, some news reports say between 3,000 to 5,800 separate deals).

k. As indicated, Enron's original focus was on the supply of natural gas. However, as a result of declining financial results, the Defendants devised schemes to restructure Enron through funding investments in new businesses with private equity while keeping debt off Enron's balance sheet. Enron promoted its diversification without fully revealing the off-balance sheet manipulations of these acquisitions.

l. For example only, Enron created (in 1993) something called Jedi, investment partnerships wherein Enron put up some $883 million dollars in cash (Jedi I and II) and received note receivables. Part of the cash, $383 million was used in 1997 to buy out Enron's Jedi I partner, California Public Retirement System. Originally, Enron entered into this equal partnership with the California State Employees Pension Fund ("Calpers") called Joint Development Investments Limited ("JEDI"). JEDI was formed for the purpose of purchasing power plants and energy stock. JEDI's financial results and interests were originally, per Andersen, not required to be consolidated into Enron's financial statement and balance sheet because Enron only had a 50% interest in JEDI. In 1997, Enron arranged for Chewco Investments, L.P. ("Chewco") to purchase Calper's 50 percent interest in JEDI. In reality, however, Enron was at risk for all of Chewco's stake because it lent Chewco $132 million and guaranteed a $240 million loan from another entity. Thus, since 1997, Enron was at risk for 100% of JEDI's investments.

Accordingly, Enron was required by GAAP to consolidate JEDI's financial statement and balance sheet with its financial statement and balance sheet. Nevertheless, Enron failed to do so. Additionally, Andersen did not require Enron to do so and the Defendants had knowledge of these facts. Thus, Enron's financial results were artificially inflated when it failed to report the true impact of JEDI's debt on Enron's financial results. Again, the Defendants had knowledge of these facts.

m. Since making Jedi I part of Enron would have cut Enron's reported profits by $500 million and increased Enron's debt by more than $500 million as referenced, Enron ginned up Chewco Investments. Chewco was a partnership of Enron executives and some undisclosed outsiders.

n. Chewco did not have $383 million sitting around. So Enron lent it $132 million and guaranteed a $240 million loan.

o. This left about $11.5 million for Chewco to come up with. The $11.5 million was an important number. Why? Because it was more than 3 percent of Chewco's capital. And what's magical about that number? If outsiders put up at least 3 percent of the capital, Andersen claims it was allowed to keep the deal off the parent company's books.

p. But Enron and Andersen could not even get this right. It turns out that Enron had provided collateral for about half of Chewco's $11.5 million investment. This meant Chewco had only about 1.5 percent at risk, not 3 percent. So Chewco should have been treated as part of Enron by Andersen from 1997 on. However, it was not. Further, for example of the pattern of chicanery, Chewco, created in 1997, did not show up on any Enron Securities and Exchange filing until November 2001.

q. Also, for example, unknown to investors, Enron agreed to a series of complicated financial

hedge transactions with two limited partnerships LJM Cayman L.P. ("LJM1") and JHM2 Co-Investment, L.P., ("LJM2") which were both controlled by Enron's former Chief Financial Officer, Andrew Fastow. These two entities should have been consolidated into Enron's financial statements beginning in 1999 because they were inadequately capitalized. The two partnerships were set upon to limit Enron's market risk in an investment in Rhythms NetConnections, Inc. The required consolidation would have reduced Enron's net income in both 1999 and 2000.

r. Enron would use its own cash and stock to create the off book investment partnerships.

s. These partnerships were designed to keep millions, if not, billions of dollars in debt off the books of Enron.

t. The Board of Directors of Enron and the Defendants were aware of these off-book deals, the business plans for same and the accounting treatments. They knew such conduct would create misleading and false reports as to the true financial condition of Enron.

u. They also knew or reasonably should have known of the effect that these off-book deals had on Enron's financial picture, which by the "funny" accounting disguised the truth and was fraudulent and/or a material misrepresentation of the financial condition of Enron for the time in question (1997 to 2000 and to the first two (2) quarters of 2001). (See Exhibits C and D).

v. The Enron Board even waived the company code of ethics, to create these off book deals (if anyone now can believe the Board knew what "ethics" means).

w. Such waiver conduct by the Enron Board clearly constituted at least negligence if not fraud and a part of the conspiracy to defraud which the Defendants, knew about, were involved and/or aided and abetted.

x. The Enron Board (which included Lay and Skilling) permitted Enron executives, like Andrew Fastow, to take fees of approximately ($30 million) to operate some of the partnerships, like LJM Cayman, L.P. and LJM 2 Co-Investment, L.P.

y. In regard to this waiver of the Enron Code of Ethics, the records indicate that on June 28, 1999 the Enron Board granted a waiver to allow Andrew Fastow, the then Enron CFO, to operate LJM Cayman, L.P. as the general partner with the knowledge that such partnership would be doing business directly with Enron.

z. The records also indicate that on October 12, 1999 the Enron Board approved a waiver of the Enron Code of Ethics to permit Andrew Fastow to be the managing partner of LJM 2 Co-Investment, L.P., which approval was previously recommended on October 11, 1999 by the Enron Finance Committee.

aa. These entities operated by Fastow were some of the entities used by Enron, its officers and directors and Andersen to create the "funny accounting", disguise, conceal and materially misrepresent the true financial condition (including, income, profits and debts) of Enron for the time in question (1997 through 2000 and the first two (2) quarters of 2001).

bb. Such action by Defendants and the Enron Board, as well as, the Enron Finance Committee clearly aided and abetted in the Defendants' negligent misrepresentations/fraud and the waivers and action by the Board and the Finance Committee constituted negligence and fraud (and/or aided and abetted the fraud) with respect to the true financial condition of Enron for the period in question and part of the conspiracy to defraud which Defendants were involved.

cc. As further example of the misrepresentations and fraud, Enron would take note receivables for stock issued to the partnerships and would, along with the help of Andersen, account for the

note receivable as equity, which violates basic Accounting 101, to-wit: when issuing stock for a note receivable you only record equity when you get the cash.

dd. Why did they do this? Part of the "shell game". These investment partnerships also kept billions of dollars of debt off of the Enron books. Why? Hide the debt as part of the "shell game". The bottom line:

a. exaggerated profits;

b. understated debt; and

c. misleading and untrue financial information being published and represented to the public as true.

ee. Also, these off-book investment partnerships also purchased some of the investments Enron made at prices to enable Enron to falsely claim the investments were profitable.

ff. Because Enron guaranteed most of the money the partnerships had used to buy the assets, Enron was essentially selling assets to itself.

gg. The Enron Board Audit Committee and the Defendants were required to be responsible for conducting an annual review of Enron's financial activities.

hh. Andersen/Duncan were Enron's auditors, as well as, its internal accounting/auditing consultants. They participated in and were fully aware on a daily basis of the Enron accounting activities and controls, the misrepresentation and concealment of the truth about the financial condition of Enron for the period in question (1997 to 2000 and the first two (2) quarters of 2001).

ii. Per Max Hendricks, III, Enron legal counsel with Vinson & Elkins, L.L.P., "The relationship between Enron and Andersen was an open one."

jj. Per Ken Lay, "It has always been Enron's policy to be open with its accountant, Andersen."

kk. Andersen, in its opinions/representations attached to Enron annual financial reports (1997 to 2000), clearly admits it was aware of and understood the Enron internal controls and accounting systems, as it was hired by Enron to do.

ll. In congressional testimony in December 2001, Andersen's then chief executive, Joseph Berardino, discussing the Enron accounting, admitted "the accounting was wrong".

mm. Andersen was the daily internal auditing consultant for Enron with numerous employees hired specifically for that job and on-site daily at Enron's office headquarters and therefore, knew the financial concealment, misrepresentations, and/or fraud was ongoing and participated in the schemes to disguise the financial truth for the period in question (1997 to 2000 and the first two (2) quarters of 2001).

nn. Andersen auditors and Andersen accounting consultants had permanent office space at Enron's headquarters, 1400 Smith Street, Houston, Texas. "It was like Andersen had people on the inside", said Judy Knepshield, former Enron employee.

oo. Clearly, the "wrong accounting" as admitted to Congress by Andersen's Berardino, in December 2001 constituted at least negligence in the representations of the financial condition of Enron (from 1997 to 2000 and the first two (2) quarters of 2001) which cannot, in good faith, be denied under the facts outlined in this petition.

pp. Such conduct, as the evidence will establish, also amounts to fraud by the Defendants and a conspiracy to defraud the public, like the Plaintiff, by the Defendants.

qq. Berardino also testified before two House Finance sub-committees that "Andersen will have to change...and discipline will have to be improved."

rr. Keeping Chewco and Jedi off the Enron books inflated Enron's 1997 profits by 75%.

ss. The off-balance-sheet entities were used to inflate Enron profits and were used to under report Enron debt; for example, LJM Cayman which should have been on Enron's books from 1999. (Also see, the news commentary attached as Exhibit A). In this regard, Defendant Duncan has admitted to congressional investigators that Andersen shares the blame for the demise of Enron due to Andersen's mistakes.

tt. In latter 2001, Enron hired University of Texas Law School Dean, William Powers, Jr. It put Powers on its board and named him to chair a special litigation and/or investigation committee. Powers hired William McLucas, a former head of the SEC's enforcement division and a partner at the Washington law firm of Wilmer, Cutler & Pickering.

uu. McLucas assembled a legal task force and hired accountants from Deloitte & Touche to dig into the Enron books. McLucas found unpleasant truths that Enron's Board, the Defendants, including Andersen had ignored, disguised, concealed or negligently or intentionally overlooked for years.

vv. McLucas's conclusion: "Enron's profits had been grossly overstated and its debts understated for five years". Such conclusion is true.

ww. As a result, on November 8, 2001 Enron issued an 8-K report, crafted by McLucas, saying that Enron's numbers dating back to 1997 could no longer be relied on.

xx. The November 8, 2001 8-K disclosure was a cause of Enron's debt rating to go to "junk", which crippled the ability to do business in the energy markets because of the requirement of an investment grade rating.

yy. The November 8, 2001 8-K disclosure sliced approximately $586 million in previously reported profits (or some 20% of all profits since 1997) and increased Enron's debt by at least $2.5

billion.

zz. Most of all, the November 8, 2001 8-K disclosure that the Enron financial statements should not be relied upon basically means that the public should not trust Enron, its Board, its officers and the Defendants.

aaa. On November 9, 2001, Dynegy and Enron announced a deal in which Dynegy would buy the Enron stock and Chevron/Texaco would infuse $1.5 billion in cash into Enron immediately and an additional $1 billion cash in the combined company upon the closing.

bbb. The initial cash was infused, but Dynegy terminated the deal and said Enron had failed to disclose financial liabilities in the merger agreement, notably a $691 million dollar note.

ccc. Dynegy said it believed Enron had $3 billion in cash on the books, when it had only $1.2 billion upon Dynegy's review.

ddd. On or about November 14, 2001, Ken Lay admitted that Enron made billions of dollars of "very bad investments" and suffered "a complete loss of investor confidence".

eee. The Enron/Dynegy merger discussions terminated on November 28, 2001.

fff. Enron liquidity dried up and the stock value crashed to the gutter. As a proximate cause/result of the misleading and false information, fraud and misrepresentations made, prepared and published to the public by the Defendants, Enron failed and filed for bankruptcy December 2, 2001.

ggg. Today, Enron is a smoking ruin, the biggest corporate bankruptcy in American history, due to an accounting "shell game" - inflated earnings and concealed debts.

hhh. Stockholders and lenders are out tens of billions of dollars. Many of Enron's 21,000 employees lost their retirement savings when the company collapsed.

iii. By contrast, chairman Ken Lay made approximately $205 million in stock-option profits approximately in the years 1998-2001, and other big hitters like Jeffery K. Skilling and other board members made out financially also.

jjj. For example, it is reported that Enron executives sold approximately $1.1 billion of stock between May 2000 and August 2001, with Lay selling approximately $37,683,887 in stock and Skilling selling approximately $14,480,777 in stock. [Also, see Paragraph 96 hereof].

kkk. Also, what's especially galling is that a handful of Enron executives, with Enron Board approval, made millions by investing/operating in off-balance-sheet deals of Enron that played a key role in destroying the company.

Public Policy and Duties

5. Public policy and duties require the maintenance of honesty and integrity of the public accounting profession especially when it relates to financial information prepared and used for publication to the public by a public accountant and/or independent auditor on a public company.

6. Executives of public companies and their accountants/auditors have legal responsibilities and duties to shareholders, lenders and the investing public to produce honest books and records, but at Enron, they [Enron (including, Lay and Skilling) and Andersen (including, Duncan)] did not do that.

7. Outside auditors are required and are duty bound to the public to make sure that a company's financial reports not only meet the letter of accounting and audit rules but also give investors and lenders a fair and accurate picture of what's going on, but Andersen/Duncan failed that test.

The Accounting

8. As a result of Andersen's reckless and non-independent auditing practices, Enron was permitted to publicly report materially misleading financial results and accounts that did not conform with GAAP

over a prolonged period of time (over four years). For example, these knowingly or recklessly false public reports have resulted in a restatement of Enron's year 2000 audited shareholder equity approximately $172 million and 2001 unaudited equity approximately $828 million.

9. Contrary to its clean audit opinions, which had assured creditors and the investing public that Enron's financial statements had been fairly stated in conformity with GAAP, Enron (and Andersen) violated the most basic rules of GAAP. For example, GAAP states, among other things, that the payment a company receives when issuing stock may only be accounted for as equity if the payment is in cash. "It is basic accounting that you don't record equity until you get cash, and a note doesn't count as cash," says Lynn Turner, former chief accountant for the SEC. "Anyone that's an accountant looking at the entry should have known it violated GAAP," stated Douglas Carmichael, an accounting professor at Baruch College in NY to The Wall Street Journal on November 9, 2001. The Defendants violated this basic principal.

10. While experts have stated their opinions on Enron's accounting practices, the most compelling proof of Andersen's reckless audit and audit opinions is reflected in Enron's November 8, 2001 Form 8-K filed with the SEC, which in part provided:

    a. "A required restatement of prior period financial statements to reflect: (1) recording the previously announced $1.2 billion reduction to shareholders' equity reported by Enron in the third quarter of 2001; and (2) various income statement and balance sheet adjustments required as the result of a determination by Enron and its auditors (which resulted from information made available from further review of certain related-party transactions) that three unconsolidated entities should have been consolidated in the financial statements pursuant to generally accepted accounting principles".

b. "Enron intends to restate its financial statements for the years ended December 31, 1997 through 2000 and the quarters ended March 31 and June 30, 2001. As a result, the previously-issued financial statements for these periods and *the audit reports covering the year-end financial statements for 1997 to 2000 should not be relied upon".*

c. The Form 8-K partially reported the following with respect to the restatements and the clear violations of GAAP:

"A. Restatement Number 1

Enron's decision that Chewco should be consolidated beginning in November 1997 is based on current information that Chewco *did not meet the accounting criteria* to qualify as an unconsolidated SPE. As a result of Chewco's failure to meet the criteria, JEDI, in which Chewco was a limited partner, also did not qualify for nonconsolidation treatment. Because of those consolidations, Enron's prior-year reported debt amounts will be increased by both JEDI's and Chewco's borrowings. The net effect will reduce Enron's prior-years' reported net income and shareholders' equity amounts. In addition, Enron's net income is reduced for specific JEDI revenues previously allocated to Chewco, relating to the appreciation in value of Enron stock, which eliminate upon consolidation. This, in effect, reduces Enron's share of JEDI's earnings".

"B. Restatement Number 2

Enron's decision that the LJM1 subsidiary should be consolidated in 1999 and 2000 is based on Enron's current assessment that the subsidiary did not qualify for nonconsolidation treatment because of inadequate capitalization. Accordingly, Enron now believes that the hedging transactions in which Enron engaged with the LJM1

subsidiary (related to Enron's investment in the stock of Rhythms NetConnections, Inc.) should have been consolidated into Enron's financial statements for 1999 and 2000. This consolidation has the effect of reducing Enron's net income in 1999 and 2000 and shareholders' equity in 1999 and increasing shareholders' equity in 2000, thus eliminating the income recognized by Enron on these derivative transactions".

"C. Restatement Number 3

As discussed in Section 3 below, concerning Enron's recent disclosure of a $1.2 billion reduction to shareholders' equity will be reduced by $172 million beginning as of June 30, 2000, and by an additional $828 million beginning as of March 31, 2001, to properly record notes receivable (described in Section 3 below) as a reduction to equity".

"D. Restatement Number 4

"Accounting Basis for $1.2 Billion Reduction in Shareholders' Equity Enron's previously-announced $1.2 billion reduction of shareholders' equity primarily involves the correction of the effect of an *accounting error* made in the second quarter of 2000 and in the first quarter of 2001... As part of the capitalization of these entities, Enron issued common stock in exchange for a note receivable. Enron increased notes receivable and shareholders' equity to reflect this transaction. *Enron now believes that, under generally accepted accounting principles, the note receivable should have been presented as a reduction to shareholders' equity (similar to a shareholder loan).* This treatment would have resulted in no net change to shareholders' equity. The net effect of this initial accounting entry was to overstate both notes receivable and shareholders' equity by approximately $172 million (which represented less than 2% of shareholders'

equity at the time) in each of the second quarter, third quarter, and year-end financial statements of Enron for the year 2000. In the first quarter of 2001, Enron entered into contracts with Raptor that could have obligated Enron to issue Enron common stock in the future in exchange for notes receivable. Enron accounted for these transactions using the accounting treatment described in the preceding paragraph. This resulted in an additional overstatement of both notes receivable and shareholders' equity by $828 million. As a result of these errors, shareholders' equity and notes receivable were overstated by a total of $1 billion in the unaudited financial statements of Enron at March 31 and June 30, 2001".

11. The November 8, 2001 Form 8-K was necessary to be filed with the SEC to correct the accounting representations for the time period referenced therein.

    a. The effect of the November 8, 2001 restatement was dramatic. Rather than earning $698 million and $1.01 per share in 1998, Enron's restated earnings fell to $585 million and $0.86 per share. Net income was lowered $186 million in 1999 and EPS dropped from $1.10 to $0.79. Net income was lowered $132 million in 2000 and EPS correspondingly fell from $1.12 to $0.07. The restatement increased Enron's debt by $561 million 1998, $685 million in 1999 and $629 million in 2000. Shareholder equity was reduced by $448 million for 1998, $834 million for 1999, $1.16 million for 2000, $1.226 billion for first quarter 2001 and $929 million for second quarter 2001.

12. Andersen was not new to Enron's accounting practices and systems. Andersen has been Enron's auditor for more than a decade.

    a. During the last five years of that close relationship and the audit engagement, it was motivated

to overlook, and intentionally and/or recklessly disregard, Enron's clear violations of GAAP not only to retain the $25 million per year Andersen received in engagement fees, but also supplemental revenue of over $27 million in other services fees it received from Enron, bringing total revenues for 2000 to over $52 million. As a result, Enron was Andersen's second largest client in terms of annual revenues.

b. Andersen thus recklessly ignored or knowingly disregarded the fact that Enron had reflected numerous transactions on Enron's books that did not conform with GAAP.

c. Andersen knew, or was reckless in not knowing, that these GAAP violations, in the aggregate, rendered Enron's financial statements and reports materially misleading to the investing public.

d. Despite its knowledge of clear GAAP violations, Andersen falsely stated that Enron's financial statements (1997, 1998, 1999 and 2000) were prepared in conformity with GAAP and GAAS when, in fact, that was untrue.

e. Andersen also stated that the referenced financial statements (1997-2000) presented, fairly, in all material respects, the financial position of Enron. Such statements were false.

13. Andersen is one of the Big Five accounting firms and, per Andersen's Berardino, Andersen is a $10 billion dollar organization.

a. From 1985, Andersen was not only the outside auditing firm which served as Enron's auditor, but also served and worked for Enron as Enron's internal auditing service and consulting company from approximately 1993.

b. When Andersen took over Enron's internal audit operation, approximately some 40 people or so moved from Enron's payroll to Andersen's payroll.

c. Also, in the 1990's, Enron's Thomas Chambers, a Vice-President of internal audit, left Enron to run Andersen's group assigned to Enron's internal audit department.

d. Such dual capacity (auditing and consulting) created a conflict of interest, including a violation of the Rules of Professional Conduct, Texas Administration Code, Title 22, Part 22, Chapter 501, because internal audit departments, among other things, are to be used to insure that a company's systems are adequate and working, while outside independent auditors are hired to verify the accuracy of the company's financial statements.

e. Andersen's function and duty was to assure that Enron was accurately and completely disclosing its financial results and condition. Knowing such financial information would be made public, and used in the market, Andersen, as well as, the other Defendants, had a duty to the public, published on the Ernon website, to be honest and truthful in the information so prepared and published.

f. Enron was a public company and information concerning Enron was published and/or available to the public market, in part, to encourage stock investments in Enron.

g. Andersen by serving in dual capacities, exposed itself to major/material conflicts of interest which did compound its breaches of duty to the public, including the Plaintiff, and compromised/breached its independence and fairness obligations to the shareholders of Enron, lenders, and the investing public, like Rogers.

h. Andersen's close ties to Enron raise a conflict-of-interest issue, says John Markese, President of the American Association of Individual Investors. Noting that the Andersen-Enron relationship evolved into an informal alliance, an unusual arrangement for a Big Five accounting firm to have with a client when it is supposed to keep watch on the books, Mr.

Markese notes, "All that closeness goes a long way toward breaking down barriers of independence".

i. Being involved in this conflict of interest and allowing it to exist aided the negligent conduct of the Defendants and the Board of Enron and/or further evidence of the conspiracy to defraud by the Defendants and/or aiding and abetting the fraud.

14. In serving as the independent auditor, as well as, in serving as the daily internal consultant, Andersen actually knew and/or reasonably should have known and/or had an understanding of the system of internal controls of Enron, including the testing and evaluations in the design and operating effectiveness of the system of internal controls of Enron to provide reasonable assurance as to the reliability of financial statements in all material respects.

a. Andersen admits it had such knowledge and claims it performed such function.

b. Andersen was to develop an overall understanding of Enron's accounting systems, procedures and internal controls and conducting tests and other auditing procedures sufficient to support Andersen's opinion on Enron's financial statements.

c. Andersen was to understand the effectiveness of Enron's system of internal controls in conducting its services.

d. Andersen had direct access to Enron's Board of Directors and Enron's Audit Committee Board Members to discuss accounting, auditing and financial reporting matters.

e. Thus, it is clear that Andersen and the Defendants had the inside information about all audit/accounting matters, but were negligent and/or fraudulent in their performance of their duties and/or were directly involved in an intentional conspiracy to defraud the public, which includes the Plaintiff.

f. Andersen and the other Defendants (and the Enron Board of Directors) negligently and/or knowingly and/or recklessly and/or fraudulently failed to produce honest, truthful, fair and reliable financial information and statements (1997 through the first two (2) quarters of 2001).

g. In the annual reports, 1997 through 2000, although Andersen represented it complied with (GAAP) and (GAAS), they negligently, and/or knowingly and/or recklessly and/or fraudulently allowed the publication of information to the public that was neither reliable nor in compliance with (GAAP) and (GAAS), as the Defendants over reported Enron revenue and under reported Enron debt. These representations therein were material and false.

h. The Defendants caused Enron's actual income and debts to be misleading due to Enron's off-balance-sheet partnerships. (See for example, Exhibits C and D). The end result and simple conclusion being that Andersen's representations about its audits in 1997 through 2000 annual reports, the financial audits themselves and Enron financial information, and the summaries thereof and representations of the Defendants, produced and published, did not tell the "whole story" and were negligent misrepresentations, misleading, false, untrue and/or fraudulent. (See Exhibits C and D).

i. Andersen knew and had reason to actually especially expect when they made its representations in the referenced documents that its representations of Enron's financial condition and audit/accounting principals would reach people, like Plaintiff, and influence their conduct.

FALSE FINANCIAL STATEMENTS

15. In order to overstate its net income and earnings per share, the Defendants caused Enron to file and publish false financial statements (1997-2000) which were in violation of GAAP and SEC rules by

failing to consolidate entities which, pursuant to GAAP, were required to be consolidated into Enron's financial statements and which entities were incurring hundreds of millions of dollars in losses and should have reduced Enron's earnings. (For example, see Exhibit I).

a. These entities also had hundreds of millions of dollars in debt which should have been included on Enron's balance sheets and reported.

b. Enron also improperly accounted for common stock issued to a related-party entity which should have been treated as a reduction in shareholders' equity but was accounted for as a note receivable.

c. Enron has also admitted to not recording an aggregate of $478 million from 1997 to 2000 in proposed audit adjustments and reclassifications to shareholders' equity which Enron chose not to properly make.

d. Enron also failed to record, on a timely basis, required write-downs for impairment in the value of Enron's content services business, and for the impairment in the value of Enron's interest in The New Power Company, and its broadband and technology investments.

16. Enron has now admitted that these results were false and improperly reported and has restated the results. The scope and size of the restatement is enormous:

	1997	1998	1999	2000
Recurring Net Income				
Amount of Overstatement	$96,000,000	$113,000,000	$250,000,000	$134,000,000
Debt				
Amount of Understatement	$711,000,000	$561,000,000	$685,000,000	$628,000,000
Shareholders' Equity				
Amount of Overstatement	$313,000,000	$448,000,000	$833,000,000	$1,164,000,000

17. Enron included its represented financial results for 1997 to 2000 in press releases and in SEC filings,

including Form 10Qs for the interim results and Form 10-Ks for the annual results. The SEC filings represented that the financial information (1997-2000) was a fair statement of its financial results and that the results were prepared in accordance with GAAP. Such was false.

18. These representations were false and misleading as to the financial information reported, as such financial information was not prepared in conformity with GAAP, nor was the financial information "a fair presentation" of the Company's operations due to the Company's improper accounting for its subsidiaries and its improper accounting for investments in broadband and content services business, causing the financial results to be presented in violation of GAAP and SEC rules.

19. GAAP are those principles recognized by the accounting profession as the conventions, rules and procedures necessary to define accepted accounting practice at a particular time. Regulation S-X (17 C.F.R. §210.4-01(a)(1)), states that financial statements filed with the SEC which are not prepared in compliance with GAAP are presumed to be misleading and inaccurate. Regulation S-X requires that interim financial statements must also comply with GAAP, with the exception that interim financial statements need not include disclosure which would be duplicative of disclosures accompanying annual financial statements. 17 C.F.R. §210.10-01(a).

20. Moreover, pursuant to § 13(b)(2) of the Exchange Act, Enron was required to:

    A. make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer; and

    B. devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that -

        i. transactions are executed in accordance with management's general or specific authorization;

ii. transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles.

21. GAAP, as set forth in Accounting Research Bulletin ("ARB") No. 51 and as amended by FASB Statement of Financial Accounting Standards ("SFAS") No. 94, requires consolidation of all majority-owned subsidiaries unless control is temporary or does not rest with the majority owner. ARB No. 51, 11, states in part:

"There is a presumption that consolidated statements are more meaningful than separate statements and that they are usually necessary for a fair presentation when one of the companies in the group directly or indirectly has a controlling financial interest in the other companies".

22. GAAP provides that certain qualifying Special Purpose Entities ("SPE") do not have to be consolidated. SFAS No. 125 sets forth criteria for a qualifying SPE that must be met, including that it is a legal entity whose activities are limited by legal documents establishing the SPE to: (i) hold title to transferred assets; (ii) issue beneficial interests; (iii) collect cash proceeds from the assets and reinvest or distribute to holders of interests; and (iv) distribute proceeds to holders. It also must have standing apart from the transferor. SFAS No. 125, ¶26. *See also* FASB Emerging Issues Task Force Abstracts ("EITF") Nos. 96-20 and 96-21.

23. Enron formed partnerships and other entities to buy unnamed Enron assets with borrowed funds. These entities were purportedly qualifying SPEs such that consolidation of their losses and debt on Enron's financial statements was not required. Also, Enron could record sales to these entities as gains rather than as inter-company transactions which are eliminated in the consolidation process. In fact, these SPEs were not qualifying SPEs and were controlled by Enron personnel such that consolidation was required.

24. One entity which should have been consolidated was Chewco. Chewco was formed in 1997 with about $400 million in financial backing to buy interests in unnamed Enron assets, and was run by Michael Kopper, a managing director of Enron's Global Equity Markets Group. Neither this entity, nor its relationship to Enron, was disclosed.

25. Enron formed Joint Energy Development Investments ("JEDI") in which Chewco became an investor. As a result of this disqualifying relationship with Chewco, JEDI also failed to be a qualifying SPE. Nevertheless, in order to keep the losses from these entities and the debt attributed to these entities off Enron's financial statements, Defendants caused Enron to not consolidate these entities.

26. As a result, Enron failed to record losses from these two entities and debt attributed to these two entities by the following amounts:

	1997	1998	1999	2000
Unrecorded Losses	$45M	$107M	$153M	$91M
Unrecorded Debt	$711M	$561M	$685M	$628M

27. Enron has now admitted that Chewco and JEDI did not meet the criteria to qualify as unconsolidated SPEs and has restated its results to consolidate these entities' losses and debt into its own financial statements.

28. The reason for the misstatement was that it was extremely important to Enron's future plans that it minimize the amount of debt reported on its balance sheet. As The Wall Street Journal reported on November 8, 2001:

"But to make all of its growth dreams possible, Enron had to make sure that its balance sheet didn't become too laden with debt. Too much debt would lead major ratings agencies, such as Moody's Investors Service and Standard & Poor's, to lower Enron's credit rating. Such downgrades could

significantly increase the company's cost of borrowing and make it more difficult to finance its continued expansion".

29. LJM 1 and LJM2 are investment limited partnerships formed in 1999. Andrew Fastow was the managing member of the general partners of both LJM1 and LJM2. From June 1999 through September 2001, Enron and Enron-related entities entered into 24 business relationships in which LJM1 or LJM2 participated. These relationships were of several general types, including: (a) sales of assets by Enron to LJM2 and by LJM2 to Enron; (b) purchases of debt or equity interests by LJM 1 or LJM2 in Enron-sponsored SPEs; (c) purchases of debt or equity interests by LJM1 or LJM2 in Enron affiliates or other entities in which Enron was an investor; (d) purchases of equity investments by LJM1 or LJM2 in SPEs designed to mitigate market risk in Enron's investments; (e) the sale of a call option and a put option by LJM2 on physical assets; and (f) a subordinated loan to LJM2 from an Enron affiliate.

30. Despite the fact that the results of LJMI should have been consolidated into Enron's financial statements (as Enron has now admitted should have been done), Defendants caused Enron to not consolidate these results, eliminating losses of $95 million and $8 million in 1999 and 2000, respectively, from Enron's financial statements. The failure to consolidate also caused Enron to report $222 million in assets which it was not entitled to report in 1999. Enron has now restated its financial results to record the losses and to remove the assets from its balance sheet.

31. GAAP, as set forth in EITF 85-1, Classifying Notes Received for Capital Stock, requires that except in very rare circumstances, notes received in payment for stock should be recorded as a reduction in shareholders' equity:

"The SEC requires that public companies report notes received in payment for the enterprise's stock

as a deduction from shareholders' equity. Task force members confirmed the predominant practice is to offset the notes and stock in the equity section. However, such notes may be recorded as an asset if collected in cash prior to issuance of the financial statements".

32. In the second quarter of 2000 and the first quarter of 2001, Enron issued $1.2 billion in common stock in exchange for a note receivable to capitalize four entities known as Raptor I-IV. Notwithstanding the basic requirement that such transactions should be accounted for as a reduction in shareholders' equity, Enron recorded the notes receivable as assets. Enron has admitted that its 2000 financial statements included overstated assets of $172 million for notes receivable that should have been recorded as an offset to equity and that, "as a result of these errors, shareholders' equity and notes receivable were overstated by a total of $1 billion in the unaudited financial statements of Enron at March 31 and June 30, 2001."

33. Enron has admitted to failing to make proposed audit adjustments and reclassifications in prior years because it had considered those adjustments "immaterial." In each year, the changes which Enron refused to make would have reduced Enron's net income. Enron has admitted that the proposed adjustment for 1997 was $51 million. This represented 48% of net income and 10% of recurring net income. Yet, Enron considered this amount to be "immaterial." However, Enron was required to consider the materiality of events in the aggregate. SEC Staff Accounting Bulletin No. 99 states: "Even though a misstatement of an individual amount may not cause the financial statements taken as a whole to be materially misstated, it may nonetheless, when aggregated with other misstatements, render the financial statements taken as a whole to be materially misleading. Registrants and the auditors of their financial statements accordingly should consider the effect of the misstatement on subtotals or totals. The auditor should aggregate all misstatements that affect each subtotal or total and

consider whether the misstatements in the aggregate affect the subtotal or total in a way that causes the registrant's financial statements taken as a whole to be materially misleading".

34. The fact that Enron has restated its financial statements for 1997 through the second quarter of 2001 is an admission that the financial statements originally issued were false and that the overstatement of revenues and income was material.

a. Pursuant to GAAP, as set forth in Accounting Principles Board Opinion ("APB") No. 20, the type of restatement announced by Enron was to correct for material errors in its previously issued financial statements. *See* APB No. 20.

b. The restatement of past financial statements is a disfavored method of recognizing an accounting change as it dilutes confidence by investors in the financial statements, it makes it difficult to compare financial statements and it is often difficult, if not impossible, to generate the numbers when restatement occurs. *See* APB No. 20, ¶14.

c. Thus, GAAP provides that financial statements should only be restated in limited circumstances, *i.e.,* when there is a change in the reporting entity, there is a change in accounting principles used or to correct an error in previously issued financial statements.

d. Enron's restatement was not due to a change in reporting entity or a change in accounting principles, but rather, was due to errors in previously issued financial statements.

e. Thus, the restatement is an admission by Enron that its previously issued financial results and its public statements regarding those results were false and misleading.

35. GAAP, as set forth in SFAS No. 121, requires that companies review long lived assets to determine if the assets are impaired. SFAS No. 121, JT5-6, state:

"5. The following are examples of events or changes in circumstances that indicate that the

recoverability of the carrying amount of an asset should be assessed:

a. A significant decrease in the market value of an asset

b. A significant change in the extent or manner in which an asset is used or a significant physical change in an asset

c. A significant adverse change in legal factors or in the business climate that could affect the value of an asset or an adverse action or assessment by a regulator

d. An accumulation of costs significantly in excess of the amount originally expected to acquire or construct an asset

e. A current period operating or cash flow loss combined with a history of operating or cash flow losses or a projection or forecast that demonstrates continuing losses associated with an asset used for the purpose of producing revenue".

"6. If the examples of events or changes in circumstances set forth in paragraph 5 are present or if other events or changes in circumstances indicate that the carrying amount of an asset that an entity expects to hold and use may not be recoverable, the entity shall estimate the future cash flows expected to result from the use of the asset and its eventual disposition. Future cash flows are the future cash inflows expected to be generated by an asset less the future cash outflows expected to be necessary to obtain those inflows. If the sum of the expected future cash flows (undiscounted and without interest charges) is less than the carrying amount of the asset, the entity shall recognize an impairment loss in accordance with this Statement. Otherwise, an impairment loss shall not be recognized; however, a review of depreciation policies may be appropriate".

(Footnote omitted.)

36. During 2001, contrary to GAAP, Enron failed to adequately reflect the deterioration in the value of its broadband assets and content services business. In fact, the assets were not worth anywhere near what Enron reported in its financial statements.

37. As a result of these factors, the assets would not provide the benefits estimated when they were acquired, but Defendants did not require Enron to take required write-downs, thus allowing Enron to report strong earnings without the effect of the necessary write-downs.

38. Due to these accounting improprieties, Enron presented its financial results and statements in a manner which violated GAAP, including the following fundamental accounting principles:

(a) The principle that interim financial reporting should be based upon the same accounting principles and practices used to prepare annual financial statements was violated (APB No. 28, ¶10);

(b) The principle that financial reporting should provide information that is useful to present and potential investors and creditors and other users in making rational investment, credit and similar decisions was violated (FASB Statement of Concepts No. 1, ¶34);

(c) The principle that financial reporting should provide information about the economic resources of an enterprise, the claims to those resources, and effects of transactions, events and circumstances that change resources and claims to those resources was violated (FASB Statement of Concepts No. 1, ¶40);

(d) The principle that financial reporting should provide information about how management of an enterprise has discharged its stewardship responsibility to owners (stockholders) for the use of enterprise resources entrusted to it was violated. To the extent that management offers securities of the enterprise to the public, it voluntarily accepts wider responsibilities for

accountability to prospective investors and to the public in general (FASB Statement of Concepts No. 1, ¶50);

(e) The principle that financial reporting should provide information about an enterprise's financial performance during a period was violated. Investors and creditors often use information about the past to help in assessing the prospects of an enterprise. Thus, although investment and credit decisions reflect investors' expectations about future enterprise performance, those expectations are commonly based at least partly on evaluations of past enterprise performance (FASB Statement of Concepts No. 1, ¶42);

(f) The principle that financial reporting should be reliable in that it represents what it purports to represent was violated. That information should be reliable as well as relevant is a notion that is central to accounting (FASB Statement of Concepts No. 2, ¶158-59);

(g) The principle of completeness, which means that nothing is left out of the information that may be necessary to insure that it validly represents underlying events and conditions was violated (FASB Statement of Concepts No. 2, ¶79); and

(h) The principle that conservatism be used as a prudent reaction to uncertainty to try to ensure that uncertainties and risks inherent in business situations are adequately considered was violated. The best way to avoid injury to investors is to try to ensure that what is reported represents what it purports to represent (FASB Statement of Concepts No. 2, ¶95, 97).

39. Further, the undisclosed adverse information concealed by Defendants is the type of information which, because of SEC regulations, regulations of the national stock exchanges and customary business practice, is expected by investors and securities analysts to be disclosed and is known by corporate officials and their legal and financial advisors to be the type of information which is

expected to be and must be disclosed.

40. Andersen's unqualified auditor's opinion on the financial statements of Enron as of and for the years ended 1997, 1998, 1999 and 2000, its consent to the use of those opinions in subsequent public documents, and Defendants' failure to withdraw those opinions in the ensuing quarters, all were materially false and misleading because Enron's financial statements were not presented in accordance with GAAP nor were they audited in accordance with GAAS.

41. In Financial Statements, as well as other SEC filings, Andersen always represented that Enron's financial statements for 1997, 1998, 1999 and 2000 were presented in accordance with GAAP and that its audits of Enron's financial statement had been performed in accordance with GAAS.

    a. As learned, Enron's financial statements for 1997, 1998, 1999 and 2000 were not presented in accordance with GAAP or GAAS.

42. These knowingly or recklessly false public reports have now resulted in Enron restating its 2000 audited shareholder equity by $172 million and 2001 unaudited equity by $828 million. Contrary to its unqualified audit opinions, which had assured creditors and the investing public that Enron's 1999 and 2000 financial statements had been fairly stated in conformity with GAAP, Enron (and Andersen) violated the most basic rules of GAAP.

43. Testifying before the United States House of Representatives Committee on Financial Services, on December 12, 2001, Andersen's CEO, Joseph F. Berardino admitted that "Chewco's financial statements since 1997 were required to be consolidated with JEDI's which, in a domino effect, then had to be consolidated in Enron's financial statements."

    a. The Chewco entity was responsible for 80 percent of the restatement.

    b. With regard to the subsidiary of LJM1, which was responsible for $100 million or

approximately 20 percent of the restatement, Berardino testified that "[I]n retrospect, we believe LJM1's subsidiary should have been consolidated."

44. The SEC has stated that meaningful audits should be performed by independent accountants. More specifically, the SEC stated:

"[T]he capital formation process depends in large part on the confidence of investors in financial reporting. An investor's willingness to commit his capital to an impersonal market is dependent on the availability of accurate, material and timely information regarding the corporations in which he has invested or proposes to invest. The quality of information disseminated in the securities markets and the continuing conviction of individual investors that such information is reliable are thus key to the formation and effective allocation of capital. Accordingly, the audit function must be meaningfully performed and the accountant's independence not compromised".

[Relationship Between Registrants and Independent Accountants, SEC Accounting Series Release No. 2961, 1981 SEC LEXIS 858 (Aug. 20, 1981)].

[GAAS, as approved and adopted by the American Institute of Certified Public Accountants ("AICPA"), relate to the conduct of individual audit engagements. Statements on Auditing Standards (codified and referred to as UA §XX) are recognized by the AICPA as the interpretation of GAAS].

45. GAAS, as set forth in AICPA Professional Standards Volume 1, U.S. Auditing Standards ("AU"), in Section AU 411, describes "The Meaning of Present Fairly in Conformity With Generally Accepted Accounting Principles in the Auditor's Report." It states:

> "The auditor's opinion that financial statements present fairly an entity's financial position, results of operations, and cash flows in conformity with generally accepted accounting principles should be based on his judgement as to whether (a) the

accounting principles selected and applied have general acceptance; (b) the accounting principles are appropriate in the circumstances; (c) the financial statements, including the related notes, are informative of matters that may affect their use, understanding, and interpretation...; (d) the information presented in the financial statements is classified and summarized in a reasonable manner, that is, neither too detailed nor too condensed...; and (e) the financial statements reflect the underlying events and transactions in a manner that presents the financial position, results of operations, and cash flows within a range of acceptable limits, that is, limits that are reasonable and practicable to attain in financial statements".

46. The audited financial statements of Enron, which were publicly disseminated, were not presented "fairly in conformity with generally accepted accounting principles" because the:

1. Accounting principles selected and applied did not have general acceptance.
2. Accounting principles were not appropriate in the circumstances.
3. Financial statements, including the related notes, were not informative of matters that affected their use, understanding, and interpretation.
4. Financial statements did not reflect the underlying events and transactions in a manner that presented the financial position and the results of operations within a range of acceptable limits that were reasonable and practicable to attain in financial statements.

47. Andersen knew it was required to adhere to standards and principles of GAAS, including the requirement that the financial statements comply in all material respects with GAAP.

a. Andersen, in issuing its unqualified opinions, as alleged herein, knew that by doing so it was engaging in a gross departure from GAAP and GAAS, or issued (and failed to withdraw) such

certifications with reckless disregard to the true facts.

48. In the introductory portion of Accounting Series Release 173, the SEC made the following comments pertaining to economic substance:

i. "Another problem...is the need for emphasizing the importance of substance over form in determining accounting principles to be applied to particular transactions and situations. In addition to considering substance over form in particular transactions, it is important that the overall impression created by the financial statements be consistent with the business realities of Enron's financial position and operations".

ii. "We believe that the auditor must stand back from his resolution of particular accounting issues and assess the aggregate impact of the particular issues upon a reasonable investor's perception of the economic substance of the enterprise for which the financial statements are being presented".

49. In opining on the fairness of the financial statements of Enron, Andersen failed to assess the propriety of the accounting principles used by Enron and Andersen failed to consider the importance of substance over form in determining accounting principles to be applied.

As noted by the SEC in its Accounting And Auditing Enforcement Release No. 817 (September 19, 1996), "In the Matter of Cypress Bioscience Inc. and Alex P. De Soto, CPA":

i. "It is a well-established tenet of GAAP that transactions must be accounted for in accordance with their substance rather than their form".

50. Due to the failure of Enron to account for transactions in accordance with their substance rather than their form, the overall impression created by the financial statements was inconsistent with the business realities of Enron's financial position and operations, and as a result they were false,

deceptive and materially misleading.

51. The Defendants knew and recklessly disregarded, or was reckless in not knowing, the facts set forth herein concerning the non-GAAP accounting and the materially false and misleading disclosures which were contained in Enron's filings with the SEC during relevant time periods.

a. The Defendants further knew and disregarded, or was reckless in not knowing, that such non-GAAP accounting and the materially false and misleading disclosures resulted in material misstatements of Enron's financial position and results of operation.

52. Andersen's opinions, insofar as they stated that its audit of Enron's financial statements was conducted in accordance with GAAS, was false and misleading because the following GAAS principles (AU Section 150) were knowingly or recklessly violated:

a. General Standard No. 1 was violated, which standard requires that the examination is to be performed by a person or persons having adequate technical training and proficiency as an auditor.

b. General Standard No. 3 was violated, which standard requires that due professional care is to be exercised in the performance of the examination and in the preparation of the report

c. Standard Of Field Work No. 1 was violated, which standard requires that the work is to be adequately planned and assistants, if any, are to be properly supervised.

d. Standard Of Field Work No. 2 was violated, which standard requires that a sufficient understanding of the internal control structure is to be obtained to plan the audit and to determine the nature, timing and extent of tests to be performed.

e. Standard Of Field Work No. 3 was violated, which standard requires that sufficient competent evidential matter is to be obtained through inspection, observation, inquiries, and confirmations

to afford a reasonable basis for an opinion regarding the financial statements under examination.

f. Standard Of Reporting No. 1 was violated, which standard requires that the report shall state whether the financial statements are presented in accordance with generally accepted accounting principles.

g. Standard Of Reporting No. 3 was violated, which standard requires that informative disclosures in the financial statements are to be regarded as reasonably adequate unless otherwise stated in the report.

53. Enron was required to disclose in its financial statements the existence of the material facts to appropriately report transactions in conformity with GAAP.

a. Enron failed to make such disclosures and to account for and to report transactions in conformity with GAAP. Andersen was, therefore, required pursuant to GAAS (AU Section 508) to express an adverse opinion on Enron's financial statements.

54. Andersen violated GAAS in failing to express an adverse opinion on the financial statements of Enron as of and for the fiscal years ended 1997, 1998, 1999, 2000.

a. In addition, Andersen was required to withdraw prior audit opinions which it knew Enron was continuing to use in connection with financing transactions and which remained pertinent to the investing public and the securities markets.

55. The Defendants knew or recklessly disregarded the facts which indicated that the financial statements of Enron as of and for the fiscal years ended 1997, 1998, 1999 and 2000, at a minimum, which were disseminated to the investing public during the relevant time period, were false and misleading for the reasons set forth herein, and were presented in a manner which violated the principles of fair financial reporting and GAAP as specified herein, among others.

a. GAAS (AU Sections 230, 311 and 316) provides that the auditor should exercise (a) due care in planning, performing, and evaluating the results of audit procedures, and (b) the proper degree of professional skepticism to achieve reasonable assurance that material errors or irregularities will be detected.

56. Andersen failed to comply with GAAS in that it failed to perform its examinations with a proper degree of professional skepticism. In this regard, Andersen either identified and ignored evidence that Enron's financial statements were materially misstated via fraudulent accounting and irregularities, or recklessly failed to identify such fraudulent accounting and irregularities.

a. Further, Andersen either identified and ignored, or recklessly failed to investigate extremely questionable transactions, and made audit judgments that no reasonable auditor would have made if confronted with the same facts. Accordingly, Andersen's audits were so deficient that they amounted to no audit at all.

57. Andersen violated the provisions of GAAS (AU Section 311) which state that:

"The auditor should obtain a level of knowledge of the entity's business that will enable him to plan and perform his audit in accordance with generally accepted auditing standards. That level of knowledge should enable him to obtain an understanding of the events, transactions, and practices that, in his judgment, may have a significant effect on the financial statements...Knowledge of the entity's business helps the auditor in:

a. Identifying areas that may need special consideration.

b. Assessing conditions under which accounting data are produced, processed, reviewed, and accumulated within the organization.

c. Evaluating the reasonableness of estimates, such as valuation of inventories, depreciation,

allowances for doubtful accounts, and percentage of completion of long-term contracts.

d. Evaluating the reasonableness of management representations.

e. Making judgments about the appropriateness of the accounting principles applied and the adequacy of disclosures".

58. Andersen either failed to identify areas (such as revenue recognition, shareholder equity, company liabilities and company receivables) that needed special consideration or identified such areas and audited them in a manner which was so deficient that it amounted to no audit at all, while making audit judgments that no reasonable auditor would have made if confronted with the same facts.

59. Andersen either failed to assess the conditions under which accounting data were produced, processed, reviewed, and accumulated within the organization, or assessed such conditions and made audit judgments based upon said assessment that no reasonable auditor would have made if confronted with the same facts.

60. Andersen knew that its unqualified opinions regarding Enron required that the financial statements adhere to standards and principles of GAAS, including the requirement that the financial statements comply in all material respects with GAAP.

a. Andersen, in issuing its unqualified opinions (1997-2000), knew that by doing so it was engaging in a gross departure from GAAS, or issued (and failed to withdraw) such certifications with reckless disregard for whether or not GAAS was being complied with.

61. As one of the largest audit firms in the world, Arthur Andersen was well aware of the strategies, methods and procedures required by GAAS to conduct a proper audit.

a. Also, Andersen knew of the audit risks inherent at Enron and in the industries in which Enron operated because of the comprehensive services it provided to Enron over the years and its

experience with many other clients.

b. Andersen's intentional failure to comply with GAAS and Andersen's performance on the Enron audits rose to the level of deliberate recklessness.

62. The Chewco, JEDI and LJM 1 and LJM2 relationships were transactions which Andersen was required to carefully evaluate. Pursuant to AU §334.09:

"After identifying related party transactions, the auditor should apply the procedures he considers necessary to obtain satisfaction concerning the purpose, nature, and extent of these transactions and their effect on the financial statements. The procedures should be directed toward obtaining and evaluating sufficient competent evidential matter and should extend beyond inquiry of management. Procedures that should be considered include the following:

(i) Obtain an understanding of the business purpose of the transaction.

(ii) Examine invoices, executed copies of agreements, contracts, and other pertinent documents, such as receiving reports and shipping documents.

(iii) Determine whether the transaction has been approved by the board of directors or other appropriate officials.

(iv) Test for reasonableness the compilation of amounts to be disclosed, or considered for disclosure, in the financial statements.

(v) Arrange for the audits of intercompany account balances to be performed as of concurrent dates, even if the fiscal years differ, and for the examination of specified, important, and representative related party transactions by the auditors for each of the parties, with appropriate exchange of relevant information.

(vi) Inspect or confirm and obtain satisfaction concerning the transferability and value of collateral".

63. Andersen ignored the guidance in this professional literature, which required that Andersen understand the transactions and the business purpose for the transactions and insist that Enron make adequate disclosure and proper accounting for the transactions. Andersen knew at least that:

(i) Employees and officers of Enron had interests in and control over certain of the SPEs.

(ii) Enron had a note receivable received in exchange for stock issued in 2000.

(iii) Enron had extremely close ties to the SPEs, which SPEs had huge liabilities that Andersen knew did not show up on Enron's balance sheet.

64. Andersen abandoned its role as independent auditor by turning a blind eye to each of the above indications of improper accounting, including the failure to consolidate, failure of Enron to make $51 million in proposed adjustments in 1997, and failure to adequately disclose the nature of transactions with subsidiaries.

(i) Despite this knowledge, Andersen did not insist upon adjustments to Enron's audited financial statements. Pursuant to GAAS, Andersen should have issued a qualified or adverse report, or it should have insisted that Enron comply with GAAP and properly performed the accounting thereunder.

65. As *The Wall Street Journal* noted on November 5, 2001:

"Until the auditor understands the business sense of material transactions, he cannot complete his audit. If he lacks sufficient specialized knowledge to understand a particular transaction, he should consult with persons who do have the requisite knowledge".

66. Arthur Andersen also permitted Enron to improperly account for notes received for stock issued. According to the SEC's former Chief Accountant, Arthur Andersen ignored a basic accounting rule on this issue. A November 12, 2001 *Bloomberg* article stated:

Lynn Turner, who was the SEC's chief accountant for three years until he resigned in August, said Enron and Andersen ignored a basic accounting rule when they overstated shareholder's equity. Explaining the equity reduction last week, Enron said it had given common stock to companies created by Enron's former chief financial officer in exchange for notes receivable, and then improperly increased shareholder equity on its balance sheet by the value of the notes.

"Basic Accounting"

"What we teach in college is that you don't record equity until you get cash for it, and a note is not cash," said Turner, who is now director of the Center for Quality Financial Reporting at Colorado State University. "It's a mystery how both the company would violate, and the auditors would miss, such a basic accounting rule, when the number is one billion dollars."

67. Andersen either knew and recklessly disregarded, or was reckless in not knowing, all of the facts set forth herein concerning the non-GAAP accounting and the materially false and misleading disclosures contained in Enron's filings with the SEC. Andersen further knew and disregarded, or was reckless in not knowing, that such non-GAAP accounting and the materially false and misleading disclosures resulted in material misstatements of Enron's financial position and results of operation.

68. In each of the Financial reports, Andersen represented its review and audit to the shareholders of Enron. For example, in its report dated February 23, 2001, Andersen reported:

REPORT OF INDEPENDENT PUBLIC ACCOUNTANTS

a. "...Our examinations were made in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included obtaining an understanding of the system of internal control, testing and evaluating the design and operating effectiveness of the system of internal control and such other procedures as we considered

necessary in the circumstances. We believe that our examinations provide a reasonable basis for our opinion. ...In our opinion, managements' assertion that the system of internal control of Enron Corp. and its subsidiaries as of December 31, 2000, 1999 and 1998 was adequate to provide reasonable assurance as to the reliability of financial statements and the protection of assets from unauthorized acquisition, use or disposition is fairly stated, in all material respects, based upon current standards of control criteria."

b. "We have audited the accompanying consolidated balance sheet of Enron Corp. (an Oregon corporation) and subsidiaries as of December 31, 2000 and 1999, and the related consolidated statements of income, comprehensive income, cash flows and changes in shareholders' equity for each of the three years in the period ended December 31, 2000. These financial statements are the responsibility of Enron Corp.'s management. Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States. Those standards 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. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as, evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion".

"In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Enron Corp. and subsidiaries as of December 31, 2000 and 1999, and the results of their operations, cash flows and changes in shareholders' equity for

each of the three years in the period ended December 31, 2000, in conformity with accounting principles generally accepted in the United States".

(Emphasis added above by Plaintiff to highlight false misrepresentations of Andersen).

(i) Nearly identical reports/representations were issued on February 23, 1998, March 5, 1999 and March 13, 2000 and all of which were published to the public and its markets.

(ii) See Exhibit I for similar misrepresentations of Andersen reviewed by Plaintiff in the annual reports of Enron 1998, 1999 and 2000.

69. GAAS, as set forth in AU §326, Evidential Matter, requires auditors to obtain sufficient, competent, evidential matter through inspection, observation, inquiries, and confirmations to afford a reasonable basis for an opinion regarding the financial statements under audit.

70. In evaluating evidential matter, the auditor considers whether specific audit objectives have been achieved.

a. The independent auditor should be thorough in his or her search for evidential matter and unbiased in its evaluation.

b. In designing audit procedures to obtain competent evidential matter, he or she should recognize the possibility that the financial statements may not be fairly presented in conformity with generally accepted accounting principles or a comprehensive basis of accounting other than generally accepted accounting principles.

c. In developing his or her opinion, the auditor should consider relevant evidential matter regardless of whether it appears to corroborate or to contradict the assertions in the financial statements.

d. To the extent the auditor remains in substantial doubt about any assertion of material significance, he or she must refrain from forming an opinion until he or she has obtained sufficient competent evidential matter to remove such substantial doubt, or the auditor must express a qualified opinion or a disclaimer of opinion.

AU §326.25 (footnotes omitted).

71. In violation of GAAS, and contrary to the representations in its report on Enron's financial statements, Andersen did not obtain sufficient, competent, evidential matter to support Enron's assertions regarding its income, assets, debt and shareholders' equity for 1997, 1998, 1999 and 2000.

72. On January 20, 1998, Enron issued a press release announcing that for 1997 net income was $105 million compared with $584 million in 1996. Enron also reported diluted earnings per share of <$0.16> for 1997 compared with <$1.08> for 1996 while basic earnings per share were <$0.16> for 1997 compared with <$1.16> for 1996. Commenting on these financial results, Defendant Lay stated: "Our 1997 results reflected extremely strong operating performance in virtually all of our business units, offset to a significant degree by a number of nonrecurring changes. These charges allow us to clear the decks for future growth."

a. These results were reiterated in Enron's 1997 Form 10-K, which was signed by Defendants Lay, Skilling and Andrew Fastow, filed with the SEC on March 31, 1998. The Company's consolidated balance sheet stated that Enron had debt of only $6.254 billion and shareholders' equity of $5.618 billion. In reality, Enron actually had debt of $6.965 billion, and shareholders' equity of only $5.305 billion, which would have come to light if Enron prepared its balance sheet under GAAP.

73. On October 13, 1998, Enron issued a press release claiming strong third-quarter financial results.

Commenting on these results, Lay stated:

"We are very pleased to report another quarter of strong results, generating $168 million of net income compared to $134 million a year ago. In a period of financial market uncertainty and commodity price volatility, Enron has demonstrated its ability to consistently generate solid and predictable earnings, as evidenced by the 60 percent increase in earnings in our Wholesale business."

a. These results were reiterated in the Company's 3rd Quarter Form 10-Q, which was filed with the SEC on November 17, 1998. The Company's consolidated balance sheet represented that Enron had debt of only $8.475 billion and shareholders' equity of $6.951 billion. Such was not true.

74. On January 19, 1999, Enron issued a press release reporting that for fiscal 1998 it earned $698 million, an increase of 36% from the previous year. Defendant Lay commenting on the results, stated in pertinent parts:

a. "Across Enron, 1998 was an excellent year. Our Wholesale Energy Operations and Services business led the company's growth during the year, achieving record levels both in volumes of energy marketed and in earnings". Such was not true.

b. "In addition to positive developments in our established businesses, Enron Energy Services has advanced to a fully developed business with broad new capabilities to provide energy outsourcing products to business customers across the nation.... We have experienced a strong market reception and very successful contracting results, and we are very pleased about the prospects for this dynamic business. The operating success across Enron was reflecting in an almost 40 percent shareholder return during the year, significantly above the very strong returns of the broader U.S. equity market". Such was not true.

75. Enron issued a press release on April 13, 1999 announcing that for the first quarter 1999 net income increased 18 percent to $253 million compared with $214 million in the first quarter of 1998. The press release further stated: "Our first quarter results reflect the continued strength or our worldwide energy businesses. Each of our wholesale business continued to grow during the quarter in terms of both volumes of energy delivered and profitability." Such was not true.

76. On July 13, 1999, Enron issued a press release announcing that earnings for the 2nd Quarter 1999 had increased by twenty-nine percent compared to the same Quarter 1998. More specifically, the press release stated:

"Enron Corp. announced today a 29 percent increase in earnings for the second quarter of 1999 to $0.54 per diluted share compared to second quarter 1998 results of $0.42 diluted share. Net income in the current quarter increased 53 percent to $222 million compared to $145 million in the prior year's quarter. Revenues were also up significantly in the second quarter of 1999 to $9.7 billion compared to $6.6 billion in the same period of 1998, a 47 percent increase". Such was not true.

a. Commenting on these results, Defendant Lay stated:

"Enron's consistent earnings growth reflects the very strong market positions in all of our businesses. We have established unique networks in natural gas, electricity and, most recently, communication that each have distinct advantages of scale and scope. Combining this strong market presence with our core skills and market knowledge, we are positioned to be the leading player in the largest and fastest growing markets in the world... The outlook for the company is excellent, and we are pleased to demonstrate that confidence by declaring the two-for-one stock split". Such was not true.

77. Shortly thereafter, on October 12, 1999, Enron issued a press release announcing that its earnings for

the 3rd Quarter 1999 increased by thirty-three percent compared to the same quarter in 1998. More specifically, the press release stated in pertinent part:

"Enron Corp. announced today a 33 percent increase in net income to $223 million for the third quarter of 1999, compared to $168 million in the third quarter of 1998. Enron also announced a 13 percent increase in earnings per diluted share to $0.27 for the most recent quarter, compared to $0.24 a year ago". Such was not true.

a. Commenting on these results, Defendant Lay stated:

"The scale and scope of Enron's wholesale businesses provide tremendous competitive advantages in the rapidly growing, deregulating energy markets, enabling Enron to consistently achieve strong earnings growth. Our new retail energy network has similar operating advantages and continues to exceed our own expectations both for signing long-term outsourcing contracts and for profitability. We are extending our network skills to the high bandwidth communications market and are pursuing a market-oriented, low asset approach, patterned after our very successful global energy business". Such was not true.

78. On January 18, 2000, Enron issued a press release announcing that for fiscal year 1999 it had net income of $957 million with revenues of $40 billion. Such was not true.

a. Commenting on these results, Defendant Lay stated:

"Our strong results in both the fourth quarter and the full year 1999 reflect excellent performance in all of our operating businesses. In addition, Enron continues to develop innovative, high-growth new businesses that capitalize on our core skills, as demonstrated by the early success of our new broadband services business. Overall, a great year- one in which our shareholders received a total return of 58 percent." Such was not true.

79. Following an analysts conference on January 20, 2000, during which Defendant Lay highlighted Enron's tremendous growth across all business activities, including its broadband services, Enron's stock price climbed from $67.37 on January 20, 2000 to $71.62 on January 21, 2000. However, Lay's statements were false and misleading because Enron's broadband was experiencing a declining demand for bandwidth.

80. On March 30, 2000, Enron filed its 1999 Form 10-K, which was signed by Lay, Skilling, Fastow and Causey with the SEC, reporting net income and total revenues as stated in its January 18, 2000 press release. Enron further reported total assets of $33.3 billion and shareholder equity of $9.57 billion. In its consolidated balance sheet, Enron reported assets of $33.4 billion, including $2.8 billion goodwill, $5 billion in investments and advances to unconsolidated equity affiliates and $4.7 billion to "other". Enron also reported that its debt was only $8.152 billion. In reality, Enron actually had debt of $8.837 billion and shareholders' equity was actually only $8.736 billion.

81. In an April 12, 2000 press release Enron reported that its 1st Quarter 2000 net income had increased 34% compared to the same quarter in 1999. Such was not true.

a. Commenting on these results, Defendant Lay stated:

"Enron's first quarter results confirm the very positive momentum of our high growth businesses... Wholesale volumes increased 43 percent to record levels, demonstrating the strength of our worldwide networks and the tremendous success of EnronOnline". Such was not true

"Enron is replicating its unique business model and skills to deploy a global network for the delivery of comprehensive bandwidth solutions and high bandwidth applications". Such was not true.

82. On July 24, 2000, Enron issued a press release announcing its financial results for the second quarter of 2000. The Company reported that it earned $289 million for the quarter based on revenues of $16.9 billion which was significantly higher than the same quarter in 1999. Commenting on these results, Defendant Lay stated that "Enron has completed another excellent quarter." Such was not true. Following this announcement Enron's stock price increased to above $80 per share.

83. On October 17, 2000, Enron issued a press release announcing that 3rd Quarter 2000 earnings per diluted share increased 26% from the same quarter in 1999. In addition, Enron reported net income of $292 million, an increase of 31% compared to 3rd Quarter 1999. Such was not true.

a. Commenting on these results, Defendant Lay stated:

"Enron delivered very strong earnings growth again this quarter, further demonstrating the leading market positions in each of our major businesses. We operate in some of the largest and fastest growing markets in the world and we are very optimistic about the continued strong outlook for our company". Such was not true.

84. On January 22, 2001, Enron issued a press release announcing its financial results for the fiscal year 2000. Defendant Lay stated "Our strong results reflect breakout performances in all of our operations... Our shareholder had another excellent year in 2000, as Enron's stock returned 89 percent, significantly in excess of any major investment index." However, this release did not disclose that Enron failed to record $91 million in losses from its JEDI and Chewco partnerships, and $8 million in losses from its subsidiary LJM1, which should have been but were not consolidated into Enron's fiscal year 2000 financial statement.

85. On April 2, 2001, Enron filed its Form 10-K with the SEC for the fiscal year ending December 31, 2000. Enron reported net income of $1.266 billion or $1.12 per share, total revenues of $100.7 billion,

total assets of $65.5 billion and shareholder equity of $11.47 billion. Enron also recognized revenues of $510 million from transactions with unconsolidated subsidiaries. Enron actually had debt of $10.857 billion and its shareholders' equity was actually only $10.306 billion. In reality, Enron's assets were overstated $172 million because in violation of GAAP, Enron recorded a note payable instead of a reduction in shareholder equity.

86. On April 17, 2001, Enron issued a press release announcing its financial results for the first quarter of 2001. Commenting on these results, Defendant Skilling stated:

"Enron's wholesale business continues to generate outstanding results. Transaction and volume growth are translating into increasing profitability. In addition, our retail energy services and broadband intermediation activities are rapidly accelerating". Such was not true.

87. On July 25, 2001, *Bloomberg Business News* reported that at a meeting with analysts, Defendant Skilling stated that Enron would meet or beat its profit projections. The article stated in pertinent part: "We will hit those numbers, and we will beat those numbers," Skilling told a meeting of analysts and investors in New York .... [Again, misrepresentations].

a. Analysts also cited concern about unpaid power bills by Enron customers in California and India, and losses by Enron's broadband trading unit, which may hurt Enron's profits.

"All of these are bunk," Skilling said. "These are not issues for this stock." [Again, misrepresentations].

88. On August 14, 2001, Enron filed its 2nd Quarter Form 10-Q with the SEC reporting net income of $404 million or $.045, total revenues of $50.6 billion, total assets of $63.3 billion and shareholder equity of $11.74 billion. Such was not true.

89. On August 14, 2001, Defendant Skilling shocked the investment community by resigning from Enron

for alleged "personal reasons." In response to this announcement, the price of Enron common stock dropped. The following day, the Los Angeles times reported that Defendant Lay met with reporters, investors and analysts to quell any concerns that they had regarding Skilling's departure.

a. In response to a question about whether there was any anticipated disclosures, Lay stated, "There's nothing to disclose. The company's in great shape." Such was not true.

90. Then, on August 29, 2001, Defendant Lay provided an interview to *Bloomberg Business News* which was carried on the newswires. Defendant Lay falsely portrayed the Broadband Services Division in highly positive terms. The following question/answer is illustrative:

Johnson: "There has been a lot of concern by investors recently over the company's broadband trading unit, which trades space on fiber optic networks. Where does Enron stand with fiber optic trading now? Have you - do you still remain hopeful in that sector? Or what's the outlook now?"

Lay: "Why, no, that continues to grow, quarter-to-quarter, at a very good rate, so we're continuing to develop liquidity in the marketplace. I mean, the biggest single problem has been the shortage of creditworthy counter parties to do longer term transactions. But certainly, quarter-to-quarter, we continue to increase the number of trades rather significantly."

91. On November 8, 2001, Enron filed a Form 8-K with the SEC and issued a press release disclosing that its financial statements for the 1997 through June 30, 2001 should not be relied upon and were not in conformity with GAAP.

92. In the 1998 Annual Report, Lay and Skilling, falsely represented and misrepresented Enron's business and financial results. For example, in part,:

a. "In 1998, the business platform we have built to achieve that status delivered record earnings and excellent shareholder returns, outpacing our industry group and the broader stock market.

Earnings of $698 million from operations represent a 36 percent increase compared to 1997, and our return to shareholders of almost 40 percent beat the 2.9 percent return of our peer group and the S&P 500 return of 28 percent.

We are very pleased with these results. But it is the future that excites us the most."

b. "Enron has a long history of starting and successfully building new businesses.

Our core businesses are positioned for very solid growth in 1999 and beyond. We have an extremely strong franchise position, and we have platforms in place in our core businesses and new businesses for significant expansion and earnings growth."

c. "We are very excited about Enron's opportunities in 1999. We are extremely well-positioned to enhance our capabilities and build momentum as the leading player in the competitive electricity and natural gas markets throughout the world, and we look forward to delivering continued strong results to our shareholders."

93. In the 1999 Annual Report, Lay and Skilling, falsely represented and misrepresented Enron's business and financial results. For example, in part,:

a. "But we know who we are. We are clearly a knowledge-based company, and the skills and resources we used to transform the energy business are providing to be equally valuable in other businesses. Yes, we will remain the world's leading energy company, but we also will use our skills and talents to gain leadership in fields where the right opportunities beckon."

b. "In 1999, we witnessed an acceleration of Enron's staggering pace of commercial innovation, driven by a quest to restructure inefficient markets, break down barriers and provide customers with what they want and need, when they want and need it. We reported another round of impressive financial and operating results. In 1999, revenue increased 28 percent to $40

billion, and net income before non-recurring items increased 37 percent to reach $957 million. Our total return to shareholders of 58 percent was eight times higher than our peer group and almost triple the S&P 500 return. We believe the future will be more rewarding."

c. "We are participating in a New Economy, and the rules have changed dramatically. What you own is not as important as what you know. Enron has been and always will be the consummate innovator because of our extraordinary people. It is our intellectual capital-not only our physical assets-that makes us Enron. Move our assets to another company, and the results would be markedly different. Creativity is a fragile commodity. Put a creative person in a bureaucratic atmosphere, and the creative output will die. We support employees with the most innovative culture possible, where people are measured not by how many mistakes they make, but how often they try."

d. "We are doing something that is recognized outside the company. This year, in addition to again naming us "America's Most Innovative Company", Fortune ranked Enron "No. 1 in Quality of Management" and "No. 2 in Employee Talent" of all American companies. The magazine also acknowledged us as one of the 25 best places to work in America. We recognize that our intellectual capital is our most important asset, and we cherish it. All employees are shareholders. Our values of communication, integrity, respect and excellence are equally applicable to our dealings with each other as with our customers and suppliers."

e. "The fundamental skills and expertise we use to develop energy and communications solutions can be applied to many situations that inhibit our customers' profits and growth. It is that core of expertise, rather than tradition, that will define Enron in the future."

94. In the 2000 Annual Report, Lay and Skilling, falsely represented and misrepresented Enron's business

and financial results. For example, in part,:

a. "Enron has built unique and strong businesses that have tremendous opportunities for growth. Enron is laser-focused on earnings per share, and we expect to continue strong earnings performance."

b. "Enron is increasing earnings per share and continuing our strong returns to shareholders. Recurring earnings per share have increased steadily since 1997 and were up 25 percent in 2000. The company's total return to shareholders was 89 percent in 2000, compared with a negative 9 percent returned by the S&P 500. The 10-year return to Enron shareholders was 1,415 percent compared with 383 percent for the S&P 500."

c. "Enron hardly resembles the company we were in the early days. During our 15-year history, we have stretched ourselves beyond our own expectations. Our talented people, global presence, financial strength and massive market knowledge have created our sustainable and unique businesses."

95. As alleged herein, Lay and Skilling acted with scienter in that they knew that the public documents and statements issued or disseminated in the name of Enron were materially false and misleading, that such statements or documents would be issued or disseminated to the investing public, and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws.

a. As set forth elsewhere herein in detail, Defendants, by virtue of their receipt of information reflecting the true facts regarding Enron, their control over, and/or receipt and/or modification of Enron's materially misleading misstatements and/or their associations with Enron which made them privy to confidential proprietary information concerning Enron, participated in the

fraudulent scheme alleged herein, including their own negligent misrepresentations.

96. Lay and Skilling's scienter is further evidenced by the large amount of insider selling. They sold the following amounts of stock:

INSIDER	**SHARES SOLD**	**PROCEEDS**
Lay	1,810,793	$101,346,951
Skilling	1,119,958	$66,924,028

The details of their insider sales are as follows:

Name	Date	Price	Shares Sold	Proceeds
LAY	02/22/1999	$31.770	100,000	$3,177,000
	02/23/1999	$32.460	100,000	$3,246,000
	04/20/1999	$33.690	100,000	$3,369,000
	04/29/1999	$36.640	100,000	$3,664,000
	05/10/1999	$37.480	50,000	$1,874,000
	07/21/1999	$42.625	50,000	$2,131,250
	07/21/1999	$42.600	110,770	$4,718,802
	09/03/1999	$40.190	148,991	$5,987,948
	04/20/2000	$70.810	35,000	$2,478,350
	04/26/2000	$73.060	86,800	$6,341,608
	05/04/2000	$74.720	154,300	$11,529,296
	05/04/2000	$74.660	50,000	$3,733,000
	05/08/2000	$75.700	22,500	$1,703,250
	08/24/2000	$85.750	25,000	$2,143,750
	08/24/2000	$86.360	50,000	$4,318,000
	11/01/2000	$83.130	3,534	$293,781
	11/01/2000	$83.190	500	$41,595
	11/02/2000	$83.520	3,534	$295,160
	11/02/2000	$83.560	500	$41,780
	11/03/2000	$81.000	500	$40,500
	11/03/2000	$81.000	3,534	$286,254
	11/06/2000	$78.250	3,534	$276,536
	11/06/2000	$78.370	500	$39,185
	11/08/2000	$82.750	3,534	$292,439
	11/09/2000	$82.970	3,534	$293,216
	11/09/2000	$82.970	500	$41,485
	11/10/2000	$82.750	500	$41,375
	11/13/2000	$78.250	500	$39,125
	11/14/2000	$80.000	3,534	$282,720

11/15/2000	$79.940	500	$39,970
11/15/2000	$79.940	3,534	$282,508
11/16/2000	$81.630	500	$40,815
11/16/2000	$81.630	3,534	$288,480
11/17/2000	$80.560	3,534	$284,699
11/17/2000	$80.470	500	$40,235
11/20/2000	$81.370	500	$40,685
11/20/2000	$81.370	3,534	$287,562
11/21/2000	$80.750	3,534	$285,371
11/21/2000	$80.750	500	$40,375
11/22/2000	$78.630	3,534	$277,878
11/22/2000	$78.630	500	$39,315
11/24/2000	$77.590	3,534	$274,203
11/24/2000	$77.620	500	$38,810
11/27/2000	$79.310	3,534	$280,282
11/27/2000	$79.340	500	$39,670
11/28/2000	$79.000	3,534	$279,186
11/28/2000	$79.000	500	$39,500
11/29/2000	$77.410	3,534	$273,567
11/29/2000	$77.410	500	$38,705
11/30/2000	$71.000	500	$35,500
11/30/2000	$70.970	3,534	$250,808
12/01/2000	$67.220	3,534	$237,555
12/01/2000	$67.190	500	$33,595
12/04/2000	$67.250	3,534	$237,662
12/05/2000	$67.250	500	$33,625
12/06/2000	$68.690	3,534	$242,750
12/06/2000	$68.690	500	$34,345
12/07/2000	$72.780	3,534	$257,205
12/07/2000	$72.780	500	$36,390
12/08/2000	$71.000	3,534	$250,914
12/11/2000	$74.500	500	$37,250
12/11/2000	$74.500	3,534	$263,283
12/12/2000	$76.030	500	$38,015
12/12/2000	$76.030	3,534	$268,690
12/13/2000	$77.130	500	$38,565
12/13/2000	$77.130	3,534	$272,577
12/14/2000	$75.000	500	$37,500
12/14/2000	$76.500	500	$38,250
12/14/2000	$75.000	3,534	$265,050
12/15/2000	$77.250	3,534	$273,002
12/15/2000	$77.280	500	$38,640
12/18/2000	$78.500	3,534	$277,419

12/18/2000	$78.500	500	$39,250
12/19/2000	$80.030	500	$40,015
12/19/2000	$79.750	500	$39,875
12/21/2000	$79.030	500	$39,515
12/21/2000	$79.030	3,534	$279,292
12/22/2000	$79.470	3,534	$280,847
12/22/2000	$79.470	500	$39,735
12/22/2000	$81.190	500	$40,595
12/26/2000	$82.380	500	$41,190
12/26/2000	$82.380	3,534	$291,131
12/27/2000	$83.000	3,534	$293,322
12/27/2000	$83.000	500	$41,500
12/28/2000	$85.940	3,534	$303,712
12/28/2000	$82.940	500	$41,470
12/29/2000	$84.060	500	$42,030
12/29/2000	$84.060	3,534	$297,068
01/03/2001	$77.940	500	$38,970
01/03/2001	$77.940	3,534	$275,440
01/04/2001	$72.250	3,534	$255,332
01/04/2001	$72.250	500	$36,125
01/05/2001	$72.190	500	$36,095
01/05/2001	$72.190	3,534	$255,119
01/08/2001	$71.530	500	$35,765
01/08/2001	$71.660	3,534	$253,246
01/09/2001	$70.630	3,534	$249,606
01/09/2001	$70.530	500	$35,265
01/10/2001	$68.750	500	$34,375
01/11/2001	$69.090	3,534	$244,164
01/11/2001	$69.090	500	$34,545
01/12/2001	$69.500	3,534	$245,613
01/12/2001	$69.500	500	$34,750
01/16/2001	$68.280	3,534	$241,302
01/16/2001	$69.280	500	$34,640
01/17/2001	$68.750	3,534	$242,963
01/18/2001	$71.560	3,534	$252,893
01/18/2001	$71.560	500	$35,780
01/19/2001	$70.240	2,020	$141,885
01/19/2001	$71.060	1,514	$107,585
01/22/2001	$73.380	3,534	$259,325
01/22/2001	$73.380	500	$36,690
01/23/2001	$77.160	3,534	$272,683
01/24/2001	$80.250	3,534	$283,604
01/24/2001	$80.250	500	$40,125

01/25/2001	$80.410	500	$40,205
01/25/2001	$80.410	3,534	$284,169
01/26/2001	$82.000	3,534	$289,788
01/30/2001	$79.980	3,534	$282,649
01/30/2001	$80.000	500	$40,000
01/31/2001	$79.880	3,534	$282,296
01/31/2001	$79.880	500	$39,940
02/01/2001	$78.830	2,500	$197,075
02/01/2001	$79.060	500	$39,530
02/02/2001	$78.770	2,500	$196,925
02/02/2001	$78.770	500	$39,385
02/05/2001	$80.490	2,500	$201,225
02/05/2001	$80.490	500	$40,245
02/06/2001	$80.780	500	$40,390
02/06/2001	$80.810	2,500	$202,025
02/07/2001	$80.390	24,690	$1,984,829
02/07/2001	$80.400	500	$40,200
02/07/2001	$80.000	40	$3,200
02/08/2001	$80.380	2,500	$200,950
02/08/2001	$80.380	500	$40,190
02/09/2001	$80.770	2,500	$201,925
02/09/2001	$80.690	500	$40,345
02/12/2001	$79.980	500	$39,990
02/12/2001	$79.980	2,500	$199,950
02/13/2001	$79.960	2,500	$199,900
02/13/2001	$79.760	500	$39,880
02/14/2001	$80.720	2,500	$201,800
02/14/2001	$80.720	500	$40,360
02/15/2001	$77.600	2,500	$194,000
02/16/2001	$76.360	2,500	$190,900
02/16/2001	$76.360	500	$38,180
02/20/2001	$76.280	2,500	$190,700
02/20/2001	$76.280	500	$38,140
02/21/2001	$74.930	500	$37,465
02/21/2001	$74.850	2,500	$187,125
02/22/2001	$72.580	2,500	$181,450
02/22/2001	$72.570	500	$36,285
02/23/2001	$71.060	2,500	$177,650
02/23/2001	$71.080	500	$35,540
02/26/2001	$70.370	500	$35,185
02/26/2001	$70.370	2,500	$175,925
02/27/2001	$70.360	2,500	$175,900
02/27/2001	$70.360	500	$35,180

02/28/2001	$69.500	2,500	$173,750
03/01/2001	$67.780	500	$33,890
03/01/2001	$67.780	2,500	$169,450
03/02/2001	$68.990	500	$34,495
03/02/2001	$69.000	2,500	$172,500
03/05/2001	$70.480	2,500	$176,200
03/05/2001	$70.480	500	$35,240
03/06/2001	$69.860	2,500	$174,650
03/06/2001	$69.860	500	$34,930
03/07/2001	$69.300	500	$34,650
03/07/2001	$69.300	2,500	$173,250
03/08/2001	$70.400	2,500	$176,000
03/08/2001	$70.400	500	$35,200
03/09/2001	$69.870	500	$34,935
03/09/2001	$69.650	2,500	$174,125
03/12/2001	$64.920	2,500	$162,300
03/12/2001	$64.920	500	$32,460
03/13/2001	$61.750	2,500	$154,375
03/13/2001	$61.750	500	$30,875
03/14/2001	$61.430	500	$30,715
03/14/2001	$61.430	2,500	$153,575
03/15/2001	$64.630	2,500	$161,575
03/16/2001	$65.500	500	$32,750
03/16/2001	$65.500	2,500	$163,750
03/19/2001	$62.290	500	$31,145
03/19/2001	$62.270	2,500	$155,675
03/20/2001	$62.280	2,500	$155,700
03/20/2001	$62.300	500	$31,150
03/21/2001	$59.570	2,500	$148,925
03/21/2001	$59.660	500	$29,830
03/22/2001	$53.930	2,500	$134,825
03/23/2001	$57.720	2,500	$144,300
03/26/2001	$61.320	2,500	$153,300
03/27/2001	$60.500	2,500	$151,250
03/27/2001	$60.510	500	$30,255
03/28/2001	$58.870	500	$29,435
03/28/2001	$58.830	2,500	$147,075
03/29/2001	$56.800	900	$51,120
03/29/2001	$56.800	2,500	$142,000
03/30/2001	$56.620	2,500	$141,550
03/30/2001	$59.000	500	$29,500
04/02/2001	$57.500	2,500	$143,750
04/02/2001	$57.500	500	$28,750

04/03/2001	$55.900	2,500	$139,750
04/04/2001	$54.050	500	$27,025
04/04/2001	$54.110	2,500	$135,275
04/05/2001	$54.880	2,500	$137,200
04/06/2001	$54.750	2,500	$136,875
04/09/2001	$54.530	2,500	$136,325
04/09/2001	$54.520	500	$27,260
04/10/2001	$58.310	2,008	$117,086
04/10/2001	$57.200	492	$28,142
04/11/2001	$59.690	2,500	$149,225
04/11/2001	$59.700	500	$29,850
04/12/2001	$57.400	2,500	$143,500
04/16/2001	$58.240	2,500	$145,600
04/17/2001	$60.750	2,500	$151,875
04/18/2001	$61.570	2,500	$153,925
04/18/2001	$61.640	500	$30,820
04/19/2001	$61.320	500	$30,660
04/20/2001	$60.830	500	$30,415
04/20/2001	$60.870	2,500	$152,175
04/23/2001	$60.940	2,500	$152,350
04/24/2001	$62.180	2,500	$155,450
04/25/2001	$62.040	500	$31,020
04/25/2001	$62.060	2,500	$155,150
04/26/2001	$63.210	2,500	$158,025
04/27/2001	$62.980	2,500	$157,450
04/30/2001	$63.110	500	$31,555
04/30/2001	$63.350	2,500	$158,375
05/01/2001	$63.070	1,000	$63,070
05/01/2001	$63.120	2,500	$157,800
05/02/2001	$61.780	1,000	$61,780
05/02/2001	$61.770	2,500	$154,425
05/03/2001	$58.790	2,500	$146,975
05/03/2001	$58.730	1,000	$58,730
05/04/2001	$58.860	1,000	$58,860
05/04/2001	$58.860	2,500	$147,150
05/07/2001	$58.680	1,000	$58,680
05/07/2001	$58.670	1,000	$58,670
05/07/2001	$58.670	2,500	$146,675
05/08/2001	$57.000	1,000	$57,000
05/08/2001	$57.000	2,500	$142,500
05/09/2001	$57.210	2,500	$143,025
05/09/2001	$57.130	1,000	$57,130
05/10/2001	$58.350	1,000	$58,350

05/10/2001	$58.350	2,500	$145,875
05/11/2001	$57.540	2,500	$143,850
05/11/2001	$57.530	1,000	$57,530
05/14/2001	$58.520	2,500	$146,300
05/14/2001	$58.550	1,000	$58,550
05/15/2001	$58.080	1,000	$58,080
05/15/2001	$58.080	2,500	$145,200
05/16/2001	$57.250	1,000	$57,250
05/16/2001	$57.250	2,500	$143,125
05/17/2001	$55.020	2,500	$137,550
05/17/2001	$55.050	1,000	$55,050
05/18/2001	$53.750	1,000	$53,750
05/18/2001	$53.750	2,500	$134,375
05/21/2001	$55.160	2,500	$137,900
05/21/2001	$55.160	1,000	$55,160
05/22/2001	$55.060	1,000	$55,060
05/22/2001	$55.060	2,500	$137,650
05/23/2001	$55.670	1,000	$55,670
05/23/2001	$55.680	2,500	$139,200
05/24/2001	$55.110	1,000	$55,110
05/24/2001	$55.110	2,500	$137,775
05/25/2001	$53.810	1,000	$53,810
05/25/2001	$53.810	2,500	$134,525
05/29/2001	$53.410	2,500	$133,525
05/29/2001	$53.410	1,000	$53,410
05/30/2001	$52.950	2,500	$132,375
05/30/2001	$52.950	1,000	$52,950
05/31/2001	$53.030	2,500	$132,575
05/31/2001	$53.030	1,000	$53,030
06/01/2001	$52.660	1,000	$52,660
06/01/2001	$52.660	2,500	$131,650
06/04/2001	$53.880	1,000	$53,880
06/04/2001	$53.880	2,500	$134,700
06/05/2001	$54.080	1,000	$54,080
06/05/2001	$54.080	2,500	$135,200
06/06/2001	$52.790	2,500	$131,975
06/06/2001	$52.790	1,000	$52,790
06/07/2001	$50.630	1,000	$50,630
06/08/2001	$50.200	2,500	$125,500
06/08/2001	$50.190	1,000	$50,190
06/11/2001	$51.170	2,500	$127,925
06/11/2001	$51.170	1,000	$51,170
06/12/2001	$50.910	1,000	$50,910

06/12/2001	$50.920	2,500	$127,300
06/13/2001	$50.640	1,000	$50,640
06/13/2001	$50.630	2,500	$126,575
06/14/2001	$48.830	1,000	$48,830
06/14/2001	$48.830	2,500	$122,075
06/15/2001	$47.780	2,500	$119,450
06/15/2001	$47.800	1,000	$47,800
06/18/2001	$46.000	2,500	$115,000
06/18/2001	$46.000	1,000	$46,000
06/19/2001	$44.930	1,000	$44,930
06/19/2001	$44.930	2,500	$112,325
06/20/2001	$46.110	2,500	$115,275
06/20/2001	$46.110	1,000	$46,110
06/21/2001	$45.150	1,000	$45,150
06/21/2001	$45.150	2,500	$112,875
06/22/2001	$44.210	2,500	$110,525
06/22/2001	$44.220	1,000	$44,220
06/25/2001	$44.790	2,500	$111,975
06/25/2001	$44.780	1,000	$44,780
06/26/2001	$43.650	1,000	$43,650
06/26/2001	$43.660	2,500	$109,150
06/27/2001	$45.450	1,000	$45,450
06/27/2001	$45.450	2,500	$113,625
06/28/2001	$47.470	1,000	$47,470
06/28/2001	$47.470	2,500	$118,675
06/29/2001	$49.250	2,500	$123,125
06/29/2001	$49.250	1,000	$49,250
07/02/2001	$48.810	2,500	$122,025
07/02/2001	$48.800	1,000	$48,800
07/03/2001	$48.800	2,500	$122,000
07/05/2001	$49.660	2,500	$124,150
07/05/2001	$49.660	1,000	$49,660
07/06/2001	$50.060	1,000	$50,060
07/06/2001	$50.060	2,500	$125,150
07/09/2001	$49.400	1,000	$49,400
07/09/2001	$49.400	2,500	$123,500
07/10/2001	$49.410	1,000	$49,410
07/10/2001	$49.440	2,500	$123,600
07/11/2001	$49.000	2,500	$122,500
07/11/2001	$49.000	1,000	$49,000
07/12/2001	$49.540	1,000	$49,540
07/12/2001	$49.540	2,500	$123,850
07/13/2001	$49.480	1,000	$49,480

	07/13/2001	$49.480	2,500	$123,700
	07/16/2001	$49.500	1,000	$49,500
	07/16/2001	$49.500	2,500	$123,750
	07/17/2001	$49.640	1,000	$49,640
	07/17/2001	$49.640	2,500	$124,100
	07/18/2001	$49.390	1,000	$49,390
	07/19/2001	$48.910	2,500	$122,275
	07/19/2001	$48.910	1,000	$48,910
	07/20/2001	$48.660	2,500	$121,650
	07/20/2001	$48.660	1,000	$48,660
	07/23/2001	$47.490	2,500	$118,725
	07/23/2001	$47.480	1,000	$47,480
	07/24/2001	$44.760	1,000	$44,760
	07/24/2001	$44.760	2,500	$111,900
	07/25/2001	$43.870	1,000	$43,870
	07/25/2001	$43.830	2,500	$109,575
	07/26/2001	$45.310	1,000	$45,310
	07/26/2001	$45.350	2,500	$113,375
	07/27/2001	$46.050	2,500	$115,125
	07/27/2001	$46.040	1,000	$46,040
	07/30/2001	$46.250	2,500	$115,625
	07/30/2001	$46.250	1,000	$46,250
	07/31/2001	$45.980	2,500	$114,950
	07/31/2001	$45.980	1,000	45 980
TOTAL:			**1,810,793**	**$101,346,951**

SKILLING	02/04/1999	$31.970	1,848	$59,081
	04/16/1999	$34.530	250,000	$8,632,500
	05/05/1999	$76.650	60,000	$4,599,000
	05/06/1999	$38.250	50,000	$1,912,500
	05/07/1999	$76.250	25,000	$1,906,250
	10/18/1999	$38.000	126,784	$4,817,792
	04/26/2000	$73.880	10,000	$738,800
	04/27/2000	$74.000	26,217	$1,940,058
	04/27/2000	$73.880	25,000	$1,847,000
	04/27/2000	$72.500	25,000	$1,812,500
	08/30/2000	$86.130	15,000	$1,291,950
	09/01/2000	$86.880	30,000	$2,606,400
	09/01/2000	$87.250	15,000	$1,308,750
	09/05/2000	$85.000	11,441	$972,485
	11/01/2000	$83.060	12,600	$1,046,556
	11/01/2000	$83.240	60,000	$4,994,400

11/02/2000	$82.340	20,000	$1,646,800
11/07/2000	$82.590	46,068	$3,804,756
11/15/2000	$80.310	10,000	$803,100
11/22/2000	$77.060	5,000	$385,300
11/22/2000	$80.190	5,000	$400,950
11/29/2000	$78.690	5,000	$393,450
11/29/2000	$74.190	5,000	$370,950
12/06/2000	$68.910	10,000	$689,100
12/13/2000	$77.060	10,000	$770,600
12/20/2000	$79.030	10,000	$790,3,00
12/27/2000	$83.000	10,000	$830,000
01/03/2001	$78.160	10,000	$781,600
01/10/2001	$69.200	10,000	$692,000
01/17/2001	$68.940	10,000	$689,400
01/24/2001	$80.280	10,000	$802,800
01/31/2001	$79.690	10,000	$796,900
02/07/2001	$80.370	10,000	$803,700
02/14/2001	$80.420	10,000	$804,200
02/21/2001	$74.780	10,000	$747,800
02/28/2001	$69.540	10,000	$695,400
03/07/2001	$69.520	10,000	$695,200
03/14/2001	$61.410	10,000	$614,100
03/21/2001	$59.240	10,000	$592,400
03/28/2001	$58.660	10,000	$586,600
04/04/2001	$54.100	10,000	$541,000
04/11/2001	$59.500	10,000	$595,000
04/18/2001	$61.300	10,000	$613,000
04/25/2001	$62.050	10,000	$620,500
05/02/2001	$61.780	10,000	$617,800
05/09/2001	$57.140	10,000	$571,400
05/16/2001	$57.300	10,000	$573,000
05/23/2001	$55.520	10,000	$555,200
05/30/2001	$52.950	10,000	$529,500
06/06/2001	$52.740	10,000	$527,400
06/13/2001	$50.680	10.000	506 800
TOTAL:		**1,119,958**	**$66,924,028**

97. The market for Enron's securities was open, well-developed and efficient at all relevant times.

a. As a result of Defendants' materially false and misleading statements and failures to disclose, Enron's securities traded at artificially inflated prices.

b. Plaintiff purchased and acquired Enron publicly traded securities relying upon the integrity of the market price of Enron's securities and market information relating to Enron, and has been damaged thereby.

98. Defendants, Lay and Skilling, engaged in unlawful insider trading by disposing of millions of dollars of their own Enron shares while in possession of the material adverse information concerning Enron's operations and/or materially misled the investing public, thereby inflating the price of Enron's publicly traded securities, by publicly issuing false and misleading statements and omitting to disclose material facts necessary to make Defendants' statements, as set forth herein, not false and misleading. Said statements and omissions were materially false and misleading in that they failed to disclose material adverse information and misrepresented the truth about Enron, its business and operations, as alleged herein.

The Powers Report

99. The "Powers Report" dated February 1, 2002 was a Special Investigative Committee of Enron Corp. to investigate the off-book partnerships and the accounting matters related thereto. This Report, in part, makes certain findings which evidence the Plaintiff's claims against the Defendants. For example, the "Powers Report" states, in part:

i. "Many of the most significant transactions apparently were designed to accomplish favorable financial statement results, not to achieve bona fide economic objectives or to transfer risk. Some transactions were designed so that, had they followed applicable accounting rules, Enron could have kept assets and liabilities (especially debt) off of its balance sheet; but the transactions did not follow those rules."

ii. "Other transactions were implemented –improperly, we are informed by our accounting

advisors–to offset losses."

iii. "We believe these transactions resulted in Enron reporting earnings from the third quarter of 2000 through the third quarter of 2001 that were almost $1 billion higher than should have been reported."

iv. "Enron's original accounting treatment of the Chewco and LJM1 transactions that led to Enron's November 2001 restatement was clearly wrong, apparently the result of mistakes either instructing the transactions or in basic accounting. In other cases, the accounting treatment was likely wrong, notwithstanding creative efforts to circumvent accounting principles through the complex structuring of transactions that lacked fundamental economic substance. In virtually all of the transactions, Enron's accounting treatment was determined with extensive participation and structuring advice from Andersen, which Management reported to the Board. Enron's records show that Andersen billed Enron $5.7 million for advice in connection with the LJM and Chewco transactions alone, above and beyond its regular audit fees."

v. "Although Andersen approved the transactions, in fact the "hedging" transactions did not involve substantive transfers of economic risk. The transactions may have looked superficially like economic hedges, but they actually functioned only as "accounting" hedges. They appear to have been designed to circumvent accounting rules by recording hedging gains to offset losses in the value of merchant investments on Enron's quarterly and annual income statements. The economic reality of these transactions was that Enron never escaped the risk of loss, because it had provided the bulk of the capital with which the SPEs would pay Enron".

vi. "In addition to the accounting abuses involving use of Enron stock to avoid recognizing losses on merchant investments, the Rhythms transaction involved the same SPE equity problem that

undermined Chewco and JEDI. As we stated above, in 2001, Enron and Andersen concluded that Chewco lacked sufficient outside equity at risk to qualify for non-consolidation. At the same time, Enron and Andersen also concluded that the LJM1 SPE in the Rhythms transaction failed the same threshold accounting requirement. In recent Congressional testimony, Andersen's CEO explained that the firm had simply been wrong in 1999 when it concluded (and presumably advised Enron) that the LJM1 SPE satisfied the non-consolidation requirements. As a result, in November 2001, Enron announced that it would restate prior period financials to consolidate decreased Enron's reported net income by $95 million (of $893 million total) in 1999 and by $8 million ($979 million total) in 2002".

vii. "The evidence available to us suggests that Andersen did not fulfill its professional responsibilities in connection with its audits of Enron's financial statements, or its obligation to bring to the attention of Enron's Board (or the Audit and Compliance Committee) concerns about Enron's internal controls over the related-party transactions. Andersen has admitted that it erred in concluding that the Rhythms transaction was structured properly under the SPE non-consolidation rules. Enron was required to restate its financial results for 1999 and 2000 as a result. Andersen participated in the structuring and accounting treatment of the Raptor transactions, and charged over $1 million of its services, yet it apparently failed to provide the objective accounting judgment that should have prevented these transactions from going forward. According to Enron's internal accountants (though this apparently has been disputed by Andersen), Andersen also reviewed and approved the recording of additional equity in March 2001 in connection with this restructuring. In September 2001, Andersen required Enron to reverse this accounting treatment, leading to the $1.2 billion reduction of equity. Andersen apparently failed to note or take action with respect to

the deficiencies in Enron's public disclosure documents".

viii. "According to recent public disclosures, Andersen also failed to bring to the attention on Enron's Audit and Compliance Committee serious reservations Andersen partners voiced internally about the related-party transactions. An internal Andersen email from February 2001 released in connection with recent Congressional hearings suggests that Andersen had concerns about Enron's disclosures of the related-party transactions. A week after that email, however, Andersen's engagement partner told the Audit and Compliance Committee that, with respect to related-party transactions, "[r]equired disclosure [had been] reviewed for adequacy," and that Andersen would issue an unqualified audit opinion. From 1997 to 2001, Enron paid Andersen $5.7 million in connection with work performed specifically on the LJM and Chewco transactions. The Board appears to have reasonably relied upon the professional judgment of Andersen concerning Enron's financial statements and the adequacy of controls for the related-party transactions. Our review indicates that Andersen failed to meet its responsibilities in both respects".

ix. "As a practical matter, Enron was hedging with itself. There was no interested counter-party in these transactions once LJM2 had been paid its initial return".

x. "Proper financial accounting does not permit this result. To reach it, the accountants at Enron and Andersen–including the local engagement team and, apparently, Andersen's national office experts in Chicago–had to surmount numerous obstacles presented by pertinent accounting rules. Although they apparently believed that they had succeeded, a careful review of the transactions show that they appear to violate or raise serious issues under several accounting rules: Accounting principles generally forbid a company from recognizing an increase in the value of its capital stock in its income statement except under limited circumstances not present here."

xi. "The creation, and especially the subsequent restructuring, of the Raptors was perceived by many within Enron as a triumph of accounting ingenuity by a group of innovative accountants. We believe that perception was mistaken. Especially after the restructuring, the Raptors were little more than a highly complex accounting construct that was destined to collapse".

xii. "It is particularly surprising that the accountants at Andersen, who should have brought a measure of objectivity and perspective to these transactions, did not do so. Based on the recollections of those involved in the transactions and a large collection of documentary evidence, there is no question that Andersen accountants were in a position to understand all the critical features of the Raptors and offer advice on the appropriate accounting treatment. Andersen's total bill for Raptor-related work came to approximately $1.3 million. Indeed, there is abundant evidence that Andersen in fact offered Enron advice at every step, from inception through restructuring and ultimately to terminating the Raptors. Enron followed that advice. The Andersen workpapers we were permitted to review do not reflect consideration of a number of the important accounting issues that we believe exist".

xiii. "Moreover, several Directors stated that they believed Andersen would review the transactions to provide a safeguard. The minutes of the Finance Committee meeting on October 11, 1999 (apparently not attended by representatives of Andersen) identify "the review by Arthur Andersen LLP" as a factor in the Committee's consideration of LJM2. Andersen did in fact (1) provide substantial services with respect to structuring and accounting for many of the transactions, (2) review Enron's financial statement disclosures with respect to the related-party transactions (including representations that "the terms of the transactions were reasonable and no less favorable than the terms of similar arrangements with unrelated third parties"), and (3) confirm Andersen's

involvement in representations to the Audit and Compliance Committee at its annual reviews of the LJM transactions. The Board was entitled to rely on Andersen's involvement in these respects. In addition, one would reasonably expect auditors to raise questions to their client–the Audit and Compliance Committee–if confronted with transactions whose economic substance was in doubt, or if controls required by the Board of Directors were not followed, as was the case here".

xiv. "We are unable to determine why Andersen did not detect the various control failures described below. At its meeting with the Audit and Compliance Committee on May 1, 2000, an Andersen representative identified related-party transactions as an area to be given "high priorit[y] due to the inherent risks that were present." Moreover, in the engagement letter between Andersen and Enron dated May 2, 2000, the engagement partner wrote that Andersen's work would "consist of an examination of management's assertion that the system of internal control of Enron as of December 31, 2000, was adequate to provide reasonable assurance as to the reliability of financial statements..." Because Andersen declined to permit its representatives to be interviewed, we do not know what, if any, steps Andersen took in light of these observations."

100. The Plaintiff, who in good faith and in justifiable reliance upon information and representations by the Defendants made available to the public, including, annual financial and earnings statements/information (1997 through 2000 and the first and second quarters of 2001), concerning Enron and representations of Lay, Skilling and Andersen/Duncan, known by the Defendants and intended to be made available to and/or published to the public therein, became a shareholder of Enron Corp. ("Enron"). Before acquiring the shares of stock, Mr. Rogers reviewed and reasonably relied upon public information and Defendants' representations published and made available to the public, including, but not limited to, Enron 1998, 1999 and 2000 annual report information published on the Enron website (including financial

information prepared and/or audited by Duncan and Andersen and representations of Lay and Skilling), [e.g., for excerpts of Defendants' false representations and false financial reporting reviewed by Plaintiff - see Exhibit I].

a. The statements of Lay, Skilling and Andersen about Enron's business, future and growth and its financial condition (income, profits, debts) in 1998 to 2000 in the annual reports [which included false financial information from 1997 to 2000], unknown to Plaintiff were not true.

b. The financial information used for public publication was or should have been reviewed by the Enron Audit Committee and its Board Members/Officers and the Defendants and should have fairly represented the financial condition of Enron, but did not do so.

c. At the time of the accounting concealment involving the Defendants, as well as, prior to October 17, 2001, Andersen, as well as, the other Defendants (and perhaps others within Andersen and the Board Members and officers of Enron), actually knew or reasonably should have known that the financial information, audit information, and statements in the annual reports from 1997 to 2000 concerning the financial condition of Enron available to the public were not true, misleading and/or were made as part of a conspiracy and a scheme or a device to mislead, conceal the truth and/or defraud Enron investors, and the public, like Plaintiff. (For example, see Exhibits B, C and D).

d. Unknown to Mr. Rogers at the time of his Enron stock acquisition (October 17, 2001 to October 22, 2001), the financials and information/representations of the Defendants reviewed and relied upon by Rogers (see Exhibit I) on the Enron website, including the financial reports prepared and/or audited by Andersen and made available to the public and representations of Lay and Skilling, in making the business decision to purchase the Enron stock were negligently prepared, published and misleading, false, untrue and/or intentionally and/or knowingly fraudulent.

e. The Defendants, including, Andersen and Duncan, actually knew and/or had information that would lead a reasonable man to conclude there was an especial likelihood that the Enron audit information from 1997 - 2000 and Andersen's and the Defendants' statements about Enron's audit, accounting of Enron, and financial condition in those annual reports would reach persons like the Plaintiff and influence their conduct.

f. The Defendants and Andersen knew Enron had a website (www.enron.com) and knew the Enron financial information and Andersen's and Defendants' own statements in the Enron annual reports were published on that website, knew that the information in those annual reports was material and was intended to and would directly influence a reasonable person to his detriment and/or damage as the financial information was false and thus, the value of Enron artificially inflated.

g. Andersen/Duncan were specifically involved in preparing the financial reports (1997 - 2000) and its statements about same to be published on the Enron website and knew such would be reviewed and relied upon by potential Enron investors in the market, like Plaintiff and that such persons relying upon such information would suffer pecuniary loss because the financial information (1997-2000), and Andersen's statements about the accounting and audits were not true and were misleading.

h. In essence, therefore, the financial information relied upon by Mr. Rogers was false, untrue and/or misleading and/or fraudulent.

i. These negligently and/or fraudulently prepared, false, misleading and untrue Enron financial statements (1997-2000)/information/misrepresentations of Defendants and the public publication of same, along with the other conduct herein described, was a direct and/or proximate cause of the collapse of Enron (December 2, 2001 bankruptcy) and the damages to Plaintiff.

j. The Defendants negligently, knowingly or recklessly and/or fraudulently failed to use reasonable competence in obtaining audit information and communicating/reporting same for public use when it actually knew or reasonably should have known and/or had reason to expect such information would be used to be published and made available to the public, as well as, reasonably likely to be relied upon by persons, like Rogers, for investment purposes in Enron.

k. The Defendants were negligent and/or acted knowingly and/or recklessly and/or fraudulently in releasing such untrue and misleading financial information for public publication (annual reports 1997 through 2000 and financial information for the first two (2) quarters of 2001).

l. The Defendants negligently and/or knowingly or recklessly and/or fraudulently failed to use reasonable business and accounting/auditing judgment in Enron accounting and audits, as well as, its internal audit consulting services at Enron. Part of the conspiracy to defraud.

m. The Defendants failed to timely correct false and untrue information published to the public and/or to timely warn the public of the fact that its audits and financial information of Enron should not be relied upon. Thus, further evidence of the involvement of Defendants in the conspiracy to defraud.

n. Andersen negligently or knowingly or recklessly and/or fraudulently failed internally to implement systems of quality control or peer review, both of which, if implemented in all likelihood would have mitigated the damage caused by its audit team.

o. Andersen's representations, as well as, the other Defendant's representations about the financial and economic condition and future of Enron were simply untrue and/or misleading and/or fraudulent and they all had especial reason to expect and actually knew that the representations would reach people, like Plaintiff, and influence their conduct.

p. The Defendants were materially involved in the preparation and input of, the publication and representations in the Enron annual financial reports (1997 through 2000) in which the accounting was not in compliance with (GAAP), which the audits were not in compliance with (GAAS) and contained material misstatements.

q. Due to the fact that Defendant Duncan was the partner of Andersen in charge of the Enron audits and due to the fact that Andersen was the outside auditor and, as well as, served as the internal auditor, Andersen knew and/or reasonably should have known that the information that they were preparing and publishing and being used for publication to the public on behalf of and/or by Enron was public information and would reasonably and/or especially likely be used by like persons in the same or similar situation as Rogers to review and rely upon for guidance in connection with making a business decision to purchase Enron stock.

r. At the time Andersen performed its accounting and audit services, the publication of said information, as well as, as of February 6, 2001 and/or at least by mid-August, 2001 (say August 21, 2001), Defendants, Duncan and Andersen, as well as Lay and Skilling (and the Enron Board of Directors), knew and/or reasonably should have known that the Enron financial reports prepared by Andersen failed to comply with (GAAP) and (GAAS), that Andersen's audits and Enron financial information should not be relied upon, and that Andersen's audits of the financial information of Enron, were misleading, untrue and/or false and/or fraudulent and would cause damage to innocent third parties, as it did Rogers.

s. Andersen, Defendants and the Enron Board proceeded with public silence and failed to timely state the Enron financial information should not be relied upon.

t. This allowed the misrepresentations to continue and Andersen to continue to collect millions of

dollars in audit and internal audit consultation service fees from Enron (estimated at $1,000,000.00 per week), which account was under the charge of Duncan.

u. The silence, failure to act and the delay in notifying the public and potential investors until the November 8, 2001 disclosure constitutes a part of the negligent misrepresentation and/or was part of a conspiracy to defraud and/or constitutes common law fraud and a direct and/or proximate cause of damage to Plaintiff.

v. Sherron Watkins, a CPA with a bachelor's and master's degree from the University of Texas, was a former employee of Andersen.

v. On August 21, 2001, Watkins was an officer of Enron.

w. Watkins advised Andersen of material accounting concerns with the books of Enron. She advised Andersen that Enron's "consolidated financial statements were difficult to understand and did not tell the whole story". (Exhibits D and E). (The contents of Exhibits D and E are true).

x. Watkins had previously, on August 14, 2001, advised Defendant Lay that Enron would "implode in a wave of accounting scandals" and, in summary, that she was concerned about the "accounting hoax" and "funny accounting". (Exhibit C). (The contents of Exhibit C are true).

y. Andersen, as well as, Duncan, Lay, Skilling and the Enron Board of Directors had actual knowledge, knew and/or reasonably should have known of the accounting issues being raised by Watkins, yet it remained negligently and/or intentionally and/or knowingly and/or fraudulently silent and failed to advise the public of the accounting truth which allowed the harm to continue. (See Joseph Berardino comments - "Meet the Press", January 20, 2002, Exhibit F and see Exhibit E).

z. Lay and Skilling have reportedly maintained that they knew little about the off balance sheet

partnerships. If such is not true, they were negligent in the failure to take affirmative action to correct such activities due to the CEO and President position at Enron. If Lay's/Skilling's position, on the other hand, is true, then they were negligent and/or fraudulent in allowing such activity to take place and the production and publication of the misleading accounting information to the public and/or they were negligent and/or fraudulent in voicing positive representations about Enron's alleged financial strength if they did not have the facts or reasonably investigate same. Thus, evidence of negligent misrepresentations, fraud and the conspiracy to defraud.

aa. Defendant Lay prepared an e-mail to Enron employees (August 14, 2001) and continued to spread false information to the investing public representing financial soundness of Enron. For example, Lay told Enron employees "I want to assure you that I have never felt better about the prospects of the company." "Our performance has never been stronger; our business model has never been more robust; our growth has never been more certain. We have the finest organization in American business today."

bb. Enron's legal counsel, Max Hendricks, III of Vinson & Elkins, L.L.P. , as well as, Defendant Lay have admitted to Enron employees that Andersen was fully involved in Enron's "bookkeeping" (cooked as the books were).

101. Lay continued to espouse the financial strength of Enron to its employees in a continued pattern of false/misleading information, for example, (September 26, 2001 Lay/Enron employee conference) -

i. Question to Mr. Lay: Why is there not a present initiative to have our management encouraged (with muscle) to buy Enron stock?

ii. Answer: Mr. Lay: I have strongly encouraged our 16B officers [who are required to make public disclosures of their stock trades] to buy additional Enron stock. Some, including

myself, have done so over the last couple of months and others will probably do so in the future. But, I'm sure you can understand that many of our senior management, as well as many of our employees, have been badly damaged financially by the drop in Enron's stock price, as well as the overall stock market, and have certain limitations as to how many of each stock they can purchase at this time. My personal belief is that Enron stock is an incredible bargain at current prices and we will look back a couple of years from now and see the great opportunity that we currently have.

iii. Question to Mr. Lay: Mr. Lay - Enron has been aggressive in the use of SPV's [special purpose vehicles] collateralizing future cash flows for the sake of present earnings. I could not help but notice our auditor, Arthur Andersen of Houston, recently admitted guilt and paid the largest fine ever for criminal falsifications related to SPV's on behalf of another large Houston corporation. You are a man of integrity, so my "question" is a chance for you to so reassure us we have no such problems here at Enron.

iv. Answer: Mr. Lay: To begin with, I can assure you that I or the Board of Directors, would not approve the use of any SPV's or other type of financial vehicles unless we were convinced both by all of our internal officers, as well as our external auditor and counsel, that they were legal and totally appropriate. That is the standard that we have used for as long as I have been with Enron, and we will continue to use. In many cases, not only has the local Arthur Andersen office approved these vehicles, but they have also been approved at Arthur Andersen's headquarter office from some of the world's leading experts in these types of financing. In addition to both approval internally and externally, certainly I or the Board also apply the concept of what appears to be right, using a great deal of

experience and common sense. And I believe overall, this has led to both creative transactions, which are beneficial for the company and its shareholders, as well as an abundance of safeguards that what is done it totally appropriate and acceptable.

v. Question to Mr. Lay: In addition to working hard at our jobs in order to make Enron more successful, what can we, as employees of Enron, do to help increase our stock price?

vi. Answer: Mr. Lay: In addition to what I said to an earlier, similar question, I believe that the other thing employees can do is talk up the stock and talk positively about Enron to your family and friends. In part, because there have been so many short sellers of the stock over the last several months, there have been all kinds of reckless and unfounded rumors about Enron and the financial condition of Enron. To the extent that our employees begin repeating those rumors and spreading those rumors to other employees, as well as family members and friends outside the company, it gives them a level of credibility that they do not deserve. And, thus damages the stock price. The company is fundamentally sound. The balance sheet is strong. Our financial liquidity has never been stronger. And we again have record operating and financial results. At current stock prices, we're selling for about 13-14 times earnings and for a company that has been growing earnings per share at about 20% per year for some time, this seems to be an incredibly cheap stock.

vii. Question to Mr. Lay: How's the third quarter looking?

viii. Answer: Mr. Lay: The third quarter is looking great. We will hit our numbers. We are continuing to have strong growth in our business, and at this time I think we're well positioned for a very strong fourth quarter.

102. The auditing reports (1997-2000) prepared by Andersen and the Andersen accounting services for Enron,

deviated from the reasonable standard of care of an accountant/auditor, were done as part of a conspiracy to defraud, were misleading and/or false and/or untrue and/or fraudulent. They were statements which constitute misrepresentations and fraud. This enhanced the negligent misrepresentations, fraud and conspiracy to defraud.

a. Each of the 1997-2000 Enron annual audited reports, prepared by Andersen, were used to publish to the public financial information about Enron and contained untrue facts about the true financial condition of Enron.

b. The annual reports (1997 through 2000) express an unqualified opinion by Andersen that the Enron financial statements, in all material respects, present fairly the financial position of Enron in accordance with generally accepted auditing standards (GAAS) and that the financial statements were prepared in conformity with generally accepted accounting principals (GAAP).

c. Andersen's statements referenced in the annual reports (1997 through 2000) were misleading, untrue and negligent misrepresentations and/or fraudulent as they were not true and recklessly and/or intentionally made by Andersen.

d. In each of the annual audit reports (1997 to 2000), Andersen's opinions are "unqualified".

e. With the facts known or which should have been known to Andersen at the time it made its representation for those annual reports (1997, 1998, 1999 and 2000), it deviated from the reasonable standard of care of an accountant and/or an auditor by providing unqualified opinions on Enron's financial condition.

f. Andersen also failed, if they were going to continue as the accountant/auditor for Enron, to at least (i) state in its opinion, "except for GAAP and GAAS"; and/or (ii) issued qualified opinions and/or (iii) give an "adverse opinion", i.e., that the financial statements are not in compliance with GAAP

and GAAS; and/or (iv) provide a disclaimer that its opinion does not follow GAAP and GAAS.

g. Andersen should have stated it was not independent concerning each of the annual reports of Enron (1997 through 2000). Andersen failed to state it was not independent.

h. Andersen was, therefore, negligent in its representations and such negligence constitutes a proximate cause of the occurrence and damages in this case. Such conduct also constitutes fraud, and part of the civil conspiracy to defraud. (For summary reference purposes of an auditor's options concerning its opinions, see Exhibit G).

103. Defendants Lay and Skilling served in the capacity of CEOs and/or the President and/or were on the Board of Directors of Enron during various times between 1997 and November 8, 2001.

a. Lay and Skilling made false and negligent misrepresentations in the annual reports (1997 through 2000); e.g., see their statements and representations in Exhibit I.

b. In so doing, Lay and Skilling (with the Board of Enron) were involved in their respective capacities in the publication or authorization for publication of the misleading and/or false and/or fraudulent financial information to the public and they made and published public statements and authorized the publication, in their capacities, of financial information and summaries concerning the viability of Enron, its healthiness, its financial welfare and financial condition.

c. The representations, publications and the statements made by all Defendants through the audits, financial summaries and public information in the 1997-2000 annual reports of Enron constitute negligent misrepresentations and/or fraud designed to energize the value of Enron stock to investors and part of the conspiracy to defraud. These misrepresentations are actionable in this case and a direct and/or proximate cause of damage to the Plaintiff in excess of the jurisdictional limits of the Court.

104. In addition thereto, there is good reason to believe that Defendants herein, and perhaps others, were not only negligent in their representations, but also involved in a conspiracy to defraud the public and market investors, like the Plaintiff. In addition to the "open relationship" between Enron and Andersen as stated by Mr. Hendrix referenced above, there was a substantial "wallet" ($52,000,000.00) fee relationship in 2000 and potentially up to $100,000,000.00 in 2001.

a. The relationship between Enron, the Defendants and Andersen was also a tight net of "alums" such that over the last ten (10) years or so, approximately 100 former Andersen employees became employees of Enron, including Richard Causey, (Enron Chief Accounting Officer) and Jeffrey McMahon (the current CFO of Enron).

b. As such, the negligent misrepresentations/conduct and/or conspiracy to defraud likely involved many alums and/or persons with a common self-serving interest in disguise, including the Defendants.

c. This negligent conduct and/or the conspiracy to defraud and/or common law fraud perpetrated by and between Enron and at least the Defendants or a combination thereof (and perhaps others referenced herein) is actionable against the Defendants (and perhaps the others) and a direct and/or proximate cause of damages to the Plaintiff. Such liability is joint and several.

105. In violation of Section 10(b) of the Exchange Act and Rule l0lb-5, Defendants carried out a plan, scheme and course of conduct which was intended to and did:

a. deceive the investing public regarding Enron's business, operations, management and the intrinsic value of Enron publicly traded securities;

b. caused Enron to sell:

i. $250 million in 6.95% notes pursuant to a Prospectus Supplement dated November 24,

1998;

ii. 24 million shares of its common stock at $ 31.34 per share in a February 1999 secondary offering pursuant to a Prospectus dated February 12, 1999;

iii. $500 million in 7.375% notes pursuant to a Prospectus dated May 19, 1999;

iv. 10 million exchangeable notes at $22.250 per note pursuant to a Prospectus dated August 10, 1999;

v. $500 million in Medium-Term Notes pursuant to a Prospectus Supplement dated May 18, 2000;

vi. $325 million in 7.875% notes pursuant to a Prospectus Supplement dated June 1, 2000; and

vii. more than $1 billion in a private placement of zero coupon convertible senior notes in February 2001 on favorable terms;

c. enabled Defendants and Enron executives to sell more than $1.1 billion worth of their own Enron common stock to the unsuspecting public; and

d. caused Plaintiff to purchase Enron publicly traded securities at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, Defendants, and each of them, took the actions set forth herein.

106. Defendants (a) employed devices, schemes, and artifices to defraud; (b) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (c) engaged in acts, practices, and a course of business which operated as a fraud and deceit upon the purchasers of the Company's publicly traded securities in an effort to maintain artificially high market prices for Enron's publicly traded securities in violation of § 10(b) of the Exchange Act and Rule 10b-5. All Defendants are sued either as primary participants in the wrongful and illegal conduct

charged herein or as controlling persons as alleged.

107. Defendants, individually and in concert, directly and indirectly, by the use, means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about the business, operations and future prospects of Enron as specified.

108. These Defendants employed devices, schemes and artifices to defraud, while in possession of material, adverse, non-public information and engaged in acts, practices, and a course of conduct as alleged herein in an effort to assure investors of Enron's value and performance and continued substantial growth, which included the making of, or the participation in the making of, untrue statements of material facts and omitting to state material facts necessary in order to make the statements made about Enron and its business operations and future prospects in the light of the circumstances under which they were made, not misleading, as set forth more particularly herein, and engaged in transactions, practices and a course of business which operated as a fraud and deceit upon the purchasers of Enron publicly traded securities during the period in question.

109. Each of the Individual Defendants' primary liability, and controlling person liability, arises from the following facts: (a) the Individual Defendants were high-level executives and/or directors at Enron/Andersen and members of Enron/Andersen's management team or had control thereof; (b) each of these Defendants, by virtue of his or her responsibilities and activities as a senior officer and/or director of Enron/Andersen was privy to and participated in the creation, development and reporting of Enron's internal budgets, plans, projections, audits and/or reports; (c) each of these Defendants enjoyed significant personal contact and familiarity with the other Defendants and was advised of and had access to other members of Enron's management team, internal reports and other data and

information about Enron's operations and sales at all relevant times; and/or (d) each of these Defendants were aware of Enron's dissemination of information to the investing public which they knew or recklessly disregarded was materially false and misleading.

110. The Defendants had actual knowledge of the misrepresentations and omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were available to them. Such Defendants' material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose and effect of concealing Enron's operating condition and future business prospects from the investing public and supporting the artificially inflated price of its publicly traded securities. As demonstrated by Defendants' overstatements and misstatements of Enron's business, operations and earnings throughout the relevant time period, Defendants, if they did not have actual knowledge of the misrepresentations and omissions alleged, were reckless in failing to obtain such knowledge by deliberately refraining from taking those steps necessary to discover whether those statements were false or misleading.

111. As a result of the dissemination of the materially false and misleading information and failure to disclose material facts, as set forth above, the market prices of Enron's publicly traded securities were artificially inflated during the subject time period. In ignorance of the fact that market prices of Enron's publicly traded securities were artificially inflated, and relying directly or indirectly on the false and misleading statements made by Defendants, or upon the integrity of the markets in which the securities trade, and/or on the absence of material adverse information that was known to or recklessly disregarded by Defendants but not disclosed in public statements by Defendants, Plaintiff acquired Enron publicly traded securities at artificially high prices and was damaged thereby.

112. At the time of said misrepresentations and omissions, Plaintiff was ignorant of their falsity, and

believed them to be true. Had Plaintiff and the marketplace known the truth regarding the problems that Enron was experiencing, which were not disclosed by Defendants, Plaintiff would not have purchased or otherwise acquired their Enron publicly traded securities.

113. By virtue of the foregoing, Defendants have violated § 10(b) of the Exchange Act, and Rule l0b-5 promulgated thereunder.

114. Violations of Section 20(a) of the Exchange Act were committed by Defendants Lay and Skilling. Defendants Lay and Skilling acted as controlling persons of Enron within the meaning of §20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions, and their ownership and contractual rights, participation in and/or awareness of Enron's operations and/or intimate knowledge of the false financial statements filed by Enron with the SEC and disseminated to the investing public, Defendants Lay and Skilling had the power to influence and control and did influence and control, directly or indirectly, the decision-making of Enron, including the content and dissemination of the various statements which Plaintiff contends are false and misleading and the creation and structure of the "Star Wars" partnerships, including JEDI and Chewco, which were designed with the knowledge of Defendants Lay and Skilling to falsify Enron's financial statements as detailed herein. Defendants Lay and Skilling were provided with or had unlimited access to copies of Enron's reports, press releases, public filings and other statements alleged by Plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

115. In particular, each of these Defendants had direct and supervisory involvement in the day-to-day operations of Enron and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same.

116. As set forth above, Defendants each violated §10(b) and Rule 10b-5 by their acts and omissions as alleged in this Complaint. By virtue of their positions as controlling persons, Defendants Lay and Skilling are liable pursuant to §20(a) of the Exchange Act. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff suffered damages in connection with his purchase of Enron's publicly traded securities.

117. The Defendants, and those involved, were clearly masters of obfuscation.

a. As a result of the breach of duties and actionable conduct herein, including, without limitation, negligent misrepresentation, conspiracy to defraud and common law fraud, of the Defendants under one or more of the foregoing theories, Plaintiff has been economically damaged (direct pecuniary loss) in excess of the jurisdictional limits of this Court in the amount of approximately $690,000.00.

b. Additionally, Plaintiff has also sustained mental anguish and actual physical pain/injury which is also actionable. This mental and physical pain/injury and anguish includes, but is not limited to, severe physical stomach pains, headaches, vomiting, loss of sleep, angina, and depression. The damages for this anguish and actual physical pain/injury exceed the jurisdictional limits of this Court in the amount of at least $100,000.00.

c. Plaintiff also seeks reasonable and necessary attorney fees, expert fees and costs of court as allowed by law.

d. Liability is individual against each Defendant, as well as, joint and several. The rules of law under principal/agent and/or respondeat/superior apply.

118. To make matters worse, Andersen and Duncan for sure, and perhaps Defendants, Lay and Skilling (and perhaps others within Enron and Andersen), were also involved and/or entered into a plan to

negligently and/or wrongfully and/or intentionally destroy material and relevant evidence related to Enron audits and its financial information after it was reasonably foreseeable to them that legal actions and investigations would be forthcoming. [This raises an evidence presumption that the destroyed evidence was adverse to the Defendants].

a. Andersen has admitted that it deleted thousands of e-mails/documents and rushed to a disposal of a large number of paper documents pertaining to Enron. Duncan has said he was told to destroy the documents by Andersen's attorneys. Andersen has told an Energy and Commerce sub-committee that the document shredding took place in September, October and November, 2001.

b. Also, Maureen Castaneda, a former director of Enron's foreign investment section, has stated the Enron accounting department shredded and destroyed accounting documents into mid-January, 2002. She has said that at least some of the shredded documents refer to "Jedi", "Chewco" and "Condor".

c. Due to the fact that there was negligent or intentional and wrongful destruction of evidence, the jury should be instructed that the wrongful destruction of this evidence is a presumption, as a matter of law, that the evidence so destroyed/spoiled was adverse and unfavorable to the interest and position of the Defendants and others so involved and such destruction, as a matter of law, may be held against such Defendants and others involved, if added to this lawsuit, in reaching its verdict on liability and damages.

d. Duncan has as of April 9, 2002, pled guilty to obstruction of justice in the destruction of documents and records.

119. In recent events, Andersen has fired Duncan for his conduct, which logically included his

accounting/audit negligence/fraud/document destruction conduct. Enron has also fired Andersen for at least its negligent and/or fraudulent accounting/audit advice to Enron and document destruction activity.

a. About Andersen by Lay: "While we had been willing to give Andersen the benefit of the doubt...we can not afford to wait any longer in light of recent events".

b. Reply by Andersen - "As a matter of fact, our relationship with Enron ended when the company's business failed and it went into bankruptcy".

c. This seems to admit at least negligence and/or fraud on each (which would include their directors, officers, partners and employees as the case may be) and recognizes that the November 8, 2001 disclosure, in essence, that "the books were cooked" which ultimately led to the bankruptcy, was the proximate cause of the demise of Enron because the investing public and the financial markets could no longer trust Enron, its Board, its officers (including the Defendants) and Andersen, as they were all involved in cooking the books. Such conduct complained of in this Complaint was also, therefore, a direct/proximate cause of damage to the Plaintiff.

120. Plaintiff seeks pre-judgment interest as allowed by law.

121. In addition to the foregoing, Plaintiff reserves the right to amend pleadings to add additional Defendants and to seek further actual and/or exemplary damages as the evidence may develop against those culpable persons involved in the actionable conduct herein which includes at least the Defendants, Arthur Andersen, L.L.P., David Bruce Duncan, Kenneth Lay and Jeffrey Skilling as they are the auditors and CEOs/Presidents of Enron respectively and perhaps others directly and indirectly referenced in this pleading. For example, upon discovery in this case, the following additional current

Board of Directors and former Board of Directors acts and/or omissions of negligence need to be reviewed:

Current Board	Date of Service
Robert A. Belfer	1983 to current
Norman P. Blake, Jr.	1993 to current
Ronnie C. Chan	1996 to current
John H. Duncan	1985 to current
Wendy L. Gramm	1993 to current
Robert K. Jaedicke	1985 to current
Charles A. Lemaistre	1985 to current
John Mendelsohn	1999 to current
Paulo V. Ferraz Pereira	1999 to current
Frank Savage	1999 to current
John Wakeham	1994 to current
Herbert S. Winokur, Jr.	1985 to current
Persons Formerly on Enron Board	**Date of Service**
Charls E. Walker	1985 to 1999
Bruce G. Willison	1997 to 1999
Joe H. Foy	1985 to 2000
Rebecca Mark	1999 to 2000
John A. Urquhart	1990 to 2001
Jereome J. Meyer	1997 to 2001

Ken L. Harrison 1997 to 2001

122. Joseph Berardino, Andersen's Managing Partner and CEO, in his open letter to the public (attached as Exhibit H) acknowledged Andersen's legal duty of trust and honesty owed to the public. Berardino says Andersen is prepared to right the wrong and "not shrink from our responsibilities" and that Andersen will "do what is right". Is this just more "smoke and mirrors"?

a. Plaintiff offers to all Defendants (and each of their respective liability and insurance carriers) to attend a mediation on the issues without delay to resolve the actual and compensatory damages of this claim against all Defendants and all potential Defendants. Plaintiff requests the mediation be conducted before May 2, 2002. If the claims of Plaintiff are successfully resolved against all the named Defendants at mediation to the satisfaction of Plaintiff, this case will be dismissed with prejudice against all Defendants and potential Defendants. If only some of the Defendants/their insurance carriers desire mediation, then Plaintiff will mediate the claims against those Defendants and proceed against the balance, but dismissing all settling Defendants.

123. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays for judgment of the Court, for damages, interest (pre- and post- judgment), attorney fees, costs of court and such other relief allowed by law.

Respectfully submitted,

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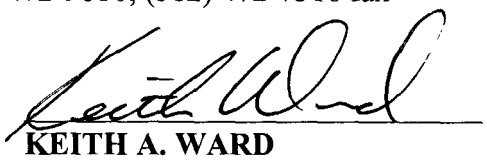
(512) 472-9616; (512) 472-7316 fax

By: 
KEITH A. WARD
State Bar No. 00797625
ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been delivered as follows:

[ ] HAND DELIVERY [ ] FACSIMILE [✓] CMRRR [ ] OVERNIGHT DELIVERY [ ] FIRST CLASS MAIL

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Mr. James E. Coleman, Jr., Carrington, Coleman, Sloman & Blumenthal, L.L.P., 200 Crescent Court, Suite 1500, Dallas, TX 75201

on this the 26TH day of July, 2002.

KEITH A. WARD

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The Exhibit(s) May

Be Viewed in the

Office of the Clerk