

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES SECURITIES	§	
AND EXCHANGE COMMISSION,	§	
	§	
Plaintiff,	§	
	§	Civil Action No. H-04-0284 (Harmon)
v.	§	
	§	SECOND AMENDED COMPLAINT
KENNETH L. LAY,	§	
JEFFREY K. SKILLING,	§	JURY DEMANDED
RICHARD A. CAUSEY,	§	
	§	
	§	
Defendants.	§	

Plaintiff Securities and Exchange Commission (the “Commission”) for its Second Amended Complaint alleges as follows:

SUMMARY

1. Kenneth L. Lay, Jeffrey K. Skilling, and Richard A. Causey, all former senior executives of Enron, engaged in a multi-faceted scheme to defraud in violation of the federal securities laws. From at least 1999 through late 2001, Lay, Skilling, Causey, and others manipulated Enron’s publicly reported financial results and made false and misleading public statements about Enron’s financial condition and its actual performance. As an objective and result of their scheme to defraud, Lay, Skilling, Causey, and others made millions of dollars in the form of salary, bonuses, and the sale of Enron stock at prices they had inflated by fraudulent means. Skilling and Causey made at least \$103 million and \$23 million, respectively, in illicit gains. Lay also made millions of dollars in illicit gains, and was unjustly enriched when he

secretly dumped massive amounts of his own Enron stock at the same time he falsely portrayed that all was well at Enron. Although defendants owed fiduciary duties to act in the best interests of their company and shareholders, their scheme to defraud revealed in the end a troika of executives who acted for their own personal gain, leaving in their wake a bankrupt company, employees on the street, and worthless stock in the hands of shareholders and investors they had fooled.

2. The Commission requests that this Court permanently enjoin Lay, Skilling, and Causey from violating the federal securities laws cited herein, prohibit each permanently and unconditionally from acting as an officer or director of any issuer of securities that has a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934 (“Exchange Act”) or that is required to file reports pursuant to Section 15(d) of such Act, order each to disgorge all ill-gotten gains, to pay civil penalties, to have the amount of such penalties added to and become part of a disgorgement fund for the benefit of the victims of their unlawful conduct, and order such other and further relief as the Court may deem appropriate.

JURISDICTION AND VENUE

_____3. The Court has jurisdiction over this action pursuant to Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d) and (e) and 78aa] and Sections 20(b), 20(d)(1) and 22(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §§ 77t(b), 77t(d)(1) and 77v(a)].

4. Venue lies in this District pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa] and Section 22 of the Securities Act [15 U.S.C. § 77v(a)] because certain acts or transactions constituting the violations occurred in this District.

5. In connection with the acts, practices, and courses of business alleged herein, Lay,

Skilling, and Causey, directly or indirectly, made use of the means and instruments of transportation and communication in interstate commerce, and of the mails and of the facilities of a national securities exchange.

6. Lay, Skilling, and Causey, unless restrained and enjoined by this Court, will continue to engage in transactions, acts, practices, and courses of business as set forth in this Second Amended Complaint or in similar illegal acts and practices.

DEFENDANTS

7. Kenneth L. Lay resides in Houston, Texas. Lay served as the Chairman of the Board of Directors of Enron (the "Board") from its formation in 1986 until January 23, 2002. He was the Chief Executive Officer ("CEO") of Enron from 1986 until February 2001 and from August 14, 2001 until January 23, 2002. Lay resigned from the Board on February 4, 2002. Lay presided as Chairman at board meetings, where the Board reviewed Enron's performance and financial condition. Lay, however, did not fully disclose to the Board at various times certain negative information concerning Enron that he was aware of and possessed at the time he sold shares of Enron stock. Lay also attended meetings of the Board's Finance Committee, the Audit and Compliance Committee, and the Executive Committee, where the company's operations and financial condition were discussed. In his capacity as CEO, Lay had oversight of Enron's business units and supervised the senior executives and managers of these units. Lay regularly attended management meetings with these individuals and others, where the business and financial condition of Enron and its business units were discussed. Lay signed Enron's annual reports filed on Form 10-K with the SEC. Lay also signed quarterly and annual management representation letters to Enron's auditors, registration statements for the offer and sale of

securities by Enron, and letters to shareholders accompanying Enron's annual reports to shareholders.

8. Jeffrey A. Skilling resides in Houston, Texas. He was employed by or acted as a consultant to Enron from at least the late 1980s through early December 2001. From 1979 to 1990, Skilling was employed by the consulting firm of McKinsey & Co., where he provided consulting services to Enron. In August 1990, Enron hired Skilling. He held various positions at Enron and in January 1997, Enron promoted Skilling to President and Chief Operating Officer ("COO") of the entire company, reporting directly to Lay. In February 2001, Skilling became CEO of Enron and retained his position as COO. On August 14, 2001, with no forewarning to the public, Skilling resigned from Enron. Lay resumed the CEO position at that time. Along with Lay, Skilling attended meetings of the Board's Finance Committee, the Audit and Compliance Committee, and the Executive Committee, where the company's operations and financial condition were discussed. Skilling also had oversight of Enron's business units and supervised the senior executives and managers of these units. Skilling regularly attended management meetings with these individuals and others, where the business and financial condition of Enron and its business units were discussed. Skilling signed Enron's annual reports filed on Form 10-K with the SEC and he signed quarterly and annual representation letters to Enron's auditors. Skilling also signed registration statements for the offer and sale of securities by Enron, and letters to shareholders accompanying Enron's annual reports to shareholders.

9. Richard A. Causey resides in Houston, Texas. He was and is a certified public accountant and worked for Enron from 1991 through early 2002. From 1986 until 1991, while an employee of the accounting firm Arthur Andersen LLP ("Andersen"), Causey provided audit

services to Enron on behalf of Andersen, Enron's outside auditor. In 1991, Enron hired Causey as Assistant Controller of Enron Gas Services Group. From 1992 until 1997, Causey served in various executive positions at Enron. In 1998, Causey was made Chief Accounting Officer ("CAO") of Enron and an Executive Vice-President. As Enron's CAO, Causey managed Enron's accounting practices and reported directly to Lay and Skilling. Lay, Skilling, and Causey, along with Enron's Chief Financial Officer ("CFO") Andrew S. Fastow, its Treasurer Ben F. Glisan, Jr., and others were the principal managers of Enron's finances. Causey also was a principal manager of Enron's financial disclosures to the investing public, and he regularly participated in conferences with investment analysts and in other public forums where he discussed Enron's financial condition. Causey signed Enron's annual reports on Form 10-K and its quarterly reports on Form 10-Q filed with the SEC, and signed quarterly and annual representation letters to Enron's auditors. Causey also signed registration statements for the offer and sale of securities by Enron.

ENTITIES AND OTHER PERSONS INVOLVED

10. Enron Corp. is an Oregon corporation with its principal place of business in Houston, Texas. During the relevant time period, the common stock of Enron was registered with the Commission pursuant to Section 12(b) of the Exchange Act and traded on the New York Stock Exchange. Because it was a public company, Enron and its directors, officers, and employees were required to comply with federal securities laws, including rules and regulations requiring the filing of true and accurate financial information. Enron's stock price was influenced by factors such as Enron's reported financial information, credit rating, and its ability to meet revenue and earnings targets and forecasts. Investors considered this information

important in making investment decisions. Likewise, the information was important to credit rating agencies and influenced the investment-grade ratings for Enron's debt, which were critical to Enron's ongoing business operations and ability to secure loans and to sell securities. During the time that defendants engaged in the fraudulent conduct alleged herein, Enron raised millions in the public debt and equity markets. Enron was the nation's largest natural gas and electric marketer with reported annual revenue of more than \$150 billion. Enron rose to number seven on the *Fortune 500* list of companies. By December 2, 2001, when it filed for bankruptcy, Enron's stock price had dropped in less than a year from over \$80 per share to less than \$1 per share.

11. Enron Energy Services (EES) was formed by Enron in late 1996 to provide energy products and services to industrial, commercial, and residential customers in both regulated and deregulated markets. In Enron's segment disclosures, EES' results were reported separately as Retail Energy Services. Accurate segment disclosure reporting is required under generally accepted accounting principles and SEC rules and regulations for those companies operating in multiple significant industries.

12. Enron Wholesale Services (Wholesale) was Enron's largest business segment in 2000 and 2001. Wholesale consisted of several business units, including Enron North America (ENA). ENA was the largest and most profitable business unit within Wholesale and included Enron's wholesale merchant energy business across North America. In Enron's segment disclosures, ENA's results were reported within the Wholesale segment.

13. Enron Broadband Services, Inc. (EBS) was a wholly-owned subsidiary of Enron engaged in the telecommunications business. Its two principal business lines were Bandwidth

Intermediation (the buying and selling of bandwidth) and Content Services (the delivery of high bandwidth, media rich content, such as video streaming, high capacity data transport, and video conferencing). EBS also made investments in companies with related technologies and with the potential for capital appreciation. In Enron's segment disclosures, EBS' results were reported separately as Broadband Services.

14. Numerous other Enron executives and senior managers engaged in the scheme to defraud with Lay, Skilling, and Causey. The others included, but were not limited to, former Enron employees named as defendants in other Enron-related cases brought by the SEC in the Southern District of Texas: Fastow (SEC v. Fastow, H-02-3666); Glisan (SEC v. Glisan, H-03-3628); former ENA and EES CEO David W. Delainey, who reported to Skilling (SEC v. Delainey, H-03-4883); former ENA CAO Wesley Colwell, who reported to Causey and Delainey and managed the accounting for Enron's wholesale energy business (SEC v. Colwell, H-03-4308); and former Enron Global Finance Managing Director Michael Kopper, who reported to Fastow and conducted structured finance activities for Enron (SEC v. Kopper, H-02-3127). Others assisted in various aspects of the scheme to defraud, including Merrill Lynch and certain of its employees (SEC v. Merrill Lynch, et al., HO-03-0946), J.P. Morgan Chase & Co. (SEC v. J.P. Morgan Chase & Co., H-03-2877), Canadian Imperial Bank of Commerce and certain of its employees (SEC v. CIBC, et al., H-03-5785); and Citigroup (In the Matter of Citigroup, Inc., SEC Administrative Proceeding, File No. 3-11192).

FACTUAL ALLEGATIONS

The Objectives And Roots Of The Scheme To Defraud

15. The objectives of the scheme to defraud carried out by defendants and others were, among other things, (a) to falsely present Enron as a profitable successful business; (b) to report recurring earnings that falsely appeared to grow by approximately 15 to 20 percent annually; (c) to meet or exceed the published expectations of industry analysts forecasting Enron's reported earnings-per-share and other results; (d) to maintain an investment-grade credit rating; (e) to conceal the true magnitude of Enron's losses, growing debt and other obligations; (f) to artificially inflate Enron's stock price; and (g) to personally profit from the unlawful conduct, including gains from the sale of inflated Enron stock.

16. As a result of the scheme to defraud carried out by defendants and others, the descriptions of Enron's business and finances in public filings and public statements by defendants and others were false and misleading, and bore no resemblance to its actual performance and financial condition.

17. Lay, Skilling, Causey, and others planned and carried out various parts of the scheme to defraud. They and others set annual and quarterly financial targets, including earnings and cash flow targets ("budget targets"), for Enron and each of its business units. The budget targets were based on the numbers necessary to meet or exceed analysts' expectations, not on what could be realistically achieved by legitimate business operations.

18. On a quarterly and year-end basis, Skilling, Causey, and others assessed Enron's progress toward its budget targets. Often, Enron did not meet the budget targets from business operations and had earnings and cash flow shortfalls that were at times in the hundreds of

millions of dollars. Within Enron, these shortfalls were referred to variously as the “gap,” “stretch,” and/or “overview.” When this occurred, the targets were met by unlawful means, including those described below.

Use of Special Purpose Entities and LJM Partnership to Manipulate Financial Results

19. As part of the scheme to defraud, Skilling, Causey, and others transferred assets and liabilities to Special Purpose Entities (“SPEs”). Under applicable accounting rules, Enron did not need to consolidate the SPE on its balance sheet if an independent investor had made a substantive investment in the SPE (at least 3% of the SPE’s equity), had control of the SPE, and had the risks and rewards of owning the SPE assets. Through the use of SPEs, Enron would, among other things, record earnings and cash flows while hiding debt.

Creation of LJM Partnership

20. In June 1999, Skilling, Causey, and others sought and obtained the approval of the Board for Fastow to create and serve as the managing partner of an investment partnership named LJM Cayman, L.P. (LJM1). The Board later approved Fastow’s participation, as an equity and managing partner, in another even larger partnership used to fund SPEs by Enron named LJM2 Co-Investment, L.P. (LJM2) (the LJM entities are collectively referred to as “LJM” unless otherwise noted). These entities were created to invest in SPEs for Enron.

21. As Skilling, Causey, and others knew, LJM was not a legitimate independent third party because Fastow controlled LJM. This permitted Skilling, Causey, and others to use LJM as Enron’s own vehicle for fraudulent means.

22. From approximately July 1999 through October 2001, Enron entered into fraudulent transactions with LJM. The transactions enabled defendants and others to manipulate

Enron's reported financial results by, among other things: (a) improperly moving poorly performing assets off-balance sheet; (b) concealing Enron's poor operating performance; (c) manufacturing earnings through sham transactions; and (d) improperly inflating the value of Enron's investment portfolio by backdating documents.

“Raptor” Hedges

23. Beginning in the spring of 2000, Enron and LJM engaged in a series of financial transactions with four SPEs called Raptor I, Raptor II, Raptor III and Raptor IV (collectively referred to as the “Raptors”). The Raptors were capitalized mainly with Enron stock. Skilling, Causey, and others used the Raptors to manipulate fraudulently Enron's reported financial results. They used Raptor I, among other things, to protect Enron from having to report publicly in its financial results decreases in value in large portions of its energy merchant asset portfolio and technology investments by purportedly hedging the value of those investments with an allegedly independent third party created by Enron and LJM, known as Talon.

24. However, Skilling, Causey, and others knew the Raptor I structure was invalid under applicable accounting rules because Talon was not independent from Enron, since LJM2's investment in Talon was not sufficiently at risk to qualify as outside equity. Causey and Fastow had an oral side-deal that LJM2 would receive its initial \$30 million investment in Talon plus a profit of \$11 million from Enron, all prior to Talon engaging in any of the hedging transactions for which it was created. Enron could then use Raptor I to manipulate Enron's financial statements, including by allowing Enron employees to arbitrarily select the values at which the Enron assets were hedged with Talon. Skilling was informed of and approved the deal.

25. The side-deal between Causey and Fastow was satisfied by Causey and others by

manufacturing an illicit transaction between Enron and Talon that generated a \$41 million payment to LJM2. Specifically, Causey and others caused Enron to purchase a “put” on its own stock from an entity involved in the “Raptor” structure, which had no business purpose for Enron but ensured that LJM2 received the complete return of its \$30 million investment in the first “Raptor” structure, together with a profit of \$11 million.

26. After satisfying the side-deal by providing LJM2 with a guaranteed return *of and on* its investment, Enron began to use Raptor I to hedge the value of Enron’s assets. Enron employees manipulated the book values of Enron assets, many of which were expected to decline in value, before they were hedged, knowing that the Raptor I structure ensured that Enron would not suffer the financial reporting consequences of subsequent declines or large fluctuations in the value of those assets. Causey and others further used Raptor I fraudulently to promote Enron’s financial position by back-dating the effective date of the Raptor hedge to Enron’s advantage, capturing the all-time high stock value of one of the Enron assets, stock in a company named AVICI, at a time when they knew that value already had declined. The basic structure used in Raptor I, including the oral side-deal between Causey and Fastow, was repeated in the three successor fraudulent hedging devices known as Raptors II, III and IV.

27. As with Raptor I, the Raptor successors were used to manipulate fraudulently Enron’s reported financial results. These vehicles did not offer true economic hedges. Because the vehicles were dependent on the value of Enron stock, if the price of Enron stock declined the hedging obligations of the Raptors could not be met, thus creating losses that would have to be reflected on Enron’s financial statements.

28. Lay approved of the Raptors and understood they did not provide a true economic

hedge, and were designed and used solely to manipulate Enron's financial statements. Lay was advised at various times in 2000 that the Raptors did not transfer economic risk and that a decline in Enron's stock price would impair the hedging ability of the Raptors. By no later than August 2001, Lay was aware that the Raptors were beyond salvage, and Enron's stock price had declined below the minimum required for the Raptors to meet their hedging obligations. As a result of the fraudulent use of the Raptors, Enron reported over \$1 billion in fictitious earnings on its books that should never have been recognized. Further, as set forth below, Lay made false and misleading public statements about the Raptors.

Manufacturing Earnings and Concealing Debt through Purported Sales to LJM

29. In addition to the fraudulent Raptor hedging devices, Skilling, Causey, and others used LJM for other transactions, including purported asset sales. These generated reported earnings and cash flow and moved poorly performing assets temporarily off Enron's balance sheet. Skilling, Causey, and others made undisclosed side agreements that guaranteed LJM against risk in certain of its transactions with Enron.

Cuiaba

30. One such transaction involved LJM's "purchase" of Enron's interest in a company that was building a power plant in Cuiaba, Brazil (the "Cuiaba project"). On September 30, 1999, when no true third-party buyer could be found, Skilling, Causey, and others caused Enron to "sell" a portion of Enron's interest in the Cuiaba project to LJM for \$11.3 million. LJM agreed to "buy" this interest only because Skilling, Causey, and others, in an undisclosed side-deal, agreed that Enron would buy back the interest, if necessary, at a profit to LJM. Based on this purported "sale," which was in fact a asset parking or warehousing arrangement, Enron

improperly recognized approximately \$65 million in income in the third and fourth quarters of 1999, income that was needed to meet budget targets and earnings-per-share goals.

31. By 2001, the Cuiaba project was approximately \$200 million over budget. Nonetheless, in the spring of 2001, Skilling, Causey, and others caused Enron to agree to buy back LJM's interest in the Cuiaba project at a considerable profit to LJM, pursuant to the undisclosed oral side-deal. Enron did not disclose the repurchase agreement in its second quarter 2001 financial reports because Skilling, Causey, and others did not want to announce the deal until after Fastow had sold his interest in LJM.

Nigerian Barges

32. In the fourth quarter of 1999, Enron engaged in a bogus asset sale to Merrill Lynch as part of an effort to meet budget targets. Enron "sold" Merrill Lynch an interest in electricity-generating power barges moored off the coast of Nigeria. When Enron was unable to find a true buyer for the barges by December 1999, it parked the barges with Merrill Lynch so that Enron could record \$12 million in earnings and \$28 million in cash flow needed to meet budget targets.

33. Enron induced Merrill Lynch to enter into the Nigerian barge transaction by making a secret oral promise to Merrill Lynch that Merrill Lynch would receive a return of its investment plus an agreed-upon profit within six months. Skilling and Causey knew that the promise was concealed from Enron's auditors and the public. Because Merrill Lynch's equity investment was not sufficiently "at risk," Enron should not have treated the transaction as a sale nor recorded earnings and cash flow from the transaction. In June 2000, Enron delivered on its promise to Merrill Lynch by producing LJM as a buyer for the Nigerian barges, while secretly

promising to take LJM out of the Nigerian barge deal at a profit plus a large fee. The Nigerian barge transaction is the subject of the SEC's action in this District against former Merrill Lynch executives involved in the transaction, SEC v. Merrill Lynch et al., No. H-03-0946.

Global Galactic

34. Between approximately July 2000 and September 2000, Causey, Fastow, and others reached an agreement on fulfilling the unlawful side-deals between Enron and LJM. Fastow and Causey memorialized and initialed the agreement which came to be known as the "Global Galactic" agreement. Among other things, Causey and Fastow reaffirmed the side-deals between Enron and LJM concerning the Nigerian barges and Cuiaba. In addition, Causey and Fastow agreed that the put on ENE stock in Raptor I would be backdated to August 3, 2000, which would cause \$41 million to be disbursed from Enron to LJM. LJM would then "invest" approximately \$6 million of the \$41 million in a Raptor vehicle in order to increase the alleged outside equity.

Manufacturing Earnings by Fraudulently Manipulating Asset Values

35. Enron executives and senior managers, including Causey, engaged in a pattern of fraudulent conduct designed to generate earnings needed to meet budget targets by artificially increasing the book value of certain assets in Enron's large merchant asset portfolio. This portfolio included many interests in energy-related businesses that were not publicly traded and, therefore, were valued by Enron according to its own internal valuation models. Causey and others manipulated these models in order to produce results desired to meet earnings targets. For example, in the fourth quarter of 2000, under the direction of Causey and others, Enron personnel fraudulently increased the value of one of Enron's largest merchant assets, Mariner Energy, by

\$100 million in order to help close a budget gap.

Use Of Disguised Loans As Asset “Sales” To Hide Debt And Report Fictitious Earnings

36. As part of the scheme to manipulate Enron’s financial results and inflate its stock price, Causey, aided and abetted by others, caused Enron to obtain loans from certain financial institutions and report the transactions as sales of assets to generate purported cash from operating activities. These transactions were sham asset sales. Under Financial Accounting Standards 125 and 140, Enron “sold” assets to various SPEs it had established with various financial institutions (“FAS 140 transactions”). Through FAS 140 transactions, Causey and others removed those assets from Enron’s balance sheet and generated income and cash flow, while at the same time retaining control over the assets. From 1998 through 2001, Enron used FAS 140 transactions to obtain disguised loans, keeping more than \$2.6 billion of debt off its balance sheet, generating more than \$1 billion in earnings and \$2 billion in operating cash flow.

37. As Causey and others knew, Enron provided the Canadian Imperial Bank of Commerce (“CIBC”) with oral promises that its three percent “equity” in certain entities, including a vehicle known as “Hawaii 125-0,” which was used by Enron repeatedly to move assets off-balance sheet and record earnings, would be repaid. For example, in or about October 2000, Fastow provided such an oral promise to CIBC. As Causey and others knew, under FAS 140, these oral guarantees violated the off-balance sheet accounting treatment of assets “sold” to the vehicles because CIBC’s “equity” was not sufficiently at risk to qualify the vehicles as separate from Enron. Thus, the transactions did not qualify as asset sales and Enron should have disclosed the loans as debt on its financial statements, not as earnings and cash flow.

Concealing EES Failures

38. In presentations to the investing public, Lay, Skilling, Causey, and others touted EES as a major reason for past and projected increases in the value of Enron's stock. However, defendants and others were warned of major problems at EES in early 2001. For example, on January 22, 2001, Lay met with several Enron executives to discuss the problem of uncollectible receivables of EES in the amount of \$500 million. Lay and others engaged in a fraudulent scheme to hide the uncollectible receivables by transferring them to ENA. The concealment of EES losses in this manner materially affected EES' reported operating results.

39. In the Spring of 2001, defendants and others were warned by EES management that EES was in extremely bad shape, was unlikely to meet its year end target of \$225 million in income before interest and taxes ("IBIT"), and that EES would require at least a year before becoming truly profitable. Enron hid the magnitude of EES' business failure from the investing public at the close of the first quarter 2001 by moving large portions of EES' business – which Lay, Skilling, Causey, and others knew at the time otherwise would have to report hundreds of millions of dollars in losses – into Wholesale, which was the Enron business segment housing most of the company's wholesale energy trading operations and income. As Lay, Skilling, Causey, and others knew, Wholesale would have ample earnings to absorb the losses that, in fact, were attributable to EES while at the same time continuing to meet Enron's budget targets.

40. Lay, Skilling, Causey, and others falsely explained to the public that the change in segment reporting was solely a means to improve efficiency. As detailed below, defendants also falsely stated publicly that EES was continuing to perform profitably and as expected, despite their knowledge of the hidden losses.

41. EES-related losses recorded by ENA materially affected Enron and Wholesale's first quarter 2001 operating results. Had EES properly taken the losses, EES' IBIT for the first quarter of 2001 would have decreased from a positive \$40 million to a negative \$694 million and would have likely caused Enron to miss its highly touted estimated IBIT of \$225 million.

Promoting EBS to Manufacture Earnings and Concealing Failure of EBS

42. In 1999, technology stocks, traded at a premium compared to stocks of more traditional businesses. To take advantage of this market condition, Skilling and others sought to artificially pump up Enron's stock price by heavily promoting EBS, a costly telecommunications business that ultimately failed.

"Project Grayhawk"

43. Enron scheduled a high profile presentation to analysts about its new EBS business for January 20, 2000. Knowing the presentation would cause an immediate increase in Enron's stock price, Skilling, Causey, and others constructed and approved a scheme to allow Enron to record and report approximately \$85 million as a result of the spike in Enron's stock price as earnings from *operations*.

44. The scheme required a maneuver relating to Enron's recorded earnings from a partnership interest it held in a large energy investment named JEDI. The investment holdings of the JEDI partnership consisted, in part, of Enron stock. When Enron's stock price rose, the value of JEDI rose. However, in September 1999, JEDI hedged its Enron stock holdings through a transaction with Enron that fixed the value of the Enron stock held by JEDI at a set price. As a result of this hedge, an increase in the value of Enron stock held by JEDI did *not* increase JEDI's income, and therefore did *not* generate a corresponding increase in Enron's share of JEDI's

income.

45. In anticipation of an increase in Enron's stock price from the January 20, 2000 analyst conference, however, Enron executed a series of transactions, known as "Project Grayhawk," that temporarily removed the JEDI hedge to allow JEDI's income to increase if the price of Enron's stock increased. After the price of Enron stock rose following the analyst conference, Enron and JEDI – through a new hedging arrangement – once again fixed the value of Enron stock held by JEDI, this time at a higher price.

46. Enron removed the original hedge to enable Enron to recognize earnings brought about by the dramatic increase in Enron's stock price as a result of its January 20, 2000 analyst conference. Skilling and others then improperly publicly reported this gain as recurring operating income in its energy business. Skilling and others failed to disclose that the income resulted from the increase in Enron's own stock price caused by the false and misleading statements outlined below. Skilling, Causey, and others planned and approved the scheme.

January 20, 2000 Analyst Conference

47. At the January 20, 2000 analyst conference, Skilling and others knowingly made false and misleading statements about EBS. Skilling stated, among other things, that EBS "has already established the superior broadband delivery network"; that EBS has "built this network . . . and we are turning on the switch"; that the critical "network control software" was in Enron's possession and incorporated and used in its network; and that Enron valued the business at \$30 billion, which Skilling called a "conservative" valuation. In Skilling's presence, EBS' co-CEO Joseph Hirko stated that EBS possessed advance network control software and that it was no "pipe dream." In reality, EBS had neither the claimed broadband network in place, nor the

critical proprietary network control software to run it. The claims about EBS remained only unproven concepts and laboratory demonstrations, and Skilling was advised before the analyst conference that the network he publicly described would take years to complete and might never be realized. In addition, the valuation of the business was inflated by billions of dollars over internal and external valuations.

First Quarter 2000 Earnings from Enron's Own Stock

48. Skilling's and others' plan to boost Enron's stock price by aggressively touting EBS, and to record earnings from that boost, succeeded. On January 11, 2000, the date on which Enron purportedly altered the original hedge on the Enron stock in JEDI as part of Project Grayhawk, Enron stock traded at approximately \$47 per share. After the analyst conference on January 20, 2000, Enron stock rose to approximately \$67 per share. The fraudulent Project Grayhawk maneuver allowed Enron to recognize, through JEDI, approximately \$85 million in earnings from the manufactured stock price. Enron, Skilling, and others then misleadingly described these earnings in later presentations to analysts and in SEC filings as ordinary and recurring operating earnings from its energy business. Enron, Skilling, and others did not disclose Project Grayhawk to the investing public, nor did they disclose that approximately 20 percent of the earnings of Enron's energy business for the first quarter 2000 resulted solely from an increase in Enron's own stock price.

Concealment of EBS Failure

49. By late 2000, Skilling, Causey, and others knew that EBS was a struggling business that was hemorrhaging money. However, they took steps to hide this fact and falsify EBS' financial results. For example, during 2000, Enron structured a series of misleading, one-

time financial transactions in EBS, known as Project Braveheart and Backbone Trust, that were designed to manufacture earnings and give the false impression that EBS would generate operating profits. Even with these transactions, EBS still was facing much larger than expected losses during the first quarter of 2001. In order to ensure that EBS did not record losses in the first quarter of 2001 that exceeded Enron's *annual* budgeted loss target for EBS, and in order to ensure that the quarterly budgeted loss target for the first quarter 2001 was met, Causey and others fraudulently reduced EBS' expenses for the first quarter of 2001. They did so by shifting numerous EBS costs off EBS' books, changing the depreciable life of certain of EBS' assets from five to ten years, and halving the bonus accrual for EBS employees.

Manufacturing and Manipulating Reported Earnings through Improper Use of Reserves

Third Quarter 2000 through Third Quarter 2001

50. During 2000 and 2001, the profitability of Enron's energy trading business, primarily based in Wholesale, dramatically increased for various reasons, including rapidly rising energy prices in the western United States, especially in California. If disclosed to the public, this sudden and large increase in trading profits, which exceeded \$1 billion, would have made it apparent that Wholesale's revenues were tied to the market price of energy, meaning Enron was exposed to the risk of a decline in such prices. This would have revealed Enron as a speculative (and therefore risky) trading company. To conceal the extent and volatility of Enron's energy trading profits, Skilling, Causey, and others fraudulently hid hundreds of millions of dollars in trading profits in reserve accounts maintained on an internal Enron ledger called "Schedule C." By early 2001, these reserves contained over \$1 billion in unreported earnings.

51. Skilling, Causey, and others then fraudulently used funds in the "Schedule C"

reserve accounts to avoid reporting large losses in other areas of Enron's business. For example, in the first quarter of 2001, Skilling, Causey, and others improperly used "Schedule C" reserves to conceal from the investing public hundreds of millions of dollars in losses within Enron's EES business unit.

Second Quarter 2000

52. In mid-July 2000, weeks after the end of the second quarter 2000, Skilling, Causey and others carried out a plan to publicly report a 34 cents earnings-per-share figure in the second quarter, as opposed to the 32 cents earnings per share figure predicted by analysts. Skilling and Causey were aware that Enron's performance for this quarter, even after Enron manipulated its budget targets, did not support a 34 cents earnings-per-share figure.

53. To achieve the fraudulent earnings-per-share figure, Skilling, Causey, and others caused a senior Enron executive to improperly release into earnings millions of dollars from a "prudence" reserve account in Enron's energy trading business. This release of reserves, which had no legitimate business purpose, artificially increased the second quarter earnings-per-share figure and Enron's stock price.

"Prepays" – Use Of Disguised Loans To Fraudulently Inflate Cash Flows

54. Enron, aided and abetted by certain financial institutions, manipulated its financial results through a series of structured transactions, called "prepays." Enron used prepays to report loans as cash flow from operating activities, rather than financing activities in its balance sheet. By using prepays as a means to increase its operating cash flow, Enron was able to match its so-called mark-to-market earnings (paper earnings based on changes in the market value of certain assets held by Enron) with operating cash flow. Enron used this tool to convince analysts and

credit rating agencies that its reported mark-to-market earnings were real, i.e., that the value of the underlying assets would ultimately be converted to cash. In addition, Enron failed to disclose that the prepays were actually debt and failed to disclose the extent to which Enron was using prepays in its balance sheet during relevant periods. As of April 30, 2001, Enron's undisclosed prepays totaled \$3.9 billion dollars.

55. By no later than April 2001, by virtue of informative presentations on prepays to Lay by Fastow and others, Lay was aware of the use, importance, and magnitude of prepays to create cash flow; that the prepays were undisclosed debt; and that credit agencies were not told of the magnitude of Enron's prepay obligations.

Failure To Disclose Goodwill Impairment

56. In or about October 2001, Lay, Causey, and others failed to disclose the substantial impairment to the goodwill value attributable to one of its major assets, Wessex Water Services. Goodwill is an asset created when one entity acquires another entity. Goodwill is initially calculated as the excess of the sum of the amounts assigned to assets acquired over the amounts of liabilities assumed in an acquisition. By August 2001, Lay, Causey, and others undertook to determine the probable impact of a new goodwill rule on Enron, because goodwill losses would need to be disclosed to the market via SEC filings in the third quarter of 2001. The new rule was Statement of Accounting Standard No. 142, "*Goodwill and Other Intangible Assets*" (FAS 142). FAS 142 eliminated a company's ability to amortize or reduce goodwill gradually over a period of years. Instead, the new rule required a periodic assessment of the value of goodwill and any impairment loss.

57. By September 2001, as Lay and Causey knew, Enron's internal accountants had

determined that the amount of goodwill attributable to Wessex Water Services (“Wessex”) was approximately \$700 million. Enron possessed a direct and indirect interest in Wessex, a water utility company purchased at a high cost of \$2.4 billion. A rate cut imposed in April 2000 affected the future revenue of Wessex and made its post-acquisition value dubious at best. By the beginning of October 2001, Enron’s internal accountants determined that Wessex’s goodwill was impaired and that Enron would have to disclose the impairment unless Enron was able to assert that the company would once again pursue a water growth strategy backed by Enron. Enron’s internal accountants had estimated that pursuing such a strategy would require Enron to expend between \$1.5 and \$28 billion.

58. Lay and Causey knew that Enron did not intend to pursue a water growth strategy and that Enron did not have the necessary capital for such a pursuit. Lay and Causey also knew that disclosure of the impairment would be unfavorable to Enron’s financial statements and might have a negative impact on Enron’s precarious credit rating. Nevertheless, on or about October 12, 2001, Lay, Causey, and others falsely claimed, including in representations to its auditors, that Enron was committed to developing a water growth strategy and failed to disclose an impairment of Wessex goodwill.

False and Misleading Representations to Investing Public

59. In furtherance of the scheme to manipulate Enron’s financial results and inflate its stock price, Lay, Skilling, Causey, and others participated in the presentation of knowingly false and misleading statements about Enron’s financial results, the performance of its businesses, the manner in which its stock was and should be valued, and the sale of personally held Enron stock. These statements were disseminated to the investing public in conferences, employee meetings,

conference calls, press releases, interviews, SEC filings, and statements to members of the media.

First Quarter 2000 Analyst Conference Call

60. On April 12, 2000, Enron held its quarterly analyst conference call to discuss its earnings for the first quarter of 2000. Skilling and Causey were among the senior Enron managers who prepared for and participated in the call. Skilling knowingly made false and misleading statements. Skilling stated that Enron's Wholesale business recorded earnings of \$220 million for the quarter; that those earnings were "attributable to increased earnings from Enron's portfolio of energy-related and other investments;" that "this was a pretty good quarter for the energy-related investment business in contrast to the drag it was over the last year;" and that the upswing in earnings in Wholesale was "basically the performance of the existing asset portfolios." Skilling omitted to disclose that approximately \$85 million of the \$220 million in earnings were unrelated to the operating performance of Enron's energy business. Rather, as Skilling knew, through "Project Grayhawk," these earnings were solely attributable to a scheme to generate earnings by manufacturing an increase in Enron's own stock price.

Fourth Quarter 2000 Analyst Conference Call

61. On January 22, 2001, Enron held its quarterly analyst conference call to discuss its earnings for the fourth quarter of 2000. Skilling and Causey were among the senior Enron managers who prepared for and participated in the call. Skilling knowingly made false and misleading statements including: "for Enron, the situation in California had little impact on fourth quarter results. Let me repeat that. For Enron, the situation in California had little impact on fourth quarter results." He further stated that "nothing can happen in California that would

jeopardize” Enron’s earnings targets for 2001 and that California business was “small” for Enron. In reality, as Skilling knew, Enron reaped huge profits in 2000 from energy trading in California and concealed hundreds of millions of dollars of those earnings in undisclosed reserve accounts for later use. Also, by late January 2001, as Skilling knew, California utilities owed EES hundreds of millions of dollars that EES could not collect and these uncollectible receivables had been offset by large reserves concealed within Wholesale’s books.

62. In support of Enron’s claims that EBS continued to be successful and a positive factor contributing to Enron’s stock price, a senior Enron manager misled analysts during the call about the source of EBS’ earnings in the fourth quarter of 2000. After being directed by Skilling to answer a question about the source of EBS’ earnings, the senior manager said that one-time, nonrecurring transactions such as sales of “dark fiber” and a “monetization,” or sale, of part of EBS’ nascent video-on-demand venture with the Blockbuster company accounted for only “a fairly small amount” of EBS’ earnings. In truth, as Skilling, Causey, and others knew, the sale of projected future revenues from the Blockbuster video-on-demand venture, which Enron abandoned just two quarters later, accounted for \$53 million of EBS’ \$63 million in fourth quarter 2000 earnings.

January 25, 2001 Analyst Conference

63. Enron held its annual analyst conference in Houston on January 25, 2001. At that conference, Skilling and others knowingly made false and misleading statements, including: (a) Skilling called all of Enron’s major businesses, including EBS and EES, “strong franchises with sustainable high earnings power,” (b) Skilling said of EBS that “I think we have a solid position. Our network is in place. We have customers and specific procedures and [devices] for the

marketplace,” (c) Skilling asserted that Enron’s stock, which was then trading at over \$80 per share, should be valued at \$126 per share, attributing \$63 of that alleged stock value to EBS and EES, and (d) Skilling stated that Enron was “not a trading business.”

64. In reality, as Skilling knew, EBS was performing very poorly and had made little commercial progress in 2000; EBS personnel had recommended shutting down or selling EBS’ network; EBS had few revenue prospects for the upcoming year; and EBS had an unsupportable cost structure that, without correction, could potentially lead to substantial losses well in excess of those Enron had publicly forecast. Skilling also knew that EES was an unsuccessful business as well. Its modest earnings during 2000 largely resulted from one-time sales of investments unrelated to its retail energy contracting business; its existing retail energy contracts were overvalued by hundreds of millions of dollars; and it had hundreds of millions of dollars of uncollectible receivables that Enron was concealing within Wholesale.

March 23, 2001 Analyst Conference Call

65. Enron held a special analyst conference call on March 23, 2001 in an effort to dispel growing public concerns about Enron’s stock, which had fallen from over \$80 per share to under \$60 per share in less than two months. Skilling prepared for and participated in the call. Skilling knowingly made false and misleading statements, and omitted to disclose facts necessary to make his statements not misleading. Among other things, he stated that “Enron’s business is in great shape” and “I know this is a bad stock market but Enron is in good shape.” He stated that Enron was “highly confident” of its income target of \$225 million for the year for EES, and that EES was seeing the “positive effect” of “the chaos that’s going on out in California.”

66. Skilling further stated that EBS “is coming along just fine” and that the company

was “very comfortable with the volumes and targets and the benchmarks that we set for EBS.” He said that EBS’ two profit-and-loss centers, intermediation and content services, were “growing fast” and that EBS was not laying off employees but rather “moving people around inside EBS” and that this was “very good news.” In reality, as Skilling knew, EBS was continuing to fail. Senior personnel at EBS had reported internally that the unit had an unsupportable cost structure and unproven revenue model. One senior EBS executive estimated that Enron would need to write-off (that is, record as a loss) approximately half of EBS’ \$875 million book value. EBS was laying off employees and Skilling had told employees based in Portland, Oregon that EBS would be centralized in Houston and jobs would be cut because of a “total meltdown” in the broadband industry.

First Quarter 2001 Analyst Conference Call

67. Enron held an analyst conference call to discuss its first quarter 2001 results on April 17, 2001. Skilling and Causey were among the senior Enron managers who prepared for and participated in the call. Skilling made false and misleading statements in the call and omitted to disclose facts necessary to make his statements not misleading.

68. Skilling talked about continued “big, big numbers” in EES’ energy contracting business. He falsely explained Enron’s movement of EES’ energy contract portfolio into Wholesale, omitting any reference to EES’ large losses or their transfer to Wholesale and stated, “[W]e have such capability in our wholesale business that we were -- we just weren’t taking advantage of that in managing our portfolio at the retail side. And this retail portfolio has gotten so big so fast that we needed to get the best -- the best hands working risk management there.” While Enron reported modest first quarter earnings for EES of \$40 million, in reality, as Skilling

and Causey knew, EES was facing losses approaching one billion dollars and had concealed those losses in Wholesale.

69. Skilling also made knowingly false and misleading statements, and omitted to disclose facts necessary to make his statements not misleading, about the success of EBS. He stated that “[o]ur network is now substantially complete” and that it “is just not the case” that Enron was reducing staff of EBS because it was getting out of the content services business. Skilling also stressed that the reported losses in the unit were on target and “anticipated” and that the unit’s capital expenditures were being reduced because it was “able to get access to connectivity without having to build it.” In reality, as Skilling knew, the cost-cutting measures at EBS were instituted because the unit was continuing to fail, and was incurring much larger than expected losses that could not be offset with projected future revenues.

70. A senior Enron manager made further false and misleading statements about EBS in the call, including that revenues from selling portions of EBS’ content business, as opposed to recurring earnings from operations, were only “about a third” of EBS’ overall earnings and that EBS had only done “a little bit” of such sales in the past two quarters. In reality, as Skilling knew, the sale of a portion of EBS’ content business was the principal mechanism by which the unit had generated revenue in the last two quarters and accounted for the majority of EBS’ earnings for the first quarter of 2001. Only a very small percentage of the unit’s revenues in either quarter was due to operations that could be expected to recur. Moreover, EBS had only been able to meet its target of \$35 million in losses for the first quarter of 2001 through the combined efforts of the sale of portions of its content services business and the manipulation of the accounting for many of its expenses and allocations under the supervision of Causey.

Second Quarter 2001 Analyst Conference Call

71. Enron held an analyst conference call to discuss its second quarter 2001 results on July 12, 2001. Skilling and Causey were among the senior Enron managers who prepared for and participated in the call. Skilling made knowingly false and misleading statements about the condition of Enron, including that Enron had a “great quarter.” He further stated that EES “had an outstanding second quarter” and was “firmly on track to achieve our 2001 target of \$225 million” in earnings; that losses in EBS were due to “industry conditions” and “dried up” revenue opportunities; and that Enron’s “new businesses are expanding and adding to our earnings power and valuation, and we are well positioned for future growth.” A senior Enron manager in the presence of Skilling and Causey also misled analysts about the movement of EES’ losses into Wholesale, stating, “We just took the risk management functions and combined them because we just -- we were trying to get some more efficiency out of management of the overall risk management function.”

72. In reality, as Skilling and the manager knew, by the close of the second quarter of 2001, EBS had failed and its increased losses were because it had stopped the one-time sales of portions of its business that had previously been the only significant source of its earnings. EES was facing hundreds of millions of dollars in concealed losses. As a whole, Enron was less than five months from bankruptcy, and the accelerating pace of the company’s decline was well known to Lay, Skilling, and Causey.

August 14, 2001: Skilling Leaves Enron

73. On July 13, 2001, Skilling unexpectedly told Lay he wanted to leave Enron because he could not do anything about Enron’s declining stock price. On August 13, 2001,

Skilling informed the Board that he was resigning for personal reasons. On August 14, 2001, Enron issued a press release, with Lay's approval, that announced Skilling had resigned and stated that the resignation was for personal reasons. Lay took the title of CEO and continued his control and oversight of Enron.

74. On the same day, despite his knowledge of substantial problems at Enron as described above, Lay made the following false and misleading statements to securities analysts in a conference call: (a) "there are absolutely no problems that had anything to do with Jeff's departure . . . there are no accounting issues, no trading issues, no reserve issues . . . unknown, previously unknown problems, issues . . . I can honestly say that the company is probably in the strongest and best shape . . . that it's probably ever been in" and (b) regarding EES "we've been doubling revenue and doubling income quarter on quarter, year on year for now about the last three years. We expect that to continue to grow very, very strong . . . [M]ost of us inside the company believe that the Enron Energy Services component could become as large or larger than our wholesale business within a 5 or 6 year period or so."

August 16, 2001 Employee Meeting

75. In an August 16, 2001 meeting, Lay made false and misleading statements to his own employees, fully aware that they were heavily invested in Enron stock, including in Enron's 401K plan. Lay stated: "Enron Energy Services just keeps banging away and just keeps growing at a tremendous rate . . . almost a doubling from second quarter last year to this year. And we've been kind of doing that systematically over the last four years . . . tremendous growth. Of course, revenue is growing. But a very, very solid business."

August 20, 2001 Interview

76. Despite his knowledge of substantial problems at Enron, Lay made the following false and misleading statements in an August 20, 2001 interview with Business Week Online: (a) “There are no accounting issues, no trading issues, no reserve issues, no previously unknown problem issues,” and (b) “There is no other shoe to fall . . . The company is probably in the strongest and best shape that it has even been in. There are no surprises. We did file our 10-Q a few days ago. And if there were any serious problems, they would be in there.” Lay also revealed his awareness of the legal implications of his conduct: “If there’s anything material and we’re not reporting it, we’d be breaking the law.”

Lay Learns Of Additional Problems, August-September 2001

77. Lay became aware of additional negative information about Enron during the last two weeks of August 2001 and the first week of September 2001. In this time period, Lay was briefed by numerous Enron employees on Enron’s mounting and undisclosed financial and operational problems, including overvaluation of Enron’s assets and business units by billions of dollars.

78. As a result of Enron’s deteriorating financial condition, Lay, Causey, and others privately considered a range of potential solutions, including mergers, restructurings, and even divestment of Enron’s pipelines, assets that Lay considered to be the crown jewels of the company.

79. On or about August 23 and 28, 2001, Lay, Causey, and others participated in Management Committee meetings where reports were presented showing earnings shortfalls in virtually every Enron business unit, totaling approximately \$1 billion. On September 6 and 7,

2001, Enron's Management Committee, including Lay and Causey, attended a retreat at The Woodlands resort near Houston, Texas. They discussed serious problems at Enron, including underperforming business units and troubled assets. Among other things, Lay, Causey, and others were involved in discussions regarding the need to take at least a \$1 billion charge in the third quarter of 2001 and that Enron had committed an accounting error in the amount of \$1.2 billion.

80. Throughout September 2001, Lay, Causey, and other Enron executives engaged in a series of high-level meetings to discuss the growing undisclosed financial crisis at Enron and the likely impact on Enron's credit rating and stock price. Lay, Causey, and others learned that the total amount of losses attributable to Enron's assets and business units was at least \$7 billion. Also at this time, Lay, Causey, and others learned that Enron's outside auditors changed its previous position regarding the accounting treatment of the Raptors. Enron's auditors determined that Enron's treatment of the Raptors violated clear accounting rules. Lay, Causey, and others were then faced with the prospect of restating Enron's earnings and admitting the error.

September 26, 2001 Employee Forum

81. Lay participated in an Enron employee on-line forum on September 26, 2001 and made the following false and misleading statements, including: (a) "[t]he third quarter is looking great. We will hit our numbers. We are continuing to have strong growth in our businesses, and at this time I think we're positioned for a very strong fourth quarter," (b) "we have record operating and financial results," and (c) "the balance sheet is strong."

82. Lay also made false and misleading statements to his employees about his trading

in Enron stock. Despite the fact that during the prior two months he had made net sales of over \$20 million in Enron stock to Enron, sales that he knew his employees did not know about, Lay falsely and misleadingly stated: “I have strongly encouraged our 16B officers to buy additional Enron stock. Some, including myself, have done so over the last couple of months and others will probably do so in the future . . . My personal belief is that Enron stock is an incredible bargain at current prices.”

October 12, 2001 Call To Credit Rating Agency

83. On or about October 12, 2001, Lay made false and misleading statements to a representative of a prominent credit rating agency in a telephone call. Among other things, Lay stated that Enron and its auditors had “scrubbed” the company’s books and that no additional write-downs would be forthcoming. In fact, as Lay knew, Enron’s international assets were being carried on Enron’s books for billions of dollars in excess of their fair value. Lay also knew that he and other Enron employees had failed to disclose and would not report the \$700 million Wessex goodwill impairment, and had falsely claimed to others, including Andersen, that Enron would pursue a growth strategy in the water business. In addition, as Lay knew, Enron’s auditors had not completed their work regarding asset valuations or goodwill and had not yet provided a final opinion regarding the necessity of additional write-downs.

Third Quarter 2001 Earnings Release – October 16, 2001

84. By October 2001, Lay knew, among other things, that: (a) Enron had incorrectly accounted for the Raptor transactions, and that due to the massive accounting error, shareholders’ equity needed to be reduced by \$1.2 billion; (b) the Raptors were being terminated and, combined with other write-downs, this would result in an earnings charge of \$1.01 billion; and

(c) these two items were unrelated, and the \$1.2 billion reduction to shareholders' equity was required, whether or not the Raptors were terminated. Despite this knowledge, Lay made false and misleading statements about these items.

85. On October 16, 2001, Enron issued an earnings release, reviewed and approved by Lay, that reported a "non-recurring" earnings charge of \$1.01 billion, a majority of the charge relating to the unwind of certain vehicles. Lay did not disclose that the vehicles at issue were the Raptors. Lay knew that the characterization of the termination of the vehicles as "nonrecurring" losses, that is, a one-time or unusual earnings event, was erroneous and inconsistent with Enron's past treatment of Raptor earnings as recurring operating earnings. Lay and others knowingly omitted any reference to the separate \$1.2 billion equity reduction in the press release.

86. Enron had a conference call with analysts on October 16, 2001 to discuss the earnings release. Lay, Causey, and others prepared for and participated in the call. Lay made false and misleading statements in the call. Lay again falsely described the hundreds of millions of dollars in losses as "nonrecurring." Lay also falsely stated that "in connection with the early termination, shareholders' equity will be reduced by approximately \$1.2 billion." Lay and Causey did not disclose that the vehicles unwound (as part of the \$1 billion charge) were the Raptors nor disclose that the \$1.2 billion equity reduction was principally due to a significant accounting error.

87. In the same call, Lay made false and misleading statements regarding the valuation of Enron's international assets. In response to questions regarding the value of Elektro, a Brazilian power plant, which Enron carried on its books in excess of \$2 billion, Lay stated that "[w]e may well have that asset and operate that asset for quite some time. It's not a bad asset,

it's a good asset, just like a lot of the other assets in this portfolio.” This statement was misleading, in that Lay knew that Elektro was overvalued by as much as \$1 billion and classified internally as a “troubled” asset.

88. Lay further stated that Enron “and its outside auditors have recently completed our preliminary evaluation of goodwill.” Lay represented that, based upon that review, “up to \$200 million goodwill adjustment may be necessary, and will be recorded as required by the accounting principles in the first quarter of 2002.” In fact, as Lay knew, the adjustment did not include the impaired Wessex goodwill of approximately \$700 million and Enron’s auditors had not completed even a preliminary evaluation of goodwill.

89. Lay and other senior Enron managers hosted a series of meetings with analysts and large institutional investors after the announcement of Enron’s third quarter earnings results. In these meetings, Lay and the senior managers falsely and misleadingly portrayed EES as rapidly increasing in profitability, quarter to quarter and year to year. Lay additionally distributed materials at the meetings that falsely and misleadingly described the value of Enron’s international portfolio as \$6.5 billion, when Lay knew this figure vastly overstated the true value of the international assets by billions of dollars.

October 23, 2001 Analyst Call

90. In an effort to calm deepening public concern regarding the decline in Enron’s stock price, Lay and Causey prepared for and participated in an Enron analyst conference call on October 23, 2001. In that call, Lay made the following false and misleading statements: “[we’re] not trying to conceal anything. We’re not hiding anything,” “[w]e’re really trying to make sure that the analysts and the shareholders and the debt holders really know what’s going on here. So,

we are not trying to hold anything back,” and “I’m disclosing everything we’ve found.” In response to questioning, Lay again falsely stated that the \$1.2 billion reduction to shareholder equity was a result of “unwinding” certain vehicles, failing to disclose that the cause of the equity write-down was principally due to a massive accounting error.

October 23, 2001 Employee Meeting

91. By October 2001, in addition to other problems known to Lay as described above, Lay knew that Enron had serious liquidity issues. Lay knew that Enron had been forced to offer its prized pipelines as collateral for a \$1 billion bank loan. He also knew that the only source of liquidity was a \$3 billion bank line of credit, which, if drawn, would highlight Enron’s worsening financial situation. Despite this knowledge, on October 23, 2001, Lay made false and misleading statements to his employees during an all-employee meeting. Lay falsely stated, “[o]ur liquidity is fine. As a matter of fact, it’s better than fine, it’s strong. . .” Three days later, Lay authorized the draw-down of the entire \$3 billion line of credit.

92. Lay also made misleading statements about Enron stock and its prospects. Lay misleadingly stated, “as sad as the current market price is – and I’ve certainly lost a substantial portion of my net worth and my family’s net worth – at current prices the market value [of Enron] is about \$17 or \$18 billion. It was \$2 billion when we started in ‘85. But I also know that many of you who were a lot wealthier six to nine months ago are now concerned about the college education for your kids, maybe the mortgage on your house, maybe your retirement . . . But we’re going to get it back.” Lay also stated that he thought a fair price for Enron stock was in the \$50-\$60 range and “that doesn’t mean we can’t get back up to the \$80s or \$90s in the no-too-distant future.” At the time, Enron stock was trading at approximately \$19.79 per share. Lay

did not disclose that he had substantially reduced his personal exposure to the declining stock price, having sold over \$65 million of Enron stock in 2001. Lay also knew, and failed to disclose, that he had no reasonable basis to forecast an increase in Enron's stock price.

November 12, 2001 Analyst Call

93. Lay participated in an analyst conference call with analysts on November 12, 2001. During the call, Lay made the following false and misleading statements: "We don't have anything we're trying to hide . . . I'm disclosing everything we've found." Lay failed to disclose all of the negative information about Enron that he was well aware of by this point in time.

Collapse of Scheme

94. For a time, the scheme to defraud succeeded and supported Enron's stock price and its credit rating. In early 1998, Enron's stock traded at approximately \$30 per share. By January 2001, even after a 1999 stock split, Enron's stock had risen to over \$80 per share and Enron had become the seventh-ranked company in the United States, according to the leading index of the "Fortune 500." Until late 2001, Enron maintained an investment-grade credit rating. However, the scheme quickly collapsed after Enron's announcement on October 16, 2001 revealed enormous losses. On October 22, 2001, Enron announced that it was the subject of an SEC investigation. The next day, Lay authorized Enron to enter into merger discussions with Dynegy, Inc. On October 29 and November 1, 2001, the two leading credit rating agencies downgraded Enron's credit rating. On November 8, 2001, Enron announced its intention to restate its financial statements for 1997 through 2000 and the first and second quarters of 2001 to reduce previously reported net income by an aggregate of \$586 million. On November 9, 2001, Enron filed an 8-K with a merger agreement signed by Lay announcing a merger between Enron

and Dynegy, which falsely stated, among other things, that Enron's prior public filings were true and accurate. On November 21, 2001, Enron's credit rating was downgraded to "junk" status. On December 2, 2001, Enron filed for bankruptcy, making its stock, which was trading at over \$80 per share less than a year earlier, virtually worthless.

False and Misleading Filings With The SEC

95. In furtherance of the scheme to manipulate Enron's financial results and inflate its stock price, Lay, Skilling, Causey, and others filed and caused to be filed with the SEC false and misleading reports of Enron, including:

Annual and Quarterly Reports

Form 10-Q for the Third Quarter 1999 (filed on or about November 15, 1999);

Form 10-K for the Fiscal Year 1999 (filed on or about March 30, 2000);

Form 10-Q for the First Quarter 2000 (filed on or about May 15, 2000);

Form 10-Q for the Second Quarter 2000 (filed on or about August 14, 2000);

Form 10-Q for the Third Quarter 2000 (filed on or about November 14, 2000);

Form 10-K for Fiscal Year 2000 (filed on or about April 2, 2001);

Form 10-Q for the First Quarter 2001 (filed on or about May 15, 2001);

Form 10-Q for the Second Quarter 2001 (filed on or about August 14, 2001)

Registration Statements

Form S-3 filed on or about April 4, 2000;

Form S-3 filed on or about June 15, 2000;

Form S-3 filed on or about July 19, 2000;

Form S-3 filed on or about January 26, 2001; and

Form S-3 filed on or about June 1, 2001 and Amendment dated July 13, 2001

Other

Form 8-K dated November 9, 2001

96. The reports caused to be filed by Lay, Skilling, Causey, contained, among other things, materially false and misleading financial statements that overstated Enron's actual revenues and earnings, understated Enron's actual debt and expenses, and contained materially false and misleading management descriptions and analysis of Enron's business.

Defendants' Illegal Gains

97. As officers and/or directors of Enron, Lay, Skilling, and Causey each owed a fiduciary duty to Enron and its shareholders to act solely in the best interests of Enron and its shareholders. Lay, Skilling, and Causey also signed employment and/or consulting agreements with Enron in which each acknowledged this fiduciary duty and agreed that each owed a duty of trust and confidence to Enron, and that personal use of confidential information of Enron was prohibited. The employment and/or consulting agreements signed by Lay, Skilling, and Causey were in effect during the time period relevant to the Second Amended Complaint.

98. Lay, Skilling, Causey, and others made illegal gains from the scheme to defraud in the form of salary, bonuses, and other forms of compensation. During 2001, Lay received a salary of \$1 million, a bonus of \$7 million, and \$3.6 million in long term incentive payments, all proceeds of the scheme to defraud. Between 1998 and 2001, Skilling received at least \$14 million in salary and bonuses, all proceeds of the scheme to defraud. Between 1998 and 2001, Causey received more than \$4 million in salary and bonuses, all proceeds of the scheme to defraud. Moreover, as detailed below, the defendants and others also made additional illegal

gains by selling large amounts of Enron stock at the inflated prices they engineered.

99. Defendants' trading in Enron stock also occurred while they were in possession of material non-public information, including information about Enron's actual financial position and the performance of its business units as described above, that the stock price was inflated, and that Enron and its executives and senior managers, including defendants, had supplied and were continuing to supply materially false and misleading information to the investing public, including, but not limited to, Enron's publicly reported financial results and public statements of Enron's executives and senior managers. Defendants knew or were reckless in not knowing that the information they possessed was confidential and that trading while in possession of that information was a breach of a fiduciary duty or similar relationship of trust and confidence that they owed to Enron and its shareholders.

100. By selling shares of Enron stock at the market price, defendants represented that the market price was a reliable way to value their shares, vouching for the integrity of Enron's financial statements and the public statements they and others made about Enron's financial condition. This representation was false and misleading as the market price was not a reliable indicator of value because that price had been materially distorted by defendants' release of inaccurate information. Defendants intended that Enron and the market rely on the accuracy of the stock market price as a fair way to value their shares. A true picture of Enron as of the dates of defendants' stock sales was far different than that represented in Enron's financial reports and defendants' public statements, leading defendants to receive unduly excessive value for their Enron shares.

Lay's Illegal Gains From Sales Of Enron Stock

101. Lay profited from the scheme to defraud, in part, by selling large amounts of Enron stock at prices that did not reflect the true value of Enron stock. In 2001, Lay sold over \$70 million in Enron stock to repay cash advances on an unsecured Enron line of credit. In addition, Lay amended two preexisting program trading plans to enable him to sell an additional \$20 million in Enron stock. Lay's gains and losses avoided from the sales constitute illegal gains resulting from the scheme to defraud.

Lay's Sales Of Enron Stock Back To Enron

102. Lay's unsecured line of credit allowed him to borrow up to \$4 million (later increased to \$7.5 million) directly from Enron. In May 1999, at Lay's request, Enron permitted Lay to repay amounts due on the line of credit in shares of Enron stock, to be valued at the closing price on the date he gave notice of his intent to repay. Lay preferred this method of repayment because, among other things, he could avoid disclosure of his stock sales at the time the sales occurred. All repayments by Lay were through sales of Enron stock to the company.

103. From January 25, 2001 to November 27, 2001, Lay took advances on his line of credit in the total amount of \$77,525,000. Thereafter, despite having other assets at his disposal, Lay repaid balances on the line of credit by selling \$70,104,762 worth of Enron stock to the company twenty times, at prices he knew did not reflect accurately Enron's true financial condition. For example, after learning of Enron's undisclosed plan to hide over \$500 million in EES losses in ENA, Lay sold 1,086,571 shares of Enron common stock back to the company, in 11 transactions, for a total of \$34,081,558. Following Skilling's resignation on August 14, 2001, at a point when Lay was learning more about Enron's deteriorating financial condition, Lay sold

918,104 shares of Enron common stock back to the company, in five transactions, totaling \$26,066,474. As Lay learned more negative information following Enron's third quarter earnings release on October 16, 2001, Lay sold 362,051 shares of Enron stock back to the company, in four transactions, totaling \$6,050,232. The transactions executed by Lay are set forth in the attached table, and incorporated as if fully set forth here.

104. Lay's sales of Enron stock were not reported by Lay to the SEC on a Form 5 or otherwise revealed publicly until February 2002, over two months after Enron filed for bankruptcy protection.

105. Had Lay disclosed the substantial sales of his Enron stock at the time the sales occurred, this fact would have had a significant detrimental impact on the share price of Enron stock. By avoiding public disclosure of his stock sales, and even giving the impression to his employees and others that he was buying Enron stock, Lay was able to use artificially priced Enron shares to reduce his line of credit balance and avoid significant losses that he would have suffered had he retained his Enron shares.

106. In addition to the benefit Lay obtained from the Enron stock sales at inflated prices, Lay took advances on his line of credit in the amount of \$7.5 million, an amount drawn in six advances between October 24 and November 27, 2001, while he knew Enron's financial condition was crumbling.

Lay's Sales Of Enron Stock Pursuant To Amended 10b5-1 Plan

107. Under Rule 10b5-1 of the Exchange Act, if a stock trading plan is entered into by a person before he becomes aware of material non-public information, such a plan can provide an affirmative defense to insider trading. However, any amendment to a plan is considered a new

plan, and no affirmative defense is available if the amendment occurs after becoming aware of material non-public information.

108. On November 1, 2000, Lay established two program sales plans pursuant to Rule 10b5-1 of the Exchange Act. One plan was for Lay and his wife (the “Lay Plan”) and the other plan was for a family partnership (the “Partnership Plan”). Under the Lay Plan, Lay could sell 3,534 shares of Enron stock every trading day at the market price from November 1, 2000 through January 31, 2001 and 1,500 shares every trading day from February 1, 2001 through January 31, 2002. Under the Partnership Plan, Lay could sell 500 Enron shares each trading day from November 1, 2000 through January 31, 2002.

109. On February 1, 2001, Lay amended the Lay Plan, increasing the sales to 2,500 shares each day. On May 1, 2001, Lay amended the Partnership Plan, increasing the sales to 1,000 shares each day. Lay terminated both plans effective July 31, 2001.

110. At the time Lay amended both plans he was in possession of material non-public information concerning Enron as described above. Thus, Lay cannot use the affirmative defense provided under Rule 10b5-1.

111. From February 1, 2001 through the termination date of July 31, 2001, under the Lay Plan, Lay sold 295,000 Enron shares at prices ranging from \$43.66 to \$80.81, for total proceeds of approximately \$17,329,630. From May 1, 2001 through the termination date of July 31, 2001, under the Partnership Plan, Lay sold 64,000 shares at prices ranging from \$43.65 to \$63.07, for total proceeds of \$3,278,510. The transactions executed by Lay are set forth in the attached table and incorporated as if fully set forth here.

Skilling's Illegal Gains From Sales Of Enron Stock

112. Skilling sold shares of Enron stock that generated total proceeds of \$62,626,401.90 as follows:

Trade	Date	Shares	Sale Price(s)	Gross Proceeds
A	April 25, 2000	10,000	\$73.875 \$73.9375	\$738,893.75
B	April 26, 2000	86,217	\$74.00 \$73.875 \$72.50	\$6,338,183.00
C	August 30, 2000	15,000	\$86.125	\$1,291,875.00
D	September 1, 2000	60,000	\$87.00 \$86.875 \$87.25	\$5,220,000.00
E	September 5, 2000	11,441	\$85.00	\$972,485.00
F	November 1, 2000	72,600	\$83.2406 \$83.0625	\$6,041,023.50
G	November 2, 2000	20,000	\$82.3381	\$1,646,762.00
H	November 7, 2000	46,068	\$82.5872	\$3,804,627.13
I	November 15, 2000- June 19, 2001	10,000 per week, 31 weeks per sales plan	\$84.00 to \$49.90	\$20,985,247.42

J	September 17, 2001	500,000	\$31.5061 \$31.0822	\$15,587,305.10
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Causey's Illegal Gains From Sales Of Enron Stock

113. Causey sold shares of Enron stock and generated total proceeds of \$10,316,807.83 as follows:

Trade	Date	Shares	Sale Price(s)	Gross Proceeds
A	January 21, 2000	45,000	\$72.00 \$71.00	\$3,220,000.00
B	September 28, 2000	80,753	\$87.8829	\$7,096,807.83

False And Misleading Statements To Enron's Accountants

114. On or about the dates set forth below, Skilling, Causey, and others, while agreeing that they were "responsible for the fair presentation of the financial statements," falsely represented to Enron's accountants that, among other things, (a) the statements and representations made in Enron's financial statements were true; (b) Enron properly recorded or disclosed in its financial statements all agreements to repurchase assets previously sold; (c) Enron properly recorded or disclosed in its financial statements guarantees, whether written or oral, under which Enron was contingently liable; (d) Enron's unaudited quarterly financial data fairly summarized, among other things, the operating revenues, net income and per share data based upon that income for each quarter; (e) there was no material fraud or any other irregularities that, although not material, involved management or other employees who had a

significant role in Enron’s system of internal control, or fraud involving other employees that could have a material effect on the financial statements; (f) there were no material liabilities or gain or loss contingencies (including those that might exist relating to oral guarantees) that were required to be disclosed in accordance with SFAS No. 5; (g) all related-party transactions, including sales, were properly recorded and disclosed; (h) no events occurred subsequent to the balance sheet date that had a material effect on the financial statements and that should have been disclosed in order to keep those financial statements from being misleading; (i) Enron made available to the accountants all financial records and related data; (j) Enron’s system of internal controls was adequate and had no significant deficiencies; and (k) the accounting records underlying Enron’s financial statements accurately and fairly reflected, in reasonable detail, the transactions of Enron, well knowing that these statements were false. Skilling, Causey, and others made the false representations in representation letters to Enron’s accountants as follows:

Count	Defendant(s)	Date	Statement to Auditors
A	JEFFREY K. SKILLING RICHARD A. CAUSEY	March 13, 2000	Annual Representation Letter in Connection with Enron Form 10-K for Year 1999
B	JEFFREY K. SKILLING RICHARD A CAUSEY	May 12, 2000	Quarterly Representation Letter in Connection with Enron Form 10-Q for First Quarter 2000
C	JEFFREY K. SKILLING RICHARD A. CAUSEY	August 11, 2000	Quarterly Representation Letter in Connection with Enron Form 10-Q for Second Quarter 2000

D	JEFFREY K. SKILLING RICHARD A. CAUSEY	November 13, 2000	Quarterly Representation Letter in Connection with Enron Form 10-Q for Third Quarter 2000
E	JEFFREY K. SKILLING RICHARD A. CAUSEY	February 23, 2001	Annual Representation Letter in Connection with Enron Form 10-K for Year 2000
F	JEFFREY K. SKILLING RICHARD A. CAUSEY	May 15, 2001	Quarterly Representation Letter in Connection with Enron Form 10-Q for First Quarter 2001
G	RICHARD A. CAUSEY	August 14, 2001	Quarterly Representation Letter in Connection with Enron Form 10-Q for Second Quarter 2001

CLAIMS FOR RELIEF

FIRST CLAIM

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

115. Paragraphs 1 through 114 are realleged and incorporated by reference herein.

116. As set forth more fully above, Lay, Skilling, and Causey, directly or indirectly, by use of the means or instrumentalities of interstate commerce, or by the use of the mails and of the facilities of a national securities exchange, in connection with the purchase or sale of securities: have employed devices, schemes, or artifices to defraud, have made untrue statements of material facts or 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, or have engaged in acts,

practices, or courses of business which operate or would operate as a fraud or deceit upon any person.

117. By reason of the foregoing, Lay, Skilling, and Causey violated and aided and abetted 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].

SECOND CLAIM

Violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] (Lay)

118. Paragraphs 1 through 117 are realleged and incorporated by reference herein.

119. Lay, by engaging in the conduct described above, directly or indirectly, in connection with the offer or sale of securities, by the use of the means or instruments of transportation or communication in interstate commerce or by the use of the mails: with scienter, employed devices, schemes, or artifices to defraud, obtained money or property by means of untrue statements of material facts or omissions 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, or engaged in acts, practices, or courses of business which operate or would operate as a fraud or deceit upon the purchasers of such securities.

120. By reason of the foregoing, Lay violated Section 17(a) of the Securities Act.

THIRD CLAIM

Violations of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] (All Defendants) and Exchange Act Rules 12b-20 (All Defendants), 13a-1 (Causey & Skilling), 13a-11 (Lay), and 13a-13 (Causey) [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11, 240.13a-13]

121. Paragraphs 1 through 120 are realleged and incorporated by reference herein.

122. By engaging in the conduct described above, Lay, Skilling, and Causey knowingly and substantially caused Enron to file materially false and misleading reports and filings with the Commission.

123. By reason of the foregoing, Lay, Skilling, and Causey aided and abetted violations by Enron of Section 13(a) of the Exchange Act and Exchange Act Rules 12b-20, 13a-1 (Causey and Skilling), 13a-11 (Lay), and 13a-13 (Causey).

FOURTH CLAIM

**Violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act
[15 U.S.C. §§ 78m(b)(2)(A), 78m(b)(2)(B)]
and Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1] (All Defendants)**

124. Paragraphs 1 through 123 are realleged and incorporated by reference herein.

125. By engaging in the conduct described above, Lay, Skilling, and Causey aided and abetted Enron's failures to make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflected Enron's transactions and dispositions of its assets, in violation of Section 13(b)(2)(A) of the Exchange Act, and further aided and abetted failures to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that Enron's corporate transactions were executed in accordance with management's authorization and in a manner to permit the preparation of financial statements in conformity with Generally Accepted Accounting Principles in violation of Section 13(b)(2)(B) of the Exchange Act.

126. By engaging in the conduct described above, Lay, Skilling, and Causey, directly or indirectly, falsified and caused to be falsified Enron's books, records, and accounts subject to

Section 13(b)(2)(A) of the Exchange Act in violation of Exchange Act Rule 13b2-1.

127. By reason of the foregoing, Skilling and Causey aided and abetted violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and violated Exchange Act Rule 13b2-1.

FIFTH CLAIM

Violations of Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] (Skilling/Causey)

128. Paragraphs 1 through 127 are realleged and incorporated by reference herein.

129. By engaging in the conduct described above, Skilling and Causey knowingly circumvented or knowingly failed to implement a system of internal financial controls at Enron, and knowingly falsified books, records, and accounts of Enron.

130. By reason of the foregoing, Skilling and Causey violated and aided and abetted violations of Section 13(b)(5) of the Exchange Act.

SIXTH CLAIM

Violations of Exchange Act Rule 13b2-2 [17 C.F.R. § 240.13b2-2] (Skilling/Causey)

131. Paragraphs 1 through 130 are realleged and incorporated by reference herein.

132. By engaging in the conduct described above, Skilling and Causey, directly or indirectly, made or caused to be made false and misleading statements or omitted or caused others 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 Enron's independent accountants and Enron's auditors in connection with audits and examinations of Enron's required financial statements and in connection with the preparation and filing of documents and reports

required to be filed with the Commission, in violation of Exchange Act Rule 13b2-2.

133. By reason of the foregoing, Skilling and Causey violated and aided and abetted violations of the Exchange Act Rule 13b2-2.

JURY DEMAND

The Commission demands a jury in this matter.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

A. Grant a Permanent Injunction restraining and enjoining Lay, Skilling, and Causey from violating the statutory provisions set forth herein; prohibiting each permanently and unconditionally from acting as an officer or director of any issuer of securities that has a class of securities registered pursuant to Section 12 of the Exchange Act or that is required to file reports pursuant to Section 15(d) of such Act; and ordering each to pay disgorgement of illegal gains, and civil penalties;

B. Pursuant to Section 308 of the Sarbanes-Oxley Act of 2002, enter an order providing that the amount of civil penalties ordered against Lay, Skilling, and Causey be added to and become part of a disgorgement fund for the benefit of the victims of the violations alleged herein; and

C. Grant such other and additional relief as this Court may deem just and proper.

Dated: July ___, 2004

Respectfully submitted,

Stephen M. Cutler
Director, Enforcement Division
Linda Chatman Thomsen
Deputy Director, Enforcement Division
Charles J. Clark
Assistant Director, Enforcement Division

Luis R. Mejia
Assistant Chief Litigation Counsel
Attorney-in-Charge, Plaintiff
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, DC 20549-0911
Phone: (202) 942-4744 (Mejia)
Fax: (202) 942-9569 (Mejia)

Of Counsel:
Douglas B. Paul
Kurt G. Gresenz
Alex Lipman
Phil Gross
Richard J. Kutchey

Ken Lay Line of Credit
Table of Advances and Repayments in 2001

<u>Date</u>	<u>Transaction</u>	<u>Amount</u>	<u>Shares</u>	<u>Price</u>	<u>Sales Proceeds</u>
01/25/01	Advance	\$4,000,000.00			
02/01/01	Repayment		50,814	\$78.79	\$4,003,635.06
03/23/01	Advance	\$1,100,000.00			
04/05/01	Advance	\$950,000.00			
04/19/01	Advance	\$1,950,000.00			
04/27/01	Repayment		63,152	\$63.50	\$4,010,152.00
05/03/01	Advance	\$4,000,000.00			
05/14/01	Repayment		68,182	\$58.75	\$4,005,692.50
05/23/01	Advance	\$4,000,000.00			
05/25/01	Repayment		75,491	\$53.00	\$4,001,023.00
06/11/01	Advance	\$4,000,000.00			
06/12/01	Repayment		79,423	\$50.37	\$4,000,536.51
06/15/01	Advance	\$4,000,000.00			
06/19/01	Repayment		86,665	\$46.18	\$4,002,189.70
06/22/01	Advance	\$4,000,000.00			
06/22/01	Repayment		89,126	\$44.88	\$3,999,974.88
06/26/01	Advance	\$4,000,000.00			
06/26/01	Repayment		90,518	\$44.19	\$3,999,990.42
06/27/01	Advance	\$4,000,000.00			
06/27/01	Repayment		85,616	\$46.72	\$3,999,979.52
06/28/01	Advance	\$4,000,000.00			
06/28/01	Repayment		82,747	\$48.34	\$3,999,989.98
06/29/01	Advance	\$4,000,000.00			
07/26/01	Repayment		85,720	\$46.84	\$4,015,124.80
07/27/01	Advance	\$4,000,000.00			
08/21/01	Repayment		110,706	\$36.25	\$4,013,092.50
08/21/01	Advance	\$4,000,000.00			
08/23/01	Repayment		108,254	\$36.95	\$3,999,985.30
08/24/01	Advance	\$4,000,000.00			
08/24/01	Repayment		110,041	\$36.35	\$3,999,990.35
08/28/01	Advance	\$4,000,000.00			
08/30/01	Repayment		112,706	\$35.50	\$4,001,063.00
08/31/01	Advance	\$4,000,000.00			
09/4/01	Repayment		114,346	\$35.00	\$4,002,110.00
09/06/01	Advance	\$4,000,000.00			
10/23/01	Repayment		76,995	\$19.79	\$1,523,731.05
10/24/01	Repayment		103,614	\$16.41	\$1,700,305.74
10/24/01	Advance	\$3,500,000.00			

<i>10/25/01</i>	<i>Repayment</i>		<i>33,672</i>	<i>\$16.35</i>	<i>\$550,537.20</i>
10/25/01	Advance	\$1,500,000.00			
<i>10/26/01</i>	<i>Repayment</i>		<i>147,770</i>	<i>\$15.40</i>	<i>\$2,275,658.00¹</i>
10/26/01	Advance	\$2,000,000.00			
11/01/01	Advance	\$1,000,000.00			
11/09/01	Advance	\$525,000.00			
11/27/01	Advance	\$1,000,000.00			
Totals		\$77,525,000.00	1,775,558		\$70,104,761.51

¹ Lay currently has an outstanding loan balance on his line of credit of \$7.794 million, including interest.

Lay Plan Sales

Date	Number of Shares	Sale Price	Cost Basis	Gross Proceeds	Net Profits
02/01/01	2,500	\$78.83	\$16.75	\$197,075.00	\$155,200.00
02/02/01	2,500	\$78.77	\$16.75	\$196,925.00	\$155,050.00
02/05/01	2,500	\$80.49	\$17.00	\$201,225.00	\$158,725.00
02/06/01	2,500	\$80.81	\$17.00	\$202,025.00	\$159,525.00
02/07/01	40	\$80.00	\$17.00	\$3,200.00	\$2,520.00
02/07/01	2,460	\$80.39	\$16.75	\$197,759.40	\$156,554.40
02/08/01	2,500	\$80.38	\$16.75	\$200,950.00	\$159,075.00
02/09/01	2,500	\$80.77	\$16.75	\$201,925.00	\$160,050.00
02/12/01	2,500	\$79.98	\$16.75	\$199,950.00	\$158,075.00
02/13/01	2,500	\$79.76	\$16.75	\$199,400.00	\$157,525.00
02/14/01	2,500	\$80.72	\$16.75	\$201,800.00	\$159,925.00
02/15/01	2,500	\$77.60	\$16.75	\$194,000.00	\$152,125.00
02/16/01	2,500	\$76.36	\$16.75	\$190,900.00	\$149,025.00
02/20/01	2,500	\$76.28	\$16.75	\$190,700.00	\$148,825.00
02/21/01	2,500	\$74.85	\$16.75	\$187,125.00	\$145,250.00
02/22/01	2,500	\$72.58	\$16.75	\$181,450.00	\$139,575.00
02/23/01	2,500	\$71.06	\$16.75	\$177,650.00	\$135,775.00
02/26/01	2,500	\$70.57	\$16.75	\$176,425.00	\$134,550.00
02/27/01	2,500	\$70.36	\$16.75	\$175,900.00	\$134,025.00
02/28/01	2,500	\$69.50	\$16.75	\$173,750.00	\$131,875.00
03/01/01	2,500	\$67.78	\$16.75	\$169,450.00	\$127,575.00
03/02/01	2,500	\$69.00	\$16.75	\$172,500.00	\$130,625.00
03/05/01	2,500	\$70.48	\$16.75	\$176,200.00	\$134,325.00
03/06/01	2,500	\$69.86	\$16.75	\$174,650.00	\$132,775.00
03/07/01	2,500	\$69.30	\$16.75	\$173,250.00	\$131,375.00
03/08/01	2,500	\$70.40	\$16.75	\$176,000.00	\$134,125.00
03/09/01	2,500	\$69.65	\$16.75	\$174,125.00	\$132,250.00
03/12/01	2,500	\$64.92	\$16.75	\$162,300.00	\$120,425.00
03/13/01	2,500	\$61.75	\$16.75	\$154,375.00	\$112,500.00
03/14/01	2,500	\$61.43	\$16.75	\$153,575.00	\$111,700.00
03/15/01	2,500	\$64.63	\$16.75	\$161,575.00	\$119,700.00
03/16/01	2,500	\$65.50	\$16.75	\$163,750.00	\$121,875.00
03/19/01	2,500	\$62.27	\$16.75	\$155,675.00	\$113,800.00
03/20/01	2,500	\$62.28	\$16.75	\$155,700.00	\$113,825.00
03/21/01	2,500	\$59.57	\$16.75	\$148,925.00	\$107,050.00
03/22/01	2,500	\$53.93	\$16.75	\$134,825.00	\$92,950.00
03/23/01	2,500	\$57.72	\$16.75	\$144,300.00	\$102,425.00
03/26/01	2,500	\$61.32	\$16.75	\$153,300.00	\$111,425.00
03/27/01	2,500	\$60.50	\$16.75	\$151,250.00	\$109,375.00
03/28/01	2,500	\$58.83	\$16.75	\$147,075.00	\$105,200.00
04/02/01	2,500	\$57.50	\$16.75	\$143,750.00	\$101,875.00
04/03/01	2,500	\$55.90	\$16.75	\$139,750.00	\$97,875.00
04/04/01	2,500	\$54.11	\$16.75	\$135,275.00	\$93,400.00
04/05/01	2,500	\$54.88	\$16.75	\$137,200.00	\$95,325.00

04/06/01	2,500	\$54.75	\$16.75	\$136,875.00	\$95,000.00
04/09/01	2,500	\$54.53	\$16.75	\$136,325.00	\$94,450.00
04/10/01	492	\$57.20	\$16.75	\$28,142.40	\$19,901.40
04/10/01	2,008	\$58.31	\$16.75	\$117,086.48	\$83,452.48
04/11/01	2,500	\$59.69	\$19.06	\$149,225.00	\$101,575.00
04/12/01	2,500	\$57.40	\$19.06	\$143,500.00	\$95,850.00
04/16/01	2,500	\$58.24	\$19.06	\$145,600.00	\$97,950.00
04/17/01	2,500	\$60.75	\$19.06	\$151,875.00	\$104,225.00
04/18/01	2,500	\$61.57	\$19.06	\$153,925.00	\$106,275.00
04/19/01	2,500	\$61.32	\$19.06	\$153,300.00	\$105,650.00
04/20/01	2,500	\$60.87	\$19.06	\$152,175.00	\$104,525.00
04/23/01	2,500	\$60.94	\$19.06	\$152,350.00	\$104,700.00
04/24/01	2,500	\$62.18	\$19.06	\$155,450.00	\$107,800.00
04/25/01	2,500	\$62.06	\$19.06	\$155,150.00	\$107,500.00
04/26/01	2,500	\$63.21	\$19.06	\$158,025.00	\$110,375.00
04/27/01	2,500	\$62.98	\$19.06	\$157,450.00	\$109,800.00
05/01/01	2,500	\$63.12	\$19.06	\$157,800.00	\$110,150.00
05/02/01	2,500	\$61.77	\$19.06	\$154,425.00	\$106,775.00
05/03/01	2,500	\$58.79	\$19.06	\$146,975.00	\$99,325.00
05/04/01	2,500	\$58.86	\$19.06	\$147,150.00	\$99,500.00
05/07/01	2,500	\$58.67	\$19.06	\$146,675.00	\$99,025.00
05/08/01	2,500	\$57.00	\$19.06	\$142,500.00	\$94,850.00
05/09/01	2,500	\$57.21	\$19.06	\$143,025.00	\$95,375.00
05/10/01	2,500	\$58.35	\$19.06	\$145,875.00	\$98,225.00
05/11/01	2,500	\$57.54	\$19.06	\$143,850.00	\$96,200.00
05/14/01	2,500	\$58.52	\$19.06	\$146,300.00	\$98,650.00
05/15/01	2,500	\$58.08	\$19.06	\$145,200.00	\$97,550.00
05/16/01	2,500	\$57.25	\$19.06	\$143,125.00	\$95,475.00
05/17/01	2,500	\$55.02	\$19.06	\$137,550.00	\$89,900.00
05/18/01	2,500	\$53.75	\$19.06	\$134,375.00	\$86,725.00
05/21/01	2,500	\$55.16	\$19.06	\$137,900.00	\$90,250.00
05/22/01	2,500	\$55.06	\$19.06	\$137,650.00	\$90,000.00
05/23/01	2,500	\$55.68	\$19.06	\$139,200.00	\$91,550.00
05/24/01	2,500	\$55.11	\$19.06	\$137,775.00	\$90,125.00
05/29/01	2,500	\$53.41	\$19.06	\$133,525.00	\$85,875.00
06/01/01	2,500	\$52.66	\$19.06	\$131,650.00	\$84,000.00
06/04/01	2,500	\$53.88	\$19.06	\$134,700.00	\$87,050.00
06/05/01	2,500	\$54.08	\$19.06	\$135,200.00	\$87,550.00
06/06/01	2,500	\$52.79	\$19.06	\$131,975.00	\$84,325.00
06/07/01	2,500	\$50.63	\$19.06	\$126,575.00	\$78,925.00
06/08/01	2,500	\$50.20	\$19.06	\$125,500.00	\$77,850.00
06/11/01	2,500	\$51.17	\$19.06	\$127,925.00	\$80,275.00
06/12/01	2,500	\$50.92	\$19.06	\$127,300.00	\$79,650.00
06/13/01	2,500	\$50.63	\$19.06	\$126,575.00	\$78,925.00
06/14/01	2,500	\$48.83	\$19.06	\$122,075.00	\$74,425.00
06/15/01	2,500	\$47.78	\$19.06	\$119,450.00	\$71,800.00
06/18/01	2,500	\$46.00	\$19.06	\$115,000.00	\$67,350.00
06/19/01	2,500	\$44.93	\$19.06	\$112,325.00	\$64,675.00

06/20/01	2,500	\$46.11	\$19.06	\$115,275.00	\$67,625.00
06/21/01	2,500	\$45.15	\$19.06	\$112,875.00	\$65,225.00
06/22/01	2,500	\$44.21	\$19.06	\$110,525.00	\$62,875.00
06/25/01	2,500	\$44.79	\$19.06	\$111,975.00	\$64,325.00
06/26/01	2,500	\$43.66	\$19.06	\$109,150.00	\$61,500.00
06/27/01	2,500	\$45.45	\$19.06	\$113,625.00	\$65,975.00
06/28/01	2,500	\$47.47	\$19.06	\$118,675.00	\$71,025.00
07/02/01	2,500	\$48.81	\$19.06	\$122,025.00	\$74,375.00
07/03/01	2,500	\$48.80	\$19.06	\$122,000.00	\$74,350.00
07/05/01	2,500	\$49.66	\$19.06	\$124,150.00	\$76,500.00
07/06/01	2,500	\$50.07	\$19.06	\$125,172.50	\$77,522.50
07/09/01	2,500	\$49.40	\$19.06	\$123,500.00	\$75,850.00
07/10/01	2,500	\$49.44	\$19.06	\$123,600.00	\$75,950.00
07/11/01	2,500	\$49.00	\$19.06	\$122,500.00	\$74,850.00
07/12/01	2,500	\$49.54	\$19.06	\$123,850.00	\$76,200.00
07/13/01	2,500	\$49.48	\$19.06	\$123,700.00	\$76,050.00
07/16/01	2,500	\$49.50	\$19.06	\$123,750.00	\$76,100.00
07/17/01	2,500	\$49.64	\$19.06	\$124,100.00	\$76,450.00
07/18/01	2,500	\$49.40	\$19.06	\$123,500.00	\$75,850.00
07/19/01	2,500	\$48.91	\$19.06	\$122,275.00	\$74,625.00
07/20/01	2,500	\$48.66	\$19.06	\$121,650.00	\$74,000.00
07/23/01	2,500	\$47.49	\$19.06	\$118,725.00	\$71,075.00
07/24/01	2,500	\$44.76	\$19.06	\$111,900.00	\$64,250.00
07/25/01	2,500	\$43.83	\$19.06	\$109,575.00	\$61,925.00
07/26/01	2,500	\$45.35	\$19.06	\$113,375.00	\$65,725.00
07/27/01	2,500	\$46.05	\$19.06	\$115,125.00	\$67,475.00
07/30/01	2,500	\$46.25	\$19.06	\$115,625.00	\$67,975.00
07/31/01	2,500	\$45.98	\$19.06	\$114,950.00	\$67,300.00

295,000

\$17,329,635.78 \$11,971,325.78

Partnership Plan Sales

Date	Number of Shares	Sale Price	Cost Basis	Gross Proceeds	Net Profits
05/01/01	1,000	\$63.07	\$20.78	\$63,070.00	\$42,290.00
05/02/01	1,000	\$61.78	\$20.78	\$61,780.00	\$41,000.00
05/03/01	1,000	\$58.73	\$20.78	\$58,730.00	\$37,950.00
05/04/01	1,000	\$58.86	\$20.78	\$58,860.00	\$38,080.00
05/07/01	1,000	\$58.67	\$20.78	\$58,670.00	\$37,890.00
05/08/01	1,000	\$57.00	\$20.78	\$57,000.00	\$36,220.00
05/09/01	1,000	\$57.13	\$20.78	\$57,130.00	\$36,350.00
05/10/01	1,000	\$58.35	\$20.78	\$58,350.00	\$37,570.00
05/11/01	1,000	\$57.53	\$20.78	\$57,530.00	\$36,750.00
05/14/01	1,000	\$58.55	\$20.78	\$58,550.00	\$37,770.00
05/15/01	1,000	\$58.08	\$20.78	\$58,080.00	\$37,300.00

05/16/01	1,000	\$57.25	\$20.78	\$57,250.00	\$36,470.00
05/17/01	1,000	\$55.05	\$20.78	\$55,050.00	\$34,270.00
05/18/01	1,000	\$53.75	\$20.78	\$53,750.00	\$32,970.00
05/21/01	1,000	\$55.14	\$20.78	\$55,140.00	\$34,360.00
05/22/01	1,000	\$55.06	\$20.78	\$55,060.00	\$34,280.00
05/23/01	1,000	\$55.67	\$20.78	\$55,670.00	\$34,890.00
05/24/01	1,000	\$55.11	\$20.78	\$55,110.00	\$34,330.00
05/25/01	1,000	\$53.81	\$20.78	\$53,810.00	\$33,030.00
05/29/01	1,000	\$53.41	\$20.78	\$53,410.00	\$32,630.00
05/30/01	1,000	\$52.95	\$20.78	\$52,950.00	\$32,170.00
05/31/01	1,000	\$53.03	\$20.78	\$53,030.00	\$32,250.00
06/01/01	1,000	\$52.66	\$20.78	\$52,660.00	\$31,880.00
06/04/01	1,000	\$53.88	\$20.78	\$53,880.00	\$33,100.00
06/05/01	1,000	\$54.08	\$20.78	\$54,080.00	\$33,300.00
06/06/01	1,000	\$52.79	\$20.78	\$52,790.00	\$32,010.00
06/07/01	1,000	\$50.63	\$20.78	\$50,630.00	\$29,850.00
06/08/01	1,000	\$50.19	\$20.78	\$50,190.00	\$29,410.00
06/11/01	1,000	\$51.17	\$20.78	\$51,170.00	\$30,390.00
06/12/01	1,000	\$50.91	\$20.78	\$50,910.00	\$30,130.00
06/13/01	1,000	\$50.64	\$20.78	\$50,640.00	\$29,860.00
06/14/01	1,000	\$48.83	\$20.78	\$48,830.00	\$28,050.00
06/15/01	1,000	\$47.80	\$20.78	\$47,800.00	\$27,020.00
06/18/01	1,000	\$46.00	\$20.78	\$46,000.00	\$25,220.00
06/19/01	1,000	\$44.93	\$20.78	\$44,930.00	\$24,150.00
06/20/01	1,000	\$46.11	\$20.78	\$46,110.00	\$25,330.00
06/21/01	1,000	\$45.15	\$20.78	\$45,150.00	\$24,370.00
06/22/01	1,000	\$44.22	\$20.78	\$44,220.00	\$23,440.00
06/25/01	1,000	\$44.78	\$20.78	\$44,780.00	\$24,000.00
06/26/01	1,000	\$43.65	\$20.78	\$43,650.00	\$22,870.00
06/27/01	1,000	\$45.45	\$20.78	\$45,450.00	\$24,670.00
06/28/01	1,000	\$47.47	\$20.78	\$47,470.00	\$26,690.00
06/29/01	1,000	\$49.25	\$20.78	\$49,250.00	\$28,470.00
07/02/01	1,000	\$48.80	\$20.78	\$48,800.00	\$28,020.00
07/03/01	1,000	\$48.80	\$20.78	\$48,800.00	\$28,020.00
07/05/01	1,000	\$49.66	\$20.78	\$49,660.00	\$28,880.00
07/06/01	1,000	\$50.06	\$20.78	\$50,060.00	\$29,280.00
07/09/01	1,000	\$49.40	\$20.78	\$49,400.00	\$28,620.00
07/10/01	1,000	\$49.41	\$20.78	\$49,410.00	\$28,630.00
07/11/01	1,000	\$49.00	\$20.78	\$49,000.00	\$28,220.00
07/12/01	1,000	\$49.54	\$20.78	\$49,540.00	\$28,760.00
07/13/01	1,000	\$49.48	\$20.78	\$49,480.00	\$28,700.00
07/16/01	1,000	\$49.50	\$20.78	\$49,500.00	\$28,720.00
07/17/01	1,000	\$49.64	\$20.78	\$49,640.00	\$28,860.00
07/18/01	1,000	\$49.39	\$20.78	\$49,390.00	\$28,610.00
07/19/01	1,000	\$48.91	\$20.78	\$48,910.00	\$28,130.00
07/20/01	1,000	\$48.66	\$20.78	\$48,660.00	\$27,880.00
07/23/01	1,000	\$47.48	\$20.78	\$47,480.00	\$26,700.00
07/24/01	1,000	\$44.76	\$20.78	\$44,760.00	\$23,980.00

07/25/01	1,000	\$43.87	\$20.78	\$43,870.00	\$23,090.00
07/26/01	1,000	\$45.31	\$20.78	\$45,310.00	\$24,530.00
07/27/01	1,000	\$46.04	\$20.78	\$46,040.00	\$25,260.00
07/30/01	1,000	\$46.25	\$20.78	\$46,250.00	\$25,470.00
07/31/01	1,000	\$45.98	\$20.78	\$45,980.00	\$25,200.00
	64,000			\$3,278,510.00	\$1,948,590.00