

SEP 28 1999

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

LUTHER D. THOMAS, Clerk
By: *JHW* Deputy Clerk

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

COMPUTONE CORPORATION

THOMAS J. ANDERSON,

GREGORY A. ALBA,

DONALD A. PEARCE,

DUNCAN E. HUME, and

BRIAN D. KRETSCHMAN,

Defendants.

CIVIL ACTION NO.

1:90-cv-2496

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

It appears to Plaintiff, Securities and Exchange Commission ("Commission"), and it alleges that:

OVERVIEW

1. This matter involves pervasive efforts by senior management employees to overstate the income of Computone Corporation ("Computone") from fiscal year 1994 through fiscal year 1998. Computone began its operations in 1987 and sells computer hardware and software products. During 1992, Computone's financial condition deteriorated to the point that it was no longer able to meet its financial obligations. During November 1992, a new management team led by Thomas J. Anderson ("Anderson") was installed. After discovering transactions which

had been improperly recorded as sales, the new management team amended Computone's 1992 Form 10-K.

2. Less than a year later, while under pressure to maintain certain financial ratios and amounts in order to comply with debt covenants and NASDAQ listing requirements and to live up to local media reports that it was a fast growing technology company, Anderson and his subordinates began employing improper accounting practices to overstate the results of Computone's operations. The defendants improperly recorded approximately 240 transactions from 1994 through 1998.

3. Computone, under Anderson's direction, carried out this scheme of cooking its books by improperly recognizing revenue and/or income through a number of fraudulent practices, including recognizing revenue in one quarter instead of the next quarter when the products were actually shipped to customers; recognizing revenue on slow shipments which were made during the last days of a quarter but which were intentionally scheduled to arrive at the customer's location well into the next quarter; recognizing revenue at the time goods were shipped to customers even though the terms of the sales contained an F.O.B. destination provision; recognizing revenue before completion of the sale or at a time when the customer still had the right to cancel the sale; recognizing revenue when an undisclosed right of return existed; recognizing revenue in advance of the customer's acceptance of

the product; market channel stuffing without adequate provisions for sales returns; recognizing revenue from goods shipped to, but not ordered by, customers; recognizing revenue from goods shipped prior to the date requested by customers; recognizing revenue from products shipped to warehouses in one quarter, instead of the next quarter, when they were either shipped to customers or redelivered to Computone; recognizing revenue when only partial orders were shipped; recognizing revenue when questionable bill-and-hold provisions existed; recognizing revenue from sales to customers who lacked the financial ability to pay for the goods; recognizing consigned inventory as sold inventory; keeping the sales journal open after the end of the quarter or year and back-dating sales invoices; not issuing credit memos even though Computone authorized the return of products from customers; using undisclosed side agreements; and altering existing or creating fictitious documents to give the appearance of legitimate business transactions with customers. Most of the fraudulent transactions were recorded on or about the last day of a fiscal quarter or year-end.

4. During the relevant periods, Computone, assisted by a director and various officers, employees, and a customer, overstated income and in some periods reported income instead of losses.

5. Various Computone reports on Forms 10-Q, 10-QSB, 10-K and 10-KSB filed with the Commission, and various Computone press

releases issued to the public were false and misleading because of the defendants' manipulation of Computone's income in violation of the antifraud, reporting, books and records, and internal controls provisions of the federal securities laws. The individual defendants also lied to or concealed factual information from Computone's auditors.

VIOLATIONS

6. Defendant Computone has engaged, and unless restrained and enjoined by this Court, will continue to engage in acts and practices which constitute and will constitute violations of Sections 10(b), 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78j(b), 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Rules 10b-5, 12b-20, 13a-1, 13a-13 and 13b2-1 thereunder [17 C.F.R. 240.10b-5, 240.12b-20, 240.13a-1, 240.13a-13 and 240.13b2-1].

7. Defendants Anderson, Gregory A. Alba ("Alba") and Donald A. Pearce ("Pearce") have engaged, and unless restrained and enjoined by this Court, will continue to engage in acts and practices which constitute and will constitute violations of Sections 10(b) and 13(b)(5) of the Exchange Act [15 U.S.C. 78j(b) and 78m(b)(5)] and Rules 10b-5, 13b2-1 and 13b2-2 thereunder [17 C.F.R. 240.10b-5, 240.13b2-1 and 240.13b2-2], and are liable as controlling persons for violations of Sections 13(a), 13(b)(2)(A)

and 13(b)(2)(B) of the Exchange Act [15 U.S.C. 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Rules 12b-20, 13a-1 and 13a-13 thereunder [17 C.F.R. 240.12b-20, 240.13a-1 and 240.13a-13].

8. Defendants Duncan E. Hume ("Hume") and Brian D. Kretschman ("Kretschman") have engaged, and unless restrained and enjoined by this Court, will continue to engage in acts and practices which constitute and will constitute violations of Sections 10(b) and 13(b)(5) of the Exchange Act [15 U.S.C. 78j(b) and 78m(b)(5)] and Rules 10b-5, 13b2-1 and 13b2-2 thereunder [17 C.F.R. 240.10b-5, 240.13b2-1 and 240.13b2-2].

JURISDICTION AND VENUE

9. The Commission brings this action to enjoin such acts and practices, for civil penalties, and for other relief, pursuant to Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. 78u(d) and 78u(e)].

10. This Court has jurisdiction of this action under Sections 21(d), 21(e) and 27 of the Exchange Act [15 U.S.C. 78u(d), 78u(e) and 78aa].

11. Certain of the acts and practices constituting violations of the Exchange Act have occurred within the Northern District of Georgia and were perpetrated through the use of the mails and the means and instrumentalities of interstate commerce.

THE DEFENDANTS

12. Computone Corporation is a company headquartered in Alpharetta, Georgia that designs, manufactures and sells computer hardware and software products. Computone's common stock, which is registered pursuant to Section 12(g) of the Exchange Act, was traded in the NASDAQ SmallCap Market from September 22, 1987 until it was delisted on October 16, 1992. On November 23, 1994, the stock was relisted on the NASDAQ SmallCap Market until it was again delisted on December 3, 1998.

13. Thomas J. Anderson of Georgetown, South Carolina, served as Computone's president and chief operating officer ("COO") from November 3, 1992 until April 30, 1998, as its chief executive officer ("CEO") from April 1996 until April 1998, and as a director from 1993 until April 1998.

14. Gregory A. Alba last known of Roswell, Georgia, is a certified public accountant ("CPA") licensed in Arizona. Alba served as Computone's controller from August 1994 until March 1996, as its vice president of finance and administration and its chief financial officer ("CFO") from April 1996 until July 27, 1998, and as its principal financial accounting officer from October 1995 until his involuntary resignation on July 27, 1998.

15. Donald A. Pearce of Reston, Virginia, served as Computone's vice president of finance and principal accounting

officer from April 1993 until July 21, 1995. Pearce holds a bachelors degree in business and a masters degree in management science.

16. Duncan E. Hume of Suwanee, Georgia, was Computone's vice president of international sales.

17. Brian D. Kretschman of Alpharetta, Georgia, was Computone's vice president of North American sales. Prior to April 1996, he served as Computone's sales manager and as its director of North American sales.

COMPUTONE'S FALSE AND MISLEADING REPORTS, AND MISREPRESENTATIONS AND OMISSIONS

Background

18. During 1992, Computone's financial condition deteriorated to the point that it was no longer able to meet its financial obligations. On or about October 1992, all but one board member resigned and a new management team led by Anderson, and subsequently joined by Pearce and Hume, was installed at Computone. New management soon discovered that the old management had engaged in accounting irregularities which caused material misstatements in Computone's previously filed 1992 annual report on Form 10-K. On May 12, 1994, Computone amended the 1992 Form 10-K to properly report these transactions in conformity with generally accepted accounting principles ("GAAP"). Anderson and Pearce signed the amended Form 10-K.

19. Despite taking over a company beset with prior accounting irregularities, the defendants, led by Anderson, soon engaged in the same fraudulent activity as their predecessors in virtually every financial report they filed with the Commission during fiscal years 1994 through 1998. Most of the fraudulent transactions were recorded on or about the last day of a fiscal quarter or year-end.

20. On or about September 24, 1993, Computone's auditors provided Computone's board of directors, through Pearce, with an internal controls letter in conjunction with the 1993 fiscal year audit. Anderson was a Computone board member at this time.

21. The letter stated as a reportable condition that Computone's new management became aware of prior management recording sales even though the terms and conditions of the transactions precluded them from qualifying as sales.

22. In order to prevent any reoccurrence of such transactions, the auditors recommended that Computone establish formal policies for identifying sales transactions that qualify for revenue recognition, and address matters such as shipping destinations, ownership risks, right of return, and credit terms. The auditors also noted that management required shipping documentation to be prepared and attached to each invoice as evidence of shipment prior to recognition of revenue, but that this was not consistently adhered to during the year. The

auditors recommended proof of shipment be retained for each sales transaction.

OCTOBER 1, 1993 FORM 10-Q

23. On or about November 15, 1993, Computone filed with the Commission a quarterly report on Form 10-Q for the quarter ended October 1, 1993 (the "October 1993 10-Q"). The October 1993 10-Q included Computone's financial statements for the three month period ended October 1, 1993.

24. Anderson participated in the preparation of the October 1993 10-Q.

25. Pearce participated in the preparation of the October 1993 10-Q and signed the report in his capacity as Vice President-Finance and Administration (principal financial/accounting officer) of Computone.

26. On or about October 1, 1993, Computone recorded approximately \$16,040 of income from the purported sale of products to Compulan Inc. ("Compulan"), a new customer, in violation of GAAP, in that Compulan never purchased or paid for the products as listed in Computone invoice number 31117.

27. On or about October 1, 1993, Computone recorded approximately \$13,060 of income from the purported sale of products to Compulan, in violation of GAAP, in that Compulan never

purchased or paid for the products as listed in Computone invoice number 31132.

28. Pearce failed to record and report, and caused Computone to fail to record and report the two preceding Compulan transactions in Computone's books and in its financial statements in conformity with GAAP.

29. On or about August 6, 1993, Computone recorded approximately \$111,764 of income from the purported sale of products to HL Technology Distribution PTE ("HL Technology"), a new distributor, in violation of GAAP, in that, among other reasons, HL Technology never purchased the products as listed in Computone invoice number 30158, Computone never received a purchase order from HL Technology, and HL Technology never paid for the products. HL Technology would have only had to pay for the products if it resold them.

30. On or about September 3, 1993, Computone recorded approximately \$43,901 of income from the purported sale of products to HL Technology, in violation of GAAP, in that, among other reasons, HL Technology never purchased the products as listed in Computone invoice number 30572, Computone never received a purchase order from HL Technology, and HL Technology never paid for the products. HL Technology would have only had to pay for the products if it resold them.

31. On or about September 3, 1993, Computone recorded approximately \$30,795 of income from the purported sale of products to HL Technology, in violation of GAAP, in that, among other reasons, HL Technology never purchased the products as listed in Computone invoice number 30636, Computone never received a purchase order from HL Technology, and HL Technology never paid for the products. HL Technology would have only had to pay for the products if it resold them.

32. Anderson and Pearce failed to record and report, and caused Computone to fail to record and report the three preceding HL Technology transactions in Computone's books and in its financial statements in conformity with GAAP.

33. As a result of recording the preceding five transactions in violation of GAAP, Computone's income from continuing operations was materially misstated in Computone's books and in its October 1993 10-Q. Computone should have reported approximately \$261,141 of income from continuing operations, rather than the reported \$465,000 of income from continuing operations for the quarter ended October 1, 1993.

JANUARY 7, 1994 FORM 10-Q

34. On or about February 22, 1994, Computone filed with the Commission a quarterly report on Form 10-Q for the quarter ended January 7, 1994 (the "January 1994 10-Q"). The January 1994 10-Q

included Computone's financial statements for the three month period ended January 7, 1994.

35. Anderson participated in the preparation of the January 1994 10-Q.

36. Pearce participated in the preparation of the January 1994 10-Q and signed the report in his capacity as Vice President-Finance and Administration (principal financial/accounting officer) of Computone.

37. On or about December 3, 1993, Anderson and Pearce recorded in Computone's books and reported in Computone's financial statements approximately \$69,670 of income from the purported sale of products to Charterhouse Corporation ("Charterhouse"), an entity experiencing financial difficulties. Anderson knew, or was severely reckless in not knowing, that the recording and reporting of the transaction was in violation of GAAP, in that, among other reasons, this was a consignment sale.

38. Pearce recorded and reported, and caused Computone to record and report the preceding Charterhouse transaction in Computone's books and in its financial statements in violation of GAAP.

39. On or about January 7, 1994, Anderson and Pearce, knowingly, intentionally and/or with severe recklessness recorded in Computone's books and reported in Computone's financial

statements, approximately \$189,848 of income from over sixty purported bill-and-hold sales of products to various customers, in violation of GAAP, in that on January 7, 1994, among other reasons, the risks of ownership of the products had not passed to the customers, the customers had not made a fixed commitment to purchase the goods, the customers had not requested that the transactions be on a bill-and-hold basis, and fixed schedules to deliver the goods did not exist.

40. Anderson falsely described these transactions to Computone's auditors as bill-and-hold sales.

41. Computone's auditors then discussed the GAAP and Commission requirements necessary in order for the transactions to be considered sales under GAAP, with Anderson and Pearce.

42. Anderson and Pearce represented to the auditors that the transactions qualified as sales.

43. As a result of recording the preceding sixty-one transactions in violation of GAAP, Computone's income from continuing operations was materially misstated in Computone's books and in its January 1994 10-Q. Computone should have reported an approximate \$197,518 loss from continuing operations, rather than the reported \$62,000 of income from continuing operations for the quarter ended January 7, 1994.

MARCH AND APRIL 1994 TRANSACTIONS

44. On or about March 4, 1994, Anderson and Pearce recorded in Computone's books approximately \$14,771 of income from the purported sale of products to Euroimport Trading Company ("Euroimport") in violation of GAAP, in that, among other reasons, the products, as listed in Computone invoice number 33126, were not shipped to the customer until the following fiscal year.

45. On or about March 30, 1994, Anderson and Pearce recorded in Computone's books approximately \$6,937 of income from the purported sale of products to Euroimport in violation of GAAP, in that, among other reasons, the products, as listed in Computone invoice number 33466, were not shipped to the customer until the following fiscal year.

46. On or about April 1, 1994, Anderson and Pearce recorded in Computone's books approximately \$30,525 of income from six purported sales of products to Euroimport in violation of GAAP, in that, among other reasons, the products, as listed in Computone invoice numbers 33534, 33535, 33536, 33540, 33541 and 33624, were not shipped to the customer until the following fiscal year.

47. Anderson and Pearce failed to record, and caused Computone to fail to record the eight preceding Euroimport transactions in Computone's books in conformity with GAAP.

48. As a result of recording the preceding eight transactions in violation of GAAP, Computone's income from continuing operations was misstated in Computone's books.

AUDITORS' OBSERVATIONS AND SUGGESTIONS

49. On or about May 24, 1994, Computone's auditors provided Computone's board with written observations and suggestions. Computone's auditors recommended, among other things, that Computone establish and enforce a formal credit policy which should address credit worthiness, collection procedures and typical payment terms; and that Computone periodically update existing customers' credit status due to the volatile nature of the industry in which Computone operates.

JULY 1, 1994 FORM 10-Q

50. On or about August 15, 1994, Computone filed with the Commission a quarterly report on Form 10-Q for the quarter ended July 1, 1994 (the "July 1994 10-Q"). The July 1994 10-Q included Computone's financial statements for the three month period ended July 1, 1994.

51. Anderson participated in the preparation of the July 1994 10-Q.

52. Pearce participated in the preparation of the July 1994 10-Q and signed the report in his capacity as Vice President-

Finance and Administration (duly authorized officer and principal financial officer, of Computone.

53. During the quarter ended July 1, 1994, in contravention of GAAP, Pearce failed to record and report and caused Computone to fail to record and report an additional approximately \$81,261 of cost of goods sold.

54. During the quarter ended July 1, 1994, in contravention of GAAP, Pearce failed to disclose and caused Computone to fail to disclose that it was using the gross margin method to report its cost of goods sold.

55. On or about July 1, 1994, Computone recorded approximately \$78,053 of income from the purported sale of products to GC Services, in violation of GAAP, in that, among other reasons, the products had not been ordered by GC Services and Computone did not ship the products to GC Services.

56. On or about July 26, 1994, Anderson and Pearce each signed a management representation letter, which was provided to Computone's independent accountants, which falsely stated that Computone's July 1, 1994 quarterly financial statements complied with GAAP.

57. On or about July 28, 1994, Ricky D. Barkley ("Barkley"), Computone's accounting manager and a CPA, submitted a written document to Pearce in which he claimed that the July 1,

1994 financial statements, including the preceding GC Services transaction, were materially misstated.

58. Pearce and Anderson discussed Barkley's allegations but did not reverse any of the transactions, alleged by Barkley to have been misstated, on Computone's books or in its records.

59. Neither Pearce nor Anderson advised Computone's independent accountants regarding the transactions alleged by Barkley to have been misstated.

60. In the management representation letter, Pearce also falsely stated that there had been no significant changes in Computone's internal control structure or accounting systems. Pearce was aware that Computone had installed a new computer system during the quarter to capture cost of goods sold by Computone. The new system did not function properly, causing Computone to materially understate its expenses during this and the following three quarters until Computone's independent accountants discovered the problem during their April 1995 audit.

61. Anderson knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding GC Services transaction in Computone's books and in its financial statements in violation of GAAP.

62. Pearce recorded and reported, and caused Computone to record and report the preceding GC Services transaction during

this quarter in Computone's books and in its financial statements in violation of GAAP.

63. As a result of recording the preceding three transactions in violation of GAAP, Computone's income from continuing operations was materially misstated in Computone's books and in its July 1994 10-Q. Computone should have reported an approximate \$36,314 loss from continuing operations, rather than the reported \$123,000 of income from continuing operations for the quarter ended July 1, 1994.

OCTOBER 7, 1994 FORM 10-Q

64. On or about November 17, 1994, Computone filed with the Commission a quarterly report on Form 10-Q for the quarter ended October 7, 1994 (the "October 1994 10-Q"). The October 1994 10-Q included Computone's financial statements for the three month period ended October 7, 1994.

65. Pearce participated in the preparation of the October 1994 10-Q and signed the report in his capacity as Vice President-Finance and Administration (duly authorized officer and principal financial officer) of Computone.

66. During the quarter ended October 7, 1994, in contravention of GAAP and his duties at Computone, Pearce failed to record on Computone's books and report in its financial

statements, and caused Computone to fail to record and report, an additional approximately \$283,012 of cost of goods sold.

67. During the quarter ended October 7, 1994, in contravention of GAAP, Pearce failed to disclose and caused Computone to fail to disclose that it was using the gross margin method to report its cost of goods sold.

68. As a result of failing to record cost of goods sold in conformity with GAAP, Computone's income from continuing operations was materially misstated in Computone's books and in its October 1994 10-Q. Computone should have reported approximately \$153,000 of income from continuing operations, rather than the reported \$436,000 of income from continuing operations for the quarter ended October 7, 1994.

JANUARY 6, 1995 FORM 10-Q

69. On or about February 21, 1995, Computone filed with the Commission a quarterly report on Form 10-Q for the quarter ended January 6, 1995 (the "January 1995 10-Q"). The January 1995 10-Q included Computone's financial statements for the three month period ended January 6, 1995.

70. Anderson participated in the preparation of the January 1995 10-Q.

71. Pearce participated in the preparation of the January 1995 10-Q and signed the report in his capacity as Vice President-

Finance and Administration (duly authorized officer and principal financial officer) of Computone.

72. Alba participated in the preparation of the January 1995 10-Q.

73. During the quarter ended January 6, 1995, in contravention of GAAP, Pearce failed to record on Computone's books and report in Computone's financial statements, and caused Computone to fail to record and report, an additional approximately \$338,309 of cost of goods sold.

74. During the quarter ended January 6, 1995, in contravention of GAAP, Pearce failed and caused Computone to fail to disclose that it was using the gross margin method to report its cost of goods sold.

75. On or about December 2, 1994, Computone recorded approximately \$10,951 of income from the purported sale of products to Charterhouse, an entity experiencing financial difficulties, in violation of GAAP, in that, among other reasons, this was a consignment sale. Computone issued invoice number 37664 to Charterhouse for this transaction.

76. Anderson knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding Charterhouse transaction in

Computone's books and in its financial statements in violation of GAAP.

77. Pearce recorded and reported, and caused Computone to record and report the preceding Charterhouse transaction in Computone's books and in its financial statements in violation of GAAP.

78. On or about January 6, 1995, Computone recorded approximately \$131,400 of income from the purported sale of products to Source Systems & Technologies ("Source"), in violation of GAAP, in that, among other reasons, this was a consignment sale, and the products had not been shipped to Source. Computone issued invoice number 38001 to Source for this transaction.

79. Anderson personally handled the Source account.

80. Source was not required to pay for the products unless it resold the products.

81. Source never paid for the products, and returned the products in August 1995.

82. At Anderson's direction, Computone did not issue the related credit memos until 1996.

83. Anderson knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding Source transaction in Computone's books and in its financial statements in violation of GAAP.

84. Pearce recorded and reported, and caused Computone to record and report the preceding Source transaction in Computone's books and in its financial statements in violation of GAAP.

85. On or about January 6, 1995, Anderson and Kretschman knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report approximately \$39,726 of income from the purported sale of products to Walmart Stores, Inc. ("Walmart"), in violation of GAAP, in that, among other reasons, Walmart did not order the products from Computone. Computone issued invoice number 38012 to Walmart for this transaction after Kretschman, at Anderson's direction, created a fictitious order from Walmart.

86. Kretschman submitted the fictitious purchase order to Computone's accounting department knowing that Computone would improperly recognize income from this transaction.

87. On or about January 6, 1995, Computone recorded approximately \$19,344 of income from four purported bill-and-hold sales of products to Robec Distributors ("Robec"), in violation of GAAP, in that on January 6, 1995, among other reasons, the risks of ownership of the products had not passed to Robec, Robec had not made a fixed commitment to purchase the goods, Robec had not requested that the transactions be on a bill-and-hold basis, Robec could cancel the order at anytime for any reason prior to shipment

of the goods by Computone with no penalty, Robec would not pay for the goods until they received and accepted the goods, fixed schedules to deliver the goods did not exist, and bill-and-hold sales were a departure from Robec's normal purchasing practices. Computone issued invoice numbers 38042, 38049, 38076 and 38083 to Robec for these four transactions.

88. Alba knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding four Robec transactions in Computone's books and in its financial statements in violation of GAAP.

89. Pearce recorded and reported, and caused Computone to record and report the preceding four Robec transactions in Computone's books and in its financial statements in violation of GAAP.

90. As a result of failing to record cost of goods sold and the other seven preceding transactions in conformity with GAAP, Computone's income from continuing operations was materially misstated in Computone's books and in its January 1995 10-Q. Computone should have reported an approximate \$186,310 loss from continuing operations, rather than the reported \$359,000 of income from continuing operations for the quarter ended January 6, 1995.

APRIL 7, 1995 FORM 10-K

91. On or about July 6, 1995, Computone filed with the Commission an annual report on Form 10-K for the year ended April 7, 1995 (the "April 1995 10-K"). The April 1995 10-K included Computone's financial statements for the year ended April 7, 1995.

92. Anderson participated in the preparation of the April 1995 10-K and signed the report in his capacity as president, chief operating officer and a director of Computone.

93. Pearce participated in the preparation of the April 1995 10-K and signed the report in his capacity as Vice President-Finance and Administration (principal financial and accounting officer) of Computone.

94. Alba participated in the preparation of the April 1995 10-K.

95. During the fourth quarter ended April 7, 1995, in contravention of GAAP, Pearce failed to record, and caused Computone to fail to record an additional \$83,869 of cost of goods sold in conformity with GAAP.

96. On or about April 7, 1995, Computone recorded approximately \$124,684 of income from the purported sale of products to CYMA, in violation of GAAP, in that, among other reasons, this was a consignment sale and CYMA lacked the ability to pay for the products. Computone issued invoice number 39480 to CYMA for this transaction.

97. Computone did not disclose in its financial statements that CYMA was a related party.

98. CYMA never paid Computone for any of the products.

99. During the period beginning on or about July 19, 1995 through approximately January 27, 1996, CYMA directly or indirectly returned all of the products to Computone.

100. Computone intentionally did not issue credit memos to CYMA until approximately April 5, 1996.

101. Anderson, Alba and Pearce knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding CYMA transaction in Computone's books and in its financial statements in violation of GAAP.

102. On or about April 7, 1995, Computone recorded approximately \$30,661 of income from the purported sale of products to Data General, in violation of GAAP, in that, among other reasons, Data General did not order the products from Computone. Computone issued invoice number 39516 to Data General for this transaction.

103. On or about April 7, 1995, Computone intentionally delayed shipment of the goods by causing the goods to be held in storage at the shipper's warehouse. Computone did not ship the products to Data General. Instead, Computone instructed the

shipper to store the products at the shipper's warehouse and during the following fiscal year, Computone instructed the shipper to ship the products back to Computone.

104. Alba knew that no sale had occurred as the products were in storage, that Computone had not received a purchase order from Data General for this transaction, and the products were sent back to Computone rather than Data General.

105. Alba knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding Data General transaction in Computone's books and in its financial statements in violation of GAAP.

106. On or about April 7, 1995, Anderson and Alba knowingly, intentionally and/or with severe recklessness recorded in Computone's books and reported in Computone's financial statements approximately \$6,387 of income from the purported sale of products to Euroimport, in violation of GAAP, in that, among other reasons, Computone did not ship the products to Euroimport until the following fiscal year, and Euroimport did not pay for the products. Computone issued invoice number 39499 to Euroimport for this transaction.

107. On or about April 7, 1995, Computone intentionally delayed shipment of the goods by causing the goods to be held in storage at the shipper's warehouse.

108. On or about April 7, 1995, Computone recorded approximately \$30,244 of income from five purported sales of products to BSM Computers, Inc. ("BSM"), an entity experiencing financial difficulties, in violation of GAAP, in that, among other reasons, BSM was unable to pay for the products and never paid for the products. Computone issued invoice numbers 39435, 39466, 39436, 39496 and 39507 to BSM for these five transactions.

109. Computone intentionally delayed the shipment of the goods by causing the goods to be held in storage at the shipper's warehouse. The goods were returned to Computone by the shipper.

110. Computone did not ship the products listed in invoice numbers 39496 and 39507 to BSM until the following fiscal year.

111. Anderson, Pearce and Alba were aware of Computone's practice to delay shipments.

112. Anderson, Pearce and Alba knew that BSM was potentially a collectibility problem.

113. BSM never paid for the products and on or about August 2, 1995, filed for bankruptcy.

114. Anderson, Alba and Pearce knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused

Computone to record and report the preceding BSM transactions in Computone's books and in its financial statements in violation of GAAP.

115. On or about April 7, 1995, Pearce knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report approximately \$46,968 of income from two purported sales of products to Digital Equipment of Canada ("DEC"), in violation of GAAP, in that, among other reasons, Computone shipped the products prior to the time requested by DEC, DEC did not take ownership of the products until it received the products during the following fiscal quarter, and DEC could return the products to Computone for a full refund at anytime.

116. Computone issued invoice numbers 1558 and 39488 to DEC for these transactions. During the following fiscal year, DEC returned all of the products to Computone.

117. On or about April 7, 1995, Anderson and Pearce knowingly, intentionally and/or with severe recklessness, recorded on Computone's books and reported on Computone's financial statements, and caused Computone to record and report, approximately \$92,077 of income from five purported sales of products to Ingram Micro, in violation of GAAP, in that, among other reasons, Ingram Micro had requested delivery of the products

be delayed until the following fiscal year, and by contractual arrangement, Ingram Micro would not take ownership of the products until it received the products, which they would be unable to do until the following fiscal year. Computone issued invoice numbers 39483, 39484, 39509, 39517 and 39490 to Ingram Micro for these transactions.

118. Further, Computone did not ship the products listed in invoice numbers 39483, 39484, 39509 and 39517 to Ingram Micro. Instead, Computone instructed the shipper to store the products at the shipper's warehouse. During the following fiscal year, Computone instructed the shipper to ship the products back to Computone.

119. On or about April 7, 1995, Pearce recorded on Computone's books and reported on Computone's financial statements, and caused Computone to record and report, approximately \$34,387 of income from three purported sales of products to ITT Merisel in violation of GAAP, in that, among other reasons, ITT Merisel had requested delivery of the products be delayed until the following fiscal year. Computone issued invoice numbers 39485, 39491 and 39486 to ITT Merisel for these transactions.

120. On or about April 7, 1995, Computone recorded approximately \$26,667 of income from the purported sale of

products to Merisel/IMS, in violation of GAAP, in that, among other reasons, Computone did not ship the products to Merisel/IMS.

Instead, Computone instructed the shipper to store the products at the shipper's warehouse. During the following fiscal year, Computone instructed the shipper to ship the products back to Computone. Computone issued invoice number 39511 to Merisel/IMS for this transaction.

121. Anderson and Pearce knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding Merisel/IMS transaction in Computone's books and in its financial statements in violation of GAAP.

122. On or about April 7, 1995, Computone recorded approximately \$15,283 of income from the purported sale of products to Tech Data Corporation ("Tech Data"), in violation of GAAP, in that, among other reasons, Computone did not ship the products to Tech Data. Instead, Computone instructed the shipper to store the products at the shipper's warehouse. During the following fiscal year, Computone instructed the shipper to ship the products back to Computone. Computone issued invoice number 39513 to Tech Data for this transaction.

123. Anderson and Pearce knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused

Computone to record and report the preceding Tech Data transaction in Computone's books and in its financial statements in violation of GAAP.

124. On or about April 7, 1995, Computone recorded approximately \$11,398 of income from the purported sale of products to Data Voice Networks, Inc. ("Data Voice"), in violation of GAAP, in that, among other reasons, Computone did not ship the products to Data Voice until the following fiscal year. Computone issued invoice number 39481 to Data Voice for this transaction.

125. Alba knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding Data Voice transaction in Computone's books and in its financial statements in violation of GAAP.

126. On or about December 2, 1994, Computone recorded approximately \$10,951 of income from the purported sale of products to Charterhouse, an entity experiencing financial difficulties, in violation of GAAP, in that, among other reasons, this was a consignment sale. Computone issued invoice number 37664 to Charterhouse for this transaction.

127. Anderson and Alba knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding Charterhouse transaction in

Computone's books and in its financial statements in violation of GAAP.

128. Pearce recorded and reported, and caused Computone to record and report the preceding Charterhouse transaction in Computone's books and in its financial statements in violation of GAAP.

129. On or about January 6, 1995, Computone recorded approximately \$131,400 of income from the purported sale of products to Source, in violation of GAAP, in that, among other reasons, this was a consignment sale. Computone issued invoice number 38001 to Source for this transaction.

130. Anderson and Alba, knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding Source transaction in Computone's books and in its financial statements in violation of GAAP.

131. Pearce recorded and reported, and caused Computone to record and report the preceding Charterhouse transaction in Computone's books and in its financial statements in violation of GAAP.

132. As a result of failing to record cost of goods sold and the other twenty-three preceding transactions in conformity with GAAP, Computone's income from continuing operations was materially

misstated in Computone's books and in its April 1995 10-K. Computone should have reported an approximate \$435,107 loss from continuing operations, rather than the reported \$126,000 of income from continuing operations for the year ended April 7, 1995.

THE 1995 AUDIT

133. On or about May 19, 1995, Anderson and Pearce signed a management representation letter which was provided to Computone's independent accountants for use in conducting their 1995 audit.

134. The management representation letter falsely represented that all related party transactions had been properly recorded or disclosed in Computone's financial statements; and that there were no inventories on consignment, bill-and-hold, or other arrangements.

135. Anderson and Pearce knew that the representations in the management letter were false.

136. The CYMA transaction was a related party consignment sale. CYMA was 80% owned by the chairman of Computone and another Computone director.

137. Anderson and Pearce knew that the two Computone directors were owners of CYMA.

138. The CYMA transaction was not properly recorded or disclosed in Computone's financial statements.

139. Pearce did not tell the auditors that Computone recorded numerous transactions as sales where the goods had been provided to a shipper with instructions to indefinitely delay their delivery to customers. This practice, about which Pearce knew, occurred, among other times, with respect to the recording of nine sales to various customers on the last day of Computone's 1995 fiscal year. As previously discussed, these nine purported sales transactions involved Computone invoice numbers 39499, 39496, 39507, 39483, 39484, 39509, 39517, 39511 and 39513 which were issued to Euroimport, BSM, BSM, Ingram Micro, Ingram Micro, Ingram Micro, Ingram Micro, Merisel/IMS and Tech Data, respectively.

140. Anderson was also aware of Computone's practice to instruct certain shippers to delay the delivery of products to customers until those customers were willing to accept title to the products. Anderson did not disclose this information to Computone's independent accountants.

141. Anderson also failed to disclose to Computone's independent accountants that Source was not obligated to pay for any products unless it resold the products.

142. Pearce did not tell Computone's independent accountants that the two preceding purported sales to DEC were shipped approximately one month prior to the shipping date requested by the customer, the customer would only accept title to the goods upon receipt at the customer's location, and the customer could

unconditionally return the goods to Computone after receipt of the goods.

143. On or about June 29, 1995, Anderson and Pearce signed an updated management representation letter, which was provided to Computone's independent accountants and which reaffirmed their false representations made in the May 19, 1995 management representation letter.

JULY 7, 1995 FORM 10-Q

144. On or about September 14, 1995, Computone filed with the Commission a quarterly report on Form 10-Q for the quarter ended July 7, 1995 (the "July 1995 10-Q"). The July 1995 10-Q included Computone's financial statements for the three month period ended July 7, 1995.

145. Anderson participated in the preparation of the July 1995 10-Q and signed the report in his capacity as president and chief operating officer (duly authorized officer and principal executive officer) of Computone.

146. Alba participated in the preparation of the July 1995 10-Q.

147. On or about July 7, 1995, Computone recorded approximately \$544,400 of income from the purported sale of products to GC Services, in violation of GAAP, in that, among other reasons, title to the goods did not transfer from Computone

to GC Services because GC Services had placed a conditional order with Computone, Computone did not physically possess the products to be purportedly sold on July 7, 1995, and the products were not shipped by Computone to GC Services. Computone issued invoice number 41327 to GC Services for this transaction.

148. This sale was recorded at Anderson's direction even though GC Services did not issue a binding purchase order to Computone and the products, which at the time were not in Computone's inventory, were never shipped.

149. Anderson wanted this transaction recorded on Computone's books to increase the amount of revenues and/or income Computone would report for this quarter.

150. The GC Services purchase order contained five conditions. The five conditions were: (1) that Computone would store the products, bearing all storage costs, and protect GC Services from any loss or damage for whatever cause; (2) the warranty on the product would not begin until the Internal Revenue Service ("IRS") received the product; (3) payment would only be due for items shipped to the IRS and shipments would only be made upon request by GC Services; (4) all products were fully returnable to Computone by September 29, 1996; and (5) the return of products would not change pricing.

151. Kretschman, on behalf of Computone, signed the GC Services conditional purchase order.

152. The purchase order was provided to Pearce on or about July 7, 1995.

153. Pearce objected to the recognition of revenue from this transaction because of the presence of the last two conditions, i.e., all products were fully returnable to Computone by September 29, 1996 and the return of products would not change pricing.

154. Kretschman became aware of Pearce's objections. Subsequently, Kretschman discussed the matter with Pearce.

155. On July 6, 1995, the original signed purchase order from GC Services was faxed to Anderson's house. The fax also stated, "Changes to this PO at this time would not be well received, if you know what I mean."

156. Kretschman told Anderson about Pearce's objections as described above.

157. Anderson instructed Kretschman that the last two conditions listed on the purchase order be whited-out to eliminate Pearce's objections.

158. Within approximately 24 hours, James D. Montgomery, II ("Montgomery"), Computone's director of original equipment

manufacturer sales, was summoned to a meeting with Anderson and Kretschman.

159. During this meeting, Anderson and Kretschman told Montgomery of their desire to recognize revenue from this transaction although the conditions imposed by GC Services precluded such recognition, and that Computone absolutely had to record and recognize this revenue.

160. At the close of the meeting, Montgomery and Kretschman were directed by Anderson to "go take care of it" and do what needed to be done to recognize the revenue.

161. Subsequently, Montgomery was summoned to Kretschman's office where Kretschman whited-out the last two conditions on the purchase order, modified the first condition by indicating that GC Services, rather than Computone, would bear the expense of insuring the storage of the products at Computone's premises, and changed the date of the purchase order to July 7, 1995. None of these changes justified revenue recognition under GAAP.

162. Kretschman then directed Montgomery to go to a copy center to further alter the original purchase order to incorporate Kretschman's changes.

163. Kretschman told Montgomery that if Montgomery did not make the changes, then the order would not be able to be processed and the revenue would not be able to be recognized.

164. Montgomery made the changes to the purchase order at the copy center knowing that GC Services was not aware of the alterations.

165. On or about July 7, 1995, Montgomery sent a fax to GC Services requesting that an attached letter be signed because "our accounting staff needs to be able to post this letter for audit purposes." GC Services refused Montgomery's request.

166. Montgomery gave Pearce the altered purchase order with three conditions.

167. Pearce was aware that GC Services was on an internal Computone list targeted for a sale to be completed by the end of the quarter.

168. Alba was provided a copy of the GC Services purchase order with three conditions.

169. On or about July 6, 1995, Alba learned from Pearce and Montgomery that Computone would be recognizing revenue from this transaction.

170. The IRS never ordered the products from GC Services.

171. Alba and/or Pearce knowingly, intentionally and/or with severe recklessness, directed the recording of this transaction on Computone's books. Both Alba and Pearce knew or were reckless in not knowing that this transaction was recorded on or about

July 7, 1995 as a bill-and-hold sale which did not comply with GAAP, and that it would be reported in the July 1995 10-Q.

172. Anderson, Alba and Kretschman knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding GC Services transaction in Computone's books and in its financial statements in violation of GAAP.

173. Pearce knowingly, intentionally and/or with severe recklessness, recorded and caused Computone to record the preceding GC Services transaction in Computone's books in violation of GAAP.

174. During the quarter ended July 7, 1995, Computone failed to record and report approximately \$14,145 of tooling amortization expense in conformity with GAAP.

175. During the quarter ended July 7, 1995, Computone failed to record and report approximately \$30,750 of obsolete inventory expense in conformity with GAAP.

176. During the quarter ended July 7, 1995, Computone failed to record and report approximately \$22,500 of bad debt expense in its books, records and financial statements in conformity with GAAP.

177. Pearce and Alba failed to record, and caused Computone to fail to record the preceding tooling amortization, obsolete

inventory, and bad debt expenses in Computone's books in conformity with GAAP.

178. On or about July 7, 1995, Computone recorded approximately \$10,135 of income from the purported sale of products to Data General, in violation of GAAP, in that, among other reasons, Computone did not ship the products until the following quarter in accordance with the request of Data General. Computone issued invoice number 41311 to Data General for this transaction.

179. Anderson failed to record and report, and caused Computone to fail to record and report the preceding Data General transaction in Computone's books in conformity with GAAP.

180. Pearce failed to record, and caused Computone to fail to record the preceding Data General transaction in Computone's books in conformity with GAAP.

181. On or about July 7, 1995, Computone recorded approximately \$6,016 of income from the purported sale of products to Unisel, S.A. ("Unisel"), in violation of GAAP, in that, among other reasons, Computone did not ship the products to Unisel until the following quarter. Computone issued invoice number 41324 to Unisel for this transaction.

182. Alba knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to

record and report the preceding Unisel transaction in Computone's books and in its financial statements in violation of GAAP.

183. On or about June 12, 1995, Computone authorized Microage to return certain products accounting for approximately \$55,779 of income, but failed to record these pending returns in its books and records in conformity with GAAP.

184. On or about June 30, 1995, Computone authorized Merisel to return certain products accounting for approximately \$27,654 of income, but failed to record these pending returns in its books and records in conformity with GAAP. Pearce personally authorized this return on behalf of Computone.

185. Instead of immediately issuing credit memos for these pending returns, Anderson directed Computone's accounting department to not issue credit memos for the preceding Microage and Merisel returns in order to manipulate Computone's income.

186. Microage and Merisel were not issued credit memos until April 5, 1996.

187. Anderson and Alba knowingly, intentionally and/or with severe recklessness, in contravention of GAAP, failed to record and report, and caused Computone to fail to record and report the preceding credit memos to Microage and Merisel in Computone's books and in its financial statements.

188. Pearce knowingly, intentionally and/or with severe recklessness, in contravention of GAAP, failed to record and caused Computone to fail to record the preceding credit memos to Microage and Merisel in Computone's books.

189. As a result of failing to recording the preceding eight transactions in conformity with GAAP, Computone's income from continuing operations was materially misstated in Computone's books and in its July 1995 10-Q. Computone should have reported an approximate \$1,352,380 loss from continuing operations, rather than the reported \$641,000 loss from continuing operations for the quarter ended July 7, 1995.

OCTOBER 6, 1995 FORM 10-Q

190. On or about November 7, 1995, Computone filed with the Commission a quarterly report on Form 10-Q for the quarter ended October 6, 1995 (the "October 1995 10-Q"). The October 1995 10-Q included Computone's financial statements for the three month period ended October 6, 1995.

191. Anderson participated in the preparation of the October 1995 10-Q and signed the report in his capacity as president and chief operating officer (duly authorized officer and principal executive officer) of Computone.

192. Alba participated in the preparation of the October 1995 10-Q.

193. During the quarter ended October 6, 1995, Computone failed to record and report approximately \$14,145 of tooling amortization expense in conformity with GAAP.

194. During the quarter ended October 6, 1995, Computone failed to record and report approximately \$30,750 of obsolete inventory expense in conformity with GAAP.

195. During the quarter ended October 6, 1995, Computone failed to record and report approximately \$2,277 of depreciation expense in conformity with GAAP.

196. During the quarter ended October 6, 1995, Computone failed to record and report approximately \$22,500 of bad debt expense in conformity with GAAP.

197. During the quarter ended October 6, 1995, Computone improperly recorded and reported approximately \$3,192 of product development expense in violation of GAAP.

198. During the quarter ended October 6, 1995, Computone failed to record and report approximately \$662 of interest expense in conformity with GAAP.

199. Alba failed to record and report, and caused Computone to fail to record and report the preceding tooling amortization, obsolete inventory, depreciation, bad debt, product development, and interest expenses in Computone's books and in its financial statements in conformity with GAAP.

200. On or about October 6, 1995, Computone recorded approximately \$66,380 of income from seven purported sales of products to four different customers. Each of these purported sales were recorded in violation of GAAP, in that, among other reasons, the products were not shipped by Computone to the customers until the following quarter, and title to the products did not transfer to the customers until after October 6, 1995.

201. Computone issued invoice number 43058 to Data General, invoice number 43102 to Merisel/IMS, invoice number 43108 to Tech Data, invoice number 43132 to Diamond Flower Electric Instrument Company ("Diamond Flower"), invoice number 43123 to Diamond Flower, invoice number 43134 to Tech Data, and invoice number 43103 to Merisel/IMS for these seven transactions.

202. Computone recorded approximately \$7,092, \$14,677, \$9,839, \$5,951, \$4,756, \$12,687 and \$11,378 of income from the preceding invoice numbers 43058, 43102, 43108, 43132, 43123, 43134 and 43103, respectively.

203. Anderson instructed Computone's accounting department to record the preceding seven transactions as sales even though he knew that Computone had not shipped the products by October 6, 1995, the last day of the quarter.

204. Anderson and Alba knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone

to record and report the preceding seven transactions in Computone's books and in its financial statements in violation of GAAP.

205. On or about September 1, 1995, Computone recorded approximately \$30,723 of income from the purported sale of products to Source, in violation of GAAP, in that, among other reasons, this was a consignment sale and the products, as listed in Computone invoice number 42459, were not shipped until the following quarter.

206. Anderson knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding Source transaction in Computone's books and in its financial statements in violation of GAAP.

207. Alba recorded and reported, and caused Computone to record and report the preceding Source transaction in Computone's books and in its financial statements in violation of GAAP.

208. As a result of failing to record the preceding fourteen transactions in conformity with GAAP, Computone's income from continuing operations was materially misstated in Computone's books and in its October 1995 10-Q. Computone should have reported an approximate \$156,245 loss from continuing operations, rather than the reported \$8,000 of income from continuing operations for the quarter ended October 6, 1995.

JANUARY 5, 1996 FORM 10-Q

209. On or about February 15, 1996, Computone filed with the Commission a quarterly report on Form 10-Q for the quarter ended January 5, 1996 (the "January 1996 10-Q"). The January 1996 10-Q included Computone's financial statements for the three month period ended January 5, 1996.

210. Anderson participated in the preparation of the January 1996 10-Q and signed the report in his capacity as president and chief operating officer (duly authorized officer and principal executive officer) of Computone.

211. Alba participated in the preparation of the January 1996 10-Q and signed the report in his capacity as controller and principal accounting officer of Computone.

212. During the quarter ended January 5, 1996, in contravention of GAAP, Alba failed to record and report, and caused Computone to fail to record and report approximately \$14,145 of tooling amortization expense.

213. During the quarter ended January 5, 1996, in contravention of GAAP, Alba failed to record and report, and caused Computone failed to record and report approximately \$30,750 of obsolete inventory expense.

214. During the quarter ended January 5, 1996, in contravention of GAAP, Alba failed to record and report, and

caused Computone to fail to record and report approximately \$2,277 of depreciation expense.

215. During the quarter ended January 5, 1996, in contravention of GAAP, Alba failed to record and report, and caused Computone to fail to record and report approximately \$22,500 of bad debt expense.

216. During the quarter ended January 5, 1996, in contravention of GAAP, Alba improperly recorded and reported, and caused Computone to improperly record and report approximately \$3,192 of product development expense in violation of GAAP.

217. During the quarter ended January 5, 1996, in contravention of GAAP, Alba failed to record and report, and caused Computone to fail to record and report approximately \$662 of interest expense.

218. For the quarter ended January 5, 1996, in contravention of GAAP, Computone failed to record approximately \$25,333 of legal expenses which had been incurred by Computone during the quarter.

219. These legal fees were paid for by three of Computone's directors, who were also stockholders of Computone.

220. Computone implicitly benefited from the three directors' payment of the legal fees on Computone's behalf.

221. Alba failed to record and report, and caused Computone to fail to record and report the preceding legal expenses in

Computone's books and in its financial statements in conformity with GAAP.

222. On or about November 3, 1995, Computone recorded approximately \$65,000 of income from the purported sale of products to Euroimport, in violation of GAAP, in that, among other reasons, this was a consignment sale. Computone issued invoice number 43547 to Euroimport for this transaction.

223. The consignment order issued by Euroimport to Computone for this transaction was intentionally altered by Anderson and Hume to create the appearance that Euroimport had placed a bill-and-hold sale with Computone.

224. Notwithstanding the alteration by Anderson and Hume to Euroimport's order, the altered order would not have supported recognition of this transaction as a sale in conformity with GAAP because, among other reasons, this transaction had not been requested by Euroimport, the inventory had not been segregated by Computone, there were no firm delivery dates and Computone expected Euroimport's customers to pay Computone upon their purchase of the products from Euroimport.

225. Anderson, Alba and Hume knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding Euroimport

transaction in Computone's books and in its financial statements in violation of GAAP.

226. On or about January 5, 1996, Computone recorded approximately \$23,320 of income from the purported sale of products to First Internet Franchise Corporation ("First Internet"), in violation of GAAP, in that, among other reasons, the products were not shipped by Computone to First Internet until the following quarter, and this was a consignment sale. Computone issued invoice number 44683 to First Internet for this transaction.

227. Computone sent obsolete products to First Internet for this transaction.

228. Computone authorized First Internet to return the products during May 1996 and during July 1996.

229. First Internet did not commence operations until approximately June 1996.

230. Alba knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding First Internet transaction in Computone's books and in its financial statements in violation of GAAP.

231. On or about January 5, 1996, Computone recorded approximately \$180,485 of income from the purported sale of

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products to Walmart, in violation of GAAP, in that, among other reasons, Walmart had not ordered the products, and Computone did not ship the products to Walmart until the following quarter. Computone issued invoice number 44745 to Walmart for this transaction.

232. Anderson and Kretschman created a fictitious order to create the appearance that Walmart entered into a bill-and-hold sale with Computone.

233. Anderson instructed Alba to record this sale on Computone's books even though both Anderson and Alba knew that Computone had not shipped the products to Walmart.

234. Notwithstanding the creation of the fictitious Walmart order by Anderson and Kretschman, recognition of this transaction as a sale was in contravention of GAAP.

235. In an attempt to conceal the improper recording of this transaction, on or about April 9, 1996, Anderson and Kretschman attempted to obtain a document from Walmart to indicate that Walmart had placed a bill-and-hold sale for this transaction as of January 5, 1996.

236. Anderson, Alba and Kretschman knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding Walmart transaction

in Computone's books and in its financial statements in violation of GAAP.

237. As a result of failing to recording the preceding ten transactions in conformity with GAAP, Computone's income from continuing operations was materially misstated in Computone's books and in its January 1996 10-Q. Computone should have reported an approximate \$162,280 loss from continuing operations, rather than the reported \$199,000 of income from continuing operations for the quarter ended January 5, 1996.

APRIL 5, 1996 FORM 10-K

238. On or about August 21, 1996, Computone filed with the Commission an annual report on Form 10-K for the year ended April 5, 1996 (the "April 1996 10-K"). The April 1996 10-K included Computone's financial statements for the year ended April 5, 1996.

239. Anderson participated in the preparation of the April 1996 10-K and signed the report in his capacity as president, chief executive officer, principal executive officer and a director of Computone.

240. Alba participated in the preparation of the April 1996 10-K and signed the report in his capacity as Vice President-Finance and Administration and chief financial officer (principal financial and accounting officer) of Computone.

241. During the fourth quarter ended April 5, 1996, Computone authorized five different customers, in a total of six transactions, to return certain products, but failed to record these known, pending sales returns, approximating a \$54,571 reduction of income, in its books and records in conformity with GAAP.

242. The sales returns related to invoice number 46930 previously issued to Ameriquet Robec, invoice number 46958 previously issued to Datatrac, invoice number 46987 previously issued to Riverstyx, invoice number 46996 previously issued to Dallas Airmotive, invoice number 47092 previously issued to Harris Hawk Company, and invoice number 47093 previously issued to Ameriquet Robec.

243. Alba failed to record, and caused Computone to fail to record the six preceding pending returns in Computone's books and in its financial statements in conformity with GAAP.

244. During the fourth quarter ended April 5, 1996, Computone failed to record known, pending sales returns from Tech Data approximating a \$55,140 reduction of income in its books and records in conformity with GAAP.

245. Alba failed to record, and caused Computone to fail to record the preceding Tech Data pending return in Computone's books and in its financial statements in conformity with GAAP.

246. On or about April 5, 1996, Computone recorded approximately \$179,360 of income from the purported sale of products in thirty-six transactions with various customers, in violation of GAAP, in that, among other reasons, Computone did not ship the products to the customers until the following quarter.

247. The thirty-six transactions related to Computone invoice numbers 66365, 66336, 66332, 66296, 66315, 66309, 66338, 66337, 66333, 66335, 66355, 66353, 66334, 66363, 66328, 66329, 66350, 66330, 66342, 66327, 66347, 66344, 66345, 66360, 66364, 66354, 66362, 66359, 66352, 66358, 66346, 66349, 66343, 66351, 66087 and 66313 which were issued to Computone customers Dupaco, Solid Data, Capstone, Merisel\IMS, Mid South, Melita, Computer Clinic, Computer Clinic, Team Technologies, Systems Distrib., JC & G Company, Harris Hawk, Tuscaloosa City School, Walmart, Walmart, Walmart, Tech Data, Walmart, Business Records, Walmart, Tech Data, The Re\Comm Group, Tech Data, Merisel, Renlar, Renlar, Ameriquest Robec, Merisel, Tech Data, Gates\Arrow, Tech Data, Tech Data, Fujitsu, Tech Data, Source, and Socket Internet, respectively.

248. On or about April 5, 1996, Computone was attempting to ship the products relating to the preceding thirty-six transactions, to certain customers.

249. Anderson and Alba knew that Computone was experiencing problems in finding a shipper to pick-up the products on April 5, 1996.

250. One of Computone's outside auditors, who was on Computone's premises to observe the packing and shipping of inventory, told Anderson and Alba that title to the products had to transfer to the customers by midnight in order to recognize sales revenue from these transactions.

251. Anderson and Dan Howell ("Howell",, Computone's Director of Operations who oversaw Computone's shipping operations, attempted to intimidate the Computone auditor into reversing his position on sales recognition by calling the auditor into Howell's office and berating him.

252. Among other things, Anderson shouted at the auditor, "If you f----- think that we're not going to recognize income on this sale, you've lost your g-d---- mind."

253. After the auditor left Howell's office, Anderson and Howell were high-fiving each other. Anderson then congratulated Howell on a great performance and said he was going to buy him a big bottle of champagne.

254. In an attempt to conceal the products from the auditors, Anderson and Alba obtained a trailer to store the products. The products were loaded onto the trailer. The auditor

observed the loading of the products onto the trailer and was told that the products would be shipped that night.

255. When the auditor left that night, the trailer, with the products aboard, was moved from Computone's loading dock to Computone's parking lot.

256. The following day, a Saturday and the first day of the next fiscal quarter, the auditor drove to Computone's premises where he observed the trailer.

257. Computone did not begin to remove the products from the trailer and ship them to customers until the following week.

258. The auditors uncovered the attempt by Computone, Anderson and Alba to hide this inventory in order to create the appearance that title to the products had transferred to the customers prior to the end of the year ended April 5, 1996.

259. Anderson and Alba knowingly failed to record, and caused Computone to fail to record the preceding thirty-six transactions in Computone's books in conformity with GAAP.

260. During the fourth quarter ended April 5, 1996, Computone recorded approximately \$32,000 of income from a purported bill-and-hold sale in violation of GAAP.

261. Alba failed to record, and caused Computone to fail to record the preceding purported sale in Computone's books and in its financial statements in conformity with GAAP.

262. During the fourth quarter, Computone failed to record approximately \$75,000 for estimated future sales returns from its distributors in conformity with GAAP.

263. Alba failed to record, and caused Computone to fail to record the preceding estimated future sales returns from its distributors in Computone's books and in its financial statements in conformity with GAAP.

264. During the fourth quarter ended April 5, 1996, Alba failed to record, and caused Computone to fail to record approximately \$22,500 of bad debt expense in conformity with GAAP.

265. During the fourth quarter ended April 5, 1996, Alba failed to record, and caused Computone to fail to record approximately \$30,750 of obsolete inventory expense in conformity with GAAP.

266. On or about April 5, 1996, Computone recorded approximately \$15,450 of income from the purported sale of products to AV Systems & Exports ("AV Systems"), in violation of GAAP, in that, among other reasons, Computone did not ship the products to AV Systems until the following quarter. Computone issued invoice number 46558 to AV Systems for this transaction.

267. Anderson and Alba failed to record, and caused Computone to fail to record the preceding AV Systems transaction in Computone's books in conformity with GAAP.

268. On or about April 7, 1995, Computone recorded approximately \$124,684 of income from the purported sale of products to CYMA, in violation of GAAP, in that, among other reasons, this was a consignment sale and CYMA lacked the ability to pay for the products. Computone issued invoice number 39480 to CYMA for this transaction.

269. CYMA never paid for any of the products.

270. During the period beginning on or about July 19, 1995 through approximately January 27, 1996, CYMA directly or indirectly returned all of the products to Computone.

271. Computone intentionally did not issue credit memos to CYMA until approximately April 5, 1996. On or about April 5, 1996, Computone reduced its reported income, in violation of GAAP, by issuing and recording a credit for \$124,684 of income to CYMA for this purported sale.

272. Anderson and Alba knowingly recorded, and caused Computone to record the preceding CYMA credit memo in Computone's books in violation of GAAP.

273. As a result of failing to record the preceding forty-eight transactions in conformity with GAAP, Computone's income from continuing operations was materially misstated in Computone's books.

274. On or about June 12, 1995, Computone authorized Microage to return certain products accounting for approximately \$55,779 of income, but failed to record these pending returns in its books and records in conformity with GAAP.

275. On or about June 30, 1995, Computone authorized Merisel to return certain products accounting for approximately \$27,654 of income, but failed to record these pending returns in its books and records in conformity with GAAP.

276. Instead of immediately issuing credit memos for these pending returns, Anderson directed Computone's accounting department to not issue credit memos for the preceding Microage and Merisel returns in order to manipulate Computone's income.

277. Microage and Merisel were not issued credit memos until April 5, 1996.

THE 1996 AUDIT

278. During the 1996 audit, Alba knowingly gave Computone's auditors misleading responses when the auditors asked him why there had been a delay in issuing the credit memos to CYMA. Alba knowingly failed to tell the auditors that the issuance of the credit memos to CYMA was intentionally delayed at the instruction of Anderson in order to manipulate Computone's income.

279. During the 1996 audit of Computone, Alba knowingly gave Computone's auditors misleading responses when the auditors asked him why there had been a delay in issuing the credit memos to

Microage and Merisel. Alba knowingly failed to tell the auditors, after being asked by them, that the issuance of the credit memos to these customers was intentionally delayed at the instruction of Anderson in order to manipulate Computone's income.

280. As previously discussed, on or about July 7, 1995, Computone recorded approximately \$544,400 of income from the purported sale of products to GC Services, in violation of GAAP, in that, among other reasons, title to the goods did not transfer from Computone to GC Services because GC Services had placed a conditional order with Computone, Computone did not physically possess the products to be purportedly sold on July 7, 1995, and the products were not shipped by Computone to GC Services. Computone issued invoice number 41327 to GC Services for this transaction.

281. During the 1996 audit, Anderson and Kretschman lied or omitted to tell the truth to Computone's independent accountants about the preceding GC Services transaction.

282. During the 1996 audit, Computone's independent accountants were provided a copy of the preceding GC Services purchase order with three conditions.

283. During the 1996 audit, Computone's independent accountants questioned Kretschman about this transaction. Kretschman's responses were misleading when he failed to disclose

the truth about the altered purchase order. Kretschman failed to tell the independent accountants that the GC Services purchase order had been altered. Kretschman falsely told the independent accountants that he did not know where the original purchase order was and that he had no recollection of which version of the purchase order he signed.

284. Kretschman knew that he had signed the original, unaltered purchase order and that the original version was copied and altered to justify the sale on Computone's books.

285. Anderson and other Computone board members requested written correspondence from the auditors explaining why additional procedures needed to be performed and what additional documentation needed to be obtained by the auditors before the 1996 audit could be completed.

286. On or about June 11, 1996, Computone's auditors provided Anderson and other board members with an interim report in conjunction with the 1996 audit. Anderson provided a copy of the report to Alba. The report stated that the auditors had been alerted to potential irregularities within Computone from a tip. The tipster reported that Computone was making deliveries at the end of each quarter to warehouses in the Atlanta, Georgia area which in the following quarter would be returned to Computone. The auditors also noted that bill-and-hold sales reported by

Computone failed to be supported by documentation which indicated the customer intended to take title to the goods.

287. In the letter dated on or about June 11, 1996, the auditors identified the July 1995 GC Services transactions as a bill-and-hold sale. Although Anderson knew that these were not bill-and-hold sales, he never told Computone's auditors that the GC Services transaction was a conditional sale and that he participated in the alteration of the purchase order in order to conceal the true substance of the transaction.

288. As previously discussed, on or about November 3, 1995, Computone recorded approximately \$65,000 of income from the purported sale of products to Euroimport ("the Euroimport sale"), in violation of GAAP, in that, among other reasons, this was a consignment sale. Computone issued invoice number 43547 to Euroimport for this transaction.

289. The consignment order issued by Euroimport to Computone for this transaction was intentionally altered by Anderson and Hume.

290. On or about April 15, 1996, in conjunction with the April 1996 fiscal year audit, the president of Euroimport responded to a confirmation request from the BDO auditors by stating that Euroimport did not owe money from the Euroimport sale.

291. Upon learning about Euroimport's president's response, Anderson and Hume drafted a document to Euroimport's president asking him to help them by confirming with Computone's auditors that the Computone invoice was genuine and a Euroimport liability. The letter also stated, "please be assured that this invoice is not and will not be considered as due from Euroimports...."

292. This letter was drafted with the intention to convince Euroimport's president to sign the audit confirmation.

293. On or about July 1, 1996, Anderson was questioned about the Euroimport sale by Computone's auditors.

294. On or about July 2, 1996, Computone's auditors questioned Hume about the Euroimport sale.

295. Anderson and Hume failed to tell the auditors that the Euroimport sale was a consignment sale and that they had altered the purchase order which was furnished to them for use in their audit.

296. Hume requested that Computone's auditors not contact Euroimport to obtain a copy of the original purchase order.

297. Anderson and Hume misled Computone's auditors about the Euroimport sale by failing to disclose that this was a contingent sale and that the purchase order Computone had furnished for the audit was fictitious.

JANUARY 3, 1997 FORM 10-QSB

298. On or about February 14, 1997, Computone filed with the Commission a quarterly report on Form 10-QSB for the quarter ended January 3, 1997 (the "January 1997 10-QSB"). The January 1997 10-QSB included Computone's financial statements for the three month period ended January 3, 1997.

299. Anderson participated in the preparation of the January 1997 10-QSB and signed the report in his capacity as president and chief operating officer (duly authorized officer and principal executive officer) of Computone.

300. Alba participated in the preparation of the January 1997 10-QSB and signed the report in his capacity as vice president of finance and administration and chief financial officer (principal accounting officer) of Computone.

301. On or about January 3, 1997, Alba recorded and reported, and caused Computone to record on its books and report in its financial statements approximately \$5,933 of income from the purported sale of products to Data General in violation of GAAP, in that, among other reasons, title did not contractually pass to GC Services until the following quarter. Computone issued invoice number 52967 to Data General for this transaction.

302. On or about January 3, 1997, Computone recorded approximately \$75,830 of income from the purported sale of

products to Data General, in violation of GAAP, in that, among other reasons, title did not pass to GC Services until the following quarter.

303. Data General was closed during the period December 30, 1996 through January 3, 1997 and had not ordered these products from Computone.

304. In an attempt to create the appearance that the products had been sold to Data General, Anderson directly and/or indirectly through Kretschman, instructed Danny R. Auerbach, Computone's then national sales manager and current Director of North American Sales, to create a fictitious sales order purportedly received from Data General, in order to recognize this transaction as a sale during the quarter.

305. Computone issued invoice number 53078 to Data General for this transaction.

306. In addition, Computone intentionally sent the products to storage at an interim shipper's warehouse on or about January 3, 1997. The interim shipper was initially instructed to redeliver the goods to Computone on January 8, 1997. Subsequently, the shipper was instructed to redeliver the goods to Computone on January 10, 1997.

307. Anderson, Alba and Kretschman knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused

Computone to record and report the preceding Data General transaction in Computone's books and in its financial statements in violation of GAAP.

308. From on or about November 25, 1996 through January 3, 1997, Computone recorded approximately \$360,440 of income from the purported sale of products to Capella Worldwide Networking, Inc. ("Capella"), in violation of GAAP, in that, among other reasons, these were consignment sales whereby title had not passed to Capella as of January 3, 1997.

309. Computone issued approximately twelve different invoices to Capella, an entity experiencing financial difficulties, relating to these transactions.

310. Two of the transactions, accounting for \$202,247 of the \$360,440 of income from these purported sales, were recorded on or about January 2, 1997 and January 3, 1997.

311. Capella lacked the financial ability to pay for Computone's products unless it resold the products. On or about October 1997, Capella filed for Chapter 11 bankruptcy.

312. Anderson and Alba knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding Capella transaction in Computone's books and in its financial statements in violation of

GAAP. Anderson and Alba knew that the sales were consignment sales and knew that Capella was experiencing financial difficulties.

313. On or about January 3, 1997, Computone recorded approximately \$82,796 of income from six purported sales of products to certain foreign customers, in violation of GAAP, in that, among other reasons, title did not pass to GC Services until the following quarter.

314. The six transactions related to Computone invoice numbers 52977, 53008, 53009, 53064, 53065 and 53058 which were issued to Computone customers Computronics Belgium, Top Log France SA, Computronics Belgium, Top Log France SA, Top Log Iberica and PCS Computer Projects Ltd., respectively.

315. Computone gave the goods to a local interim shipper to store at its warehouse. The local interim shipper was, by law, unable to deliver the goods to Computone's customers. The local interim shipper was not the shipper designated to be used by the customers.

316. The local interim shipper did not pick-up the goods related to invoice numbers 53008 and 53058 from Computone until on or about January 6, 1997. The local interim shipper transferred some of the goods to another shipper on or about January 6, 1997. This subsequent shipper did not receive nor

ship the goods to Computone's customers until the following quarter.

317. Anderson and Alba were aware of the use of interim shippers by Computone and that Computone recorded sales when the products were provided to the interim shipper, even though title to the goods did not pass to the customer until the following quarter.

318. Anderson and Alba knowingly, intentionally and/or with severe recklessness, failed to record and report, and caused Computone to fail to record and report the preceding six transactions in Computone's books and in its financial statements in conformity with GAAP.

319. On or about January 2, 1997, Computone recorded approximately \$27,680 of income from the purported sale of products to Galacticom Inc. ("Galacticom"), in violation of GAAP, in that, among other reasons, this was a consignment sale. Computone issued invoice number 52953 to Galacticom for this transaction.

320. On or about January 3, 1997, Computone recorded approximately \$5,751 of income from the purported sale of products to Galacticom, in violation of GAAP, in that, among other reasons, this was a consignment sale. Computone issued invoice number 53042 to Galacticom for this transaction.

321. Anderson and Alba knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the two preceding Galacticom transactions in Computone's books and in its financial statements in violation of GAAP.

322. On or about January 3, 1997, Computone recorded approximately \$56,563 of income from the purported sale of products to Newcom Inc. ("Newcom"); in violation of GAAP, in that, among other reasons, title did not pass to Newcom Inc. until the following quarter.

323. Computone issued invoice number 53057 to Newcom for this transaction.

324. Newcom's purchase order, which was reviewed by Alba on January 3, 1997, indicated FOB-destination, i.e., title did not pass until Newcom received the products.

325. Newcom received the products on January 13, 1997, during the following fiscal year, and subsequently returned the products to Computone during April 1997 and August 1997 because it was unable to sell the products.

326. Newcom never paid for the products and in October 1997, Computone cancelled the transaction.

327. Anderson and Alba knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone

to record and report the preceding Newcom transaction in Computone's books and in its financial statements in violation of GAAP. Anderson and Alba knew that title to the products did not vest with Newcom until the following fiscal year.

328. As a result of failing to record the preceding twenty-three transactions in conformity with GAAP, Computone's income from continuing operations was materially misstated in Computone's books and in its January 1997 10-QSB. Computone should have reported an approximate \$488,992 loss from continuing operations, rather than the reported \$126,000 of income from continuing operations for the quarter ended January 3, 1997.

APRIL 4, 1997 FORM 10-KSB

329. On or about July 2, 1997, Computone filed with the Commission an annual report on Form 10-KSB for the year ended April 4, 1997 (the "April 1997 10-KSB"). The April 1997 10-KSB included Computone's financial statements for the year ended April 4, 1997.

330. Anderson participated in the preparation of the April 1997 10-KSB and signed the report in his capacity as president, chief executive officer, principal executive officer and a director of Computone.

331. Alba participated in the preparation of the April 1997 10-KSB and signed the report in his capacity as Vice President-

Finance and Administration and chief financial officer (principal financial and accounting officer) of Computone.

332. As previously discussed, on or about January 2, 1997, Computone recorded approximately \$27,680 of income from the purported sale of products to Galacticom, in violation of GAAP, in that, among other reasons, this was a consignment sale. Computone issued invoice number 52953 to Galacticom for this transaction.

333. As previously discussed, on or about January 3, 1997, Computone recorded approximately \$5,751 of income from the purported sale of products to Galacticom, in violation of GAAP, in that, among other reasons, this was a consignment sale. Computone issued invoice number 53042 to Galacticom for this transaction.

334. On or about January 30, 1997, Computone recorded approximately \$21 of income from the purported sale of products to Galacticom, in violation of GAAP, in that, among other reasons, this was a consignment sale. Computone issued invoice number 53557 to Galacticom for this transaction.

335. On or about January 31, 1997, Computone recorded approximately \$230 of income from the purported sale of products to Galacticom, in violation of GAAP, in that, among other

reasons, this was a consignment sale. Computone issued invoice number 53597 to Galacticommm for this transaction.

336. On or about February 3, 1997, Computone recorded approximately \$860 of income from the purported sale of products to Galacticommm, in violation of GAAP, in that, among other reasons, this was a consignment sale. Computone issued invoice number 53669 to Galacticommm Inc. for this transaction.

337. On or about February 6, 1997, Computone recorded approximately \$1,385 of income from the purported sale of products to Galacticommm, in violation of GAAP, in that, among other reasons, this was a consignment sale. Computone issued invoice number 53762 to Galacticommm for this transaction.

338. On or about March 18, 1997, Computone recorded approximately \$1,071 of income from the purported sale of products to Galacticommm, in violation of GAAP, in that, among other reasons, this was a consignment sale. Computone issued invoice number 54692 to Galacticommm for this transaction.

339. Anderson and Alba knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the seven preceding Galacticommm transactions in Computone's books and in its financial statements in violation of GAAP. Anderson and Alba knew that the transactions were consignment sales.

340. As previously discussed, on or about January 3, 1997, Computone recorded approximately \$56,563 of income from the purported sale of products to Newcom, in violation of GAAP, in that, among other reasons, title did not pass to Newcom until the following quarter. Computone issued invoice number 53057 to Newcom for this transaction.

341. Newcom Inc.'s purchase order, which was reviewed by Alba on January 3, 1997, indicated FOB-destination, i.e., title did not pass until Newcom received the products.

342. Newcom received the products on January 13, 1997, during the following fiscal year, and subsequently returned the products to Computone during April 1997 and August 1997 because it was unable to sell the products.

343. Newcom never paid for the products and in October 1997, Computone cancelled the transaction.

344. On or about April 4, 1997, Computone wrote-off approximately \$9,280 of income which was previously recorded from this transaction on January 3, 1997.

345. At April 4, 1997, approximately \$47,283 of income remained on Computone's books from the January 3, 1997 transaction, in violation of GAAP, in that, among other reasons, this amount was overdue and appeared to be uncollectible.

346. Anderson and Alba knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding Newcom transaction in Computone's books and in its financial statements in violation of GAAP.

347. On or about January 27, 1997, Computone recorded approximately \$4,844 of income from the purported sale of products to Newcom, in violation of GAAP, in that, among other reasons, collectibility of the sales price was doubtful. Computone issued invoice number 53418 to Newcom for this transaction.

348. On or about January 31, 1997, Computone recorded approximately \$13,454 of income from the purported sale of products to Newcom, in violation of GAAP, in that, among other reasons, collectibility of the sales price was doubtful. Computone issued invoice number 53578 to Newcom for this transaction.

349. On March 10, 1997, Alba sent a letter to Newcom inquiring about Newcom's failure to pay for the three January 1997 sales and stating that he would have to reserve for the profits Computone had already recorded from the sales unless Newcom provided a schedule of payments to be made.

350. Two weeks later, on or about March 26, 1997, Computone recorded approximately \$13,178 of income from the purported sale of products to Newcom, in violation of GAAP, in that, among other

reasons, collectibility of the sales price was doubtful. Computone issued invoice number 54874 to Newcom for this transaction.

351. Despite Alba's letter, Newcom failed to pay for these products during the fiscal year ended April 4, 1997.

352. On April 11, 1997, Alba signed an authorization form on behalf of Computone acknowledging that Newcom would return products from the January sales because of its inability to sell the products.

353. Subsequently, Computone reserved \$5,220 of income from the January 27, 1997 Newcom transaction and \$14,500 of income from the January 31, 1997 Newcom transaction as being uncollectible. On April 22, 1997, Computone issued a credit memo to Newcom to cover these amounts.

354. Alba knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding January 27, 1997, January 31, 1997 and March 26, 1997 Newcom transactions in Computone's books and in its financial statements in violation of GAAP.

355. Anderson failed to record and report, and caused Computone to fail to record and report the preceding January 27, 1997, January 31, 1997 and March 26, 1997 Newcom transactions in Computone's books and in its financial statements in violation of GAAP.

356. On or about April 4, 1997, Computone recorded approximately \$25,087 of income from the purported sale of products to Source, in violation of GAAP, in that, among other reasons, this was a consignment sale. Computone issued invoice number 55102 to Source for this transaction.

357. Anderson knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding Source transaction in Computone's books and in its financial statements in violation of GAAP.

358. Alba failed to record and report, and caused Computone to fail to record and report the preceding Source transaction in Computone's books and in its financial statements in conformity with GAAP.

359. As a result of failing to record the preceding twelve transactions in conformity with GAAP, Computone's income before income taxes was materially misstated in Computone's books and in its April 1997 10-KSB. Computone should have reported an approximate \$72,135 loss before income taxes, rather than the reported \$49,000 of income before income taxes for the year ended April 4, 1997.

THE 1997 AUDIT

360. During the 1997 audit, Alba signed management representation letters on or about June 2, 1997 and again on or

about June 20, 1997, which were provided to Computone's independent accountants and in which Alba falsely attested that Computone had recorded or disclosed all agreements to repurchase assets previously sold, oral and written agreements or understandings with customers, that no material transactions were improperly recorded in Computone's accounting records, and that no events had occurred subsequent to year-end which would require adjustment to or disclosure in the financial statements.

361. At the time he signed the 1997 management representation letter, Alba knew that Computone's 1997 annual financial statements included the preceding seven sales to Galacticom and that Galacticom was not obligated to pay for the products unless they were resold, and Alba knew that Galacticom could unconditionally return the products to Computone for a full refund. Alba did not disclose this information to Computone's independent accountants.

362. At the time he signed the 1997 management representation letter, Alba knew that Computone's 1997 annual financial statements included a significant receivable from Newcom which was uncollectible and which needed to be fully reserved, thereby reducing Computone's reported income during fiscal year 1997. Alba did not disclose this information to Computone's independent accountants.

363. During the 1997 audit, Anderson falsely attested to Computone's independent accountants that Computone had recorded

or disclosed all agreements to repurchase assets previously sold, oral and written agreements or understandings with customers, and that no material transactions were improperly recorded in Computone's accounting records.

364. Anderson failed to disclose to Computone's independent accountants that Source was not obligated to pay for any products unless it resold the products.

365. Anderson also failed to tell Computone's independent accountants that Computone's 1997 annual financial statements included seven sales to Galacticom, which was not obligated to pay for products unless they were resold.

OCTOBER 3, 1997 FORM 10-QSB

366. On or about November 10, 1997, Computone filed with the Commission a quarterly report on Form 10-QSB for the quarter ended October 3, 1997 (the "October 1997 10-QSB"). The October 1997 10-QSB included Computone's financial statements for the three month period ended October 3, 1997.

367. Alba participated in the preparation of the October 1997 10-QSB and signed the report in his capacity as vice president of finance and administration and chief financial officer (principal accounting officer) of Computone.

368. Anderson participated in the preparation of the October 1997 10-QSB and signed the report in his capacity as president and

chief executive officer (principal operating officer) of Computone.

369. On or about October 3, 1997, Computone recorded approximately \$257,792 of income from the purported sale of products to Newcom, in violation of GAAP, in that, among other reasons, title did not pass to Newcom until the following quarter. Computone issued invoice number 59790 to Newcom for this transaction.

370. In order to create the appearance that the goods had been shipped, Computone arranged for an interim shipper to pick-up one-half of the shipment and store the goods at its warehouse. Computone instructed the interim shipper to refrain from delivering the goods to the final shipper until October 8, 1997 (the following quarter). The final shipper was to ship the goods to Newcom.

371. Newcom's purchase order stated that the shipping terms were FOB-destination, i.e., title did not pass until Newcom received the products, and therefore, Newcom did not take title to the goods until they were delivered on October 15, 1997.

372. Newcom never opened the boxes it received from Computone and eventually returned all of the goods to Computone.

373. Anderson told Computone's board of directors at a November 1997 meeting that this transaction had been properly

recorded and that Newcom would pay for the goods by December 31, 1997.

374. Subsequently, on February 5, 1998 (during the fourth quarter of fiscal year 1998), Computone issued Newcom a credit memo to reverse this transaction.

375. As previously discussed, Anderson and Alba were aware of Computone's use of interim shippers.

376. In fact, on or about April 1997, Alba had requested and received written guidance from Computone's auditors on when it was appropriate to recognize revenue when using an interim shipper. Alba provided the auditors' written guidance to Anderson. Alba and Anderson ignored the auditors' guidelines.

377. Anderson and Alba knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding Newcom transaction in Computone's books and in its financial statements in violation of GAAP.

378. On or about October 3, 1997, Computone recorded approximately \$13,061 of income from the purported sale of products to Data General, in violation of GAAP, in that, among other reasons, title did not pass to Data General until the following quarter. Computone issued invoice number 59788 to Data General for this transaction.

379. On or about October 3, 1997, Computone recorded approximately \$10,672 of income from the purported sale of products to Data General, in violation of GAAP, in that, among other reasons, title did not pass to Data General until the following quarter. Computone issued invoice number 59789 to Data General for this transaction.

380. In order to create the appearance that the goods from the two preceding Data General transactions had been shipped, Computone arranged for an interim shipper to pick-up one-half of the shipment and store the goods at its warehouse. The interim shipper did not deliver the goods to the final shipper until October 6, 1997 (the following quarter). The final shipper was to ship the goods to Data General.

381. Data General did not take title to the goods until the final shipper, which Data General had contractually designated, received the goods.

382. Anderson and Alba knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the two preceding Data General transactions in Computone's books and in its financial statements in violation of GAAP.

383. On or about October 3, 1997, Computone recorded approximately \$66,930 of income from the purported sale of

products to Ilion SA/Top Log France, in violation of GAAP, in that, among other reasons, title did not pass to Ilion SA/Top Log France until the following quarter. Computone issued invoice number 59795 to Ilion SA/Top Log France for this transaction.

384. In order to create the appearance that the goods from the preceding Ilion SA/Top Log France transaction had been shipped, Computone arranged for an interim shipper to pick-up one-half of the shipment and store the goods at its warehouse. The interim shipper did not deliver the goods to the final shipper until October 6, 1997 (the following quarter). The final shipper was to ship the goods to Ilion SA/Top Log France.

385. Ilion SA/Top Log France did not take title to the goods until the final shipper, which Ilion SA/Top Log France had contractually designated, received the goods.

386. Anderson and Alba knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding Ilion SA/Top Log France transaction in Computone's books and in its financial statements in violation of GAAP.

387. On or about October 3, 1997, Computone recorded approximately \$21,379 of income from the purported sale of products to Altech, in violation of GAAP, in that, among other reasons, Altech could unconditionally return the products to

Computone for a full refund. Computone issued invoice number 59717 to Altech for this transaction.

388. Anderson and Alba knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding Altech transaction in Computone's books and in its financial statements in violation of GAAP.

389. On or about October 3, 1997, Computone recorded approximately \$18,077 of income from the purported sale of products to Circle Net, in violation of GAAP, in that, among other reasons, this was a consignment sale. Computone issued invoice number 59757 to Circle Net for this purported sale.

390. Anderson signed and approved Computone's sales order for this transaction.

391. Anderson knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the preceding Circle Net transaction in Computone's books and in its financial statements in violation of GAAP.

392. Alba recorded and reported, and caused Computone to record and report the preceding Circle Net transaction in Computone's books and in its financial statements in violation of GAAP.

393. On or about October 3, 1997, Anderson and Alba recorded and reported, and caused Computone to record and report approximately \$29,946 of income from the purported sale of products to Circle Net, in violation of GAAP, in that, among other reasons, this was a consignment sale. Computone issued invoice number 59734 to Circle Net for this purported sale.

394. On or about October 3, 1997, Anderson and Alba knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report approximately \$11,770 of income from the purported sale of products to Olsy, N.A. ("Olsy"), in violation of GAAP, in that, among other reasons, title did not pass to Olsy until the following quarter. Computone issued invoice number 59787 to Olsy for this transaction.

395. In order to create the appearance that the goods from the preceding Olsy transaction had been shipped, Computone arranged for an interim shipper to pick-up one-half of the shipment and store the goods at its warehouse. The interim shipper did not deliver the goods to the final shipper until October 6, 1997 (the following quarter). The final shipper was to ship the goods to Olsy.

396. Anderson signed and approved Computone's sales order for this transaction.

397. Computone did not ship the complete order to Olsy, and shipped the wrong products to Olsy. Olsy returned the products to Computone.

398. On or about September 5, 1997, Computone recorded approximately \$36,786 of income from six purported sales of products to Tech Data Product Management, in violation of GAAP, in that, among other reasons, title did not pass to Tech Data Product Management because these were consignment sales and/or Tech Data Product Management could return the products to Computone during the following quarter for a full refund. Computone issued invoice numbers 58892, 58894, 58919, 58920, 58923 and 58924 to Tech Data Product Management for these transactions.

399. Anderson authorized the terms and conditions of these six preceding transactions with Tech Data Product Management on behalf of Computone.

400. Anderson knowingly, intentionally and/or with severe recklessness, recorded and reported, and caused Computone to record and report the six preceding Tech Data Product Management transactions in Computone's books and in its financial statements in violation of GAAP.

401. Alba recorded and reported, and caused Computone to record and report the six preceding Tech Data Product Management transactions in Computone's books and in its financial statements in violation of GAAP.

402. On or about September 9, 1997, Computone recorded approximately \$10,220 of income from two purported sales of products to Tech Data Product Management, in violation of GAAP, in that, among other reasons, title did not pass to Tech Data Product Management because these were consignment sales and/or Tech Data Product Management could return the products to Computone during the following quarter for a full refund. Computone issued invoice numbers 58968 and 58971 to Tech Data Product Management for these transactions.

403. Anderson authorized the terms and conditions of these two preceding transactions with Tech Data Product Management on behalf of Computone.

404. Anderson and Alba failed to record and report, and caused Computone to fail to record and report the two preceding Tech Data Product Management transactions in Computone's books and in its financial statements in conformity with GAAP.

405. On or about September 12, 1997, Computone recorded approximately \$27,800 of income from the purported sale of products to Tech Data Canada, in violation of GAAP, in that, among other reasons, title did not pass to Tech Data Product Management because Tech Data Canada had the right to return the products to Computone during the following quarter for a full refund.

406. On September 12, 1997, Computone failed to comply with GAAP when it recorded \$27,800 of income from a sale to Tech Data

Canada because this customer had the option to return the products to Computone at anytime.

407. Anderson and Alba failed to record and report, and caused Computone to fail to record and report the preceding Tech Data Canada transaction in Computone's books and in its financial statements in conformity with GAAP.

408. As a result of failing to recording the preceding seventeen transactions in conformity with GAAP, Computone's income before income taxes was materially misstated in Computone's books and in its October 1997 10-QSB. Computone should have reported an approximate \$224,434 loss before income taxes, rather than the reported \$280,000 of income before income taxes for the quarter ended October 3, 1997.

FALSE AND MISLEADING PRESS RELEASES

409. On or about February 23, 1994, Computone issued a press release (the "February 1994 press release") which, among other things, reported Computone's fraudulent financial results for the quarter ended January 7, 1994 as discussed above. Anderson and Pearce participated in the preparation of and/or reviewed the February 1994 press release, and knew that it was misleading when issued. or were severely reckless in not knowing

410. On or about August 16, 1994, Computone issued a press release (the "August 1994 press release") which, among other

things, reported Computone's fraudulent financial results for the quarter ended July 1, 1994, as discussed above. Anderson participated in the preparation of and/or reviewed the August 1994 press release and knew or was severely reckless in not knowing that it was misleading when issued.

411. On or about February 2, 1995, Computone issued a press release (the "February 1995 press release") which, among other things, reported Computone's fraudulent financial results for the quarter ended January 6, 1995, as discussed above. Anderson participated in the preparation of and/or reviewed the February 1995 press release and knew or was severely reckless in not knowing that it was misleading when issued.

412. On or about June 23, 1995, Computone issued a press release (the "June 1995 press release") which, among other things, reported Computone's fraudulent financial results for the year ended April 7, 1995, as discussed above. Anderson, Pearce and Alba participated in the preparation of and/or reviewed the June 1995 press release and knew or were severely reckless in not knowing that it was misleading when issued.

413. On or about February 1, 1996, Computone issued a press release (the "February 1996 press release") which, among other things, reported Computone's fraudulent financial results for the quarter ended January 5, 1996, as discussed above. Anderson and

Alba participated in the preparation of and/or reviewed the February 1996 press release and knew or were severely reckless in not knowing that it was misleading when issued.

414. On or about February 13, 1997, Computone issued a press release (the "February 1997 press release") which, among other things, reported Computone's fraudulent financial results for the quarter ended January 3, 1997, as discussed above. Anderson and Alba participated in the preparation of and/or reviewed the February 1997 press release and knew or were severely reckless in not knowing that it was misleading when issued.

415. On or about June 13, 1997, Computone issued a press release (the "June 1997 press release") which, among other things, reported Computone's fraudulent financial results for the year ended April 4, 1997, as discussed above. Anderson and Alba participated in the preparation of and/or reviewed the June 1997 press release and knew or were severely reckless in not knowing that it was misleading when issued.

416. On or about November 5, 1997, Computone issued a press release (the "November 1997 press release") which, among other things, reported Computone's fraudulent financial results for the quarter ended October 3, 1997, as discussed above. Anderson and Alba participated in the preparation of and/or reviewed the

November 1997 press release and knew or were severely reckless in not knowing that it was misleading when issued.

COMPUTONE'S INADEQUATE BOOKS, RECORDS, AND INTERNAL ACCOUNTING CONTROLS, AND RELATED VIOLATIONS BY ANDERSON, ALBA, PEARCE, HUME AND KRETSCHMAN

417. From 1993 through 1997, Computone was required to make and keep books, records, and accounts, which in reasonable detail, accurately and fairly reflected transactions and disposition of its assets.

418. From 1993 through 1997, as described above, Computone failed, as described above, to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that: (a) transactions were-executed in accordance with management's general or specific authorization, (b) transactions were recorded as necessary (i) to permit preparation of financial statements in conformity with GAAP or any other criteria applicable to such statements, and (ii) to maintain accountability for assets, (c) access to its assets was permitted only in accordance with management's general or specific authorization, and (d) the recorded accountability for its assets was compared with its existing assets at reasonable intervals and appropriate action was taken with respect to any differences.

419. As described above in paragraphs 15 through 509, Computone's books, records, and accounts failed to reflect the

true nature of the transactions. Additionally, Computone's internal accounting controls were insufficient, in that Computone did not have systems in place to record the transactions as necessary to be reported in the financial statements in conformity with GAAP and other criteria.

420. From 1993 through 1997, as described above, Anderson, singly or in concert with others, was responsible for making and keeping Computone's books, records, and accounts, which in reasonable detail, accurately and fairly reflected transactions and disposition the assets of Computone, and for devising and maintaining Computone's internal accounting controls.

421. From 1995 through 1997, as described above, Alba, singly or in concert with others, was responsible for making and keeping Computone's books, records, and accounts, which in reasonable detail, accurately and fairly reflected transactions and disposition the assets of Computone, and for devising and maintaining Computone's internal accounting controls.

422. From 1993 through 1995, as described above, Pearce, singly or in concert with others, was responsible for making and keeping Computone's books, records, and accounts, which in reasonable detail, accurately and fairly reflected transactions and disposition the assets of Computone, and for devising and maintaining Computone's internal accounting controls.

423. From 1995 through 1996, as described above, Hume, singly or in concert with others, was responsible for making and keeping Computone's books, records, and accounts, which in reasonable detail, accurately and fairly reflected transactions and disposition the assets of Computone, and for devising and maintaining Computone's internal accounting controls.

424. From 1995 through 1997, as described above, Kretschman, singly or in concert with others, was responsible for making and keeping Computone's books, records, and accounts, which in reasonable detail, accurately and fairly reflected transactions and disposition the assets of Computone, and for devising and maintaining Computone's internal accounting controls.

425. As described above, defendant Computone from 1993 through 1997, defendant Alba from 1995 through 1997, defendant Anderson from 1993 through 1997, defendant Hume from 1995 through 1996, defendant Kretschman from 1995 through 1997, and defendant Pearce from 1993 through 1995, singly or in concert with others, knowingly circumvented Computone's internal accounting controls, knowingly failed to implement certain systems of internal accounting controls, and knowingly falsified Computone's books, records, and accounts, including, among other things:

a. recording sales in Computone's books when title to products had not passed from Computone to independent third parties;

b. failing to record the existence of conditional sales orders, side agreements, consignment sales, and the right to return products to Computone;

c. creating fictitious or altering existing records to give the appearance of completed business transactions with customers;

d. failing to perform credit checks or ignoring the results of adverse credit checks and recording sales to customers who were not capable of paying for products;

e. shipping products not ordered by customers without adequate provisions for sales returns;

f. recognizing revenue before sales were complete or at a time when the customer still had the right to cancel the sale;

g. failing to ensure that certain costs and expenses incurred by or on behalf of Computone were recorded in Computone's books; and

h. failing to issue credit memos to customer even though Computone had authorized the return of products from customers,

in violation of GAAP and/or Computone's internal accounting rules.

ILL-GOTTEN GAINS BY ANDERSON

426. Anderson personally benefited and was unjustly enriched through the receipt of ill-gotten gains from sales of his

Computone stock which he obtained as a result of the fraudulent conduct set forth above.

COUNT I

FRAUD

Violations of Section 10(b) of the Exchange Act [15 U.S.C. 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. 240.10b-5]

427. Paragraphs 1 through 426 are hereby realleged and are incorporated herein by reference.

428. Defendant Computone, from 1993 through 1997, defendant Alba, from 1995 through 1997, defendant Anderson, from 1993 through 1997, defendant Hume, from 1995 through 1996, defendant Kretschman, from 1995 through 1997, and defendant Pearce, from 1993 through 1995, singly or in concert, in connection with the purchase and sale of securities, directly and indirectly, by the use of means and instrumentalities of interstate commerce and by use of the mails:

- a. employed devices, schemes, and artifices to defraud;
- b. made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and

c. engaged in acts, practices, and courses of business which would and did operate as a fraud and deceit upon persons, in connection with the purchase and sale of such securities, all as more particularly described above.

429. The statements and representations alleged herein were known to defendants or recklessly disregarded by them to be materially false and misleading. In making the material representations of fact and material omissions described herein, defendants acted with scienter, that is, with an intent to deceive, manipulate or defraud or with reckless disregard for the truth.

430. By reason of the foregoing, defendants Computone, Alba, Anderson, Hume, Kretschman, and Pearce have violated, and unless restrained and enjoined, will continue to violate Section 10(b) of the Exchange Act [15 U.S.C. 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. 240.10b-5].

COUNT II

ANNUAL REPORTS FILED WITH THE COMMISSION

Liability of Anderson, Alba and Pearce, as Control Persons, for Computone's Violations of Section 13(a) of the Exchange Act [15 U.S.C. 78m(a)] and Rules 12b-20 and 13a-1 thereunder [17 C.F.R. 240.12b-20 and 240.13a-1]

431. Paragraphs 1 through 426 are hereby realleged and are incorporated herein by reference.

432. Defendants Anderson and Alba, during 1995 and 1997, prepared, signed and/or filed, singly or in concert, Computone's 1995 10-K and 1997 10-K. Defendant Pearce, during 1995, prepared, signed and/or filed, singly or in concert, Computone's 1995 10-K. The 1995 10-K and 1997 10-K. Each were materially false and misleading, as described above.

433. By reason of the foregoing, Computone violated Section 13(a) of the Exchange Act [15 U.S.C. 78m(a)] and Rules 12b-20 and 13a-1 thereunder [17 C.F.R. 240.12b-20 and 240.13a-1].

434. Defendant Anderson served as Computone's president and COO from November 3, 1992 until April 30, 1998, as its CEO from April 1996 until April 1998, and as a director from 1993 until April 1998. Defendant Alba served as Computone's controller from August 1994 until March 1996, as its vice president of finance and administration and its CFO from April 1996 until July 27, 1998, and as its principal financial accounting officer from October 1995 until July 27, 1998. Defendant Pearce served as Computone's vice president of finance and principal accounting officer from April 1993 until July 21, 1995. Anderson, Alba and Pearce, while associated with Computone, possessed the power to influence and direct the conduct of Computone with respect to the

activities constituting the violations of Section 13(a) of the Exchange Act [15 U.S.C. 78m(a)] and Rules 12b-20 and 13a-1 thereunder [17 C.F.R. 240.12b-20 and 240.13a-1]. In addition, Anderson, Alba and Pearce were culpable participants in the conduct.

435. By reasons of the foregoing, Anderson, Alba and Pearce were controlling persons of Computone within the meaning of Section 20 of the Exchange Act [15 U.S.C. 78t] and are liable as control persons for Computone's violations of Section 13(a) of the Exchange Act [15 U.S.C. 78m(a)] and Rules 12b-20 and 13a-1 thereunder [17 C.F.R. 240.12b-20 and 240.13a-1].

436. By reason of the foregoing, Anderson, Alba and Pearce are liable for violations of, and unless enjoined will continue to violate and cause violations of, Section 13(a) of the Exchange Act [15 U.S.C. 78m(a)] and Rules 12b-20 and 13a-1 thereunder [17 C.F.R. 240.12b-20 and 240.13a-1].

COUNT III

QUARTERLY REPORTS FILED WITH THE COMMISSION

Liability of Anderson, Alba and Pearce, as Control Persons, for Computone's Violations of Section 13(a) of the Exchange Act [15 U.S.C. 78m(a)] and Rules 12b-20 and 13a-13 [17 C.F.R. 240.12b-20 and 240.13a-13]

437. Paragraphs 1 through 426 are hereby realleged and are incorporated herein by reference.

438. Defendant Anderson, from 1993 through 1997, prepared, signed and/or filed, singly or in concert, Computone's October 1993 10-Q, January 1994 10-Q, July 1994 10-Q, January 1995 10-Q, July 1995 10-Q, October 1995 10-Q, January 1996 10-Q, January 1997 10-Q and October 1997 10-Q. Defendant Alba, from 1995 through 1997, prepared, signed and/or filed, singly or in concert, Computone's January 1995 10-Q, July 1995 10-Q, October 1995 10-Q, January 1996 10-Q, January 1997 10-Q and October 1997 10-Q. Defendant Pearce, from 1993 through 1995, prepared, signed and/or filed, singly or in concert, Computone's October 1993 10-Q, January 1994 10-Q, July 1994 10-Q, October 1994 10-Q and January 1995 10-Q. The October 1993 10-Q, January 1994 10-Q, July 1994 10-Q, October 1994 10-Q, January 1995 10-Q, July 1995 10-Q, October 1995 10-Q, January 1996 10-Q, January 1997 10-Q and October 1997 10-Q each were materially false and misleading, as described above.

439. By reason of the foregoing, Computone violated Section 13(a) of the Exchange Act [15 U.S.C. 78m(a)] and Rules 12b-20 and 13a-13 thereunder [17 C.F.R. 240.12b-20 and 240.13a-13].

440. Defendant Anderson served as Computone's president and COO from November 3, 1992 until April 30, 1998, as its CEO from April 1996 until April 1998, and as a director from 1993 until April 1998. Defendant Alba served as Computone's controller from

August 1994 until March 1996, as its vice president of finance and administration and its CFO from April 1996 until July 27, 1998, and as its principal financial accounting officer from October 1995 until July 27, 1998. Defendant Pearce served as Computone's vice president of finance and principal accounting officer from April 1993 until July 21, 1995. Anderson, Alba and Pearce, while associated with Computone, possessed the power to influence and direct the conduct of Computone with respect to the activities constituting the violations of Section 13(a) of the Exchange Act [15 U.S.C. 78m(a)] and Rules 12b-20 and 13a-13 thereunder [17 C.F.R. 240.12b-20 and 240.13a-13]. In addition, Anderson, Alba and Pearce were culpable participants in the conduct.

441. By reasons of the foregoing, Anderson, Alba and Pearce were controlling persons of Computone within the meaning of Section 20 of the Exchange Act [15 U.S.C. 78t] and are liable as control persons for Computone's violations of Section 13(a) of the Exchange Act [15 U.S.C. 78m(a)] and Rules 12b-20 and 13a-13 thereunder [17 C.F.R. 240.12b-20 and 240.13a-13].

442. By reason of the foregoing, Anderson, Alba and Pearce are liable for violations of, and unless enjoined will continue to violate and cause violations of, Section 13(a) of the Exchange Act

[15 U.S.C. 78m(a)] and Rules 12b-20 and 13a-13 thereunder [17 C.F.R. 240.12b-20 and 240.13a-13].

COUNT IV

BOOKS AND RECORDS AND INTERNAL ACCOUNTING CONTROLS

Liability of Anderson, Alba and Pearce, as Control Persons, for Computone's Violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. 78m(b)(2)(A) and 78m(b)(2)(B)]

443. Paragraphs 1 through 426 are hereby realleged and are incorporated herein by reference.

444. From 1993 through 1997, Computone failed, as described above, to make and keep books, records, and accounts, which in reasonable detail, accurately and fairly reflected transactions and disposition of its assets.

445. From 1993 through 1997, Computone failed, as described above, to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that: (a) transactions were executed in accordance with management's general or specific authorization, (b) transactions were recorded as necessary (i) to permit preparation of financial statements in conformity with GAAP or any other criteria applicable to such statements, and (ii) to maintain accountability for assets, (c) access to its assets was permitted only in accordance with management's general or specific authorization, and (d) the

recorded accountability for its assets was compared with its existing assets at reasonable intervals and appropriate action was taken with respect to any differences.

446. By reason of the foregoing, Computone violated Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. 78m(b)(2)(A) and 78m(b)(2)(B)].

447. Defendant Anderson served as Computone's president and COO from November 3, 1992 until April 30, 1998, as its CEO from April 1996 until April 1998, and as a director from 1993 until April 1998. Defendant Alba served as Computone's controller from August 1994 until March 1996, as its vice president of finance and administration and its CFO from April 1996 until July 27, 1998, and as its principal financial accounting officer from October 1995 until July 27, 1998. Defendant Pearce served as Computone's vice president of finance and principal accounting officer from April 1993 until July 21, 1995. Anderson, Alba and Pearce, while associated with Computone, possessed the power to influence and direct the conduct of Computone with respect to the activities constituting the violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. 78m(b)(2)(A) and 78m(b)(2)(B)]. In addition, Anderson, Alba and Pearce were culpable participants in the conduct.

448. By reasons of the foregoing, Anderson, Alba and Pearce were controlling persons of Computone within the meaning of Section 20 of the Exchange Act [15 U.S.C. 78t] and are liable as control persons for Computone's violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. 78m(b)(2)(A) and 78m(b)(2)(B)].

449. By reason of the foregoing, defendants Anderson, Alba and Pearce are liable as control persons for violations, and unless restrained and enjoined, will continue to violate and cause violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. 78m(b)(2)(A) and 78m(b)(2)(B)].

COUNT V

BOOKS, RECORDS, INTERNAL ACCOUNTING CONTROLS, MISREPRESENTATIONS TO AUDITORS

Violations of Section 13(b)(5) of the Exchange Act [15 U.S.C. 78m(b)(5)] and Rules 13b2-1 and 13b2-2 thereunder [17 C.F.R. 240.13b2-1 and 240.13b2-2]

450. Paragraphs 1 through 426 are hereby realleged and are incorporated herein by reference.

451. Defendant Anderson, from 1993 through 1997, defendant Alba, from 1995 through 1997, defendant Hume, from 1995 through 1996, defendant Kretschman, from 1995 through 1997, and defendant Pearce, from 1993 through 1995, singly or in concert, knowingly circumvented Computone's internal accounting controls, knowingly

failed to implement certain systems of internal accounting controls, knowingly falsified and caused to be falsified Computone's books, records and accounts described in Section 13(b)(2) of the Exchange Act [15 U.S.C. 78m(b)(2)], as described in paragraphs 1 through 426 above.

452. Defendant Computone, from 1993 through 1997, knowingly falsified and caused to be falsified its books, records and accounts subject to Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. 78m(b)(2)(A)], as described in paragraphs 1 through 426 above.

453. Defendant Anderson, from 1993 through 1997, defendant Alba, from 1995 through 1997, defendant Hume, from 1995 through 1996, defendant Kretschman, from 1995 through 1997, and defendant Pearce, from 1993 through 1995, singly or in concert, knowingly falsified and caused to be falsified Computone's books, records and accounts subject to Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. 78m(b)(2)(A)], as described in paragraphs 1 through 426 above.

454. Defendant Anderson, from 1994 through 1997, defendant Alba, during 1995 and 1997, defendant Hume, from 1995 through 1996, defendant Kretschman, during 1996, and defendant Pearce, during 1994 and 1995, singly or in concert:

- a. made or caused to be made materially false or misleading statements; and
- b. omitted to state, or caused another person to omit to state, material facts necessary in order to make statements made, in light of the circumstances under which such statements were made, not misleading, to an accountant in connection with (1) an audit or examination of the financial statements of the issuer required to be made pursuant to Section 13 of the Exchange Act; and (2) the preparation or filing of a document or report required to be filed with the Commission pursuant to this subpart or otherwise,

as described in paragraphs 1 through 426 above.

455. Defendant Anderson, from 1994 through 1997, defendant Pearce, from 1994 through 1995, and defendant Alba, from 1996 through 1997, signed Computone's management representation letters which were provided to Computone's independent accountants. Each of these letters contained material untrue statements of facts, as described above.

456. Defendant Anderson, from 1994 through 1997, defendant Alba, from 1996 through 1997, defendant Hume, during 1996, defendant Kretschman, during 1996, and defendant Pearce, from 1994

through 1995, lied to, misled and/or omitted to tell Computone's independent accountants material facts or statements, as described above.

457. By reason of the foregoing, defendant Computone has violated, and unless restrained and enjoined, will continue to violate Rule 13b2-1 of the Exchange Act [17 C.F.R. 240.13b2-1].

458. By reason of the foregoing, defendants Anderson, Alba, Hume, Kretschman and Pearce have violated, and unless restrained and enjoined, will continue to violate Section 13(b)(5) of the Exchange Act [15 U.S.C. 78m(b)(5)] and Rules 13b2-1 and 13b2-2 thereunder [17 C.F.R. 240.13b2-1 and 240.13b2-2].

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Commission, respectfully prays that the Court:

I.

Make findings of fact and conclusions of law in accordance with Rule 52 of the Federal Rules of Civil Procedure.

II.

Issue a permanent injunction enjoining defendant Computone, and its agents, servants, employees, attorneys, and all persons in active concert or participation with it who receive actual notice of the order by personal service or otherwise, and each of them, from violating:

a. Section 10(b) of the Exchange Act [15 U.S.C. 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. 240.10b-5];

b. Section 13(a) of the Exchange Act [15 U.S.C. 78m(a)] and Rules 12b-20, 13a-1 and 13a-13 thereunder [17 C.F.R. 240.12b-20, 240.13a-1 and 240.13a-13]; and

c. Sections 13(b)(2)(A), 13(b)(2)(B) and 13(b)(5) of the Exchange Act [15 U.S.C. 78m(b)(2)(A), 78m(b)(2)(B) and 78m(b)(5)] and Rule 13b2-1 thereunder [17 C.F.R. 240.13b2-1].

III.

Issue a permanent injunction enjoining defendant Anderson, and his agents, servants, employees, attorneys, and all persons in active concert or participation with him who receive actual notice of the order by personal service or otherwise, and each of them, from violating:

a. Section 10(b) of the Exchange Act [15 U.S.C. 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. 240.10b-5];

b. Section 13(a) of the Exchange Act [15 U.S.C. 78m(a)] and Rules 12b-20, 13a-1 and 13a-13 thereunder [17 C.F.R. 240.12b-20, 240.13a-1 and 240.13a-13]; and

c. Sections 13(b)(2)(A), 13(b)(2)(B) and 13(b)(5) of the Exchange Act [15 U.S.C. 78m(b)(2)(A), 78m(b)(2)(B) and 78m(b)(5)] and Rules 13b2-1 and 13b2-2 thereunder [17 C.F.R. 240.13b2-1 and 240.13b2-2].

IV.

Issue a permanent injunction enjoining defendant Alba, and his agents, servants, employees, attorneys, and all persons in active concert or participation with him who receive actual notice of the order by personal service or otherwise, and each of them, from violating:

a. Section 10(b) of the Exchange Act [15 U.S.C. 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. 240.10b-5];

b. Section 13(a) of the Exchange Act [15 U.S.C. 78m(a)] and Rules 12b-20, 13a-1 and 13a-13 thereunder [17 C.F.R. 240.12b-20, 240.13a-1 and 240.13a-13]; and

c. Sections 13(b)(2)(A), 13(b)(2)(B) and 13(b)(5) of the Exchange Act [15 U.S.C. 78m(b)(2)(A), 78m(b)(2)(B) and 78m(b)(5)] and Rules 13b2-1 and 13b2-2 thereunder [17 C.F.R. 240.13b2-1 and 240.13b2-2].

V.

Issue a permanent injunction enjoining defendant Hume, and his agents, servants, employees, attorneys, and all persons in active concert or participation with him who receive actual notice of the order by personal service or otherwise, and each of them, from violating:

a. Section 10(b) of the Exchange Act [15 U.S.C. 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. 240.10b-5]; and

b. Section 13(b)(5) of the Exchange Act [15 U.S.C. 78m(b)(5)] and Rules 13b2-1 and 13b2-2 of thereunder [17 C.F.R. 240.13b2-1 and 240.13b2-2].

VI.

Issue a permanent injunction enjoining defendant Kretschman, and his agents, servants, employees, attorneys, and all persons in active concert or participation with him who receive actual notice of the order by personal service or otherwise, and each of them, from violating:

a. Section 10(b) of the Exchange Act [15 U.S.C. 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. 240.10b-5]; and

b. Section 13(b)(5) of the Exchange Act [15 U.S.C. 78m(b)(5)] and Rules 13b2-1 and 13b2-2 of thereunder [17 C.F.R. 240.13b2-1 and 240.13b2-2].

VII.

Issue a permanent injunction enjoining defendant Pearce, and his agents, servants, employees, attorneys, and all persons in active concert or participation with him who receive actual notice of the order by personal service or otherwise, and each of them, from violating:

a. Section 10(b) of the Exchange Act [15 U.S.C. 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. 240.10b-5];

b. Section 13(a) of the Exchange Act [15 U.S.C. 78m(a)] and Rules 12b-20, 13a-1 and 13a-13 thereunder [17 C.F.R. 240.12b-20, 240.13a-1 and 240.13a-13]; and

c. Sections 13(b)(2)(A), 13(b)(2)(B) and 13(b)(5) of the Exchange Act [15 U.S.C. 78m(b)(2)(A), 78m(b)(2)(B) and 78m(b)(5)] and Rules 13b2-1 and 13b2-2 thereunder [17 C.F.R. 240.13b2-1 and 240.13b2-2].

VIII.

Issue an Order requiring defendant Anderson to disgorge all ill-gotten gains and unjust enrichment he received, as alleged in the Commission's Complaint, plus prejudgment interest thereon.

IX.

Issue Orders pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. 78u(d)(3)] imposing civil monetary penalties against defendants Anderson, Alba, Hume, Kretschman and Pearce for violations occurring after September 22, 1994.

X.

Issue an Order pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. 78u(d)(2)] permanently prohibiting defendant Anderson from acting as an officer or director of any company that has a class of securities registered with the Commission pursuant to Section 12 of the Exchange Act [15 U.S.C. 78l] or that is

required to file reports with the Commission pursuant to Section 15(d) of the Exchange Act [15 U.S.C. 78o(d)].

XI.

Retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that may have been entered or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

XII.

Grant such other and further relief as may be necessary and appropriate.

Dated: September 28, 1999
Atlanta, Georgia

Respectfully submitted,
Atlanta, Georgia



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