THE FINANCIAL COLLAPSE OF ENRON—Part 2

HEARING

BEFORE THE

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OVERSIGHT AND INVESTIGATIONS

OF THE

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COMMERCE
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THE FINANCIAL COLLAPSE OF ENRON—Part 2

THURSDAY, FEBRUARY 7, 2002

House of Representatives,
Committee on Energy and Commerce,
Subcommittee on Oversight and Investigations,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2322, Rayburn House Office Building, James C. Greenwood (chairman) presiding.

Members present: Representatives Greenwood, Bilirakis, Stearns, Gillmore, Largent, Burr, Bass, Tauzin (ex officio), Deutsch, Stupak, Strickland, DeGette, John, Rush, and Dingell (ex officio).

Also present: Representatives Green, Markey, McCarthy, Waxman, and Jackson Lee.

Staff present: Mark Paoletta, majority counsel; Tom DiLenge, majority counsel; Michael Geffroy, majority counsel; Casey Hemard, majority counsel; Jennifer Safavian, majority counsel; Shannon Vildostegui, majority counsel; David Cavicke, majority counsel; Brian McCullough, majority professional staff; Brendan Williams, legislative clerk; William Carty, legislative clerk; Peter Kielty, legislative clerk; Jonathan Cordone, minority counsel; Edith Holleman, minority counsel; Chris Knauer, minority investigator; Courtney Johnson, research assistant; and Jessica McNiece, staff assistant.

Mr. Greenwood. Good morning. This hearing of the Oversight and Investigations Subcommittee of the House Energy and Commerce Committee will come to order, and the Chair recognizes himself for the purposes of an opening statement.

The hearing this morning will be a painful one. We have met to continue our investigation into the collapse of the Enron Corporation. And as our investigations show and as was borne out by Dean Powers' testimony 2 days ago, a number of our witnesses today who are members of the corporate leadership team at Enron who must bear the greatest weight for its collapse.

Four of the witnesses here today will appear only briefly. Mr. Fastow, Kopper, Causey and Buy will all seek the protection against the danger of self-incrimination guaranteed by the Constitution to every citizen in the Bill of Rights. The duty of this subcommittee is to investigate the facts of the matter surrounding the collapse of Enron to determine what went so horribly wrong that the Nation's seventh largest corporation had to seek protection from its creditors by filing for bankruptcy.

And once we have established those facts, we have an obligation to determine how our financial laws and regulations can be improved so that in the future publicly traded companies faithfully and completely report their financial actions and their true financial health. This is the only way to ensure that our investor confidence is restored and that future investors will not suffer the fate that many thousands who watched with horror as the work of a lifetime was swallowed up and their life savings disappeared.

The facts uncovered to date seem clear enough. Two days ago, we heard extensive and informative testimony from William Powers, Dean of the University of Texas School of Law and chairman of the Special Investigative Committee of Enron's Board of Directors, who joined the board this past October solely to investigate the transactions between Enron and various partnerships. Our own investigations into these transactions, along with Dean Powers' illuminating report, carefully detail the complex workings of these related party entities, as they were called.

As the workings of these entities and associated schemes, such as Chewco, LJM1, LJM2, the Raptor transactions, and JEDI, become clearer, they also become more disturbing. In Dean Powers' words, "What we have found is nothing short of appalling." Mr. Fastow, aided by a number of those witnesses subpoenaed here today, shared in huge fees totaling tens of millions of dollars to arrange and participate in bizarre transactions that were, at the least, imprudent; at worst, contrary to the very interests of the company, shareholders and investors they were duty bound to serve, apparently plundering millions at the expense of the company and its shareholders.

In furthering these transactions, we have also learned they failed to follow the most basic rules of accounting. They also failed to adhere to any of the business tenets designed to avoid conflicts of interest. In putting numerous deals together, Mr. Fastow and his subordinates managed apparently to represent both sides to a transaction. The Powers report and the Dean's personal testimony on Tuesday could not have been any clearer or more firm in conclusion that these transactions were not designed to improve Enron's economic health; on the contrary, these deals magnified Enron's risks, hastening the day of collapse.

Sadly, it is increasingly clear that this collapse was not brought about by the isolated acts of rogue employees. A disaster of this magnitude requires the complicity of far more than a few bad apples. From senior managers to corporate directors, to outside counsel and accountants, almost no one who had the power to sound the alarm, correct the situation or prevent this debacle did so.

As I stated earlier, four of the individuals who are the center of these schemes will not testify today: Andrew Fastow, who was Enron's former chief financial officer; Michael Kopper, who was the former managing director of Enron Global Finance. While both of these individuals have provided some documents to committee investigators, they have refused to be interviewed or provide all of the documents in their possession. They also have refused to come before us this morning voluntarily. They have come here under subpoena.

Rick Causey was Enron's chief accounting officer, and Rick Buy was Enron's chief risk officer. We received word yesterday that neither of these individuals will testify today. Fortunately, committee investigators have had the opportunity to interview both Mr. Causey and Mr. Buy about these matters over the last month.

But reluctant witnesses will not keep us from getting at the truth. Again, the facts, our investigation and Dean Powers' report appear to confirm that Mr. Fastow essentially masterminded the transformation of this company into the derivatives trading giant it was. He devised the transactions that were ostensibly aimed at moving volatile holdings off Enron's books—deals we understand now to have been fraudulent.

Mr. Kopper served as his chief lieutenant. He became the general partner of Chewco, whose mysterious dealings accounted for the single largest portion of Enron's financial restatements last November. Mr. Kopper also served as a general manager of Mr. Fastow's two LJM partnerships.

Even without the testimony of Fastow, Kopper, Causey and Buy, we will still be able to get some important answers today. To this end, other witnesses today will include Enron officials who had dealings with Fastow and Kopper and who attempted to alert others in Enron's senior management about the danger these deals represented to the company. We will also hear from Tom Bauer, the Andersen audit partner who worked on the Chewco transactions, who is expected to describe what Enron did and did not disclose about this highly troubling transaction.

Our last panel is comprised of senior Enron officers and directors who approved these partnerships and transactions and were responsible for ensuring the fairness and appropriateness of the transactions in question. Their role in this, for good or ill, also needs to be established, and we want to give them the opportunity to speak for themselves.

We will hear much talk today of such things as derivatives, the practice of hedging and why certain transactions go on the books and others remain undisclosed. We will also learn more than any congressional committee to date on the murkiest of dealings Enron operatives engaged in. We have before Congress, for the first time, a collection of the senior Enron players who knew why decisions were made, why the company chose to pursue this ill-fated course, what the company knew about the risks involved and why they chose to act and not act the way they did. What we learn today I am confident will help this committee continue to construct a full and accurate picture for the public of what happened to cause this financial, personal and corporate tragedy.

One final note: Like many Americans, I have tried to keep some perspective on this whole tawdry affair and to provide some perspective as well, but the truth is that this story of financial collapse and betrayal is of epic proportions. It is almost biblical in scope, so perhaps we need to look beyond all the greedy details of avarice and appetite to a larger lesson that all of us can share. In the 11th Chapter of the Book of Proverbs, the authors offer these prophetic words: "He that troubleth his own house will inherit the wind. And the fool will be a servant to the wise in heart." Perhaps that is the true lesson of Enron's failure.

I now recognize the ranking member of this subcommittee, Mr. Deutsch, the gentleman from Florida, for an opening statement.

Mr. DEUTSCH. Thank you, Mr. Chairman. You know, our work here, I think all of us at this point have a sense, is much more important than really the specifics of this transaction, because we have benefited, everyone in this room, everyone in this country, everyone in the world, from a system of transparency in capital markets that has really gained incalculable results. And I think what we have learned, and we know more than we did a week ago, 2 weeks ago, is that Enron—the system failed, Enron failed, but the system also failed, because stockholders, the public did not know what was going on in the company, and the statements did not fairly represent what the company was doing. And it is absolutely certain that that was done with intent.

We have had a number of staff, maybe up to 20 staff people, trying to unravel Enron, and obviously SEC is working on this as well as the Justice Department. And we had a members meeting with staff yesterday evening where we were briefed, and one of the things that I asked the staff—apparently there are about 4,000 partnerships. I am sure many of the people here could know the exact number, but there were 4,000 partnerships that Enron did. And I asked the staff to try to explain one of them to us of the 4,000, that maybe we can understand one and just understand what was there. So I am going to try—and I asked them for a relatively easy one, maybe the easiest.

This is what they have described as maybe the easiest one. It is the LJM Rhythms transaction structure, and it started out as a normal transaction. Enron made an investment, an IPO, with Rhythms Net, an initial investment of $10 million. That investment then grew to a value of about $400 million Enron had a lockout provision in the IPO that they could not sell the stock, so Enron had a reason to try to lock in the stock price. That is a legitimate business transaction, so they were attempting to buy a put at the strike price. But as opposed to going to Goldman Sachs, what Enron did, and Mr. Fastow, what you did, is you set up LJM Limited Partnership to sell the put to Enron. And what happened was Enron capitalized LJM Partnerships with a value of about $200 million of Enron stock. As soon as that occurred, Mr. Fastow, who won't testify today, took a $30 million management fee as a general partner of LJM Partnership. At the same time, he was the chief financial officer or as part of the management of Enron.

Now, what happened was, actually that partnership then set up a subsidiary which sold the put to Enron, but what happened to the stock value is it kept going down, and as it was going down, Enron kept putting stock into the general partnership. Why we believe this is illegal is that as opposed to buying a derivative from Goldman Sachs where it would be an arms-length transaction and the risk would be borne by Goldman Sachs and they would have a true fee between them, there was no risk for the partnership, because it was guaranteed by Enron stock. And so the $400 million in gain that was attempted to be locked in, that stayed on the books of Enron so anyone who wanted to try to understand what was going on in Enron would look at the books and see a $400 million gain, but, effectively, there was no gain.

I mean this is a scam. This is one of 4,000 scams. It is one of the simpler scams, but, again, our understanding is it wasn't just smart, it wasn't just around the edges, it was in fact fraud, it was a criminal violation, and I think what we are learning as we learn more and more, and hopefully Enron is the exception in America, that the case of Enron—and I hope someone is going to try to defend this today, because I think I want to understand maybe there is another story that we haven't heard from our staff, maybe there is another explanation which we don't understand—but hopefully Enron is in fact the exception in corporate America, that the corporation that is doing this is not living on the edge, looking for the gray area but engaging in illegal activity, is engaged in fraudulent transaction.

And one analogy that I have mentioned at at least one other hearing that I will mention again today, I keep reminding myself of the scene in the Godfather movie where Tom Hogan, who is the attorney for the Godfather, had a meeting with the Godfather, and the Godfather tells him, "Just remember, you can always steal more with a briefcase than with a gun." And I think what we have here is a case where literally about $4 billion was stolen from people, and it was stolen, unfortunately, from people, from real people, thousands of whom are suffering.

And, again, I have read biographies of half the people on the panel who are going to testify and not testify today, and I am sure you are going to have to live with yourselves regardless of the consequences of what happens with all these investigations, but I will tell you on a personal basis, as I look at this, is that I hope you, in the dark night of your own souls, think about some of the people who in fact, throughout the country but particularly in the area of Texas, who literally lost their entire life savings and whose lives, effectively, in ways destroyed because of your actions. Thank you, Mr. Chairman.

Mr. GREENWOOD. The Chair thanks the gentleman and recognizes the chairman of the full committee, the gentleman from Louisiana, Mr. Tauzin.

Chairman TAUZIN. Thank you, Chairman Greenwood. Once again, let me express my gratitude to you, Jim, and to you, Peter, for the extraordinary way in which the subcommittee had conducted its business and has gone about this investigation. And I would be remiss if I did not once again thank my good friend, Mr. Dingell, the ranking member of our committee, for the, again, extraordinary cooperation we are getting on both sides of the aisle in this investigation. Other committees may be proceeding in a partisan, political manner at looking at this matter. I hope Americans recognize the extraordinary way the Democrat and Republican investigative team and this committee and our members are working together to try to get to truth here. And I thank you again, Mr. Dingell, for that cooperation and that effort.

Mr. DINGELL. Thank you, Mr. Chairman.

Chairman TAUZIN. We are getting close to the bottom of this collapse and this mess, and I believe the solid progress this week will help us tremendously, as we determine not only what happened but what we in turn can do to assure that something like this doesn't happen again. We look forward this morning, of course, to the second portion of our hearing into the fraudulent transactions that brought this corporation down.

This past Tuesday, we heard a devastating report from the inside of the corporation, from the chairman of Enron's own investigative committee. This report outlined the extraordinary story of self-dealing, of deception, of bogus statements, or irresponsible management and indeed, I believe, outright fraud. And I say outlined, because Dean Powers in his report did not have the ability, as the committee does, to compel the production of documents or testimony, and it was limited in scope. But it certainly reinforced the very troubling information we have been unearthing in this investigation.

I think it is epitomized by one little line in the first memo that one of our witnesses, Jordan Mintz, wrote on January 4, and I quote, "Nicole has advised that if there is a general theme or guideline to follow in the preparation process of all these deals, it is to be as innocuous as possible in terms of description, detail, et cetera."

Despite all the complicated dealings and cross-dealings and self-dealing we are learning about, I still believe what we have before us is a simple story. It is a simple story of old-fashioned theft and explicable acts—inexplicable acts that allowed the perps to get away and to destroy the company. We know that the senior Enron employees who controlled these transactions, Chewco, LJM1 and LJM2, the Raptors and so many others, participated in self-enrichment schemes at the expense of the company and the shareholders and its own employees.

And yet these schemes could have been stopped with proper oversight by certain senior executives, a few of whom are with us today. Absent their taking action, matters could have been put right by Enron directors who were ultimately responsible for the health of the company and the interests of the shareholders, but that didn't happen. They allowed the CFO to work both sides of the negotiating table. They enabled him to participate in his own risky, high-return transactions but effectively insulated him from the risk. This assured his ability to take away tens of millions of dollars and ensure that Enron would be on even shakier ground as it ensured more risk and riskier proposals.

They allowed sweetheart deals, literally, as we have recently discovered, to take place among senior employees, and they allowed a fraud to be perpetrated on the shareholders. And they told shareholders the company was making money that it was actually losing so the stock price would remain high, so senior officers could sell off their shares and make millions while the vast majority of the workers would be left holding empty pocketbooks. To be sure, the accountants and legal advisors assisted, wittingly or unwittingly, or in the sham transactions. And we will have the opportunity to see how we might resolve some of those perverse incentives that allowed that to happen.

This morning, however, we have the opportunity to question several of the principals who could have prevented this collapse. They have a lot to answer for. We also have a couple of senior officers who attempted to alert those charged with policing those deals to no avail. That is a good story. We will hear from some good officers in the company who smelled the cancer growing inside and tried to do something about it. We will be able to explore today why they failed.

For example, we will have before us Jordan Mintz, the current general counsel for Enron Global Development. He attempted to get then Enron President and CEO Jeff Skilling to sign deal approval sheets, as was required, but he couldn't get Mr. Skilling to sign them. We are going to ask Mr. Skilling today about that. We will find out why those sheets were not signed, why they were signed by everybody else but him. We will have Enron board members, and we can ask them about the oversight of these transactions. And, finally, we have the former CFO, Andrew Fastow, and former managing director of Enron Global Finance, Michael Kopper, who anyway you look at it stood at the very center of the schemes.

Now, they may take the Fifth Amendment today, and they have the right to do so, and we certainly respect that, but as the chairman said, we have other means of getting to the bottom of this thing. Our investigators are doing that. We are doing it in a deliberative, bipartisan way, and we are going to make it available to the American public as we try to not only unravel what went wrong here, but try to make sure again that it doesn't happen again to any other American company, its employees or to those who believe in the system by which investors can trust information upon which they make the judgments when buying and selling stock in this country. We have got a big job to do, today is a big step.

Mr. Chairman, again, I want to thank you for the diligent, extraordinary work you and your minority members are doing for the full committee. And, again, I want to thank Mr. Dingell for his extraordinary cooperation. Thank you.

[The prepared statement of Hon. W.J. "Billy" Tauzin follows:]

PREPARED STATEMENT OF HON. W.J. "BILLY" TAUZIN, CHAIRMAN, COMMITTEE ON ENERGY AND COMMERCE

Thank you Chairman Greenwood. And, once again, allow me to express my gratitude to you, the ranking member, Mr. Deutsch and my friend, Mr. Dingell, the ranking member of the full Committee, for all your cooperation and effort these past two months: The hard work of the staff, on both sides of the aisle, is paying off.

We are getting close to the bottom of the Enron collapse and, I believe, our solid progress this week will help us tremendously as we determine what happened, and as we then turn to what we can do to assure something like this doesn't happen again.

I look forward, this morning, to this second portion of our hearing into the fraudulent transactions that brought this corporation down. This past Tuesday we heard a devastating report from the chairman of Enron's own investigative committee. This report outlined an extraordinary story of self-dealing, deception, bogus statements, irresponsible management and, indeed, outright fraud.

I say outlined because Dean Powers' report did not have the ability, as this Committee does, to compel the production of documents or testimony, and it was limited in scope. But it certainly reinforced the very troubling information we've been unearthing in our own investigation.

Despite all the complicated dealings and cross-dealing, and self-dealing, we are learning, I believe, that what we have before us is a story of simple, old-fashioned theft—and the inexplicable acts, or lack thereof, that allowed the crooks to get away and to destroy a company.

We know now that senior Enron employees who controlled these transactions—Chewco, LJM1, and LJM2, the Raptors, and so many others—participated in self-enrichment schemes at the expense of the company and its shareholders. Yet these schemes could have been stopped with proper oversight by certain senior executives, a few of whom are before us today. Absent their taking action, matters could have been put right by the Enron directors, who were ultimately responsible for the health of the company, and the interests of the shareholders.

But they didn't step up. They allowed the CFO to work both sides of the negotiating table. They enabled him to participate in his own risky, high-return transactions, but effectively insulated him from the risks. This assured his ability to take away tens of millions of dollars, and ensured that Enron would be on ever more shaky ground as it insured these risks.

They allowed sweetheart deals—literally, as we've recently discovered—to take place among senior employees. And they allowed a fraud to be perpetrated on the shareholders. They told shareholders the company was making money that it was actually losing so the stock price would remain high, so the senior insiders could continue to make off with their millions, while the vast majority of workers would be left holding empty bankbooks.

To be sure, the accountants and legal advisors assisted, wittingly and unwittingly, in the sham transactions. We'll have opportunity to see how we might resolve the perverse incentives that allowed this to happen as our investigation continues. (Our Full committee hearing yesterday certainly helped to shine an informed light on some of the questions that we must address on that front.)

This morning, however, we have an opportunity to question several of the principals who could have prevented this collapse; they have a lot to answer for. We also have a couple of senior officers who attempted to alert those charged with policing these deals, to no avail. We'll be able to explore why they failed today.

For example, we have before us Jordan Mintz, current General Counsel for Enron Global Development. He attempted to get then Enron President and CEO, Jeff Skilling, to sign deal approval sheets, as was required, but he couldn't get Skilling to sign. We can ask Mr. Skilling about that, who's before us today as well.

We have Enron board members and can query them about their oversight of these transactions.

And, finally, we have former CFO Andrew Fastow and former Managing Director of Enron Global Finance Michael Kopper, who, any way you look at it, stood at the very center of these schemes. And we have Richard A. Causey, who was chief accounting and compliance officer at the time of these deals, and Richard Buy, who was chief risk officer. These two should have known the risks the company was being subject to, and also had to sign off on the various transactions.

We'd like to ask them a lot of questions, but they plan to invoke their Fifth Amendment rights. Even so, this hearing promises to be informative. I look forward to learning more about the people who brought this company down.

Mr. GREENWOOD. I thank the chairman. Mr. Dingell?

Mr. DINGELL. Mr. Chairman, I thank you, and I want to reiterate the words of our chairman, Mr. Tauzin, that this is a bipartisan investigation, and in it we will work together to get to the bottom of this sorry mess. And I want to commend Mr. Tauzin, the chairman of the committee and also the chairman of the subcommittee for their labors in this and the staff, which has worked together splendidly to bring us to where we are today.

We had hoped today that for the first time in this long investigation of Enron and the sorry matters associated with it that we would hear directly from the people who created the partnerships that brought Enron crashing down while they made millions of dollars for themselves. We had hoped to hear why all this had happened. We had hoped to hear what these people thought about the loss of jobs of thousands of employees and the wiping out of the savings and the retirement of thousands more employees, retirees and investors. Pensions funds and general investors in the market all have suffered because of deceit, misbehavior, grasping self-dealing, wrongdoing of the most scoundrelly and improper fashion.

But I note with some distress that most of the key players are staying silent for what appears to be good reason. We know from the Powers report that key executives misbehaved and that others claim to have been clueless about the wrongdoing which was going on. This leaves them with the unfortunate choice as to whether they were incompetent or corrupt or perhaps both. Clearly, there is room that we can come to all of the above judgments. It is pretty hard to find anybody in this nasty mess to be a person of innocence and character.

For years, they, at Enron, have played fast and loose with their numbers, with their ethics, with their public representations and with their fiduciary duty to the shareholders. As long as the earnings and the stock went up, everyone was happy, and no one needed to know exactly how these numbers were created. Enron's culture, moreover, discouraged anyone from raising objectives. For employees, bonuses and their very jobs depended on being "team players." The infamous "rank and yank" system that got rid of the bottom 10 percent of all employees every year could be, and was, manipulated to get rid of anyone who caused trouble. Enron's executive suite seemed to be the personal sandbox of a group of golden boys who had been clever enough to structure financial vehicles that would take debt and losing assets off the books and turn them miraculously into income. It is interesting to note that lawyers, accountants, officers of the company and others all profited from this.

Mr. Fastow, who almost got "yanked" because of his inability to achieve real earnings in one of Enron's energy divisions, became the star by creating false earnings when he could not create real earnings. Favoritism and chaos reigned in his Global Finance Division, where people with inside information and paychecks from Enron, but their bonuses from LJM2, were negotiating contracts for Mr. Fastow's and Mr. Kopper's partnerships with other Enron employees. If the Enron negotiators were too tough, they sometimes got personal calls from Mr. Fastow. Two people who were engaged to be married were negotiating against each other. Picture that, if you please. One of them actually got a $60,000 payment from one of Mr. Kopper's partnerships for structuring a deal.

Mr. Skilling, the company's president and chief executive officer, was warned about the problems these partnerships were causing in the office. He did nothing except to find another job for the complainant. Nor did others in positions of authority distinguish themselves. There were very few innocent parties in the board rooms and the executive suites at Enron. The board of directors approved these related party transactions, because they were "fast and cheap." In other words, debt and assets could be moved around quickly, and Enron wouldn't have to pay investment bank fees.

Then senior management and the board gave the transactions to the company's chief financial officer, because he would know where to find investors. But as a former Securities and Exchange Commissioner said recently, "A CFO, of all people, has to have an undivided loyalty to the company." And we will inquire, as this goes forward, as to where the loyalty here lay. Such a structure is a recipe for disaster. And a disaster is clearly what followed. Enron, the seventh largest company in the Nation, a darling of Wall Street, a publicly-held company, failed, taking with it the incomes, the savings, the hopes, and aspirations, the dreams of its employees and its retirees.

This committee and this Congress has a duty to find out what happened and to take all necessary action to correct the situation and to prevent the repetition of such a sorry, stinking mess. We may find the scandal is not only what was illegal. A greater scandal may very well be what was legal. Mr. Chairman, I thank you.

Mr. GREENWOOD. And I thank the ranking member of the full committee. The gentleman from Florida, Mr. Bilirakis.

Mr. BILIRAKIS. Thank you, Mr. Chairman. We have a vote on the floor. I won't take long. I do not have prepared remarks. And the others before me and those after me will have gone into many of the details, which——

Mr. DINGELL. Mr. Chairman, could I just note——

Mr. GREENWOOD. Yes.

Mr. DINGELL. [continuing] if you please, one thing. There are a group of Enron employees here hoping for justice, looking to see what has transpired and watching the debates and the considerations in this matter by the committee with considerable interest, and I thank you for that. They are back against the wall over here.

Mr. GREENWOOD. Yes. And I thank the ranking member. The gentleman from Florida will continue.

Mr. BILIRAKIS. Well, thank you. You know, as we sit in these hearings, Mr. Chairman, I just wonder if particularly the executives of Enron and the executives of the auditors realize what they have done, to their stockholders, to their employees of Enron, to America, and to those of us, really, who have always believed, as Mr. Tauzin said, in the business community. You are really shattering the strength that you have always had among those of us who believe very strongly in the system. I can't imagine that you don't realize what you have done. And on the other hand, with the apparent type of mindsets many of you must possess to have done what you have, maybe you really don't realize what you have done.

It took terrorists from other countries to tear this country and really the world asunder. Now we have fellow Americans who have accomplished something that is almost as bad when we take into consideration what Enrons collapse is doing to the stock markets, and what it is doing in the confidence and faith of the American people in a system of auditors, particularly, and in the corporate community. There is a lot of anger here, and I just hope that you all realize that, and you realize that you brought about that anger. Having said that, Mr. Chairman, I yield back. Thank you.

Chairman TAUZIN. I thank the gentleman. The Chair would like to advise the visitors and the participants here today that a vote is occurring on the floor of the House. Members have had to move over to the House floor to make that vote, but we will continue the process of the opening statements so we can get to the witnesses as rapidly as possible. And the Chair recognizes, at this point, the vice chairman of the full committee, the gentleman from North Carolina, the distinguished Mr. Burr.

Mr. BURR. I thank the Chair. Mr. Chairman, Mr. Greenwood said earlier that this was a painful hearing. I agree totally with that. This is also a sick hearing. It is a sick hearing because of the individuals, it is a sick hearing because investors are sick of the lack of transparency that existed in the Enron books. America is sick that greed drove decisions with no regard for the human lives that were affected by it. And today's pain is magnified even greater by the decision of some to say nothing.

I believe that there are individuals that will be asked to testify in front of this committee, and have testified in front of this committee, that believe by remaining silent that the anger will die or that we will go away or that America will forget. For those who have chosen that route, let me assure you the anger will not die, we will not go away, and America will not forget what has happened.

Mr. Chairman, in its heyday, Enron ran a television ad, and its commercial touted their innovative corporation. I now know what that meant. But the Enron ad went on to show the Enron logo at the end, and it said, "Why, why, why?" You know, today we are here with the same logo and the same question, "Why, why, why?" Mr. Chairman, I want to commend you for not only the subcommittee but the full committee's commitment to get the answers to the question, "Why, why, why?" I yield back.

Mr. GREENWOOD. The Chair would gladly yield the gentleman as much time as he chooses. But in the absence of other members prepared to make opening statements now, we are going to suspend for at least 5 minutes until the next member is with us.

[Brief recess.]

Mr. GREENWOOD. The committee will come to order. The guests will please be seated. The Chair recognizes the gentlelady from Colorado for 5 minutes for an opening statement.

Ms. DEGETTE. Thank you, Mr. Chairman, and I want to thank both you and the chairman of the full committee and Mr. Dingell also for these unprecedented last couple of weeks. We have received a crash course in corporate management, special purpose entities and auditing and accounting practices. This debacle has been a sobering revelation of the dark side of arrogance, greed and apparent disdain for legitimate public safeguards. I understand we have a number of Enron employees here today, and I will assure each and every one of you that we will get to the bottom of this, we will find what happened, and we will make sure it never happens again, to the best of our ability.

By the time we finish this investigation, Enron may be the most analyzed, dissected and discussed corporation in history. I don't think any of us like what we have seen. I wonder about the mindset, for example, that allows sketchy partnerships to be created rife with conflicts of interest which are undisclosed. I have tried to conceptualize decisions that allowed lower-level employees, like the folks here today, to lose their life savings while senior executives walked away with millions of dollars without seemingly doing anything for that money. I have come to realize that there are some people who think they are smarter than the system and are willing to risk what is not theirs for personal gain. And I am shocked by the apparent ambivalence, at best, by a board of directors who somehow seems to feel that when employees and officers are self-dealing that these same people, the foxes guarding the henhouse, should somehow come to the board and independently give this information to the board rather than the board ferreting out, which I think is their fiduciary duty.

Mr. Chairman, I have a long opening statement here, but I think I would rather get to what the witnesses have to say, and so I would ask unanimous consent to submit the whole opening statement for the record, and I will yield back the balance of my time.

Mr. GREENWOOD. Without objection, the statement of the gentlelady in its entirety will be incorporated into the record.

[The prepared statement of Hon. Diana DeGette follows:]

PREPARED STATEMENT OF HON. DIANA DEGETTE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Thank you, Mr. Chairman. The last few days have been unprecedented. We have received a crash-course in corporate management, special purpose entities, and auditing and accounting practices. The Enron debacle has been a sobering revelation of the dark side of arrogance, greed, and apparent disdain for legitimate public safeguards.

By the time we finish our investigation, Enron may be the most analyzed, dissected, and discussed corporation in history. I must admit I don't like what I've seen. I've wondered about the mind-set that allows sketchy partnerships to be created rife with conflicts of interest. I've tried to conceptualize the decisions that allowed lower-level employees to lose their life savings while senior executives walked away with millions. I've come to realize that there are some people who think they are smarter than the system and are willing to risk what is not theirs for personal gain.

Mr. Chairman, all of us have tried to comprehend this web of transactions, partnerships, and misinformation. The Powers Report was illuminating. The corporate climate of enrichment and exploitation was shocking. The testimony of Enron and Arthur Anderson principals in the past few days demonstrated little in the way of responsibility or remorse. We can believe one of two stories: either many key people were out of the loop, including the top management and board members, or, many people knew what was going on and turned a blind eye. Either story leads to the same conclusion. There were gross breaches of the board's fiduciary duty. A member of Enron's board of directors will tell us today that it is more important for us to focus on what the board knew when it was approving these highly problematic related-party transactions. I believe it is more important to ask if the board was acting in its true fiduciary duty by attempting to understand and direct the company's business.

In the past few days we have witnessed finger-pointing, denials of involvement, and attempts to side-step questions. But I am waiting for someone who takes responsibility, someone who did know what was going on. In any corporation, management and corporate executives talk about being in charge and making the tough decisions. There must have been a chain of command and internal checks against abuse. Today, I would like to know why Jeffrey Skilling, the former CEO of Enron, failed to make the tough decisions required of him in order to check the conflict of interest of senior Enron executives.

Thanks to the Powers Report, we know that senior management employed tricky transactions called SPE's to transfer risk and cover up liabilities. Investors, government regulators, and employees were duped by the very people who were supposed to shepherd resources and act with fiscal prudence. The management team and the board of directors were hired to protect their employees and to act as wise stewards for the company's resources, to create a sound foundation for strong future growth. That was their job and their fiduciary duty. Now, we have a glimpse of what was really going on. For Enron, business as usual was dirty business.

Take, for example, the failure of Mr. Jaedicke and his audit committee to inquire about the nature of the SPE's and to ensure that Fastow was following the rules. I look forward to hearing what both Mr. Jaedicke and Mr. Winokur, a member of the Enron board, have to say about this.

I have to say that the disappointment of this story cuts very deep. There are some who think this story will end in a week or a month. I don't think so. There are some other corporations who are standing on the sidelines, companies who have engaged in the same practices, thinking they are immune. Well, think again. This committee is not going away in a week or a month. We are going to demand more transparency. We are going to make sure that auditors do their job, and not take millions to rubber-stamp fraud. We are going to get to the bottom of this and then keep going. This bankruptcy will become a landmark, initiating reform and oversight that will force corporations to come clean and stay clean.

I have many questions, as we all do. I am anxious to discuss all of this with our witnesses.

Thank you, Mr. Chairman.

Mr. GREENWOOD. The Chair recognizes, for purposes of an opening statement, the gentleman from Florida, Mr. Stearns.

Mr. STEARNS. Thank you, Mr. Chairman, and let me again compliment you and the staff for a very thorough job here investigating something as we look into more deeply gets worse and worse.

When you look at the presentation that Mr. Deutsch provided, it is probably a little complicated to most Americans, but I would give the analogy, it is basically the analogy of the special purpose entities. Enron was putting money in their right pocket of approximately, let us say, $10 and then pulling out a fictitious amount of $400 out of the left pocket and calling that income. Obviously, this is a case of failure to disclose, and it will be up to the Justice Department to prosecute this and to ferret out all the details.

What we can do today, though, is to bring attention to this type of operation. When the Securities Act of 1993 was passed, the whole intent was that these individuals would provide disclosure. My colleagues, in capitalism, in a free market, unless there is a sense of compunction, a sense of consciousness, we can legislate till hell freezes over and we won't be successful. It is dependent upon men and women to put forth some honesty, and obviously it was not here.

I was alarmed to read in the Wall Street Journal that the top executives at Enron shielded their pension benefits. It wiped out the retirement saving of its workers, but they had the gall, the unmitigated gall to have financial dealings where, for example, Enron Chairman Kenneth Lay used a private partnership to protect millions of dollars worth of executive pension benefits. So the more we look into this, the more appalling it gets.

I imagine we are going to encounter today from Mr. Skilling what is called this plausible deniability regarding his role or knowledge of these transactions. However, I believe you will find this panel extremely skeptical as our investigation has uncovered numerous warnings, some directly reporting—that were reported to Mr. Skilling as to the problems with the various transactions. We have the Watkins memo to Ken Lay in August, which also mentioned former executive Cliff Baxter's conversation to Skilling regarding these transactions. We also have before us today Mr. McMahon, former treasurer, now president and COO of Enron, who also repeatedly raised concerns. And Jordan Mintz, former general counsel of Enron Global Finance and current general counsel of Enron Global Development, who also raised concerns. There are plenty of flags. People were just denying the facts. Arthur Andersen, in its role, appeared to have acquiesced in these dealings, despite concerns raised internally in a February 2001 memo.

And, again, I would like to quote, as the chairman has, both the chairman of the full committee and the chairman of the Oversight Committee, from the Powers report that these transaction consisted of, "a flawed idea, self-enrichment by employees, inadequately designed controls, poor implementation, inattentive oversight." We are indeed uncovering more and more information. Unfortunately, many of the folks today will use the Fifth Amendment, which they are entitled to do. But that leaves the general impression that something occurred here which was wrong, and they are afraid to incriminate themselves.

I would close, Mr. Chairman, by saying that something is going on here in space and time and that we, as Members of Congress, have a fiduciary responsibility to ferret out the details and facts for the American people, and it is an awesome responsibility. And I yield back the balance of my time.

Mr. GREENWOOD. The Chair thanks the gentleman and recognizes, for an opening statement, the gentleman from Louisiana, Mr. John.

Mr. JOHN. Thank you, Mr. Chairman. On Tuesday, this committee had an opportunity to review and discuss the Powers report. It provided the subcommittee with at least a little glimpse into the questionable and, more likely, criminal activities that contributed to Enron's financial collapse. Yesterday, the full committee had an opportunity to hear from experts in the auditing and accounting field about what we can learn from the lessons of Enron. Today, however, is the main event. While it appears that we will learn from the first three panels, at most, their ability to recite the Fifth Amendment, I am hoping that the remaining witnesses can shed a little more light in the numerous partnerships and transactions and businesses with Enron.

It is important to remember, from a committee standpoint, that we, the members, do not sit as prosecutors, judges, or jury members in determining the guilt or innocence of our panelists. I have confidence in the ability of the U.S. Department of Justice to pursue justice of what clearly to me appears to be securities fraud, insider trading and obstruction of justice.

The illegal and unethical conduct of Enron officers and managers is an important component in our congressional investigation, but it is the legal loopholes and business practices of companies exemplified by Enron's use of, quote, "aggressive accounting," that I feel is our primary charge of this subcommittee. We cannot protect against every bad actor in corporate America who decides to willfully break the law, although we can make sure that the tools are available to regulators so that we can catch them. We can, however, make sure that shareholders and investors are not misled by inadequate disclosure, conflicts of interests or may I quote from the Powers report, "walking conflicts of interest," and a lack of independence in the performance of auditing functions.

Mr. Chairman, I believe today we have the architects of Enron's house of cards, and I am eager to hear from Mr. Skilling and others, their views and their roles in the eventual collapse. The Powers report concluded that many of the partnerships created by the first three witnesses were, from the very beginning, fraudulently created, because they transferred no risk and were designed for the very sole purpose of shifting debts and liabilities off balance sheets. Worse still, these related party transactions allowed Mr. Fastow and others to enrich themselves with extraordinary compensation packages which hardly seem justified since these are the very transactions that created the chain reaction that destroyed the company, the seventh largest company and the largest bankruptcy in the history of America.

I do not wish to paint all of the witnesses with one and the same broad brush. Mr. Mintz, for example, had the good sense to recognize the conflict of interest by Enron employees serving in positions in both the company of Enron and the partnerships, one of which was LJM, and made efforts many times to raise these concerns. Perhaps he can explain, and I am eager to hear from him, to the subcommittee why so few others appear to have recognized or expressed the same concerns.

Mr. Chairman, no one on this committee wants to see a repeat of the events that brought down Enron. Hindsight often gives us 20/20 vision in many things that we do, and our challenge is to use these lessons that we will learn to make sure that there is no repeat performance in corporate America. Our efforts will not restore the retirement savings of Enron employees who watched their 401(k) plans evaporate, nor will it return investors' billions of dollars in equity that disappeared in a very, very few short months. However, with your continued leadership, Mr. Chairman, and the chairman of our subcommittees, we can get to the bottom of this mess and take legislative action so that this will never happen again.

With that, I yield back the balance of my time so that we can hear from the people the Powers Report identifies as largely responsible for this American corporate disaster. Thank you, Mr. Chairman.

Mr. GREENWOOD. The Chair thanks the gentleman and recognizes, for an opening statement, the gentleman from New Hampshire, Mr. Bass.

Mr. BASS. Thank you, Mr. Chairman, and I will be brief. We have had a series of hearings on this issue, and we have become educated. The more we learn, the more nauseating the whole story becomes. There are issues of insider trading, nondisclosure, possible obstruction of justice, irregular accounting practices, the list goes on.

A number of the witnesses will take the Fifth Amendment today, which is understandable. One, Mr. Skilling, will testify, I suspect, as he said in a December that what happened to Enron was a tragedy but one for which—but not one for which he was responsible. He said in his interview, quote, "I didn't do anything wrong."

Well, I don't know whether ethics or morality or cruelty or inhumanity are really right or wrong; I think they are wrong. I hope that after we beyond the question of who wrote what memo to who, who put whose signature on a memo, the complexity of all the transactions are finally bared and the horrible truth becomes evident that we really ask as a committee how much illegality occurred, firstly, and, second, what we can do as a full committee to make sure that this tragedy perpetrated by these business cowboys never happens again.

I appreciate this hearing process. I think it is going to be long, difficult, but ultimately I think the investment world will be better off and the capital markets will be more reliable and honest as a result of our efforts today and the days to come. I yield back.

Mr. GREENWOOD. The Chair thanks the gentleman and recognizes, for an opening statement, the gentleman from Illinois, Mr. Rush.

Mr. RUSH. Thank you, Mr. Chairman, for what has been the third hearing this week on this particular matter. Before I begin, I want to call your attention to the attention of the members of this committee that present in the room today we have one of the world's most outstanding citizens, a man who I have known for many, many years, for decades even, a man who has played in pivotal role in my life on more than one occasion, a man who is now fighting for the Enron employees, the Reverend Jesse L. Jackson. So would you please acknowledge him, Mr. Chairman, that Reverend Jackson is in the room with us today.

Mr. GREENWOOD. The Chair welcomes the gentleman, Mr. Jackson, to our proceedings this morning.

Mr. RUSH. Mr. Chairman, I want to thank you for holding this hearing, and I intend to be brief. I understand those of you who have come under the most public scrutiny intend to avoid questioning this morning. And for those of you who refuse to testify and know your guilt, I ask you, was it worth it? Was the selling of your morals worth it? Was the selling of your souls worth it?

In my State alone, the State of Illinois, State pension plans lost a total of $34 million out of a total $1.4 billion nationwide that was lost. This was money, hard-earned money set aside to provide secure retirement for thousands of citizens who have dedicated their lives to public service. These are the teachers who help raise our children and educate our children. These are the police officers who patrol our streets and protect our families and our homes. These are public servants who keep our cities and our towns and our villages running on a day-to-day basis.

The money—these pensions were supposed to fulfill these workers' hopes and their dreams and provide a secure retirement for them. This morning, millions of dreams have been deferred, if not lost. This very morning, millions of dreams have been denied. Parents are anguishing over how they will afford their children's education. Elderly workers are being forced to put off retirement indefinitely. And America's sense of financial security has been shaken at its very core.

Mr. Chairman, more than having these men explain their actions to the Nation, more than making sure that the guilty are punished, this hearing is about returning the financial stability and sense of economic interest in security to our Nation. Just as the World Trade Center bombers have shaken the sense of personal security for millions of Americans, the Enron catastrophe has left our public without a sense of economic security. At the center of this economic meltdown, we find a handful of economic terrorists. But unlike most terrorists who base their actions on twisted and perverse ideas of justice and righteousness, the economic terrorists at Enron had one cause: selfishness and greed.

So as we begin today's hearing, I ask each of you who profited from the downfall of thousands whether it was worth it. I suspect that some of you may answer yes; however, I sincerely hope that you live long enough to regret that particular sentiment. Thank you, Mr. Chairman, and I yield back the balance of my time.

Mr. GREENWOOD. The Chair thanks the gentleman and recognizes, for purposes of an opening statement, the gentleman from Oklahoma, Mr. Largent.

Mr. LARGENT. Thank you, Mr. Chairman. I too will be brief in an effort to move this hearing forward and try to bring a little perspective and balance to my comments here.

Mr. Chairman, as you know, last night we prepared for this subcommittee hearing. Our subcommittee and staff met about six o'clock last night, and I was particularly impressed by some comments that you made that I felt like really brought some focus for the purpose and intention of this hearing. It is not a time for us demagogue, although there is a lot of that going on, or even to prosecute. That is up to the Justice Department to figure out what laws currently on the books that have been broken, and I am sure that they will do a competent job of that.

But, rather, the purpose for this hearing is to find out the laws that were not broken but the things that were done in this Enron debacle that were legal but perhaps shouldn't be. And I think that is the purpose of this hearing, and I look forward to hearing the testimony of the folks that are on the panels today so that we can find out and help prevent, perhaps, through the passage of additional laws that are not on the books but should be. And so, Mr. Chairman, with that, I thank you for holding this hearing, and I look forward to the testimony and yield back my time.

Mr. GREENWOOD. The chairman thanks the gentleman and agrees with him and recognizes, for an opening statement, the gentleman from Michigan, Mr. Stupak.

Mr. STUPAK. Thank you, Mr. Chairman. Over the past several weeks, we have held numerous hearings to explore this house of cards that was once the might Enron Corporation. Yesterday, we heard from a panel of experts who walked through the accounting principles, the legal, ethical and moral principles that should be adhered to in corporate America. In the past, we have heard from Andersen employees about the shredding of documents and the destruction of e-mails that went on in an effort, I am sure, to cover up this whole mess. We have heard from Mr. Powers about his commission is finding and the actions of several Enron employees to set up special purpose entities to assist in cooking the books at Enron. We have heard and read about the totality lax oversight by Mr. Lay, Mr. Skilling and other executives on Enron's Board of Directors.

Enron's Board of Directors gave dangerous flexibility to Mr. Fastow in allowing him to establish several of these special purpose entities. They, the board of directors, supposedly put in a number of checks and balances in place when they waived their conflict of interest provisions, but thus far all the checks we have seen, tens of millions of dollars worth, went into bank accounts of Mr. Fastow and others. There certainly were, there certainly were no checks or balances in the equations and no follow-up to make sure the company wasn't being bilked.

We have learned new terms like aggressive accounting, which in this case translates, I believe, into making individuals richer while we sticking it to the shareholders and the workers. I am glad to see some of the Enron workers here today who gave so much and lost so much. This new aggressive accounting I believe is the result of a new cavalier attitude in corporate America since the passage of the Securities Litigation Reform Act of 1995, or, as some of us refer to it, the Securities Rip-Off Act. As I look at all that has happened, this new law, what it does, it insulates corporations from legal actions by putting up roadblocks so employees and stockholders cannot take legal actions when the books have been stacked against them.

Mr. Chairman, it will be difficult, if not impossible, for Enron to emerge as a credible company from bankruptcy without a comprehensive and complete purging of all Enron executives and board members who were at the helm during this whole debacle. They must be held accountable, and I hope the shareholders and the employees of Enron will do themselves a favor and get a true board of directors and new management team.

Mr. Chairman, I could go on with my statement, but I am going to yield back the balance of my time, because I am really interested to see who is going to testify, who is not going to and look forward to the questioning and cross examination. I appreciate your leadership in this whole matter. We have spent a lot of time together the last couple of weeks and I look forward to continuing on this Enron mess. Thank you.

Mr. GREENWOOD. The Chair thanks the gentleman, and we are almost there. The Chair recognizes the gentleman from Ohio, Mr. Strickland, for an opening statement.

Mr. STRICKLAND. Thank you, Mr. Chairman. Today, we are taking an in-depth look at the corporate thievery and greed that resulted in the collapse of Enron. Thousands of people lost their jobs and their retirement savings. Investors and shareholders lost billions in debt and equity. Plans and dreams of these people have gone up in smoke. The American people have lost faith in the stock market, because they don't know if they can believe what publicly held companies and their auditors are telling them about profits and losses. Enron's earnings weren't real, because they used financing and accounting slights of hand so complex that even sophisticated analysts could not read them.

Some of the people most responsible for this disaster are before us today and will take the Fifth Amendment. They are the ones who violated their fiduciary duty to Enron's shareholders, but apparently they are seeking even more. According to the press yesterday, Mr. Causey and Mr. Buy are currently negotiating their severance packages from Enron, as is Kenneth Lay, the former president. Let us review for a moment how some of these people have already benefited from their Enron stock in addition to their most generous salaries.

Mr. Causey, who was the chief accounting officer, has cashed out to the tune of $13.3 million. Mr. Buy received over $7 million in proceeds in 2001 alone. Kenneth Lay, Enron's former chairman and chief executive officer, made $18 million in salary and compensation in 2000 and received over $100 million in stock sale proceeds. He promised last year that he would give up his $60.6 million severance package, but now he wants a severance package also it seems. Mr. Skilling, who took out $67 million in profits, plus his generous salary, got a consulting contract with Enron when he left. We will want to know more about his severance package today. Mr. Fastow got only $30 million in stock proceeds from Enron, but he took another $30 million out with his side deals. Mr. Kopper got at least $10 million.

Over 4,000 former Enron employees who lost their jobs in the Enron debacle were given, for the most part, $4,500 in severance pay to get through a transition period. Some of them are in dire straits, as are a number of people with pension plans heavily invested in Enron stock. I think it would be appropriate to provide Mr. Lay, Mr. Causey and Mr. Buy each with $4,500 in severance pay to help them through a transition period. Any additional claims they may have should be part of the thousands of claims of the uninsured creditors that the bankruptcy court will handle. One cent on the dollar might be an appropriate recovery.

Whether the actions we have uncovered are illegal or legal will be determined, but we do know they were certainly unethical and immoral. Now, perhaps that is not important to the Enron business executives who have tried to walk away embarrassed but rich, but it is important to the American people, and it must be important to those of us who were elected to represent the people. Consequently, we must do everything, Mr. Chairman, to see that whatever is necessary is done to see that such happenings never happen again. Thank you.

Mr. GREENWOOD. The Chair thanks the gentleman and now calls forward our first witness. Our first witness is Mr. Andrew S. Fastow, former chief financial officer, Enron Corporation. Mr. Fastow is here, pursuant to a subpoena served earlier this week. Mr. Fastow, if you will please be seated at the table.

Mr. Fastow, you are aware that the committee is holding an investigative hearing and when doing so has had the practice of taking testimony under oath. Do you have any objection to testifying under oath?

Mr. FASTOW. No, sir, I do not.

Mr. GREENWOOD. Thank you. The Chair then also advises you that under the rules of the House and rules of the committee, you are entitled to be advised by counsel. Do you desire to be advised by counsel during your testimony today?

Mr. FASTOW. Yes, Mr. Chairman. My counsel, Mr. John Keker, is seated next to me.

Mr. GREENWOOD. Okay. For the record, could you spell Mr. Keker's name for us.

Mr. KEKER. K-E-K-E-R.

Mr. GREENWOOD. Thank you, Mr. Keker. In that case, would you please rise and raise your right hand, and I will swear you in.

[Witness sworn.]

Mr. GREENWOOD. In that case, you are now under oath, and you may give a 5-minute summary of your written statement. Do you have an opening statement, sir?

Mr. FASTOW. No, sir; I do not.

Mr. GREENWOOD. Okay. In that case, the Chair will then recognize himself for questions to the witness. Mr. Fastow, you were the CFO of a Fortune 10 company, a full-time, to be sure. Yet somehow you managed to also run to private equity funds, using your insider status at Enron to attract investors and enrich yourself by tens of millions of dollars by doing deals, and highly questionable deals at that, with your own company. You also, we have learned, used your power, position and influence to threaten and pressure Enron employees in an attempt to obtain favorable terms for your private partnerships.

The question, Mr. Fastow, is how could you believe that your actions were in any way consistent with your fiduciary duties to Enron and its shareholders or with common-sense notions of corporate ethics and propriety? How do you answer, sir.

Mr. FASTOW. Mr. Chairman, I would like to answer the committee's questions, but on the advice of my counsel, I respectfully decline to answer the question based on the protection afforded me under the Constitution of the United States.

Mr. GREENWOOD. Let me be clear, Mr. Fastow. Are you refusing to answer the question on the basis of the protections afforded to you under the Fifth Amendment of the United States Constitution?

Mr. FASTOW. Again, Mr. Chairman, on the advice of my counsel, I respectfully decline to answer the questions based on the protection afforded me under the United States Constitution.

Mr. GREENWOOD. And will you invoke your Fifth Amendment rights in response to all of our questions here today?

Mr. FASTOW. Yes, sir, Mr. Chairman.

Mr. GREENWOOD. Okay. We regret that, but it is your right. It is therefore the Chair's intention to dismiss the witness, but the committee, of course, reserves all of its rights to recall the witness at any time. Mr. Deutsch, do you agree with our decision?

Mr. DEUTSCH. Mr. Chairman, normally I would very easily, but I think that this might be the only time that we are going to have any chance in the public setting to even attempt to ask Mr. Fastow questions. And I know he is intending to invoke his Fifth Amendment prerogative, which I take very seriously, but at the same time, within the constraints that he has, and he has that right, I would ask him if there is any area that he feels he can discuss, any questions within the area of his—so our understanding—I mean I just got rebriefed by our staff on the Rhythms transactions, and still—and there will be some people who testify, but obviously this is a transaction that you set up, that you were the general partner of and the CFO at the time.

Mr. GREENWOOD. The Chair must note that we would all, of course, like to question Mr. Fastow, but we have had our discussions with his attorney. It was clear to Mr. Fastow and to his attorney that should he invoke his Fifth Amendment to which he is entitled, we would dismiss him and we have not had this conversation up until this moment. So the decision of the chairman is firm, and Mr. Fastow, you are dismissed, and you may be on your way.

Mr. FASTOW. Thank you, Mr. Chairman.

Mr. GREENWOOD. The Chair then would call forward our next witness, Mr. Michael J. Kopper, former managing director of Enron Global Finance. Good morning, Mr. Kopper.

Mr. KOPPER. Good morning, Mr. Chairman.

Mr. GREENWOOD. Mr. Kopper, do you have an opening statement?

Mr. KOPPER. No, I do not.

Mr. GREENWOOD. Okay. You are aware, Mr. Kopper, that this committee is holding an investigative hearing, and it is a custom and the practice of this committee when holding an investigative hearing to take our testimony under oath. Do you have any objection to testifying this morning under oath?

Mr. KOPPER. No, I do not.

Mr. GREENWOOD. Okay. The Chair should then advise you that under the rules of the House and the rules of the committee, you are entitled to be advised by counsel. Do you desire to be advised by counsel during your testimony today?

Mr. KOPPER. I do, and I am.

Mr. GREENWOOD. And would you identify your counsel, please?

Mr. KOPPER. I have Mr. Wallace Timmeny and David Howard here as my representatives.

Mr. GREENWOOD. And could you, Mr. Kopper, please pull your microphone a little closer——

Mr. KOPPER. Yes.

Mr. GREENWOOD. [continuing] and make sure we can hear you? And if your attorneys would spell their last names for the record.

Mr. TIMMENY. Timmeny is T-I-M-M-E-N-Y.

Mr. HOWARD. And Howard is H-O-W-A-R-D.

Mr. GREENWOOD. I thank the gentlemen. In that case, Mr. Kopper, would you rise and raise your right hand, and I will swear you in.

[Witness sworn.]

Mr. GREENWOOD. You have already indicated, Mr. Kopper, that you did not come with an opening statement, and so the Chair will then recognize himself for questions.

Mr. Kopper, according to the committee's investigation and the Powers report, you violated Enron's code of conduct by investing in partnerships doing business with Enron without board approval and corrupting others at Enron to join you in your dubious enterprises. You enriched yourself at Enron's expense to the tune of more than $10 million, and you used your power, position and influence within Enron to threaten and pressure Enron employees in an attempt to obtain favorable terms for your private partnerships. Can you, sitting her under oath, truly deny any of this?

Mr. KOPPER. Mr. Chairman, I respectfully decline to answer the question based on my right under the Fifth Amendment to the United States Constitution not to be a witness against myself.

Mr. GREENWOOD. Let me be clear, Mr. Kopper. Are you refusing to answer the question on the basis of the protections afforded to you under the Fifth Amendment to the U.S. Constitution?

Mr. KOPPER. Yes, I am.

Mr. GREENWOOD. Will you invoke your Fifth Amendment rights in response to all questions here today?

Mr. KOPPER. Yes, I will.

Mr. GREENWOOD. It is therefore the Chair's intention to dismiss this witness, but the committee, of course, reserves all of its rights to recall the witness at any time. Mr. Deutsch, would you concur in this?

Mr. DEUTSCH. Yes.

Mr. GREENWOOD. Okay. Mr. Kopper, you are dismissed.

Mr. KOPPER. Thank you, Mr. Chairman.

Mr. GREENWOOD. And the Chair calls forward Mr. Richard B. Buy, chief risk officer of Enron Corporation, and Mr. Richard A. Causey, chief accounting officer, Enron Corporation. Good morning, Mr. Buy and Mr. Causey. You gentlemen are aware, I believe, that the committee is holding an investigative hearing, and as you have heard, when doing so we have the practice of taking testimony under oath. Do either of you have any objection to testifying under oath?

Mr. CAUSEY. No, sir.

Mr. BUY. No, I don't.

Mr. GREENWOOD. Hearing no such response, the Chair then advises you that under the rules of the House and the rules of the committee, you are entitled to be advised by counsel. Do you desire to be advised by counsel during your testimony?

Mr. CAUSEY. I do.

Mr. GREENWOOD. Mr. Causey, would you identify your attorney?

Mr. CAUSEY. Yes, Mr. Reed Weingarten.

Mr. GREENWOOD. Mr. Weingarten, would you spell your last name for us, please?

Mr. WEINGARTEN. W-E-I-N-G-A-R-T-E-N.

Mr. GREENWOOD. Mr. Buy, do you choose to be represented by attorney?

Mr. BUY. Yes, I do.

Mr. GREENWOOD. And can you identify your attorney for us, please?

Mr. BUY. Mr. J.C. Nickens.

Mr. GREENWOOD. Mr. Nickens, would you spell your last name, please?

Mr. NICKENS. Yes. That is N-I-C-K-E-N-S.

Mr. GREENWOOD. Okay. In that case, gentlemen, if you would both rise, I will administer the oath.

[Witnesses sworn.]

Mr. GREENWOOD. Thank you. You may be seated. You are both under oath. Mr. Buy, do you have an opening statement?

Mr. BUY. No, I don't.

Mr. GREENWOOD. Mr. Causey, do you have an opening statement?

Mr. CAUSEY. Yes, sir; I do.

Mr. GREENWOOD. Okay. The Chair recognizes the gentleman, Mr. Causey, for 5 minutes for an opening statement.

TESTIMONY OF RICHARD A. CAUSEY, CHIEF ACCOUNTING OFFICER, ENRON CORPORATION; AND RICHARD B. BUY, CHIEF RISK OFFICER, ENRON CORPORATION

Mr. CAUSEY. Mr. Chairman, members of the committee, I am appearing here today voluntarily at the request of the committee. As you may be aware, a few days ago I was advised by my Enron-provided counsel that he could no longer represent me. I immediately undertook a search for new counsel, and within the past 24 hours I have retained the services of Steptoe, Johnson, Collier & Shannon. My new counsel has been unable to provide me meaningful advice during this brief period.

I, therefore, respectfully requested a brief delay. I was informed by the committee staff that notwithstanding these facts my presence today was desired by the committee. Out of respect for the committee, I have voluntarily appeared. However, without the benefit of meaningful opportunity to consult with counsel, I am respectfully unable to answer questions from the committee at this time. Therefore, on the advice of counsel, I will respectfully decline to answer questions by the committee. Thank you.

Mr. GREENWOOD. I thank the gentleman for your statement. The chairman and the committee are disappointed that we will not be able to receive your testimony today. We know that you had prepared extensively for interviews with our staff, and we thought that would have sufficed. The facts have not changed, but we do understand the change in your legal representation and pleased that you are here as well.

I am going to ask a question to both of you gentlemen. Both of you gentlemen were specifically charged by the board of directors with the responsibility to ensure that the transactions between Enron and LJM Partnerships were truly arms-length transactions, beneficial to Enron and its shareholders. We now know that many of those transactions were anything but beneficial to Enron, and in fact contributed mightily to Enron's dramatic collapse. Do you believe, gentlemen, by your actions or your inactions, you failed Enron's employees and shareholders? Mr. Causey, would you respond to that question?

Mr. CAUSEY. Mr. Chairman, on the advice of counsel, I will respectfully decline to answer that question.

Mr. GREENWOOD. Let me be clear, Mr. Causey. Are you refusing to answer the question on the basis of the protections afforded to you under the Fifth Amendment to the U.S. Constitution?

Mr. CAUSEY. Yes, sir, I am.

Mr. GREENWOOD. Will you invoke your Fifth Amendment rights in response to all questions here today, Mr. Causey?

Mr. CAUSEY. Yes, sir, I will.

Mr. GREENWOOD. Okay. Mr. Buy, how do you respond to the question?

Mr. BUY. For the reasons outlined in a letter submitted to the committee last night and on the advice of counsel, I respectfully decline to answer any questions.

Mr. GREENWOOD. Mr. Buy, let me be clear. Are you refusing to answer the question on the basis of the protections afforded to you under the Fifth Amendment to the U.S. Constitution?

Mr. BUY. Yes.

Mr. GREENWOOD. And will you invoke your Fifth Amendment rights in response to all of our questions here today, Mr. Buy?

Mr. BUY. Yes, I will.

Mr. GREENWOOD. In that case, it is the chairman's intention to dismiss both of these witnesses, but the committee, of course, reserve all of its rights to recall the witnesses at any time. Mr. Deutsch, do you concur in this decision?

Mr. DEUTSCH. Yes.

Mr. GREENWOOD. Gentlemen you are, and your attorneys are, excused.

The Chair then would call forward Mr. John Olson, of Sanders, Morris and Harris, senior vice president and director of Research; Mr. Thomas H. Bauer, partner at Andersen LLP; Mr. Jeffrey McMahon, president and chief operating officer, Enron Corporation; Mr. Jordan Mintz, vice president and general counsel for Corporate Development.

Good morning, gentlemen. Gentlemen, I believe that you are aware that this committee is holding an investigative hearing, and that it is the practice of this committee when holding an investigative hearing to take testimony under oath. Do any of you object to providing your testimony under oath?

Seeing no such objection, the Chair would then advise you that under the rules of the House and the rules of this committee, you are entitled to be advised by counsel. Do you desire to be advised by counsel during your testimony. Mr. Olson?

Mr. OLSON. No.

Mr. GREENWOOD. Mr. Bauer?

Mr. BAUER. Yes, I do.

Mr. GREENWOOD. Would you identify your attorney, sir?

Mr. BAUER. Mr. Scott Schreiber.

Mr. GREENWOOD. Would you spell his last name, please?

Mr. SCHREIBER. S-C-H-R-E-I-B-E-R.

Mr. GREENWOOD. Thank you. Mr. McMahon?

Mr. MCMAHON. Yes, I do. And my counsel is Mr. Levy, L-E-V-Y.

Mr. GREENWOOD. Thank you, sir. Mr. Mintz?

Mr. MINTZ. Mr. Chairman, also Mr. Levy is representing me.

Mr. GREENWOOD. Okay. In that case, gentlemen, if you would rise, raise your right hands, I will swear you in.

[Witnesses sworn.]

Mr. GREENWOOD. You are now under oath. The Chair would advise the witnesses and the audience that two votes have just been called on the floor of the House, and we know you have waited a good while already, but it will take at least 25 minutes for us to get over and make these two votes and come back. We will adjourn for 20 minutes and see if we cannot resume then. This hearing is suspended.

[Brief recess.]

Mr. GREENWOOD. The committee will reconvene. Again, we thank the witnesses and apologize for the break there. There will not be any more for the afternoon, so we won't have those interruptions. Mr. Olson, you are recognized for 5 minutes for your opening statement, sir.

TESTIMONY OF JOHN OLSON, SENIOR VICE PRESIDENT AND DIRECTOR OF RESEARCH, SANDERS, MORRIS, HARRIS; THOMAS H. BAUER, PARTNER, ANDERSEN LLP; JEFFREY MCMAHON, PRESIDENT AND CHIEF OPERATING OFFICER, ENRON CORPORATION; AND JORDAN H. MINTZ, VICE PRESIDENT AND GENERAL COUNSEL FOR CORPORATE DEVELOPMENT, ENRON CORPORATION

Mr. OLSON. Thank you very much, Mr. Chairman, members of the committee. I am a securities analyst from Houston, Texas, and I have been covering Enron since before it was Enron. I have had the distinction, I guess, of not having recommended it for the last 10 plus years until the very end when the company was sinking fast.

Thank you for the opportunity to discuss some very, very important credibility issues for Wall Street and the American public, which have been created by the collapse of Enron. I will be mercifully brief. There has been tremendous collateral damage in the capital markets since Enron went down 2 months ago. It is still ongoing. You can help bring it to a stop. Your own confidence in the investing process must have already been sorely tested after all that you have heard. I hope my comments can provide a securities analyst perspective on what went wrong and how we could fix it. With the help, perhaps, of 20/20 hindsight, let me try to answer.

Enron was good at some things, but it was great at gaming the system. It gamed us on Wall Street, it may have gamed its auditors and outside counsel, but it also seems some insiders were gaming Enron proper and they were gaming each other. The Wall Street gaming was principally from the partnerships or the special purpose entities. They involved marketing marginal assets with marginal accounting and marginal financial structures. All of these involved bankers, rating agencies and private placement people.

What they did not involve, I might point out, were stock analysts like myself. We never saw or were never even aware of these deals. They were considered confidential or privileged by Enron and obviously for Enron's particular reasons. If you had asked me how many partnerships Enron had last October before this situation blew up, I would have told you maybe five or so, I mean just what they had disclosed in the annual report, not hundreds, not thousands. No one's quite sure of just what the number came to be. All of this was happening in something of a parallel universe.

The revelations about these deals were what sank the Enron ship. Phony earnings and phony equity absolutely destroyed all investor confidence in a stock which had risen 40 percent annually for the last 5 years. Portfolio managers had loved the stock; didn't like it, loved the stock. Despite numerous blunders and diversification fiascos, it didn't matter. The stock was going up 40 percent a year. It was a tide lifting all the boats. Then disaster struck. The wheels fell off in mid-October, and in only 6 weeks time the company was gone. It took Long-Term Capital Management 5 weeks.

Where were the analysts then and were they compromised? Yes and no. Let me explain. Enron paid out lots of investment banking fees. The bankers loved Enron. Enron loved analysts' strong buy recommendations. Guess what happened? It got them, lots of them. This is an abuse. When the worm turned and Enron's stock price fell from 90 to 80 to 50 to 20 to 10 to 5 and so forth, all the way down to zero, the opinions didn't really change until the bitter end. Analysts are typically smart people, my competitors especially are a lot smarter than I am. They can get out of the way of a freight train, and this was a freight train. They didn't. Why not? I think it was the culture that was developed over what I call the crescendo phase of the bull market over the last 5 years, where, again, investment banking had a major influence in research.

Ladies and gentlemen, if you want to restore confidence in this system and restore the integrity of research to where it belongs, then you need to take away some of the marbles here. We will not miss them. In my filed testimony, I urge you to sharply restrict flaky accounting or energy contracts like mark-to-market accounting or fair value accounting for marginal assets. These do not pass the laugh test on Wall Street anymore. You get no credit for them at all.

I would urge you to consider deleveraging these special purpose entities out there from their very absurd levels right now. This is clearly an abuse out there. Enron's deals were basically very shaky

LBOs, which were done at the equity investors' risk position. They were recourse to the parent there. And I would also urge you to review and reform the very highly compromised investment banking research conflicts which have had such tragic investing consequences with not only Enron but in the stock market at large. Thank you very much.

[The prepared statement of John Olson follows:]

U.S. House of Representatives	Testimony of John Olson
Washington, D.C. 20515---6115	Sanders Morris Harris
Committee on Energy and Commerce	SVP & Director of Research
Thursday, February 7, 2002	Houston, Texas

I am submitting testimony to allow the Committee to better understand Wall Street securities analyst attitudes about Enron Corporation (hereafter occasionally ENE, per its former market symbol). Why and how did analysts miss the largest bankruptcy in the history of the nation? If things went bad so fast, why weren't the analysts downgrading the stock? What went wrong on Wall Street?

In particular, I will briefly discuss: (1) Enron's previous star like status on Wall Street; (2) Gaming the analyst system; and (3) Could this have been prevented by better accounting and financing disclosures?

Background:
In the,interest of our own full disclosure, several points need to be made at the outset.

- I have spent my 35-year career as a Sell side (brokerage house) analyst covering all parts of the energy industry.
- I currently manage a sixteen-analyst Research department for Sanders Morris Harris, the largest securities firm in the Southwest. Prior associations have included Merrill Lynch, Goldman Sachs, First Boston, Drexel Burnham, and Smith Barney.
- I had not recommended Enron as a Strong Buy for well over the past ten years. What looked so good on Wall Street did not look so good to us back in Houston. This did not sit particularly well with former ENE top management.
- However, once the stock collapsed from $90.25 to $27.25 by late September 2001, I *did* recommend the stock as a Strong Buy and as a rebound story, for all of about five weeks. I did not have a clue about the enormity of the internal financial/accounting abuses at hand. Disaster struck.
- ENE shares rose ten points to $37.00 into mid-October, before tumbling twenty points in the aftermath of the third quarter earnings call (October 16) and the wholly unexpected media disclosures about the partnerships. So much for our analytical foresight.

In regard to today's presentation, I have covered Enron since before it was Enron. I have long known many of the principals in the company, and more of its alumni. I would like to point out that there were (and are still) many very fine people at Enron. They relied on the natural presumption that all of ENE's workings had been approved by the Board, outside auditors and outside counsel. They have paid a very heavy price for the alleged misdeeds of a very few.

The Rise and Fall:
Like so many investing debacles, the moral of the Enron story is that it didn't need to happen. There were no acts of God, War or Nature. This was entirely man-made. It reflected a complete and utter run on the stock and bond markets, the credit ratings; and finally the counter parties (trading clients). Three attempts by Dynegy Inc. to work a merger failed, mostly because the Enron stock sank to the penny level. It took Long Term Capital Management five weeks to fail; ENE took a little longer, six weeks.

This brought to a terrible end one of the most popular and profitable stocks of the 1990s. Enron did not merely have a good 90's: it had a great 90's:

- ENE delivered 27% average annual total returns (capital appreciation plus dividend yield) over the decade versus 21% for the stock market as a whole (S&P 500).
- In the 1995—2000 crescendo phase of the bull market, ENE delivered 40% average annual total returns versus the market's 18%.

It is axiomatic on Wall Street that if a stock price is rising arithmetically, management egos tend to rise exponentially. Such appears to have been the case at Enron. Some of this is normally expected by analysts: indeed, some of it was deserved.
But in ENE's case, a different mentality emerged. Call it overconfidence, arrogance or whatever; ENE's trading and adrenalin-driven culture began to sound dangerously invincible in 1997 and after. The adrenalin was boosted by an

exceptionally aggressive agenda to expand on four or five fronts at once. This left little room for failure. The Company particularly sought to manage its "externalities" by proactively shaping the debates in both operating and financial arenas. Worse, its rhetoric seemed to rise much faster than its business realities.

All of the attempted diversifications proved to be fiascoes. By 2000, Enron ended up with $10-$15 billion (about one-third) of its real asset base mostly dead in the water. Around the same time, the Company began to aggressively mutate its assets into the partnerships (or Special Purpose Vehicles: SPVs): and it dove head first into all kinds of derivatives. The latter jumped from $4 billion to nearly $23 billion in only two years' time.

***Gaming The Analyst System*:**
The rapid market disintegration of Enron from October 16th through December 2nd is familiar to most observers, and I will not dwell on it.
What is more germane for today's discussion is the gamesmanship displayed by Enron on its public fronts? Make no mistake about it: Enron was very, very good at gaming the system.

- It obviously gamed Wall Street very well.
- It apparently gamed its auditors, and
- It presumably gamed its lawyers.

Unfortunately, in what appears to have been an rogue/financing/accounting operation, some insiders may have gamed Enron.
Given its trading culture, Enron became increasingly combative, both externally and internally. The Company appeared to commit far more funds and people to its investor and media relations teams than its competitors. This also was the case for its lobbyists.
Insofar as analysts were concerned, ENE's investor relations effort was especially proficient and, I might add, highly professional. It did not attempt to strong-arm me for having a neutral viewpoint; nor did it ever shut me out of the dialogue, such as it was.

- It controlled and massaged the information flow to analysts. Its own oversight was close, and seemed to come from the highest levels of management.
- Over the 1995—2001 years alone, ENE's asset base grew from $12 billion to $65 billion. In the process, its businesses became very dynamic and terribly complicated
- Because of both financial and accounting complexities, ENE was able to better stage manage the analyst dialogue.
- ENE became a nearly impossible company to model. There were a tremendous number of moving parts. Analysts increasingly had to rely on company guidance to make the numbers work. This turned out to be very dangerous.

Most analysts understandably were guided towards all the high profile aspects of Enron: and away from its darker sides. Indeed, if you listened to top management, there were no dark sides, accounting issues, or even off balance sheet financings. Analysts of my generation were trained to be fair and agnostic. ENE's top management was not remotely interested in objectivity. You were either for them or against them. Some purely anecdotal evidence.

- In one telephone call several years ago, the then CEO told me quite succinctly: "we are for our friends," and proceeded to itemize the monthly history of my own "unfriendly" Enron ratings over the prior two years.
- Enron had a considerable investment banking agenda every year, and attracted bankers like roaches to honey. The common unspoken, unwritten understanding came back thus: ENE would be happy to do banking business, provided the analyst had a strong buy recommendation on the stock.

It is not my intention to beat on other analysts covering Enron. I am in no position to cast any stones. Indeed, some were true believers, others perhaps were more opportunistic. They were probably no better or worse than the rest of the analyst pack.

But if this Committee wonders aloud why, oh why, there was such an embarrassment of Buy recommendations on this Company; they need not look farther than the interface between investment banking and research. In recent years, investment banking held all the marbles on Wall Street. There were bankers who were installed as Research directors, and the bankers had a significant say in yearend analyst bonuses. In the words of one Salomon/ Smith Barney analyst/banker quoted last year in the New York Times: "What used to be perceived as a conflict is now regarded as a synergy." In the context of the biggest bull market in history, followed by the worst bear market (in dollar terms), these words may have especial resonance for Enron shareholders. Why didn't analysts change their ratings from $90 to $80 all the way down to zero in some cases? It made no sense not to. These people are not dumb. But perhaps they still felt sufficiently intimidated by the bankers to remain frozen in their tracks. This analyst jumped into the fray when the stock had fallen 70% from its highs: but this analyst didn't have any bankers seeking to influence the recommendation. No excuses. We took our own licking in the $9--$13 area.

***Woulda, Coulda, Shoulda*:**
There has been a great deal of finger pointing and blame spread all over the investing community about the Enron meltdown. The obvious question is why didn't Wall Street analysts discover the huge activity in Enron's partnerships? The answer is simple. They weren't disclosed.

- There was either a minimum of disclosures or else a disconnect in the footnotes.
- No one understood how these deals were actually financed or what kinds of assets were in them.
- Most analysts thought that ENE's "unconsolidated equity affiliates" were conventional asset and liability structures. Special purpose vehicles (SPVs) are nowhere defined or mentioned.
- Enron claimed confidentiality as to the nature of the LJM and other partnerships, saying it was unable to disclose any details. Again, analysts had no idea of the LJM assets, nor of how much they had been mutated.
- There was no mention of doing speculative derivative trading or mark to market accounting in them. How much was real; how much was paper?
- No one could recognize the large degree of "fair value" accounting adjustments that were being made to manage the earnings up to the parent company.

After reviewing the Powers report, the Watkins memo to Ken Lay, and the restated 8K and 10Q data of last November, it is my personal opinion that analysts were looking at only one of three sets of Enron books: (1) the public filings; (2) the SPVs: and (3) the derivatives book. All of us were trained on accrual accounting. Marks to Market and fair value accounting appeared to have been taken to extremes by Enron.

Indeed, if I had been aware of these extremes being created in the SPVs by all of the transactions, I (or any analyst) would never have moved to a Strong Buy about two weeks before ENE blew up.

Recommendations:
From a securities analyst point of view, there are some very pragmatic fixes that need to be made in the marketplace. These are itemized in the following points:

On Wall Street:
Undertake a thorough review to minimize or remove Investment Banking influences/ pressures/ and personnel from Securities Research.

- This has been one of the biggest problems in the capital markets. The integrity of the business has been badly compromised in recent years.
- In my opinion, Investment Banking has gamed Research, solely to their advantage. Investors do not need analysts who simply make Strong Buy recommendations. Robots can do that.
- Terrible IPOs have been done, which essentially compromised the system with bad deals coupled with favorable research recommendations. *Azurix* and *New Power Company* were cases in point

From Accounting:
Recapitalize Special Purpose Vehicles.

- Their usage has been so extreme in the Enron debacle that their future utility has become minimal.
- A 97-3 debt-equity capital structure will not pass any laugh test in today's equity markets.
- For the past ten years, Corporate America has run about 50-50 total debt-equity capital structures. Why should equity investors get blitzed with off-balance sheet deals, which can either, be gamed, or which can backfire badly through abuse.
- Something like 70-30 capital structures for SPVs would be more reasonable.

Eliminate or cap Mark-to-Market accounting for energy trading contracts.

- The actual or potential abuse of longer-term deal valuations via M-t-M has all but destroyed the credibility behind this system. No one on Wall Street seriously believes in "paper earnings" any more after the Enron experience.
- There are few (if any) true long-term contracts in the energy arena any more. Tolling agreements, yes, but these usually have plenty of loopholes. The use of "Mark-to-Model" accounting for these contracts has lost all credibility on Wall Street as well.

Fair Value accounting similarly has become seriously debased. Its usage should be severely restricted.

- The JEDI and Whitewing partnerships were largely accounted for on a fair value basis. Who knows how many other SPVs were used to create artificial earnings or bury more dead assets?

Disclosures and Footnotes have again proved to be insufficient. This minimalist policy must change; otherwise the credibility of the entire accounting framework will be debased even further.

- The Enron experience literally demands full disclosure of all SPVs, and not in a rolled up or summary form. Analysts and investors were blindsided by ENE's very clever accounting cosmetics. This can happen again.
- The financial reporting discussions, or footnotes, need to highlight all unusual items, and not bury them a la Enron.

We are mindful of the adage that *Hard Cases Make Bad Law*. Enron may have turned out to be the hardest case in the history of the republic. The fixes we are recommending above can only serve to mend the corporate and investor damage done. They are not draconian; and they reflect the investing temperament of our times.

THE ANALYST

Man Who Doubted Enron Enjoys New Recognition

By JOHN SCHWARTZ

HOUSTON, Jan. 20 — Of all the Enron mementoes, John Olson might have the best one. Mr. Olson, an analyst who has been a longtime skeptic of the energy company's once-stratospheric stock price, has a handwritten note that the Enron chairman, Kenneth L. Lay, sent last June to Mr. Olson's boss, Donald Sanders.

"Don — John Olson has been wrong about Enron for over 10 years and is still wrong," Mr. Lay wrote. "But he is consistant [sic]. Ken."

Consistently right, actually. Mr. Olson, who follows the energy industry for a small investment firm here, has finally been proved correct where just about every other Wall Street analyst who followed Enron was wrong. But he can take only a grim kind of satisfaction in his prescience. "I would like to be able to gloat," he said, "but this thing is just too damaging, too unhappy, to do anything like that."

Mr. Olson, who calls himself an old-fashioned analyst who does not own individual stocks himself, is now a Houston celebrity. A recent talk he gave at the Petroleum Club on the fall of Enron drew a standing-room-only crowd.

"He's a very sharp analyst," said George P. Mitchell, founder of the Mitchell Energy & Development Corporation in Houston. "When you have 16 out of 17 analysts" promoting the stock, he said, "that's pretty tough opposition. But he stuck to his guns, and he did it early."

Mr. Olson's moment in the sun comes at the end of a lonely time. Wall Street, he said, was dazzled by Enron's high-technology gloss, and did not scrutinize the business. That, he said, has been the sad trend of the analyst community during the years of the dot-com bubble, when companies with no profits and few prospects of earning them could get glowing reviews from analysts like Henry Blodgett of Merrill Lynch and Mary Meeker of Morgan Stanley.

"Henry Blodgett might be a nice young man, but . . ." he said, trailing off into silence.

"On Wall Street," he said, "the worst thing you can be is a schnuckel," which he said was the Yiddish word for dupe. "We were schnuckled on Enron," he said. "It was *gloriously* overvalued."

His rough command of Yiddish — the likely word he was referring to was "schnook" — came from his adolescence in Larchmont, N.Y., where he said the fathers of Jewish girls he dated used choice Yiddish terms to insult him. "Yiddish is a marvelously slanderous language," he said.

A sardonic man, six feet tall, thin and weathered, he looks like a Giacometti statue in pinstripes. He describes himself as "a basset hound with a 25-watt personality."

After receiving an M.B.A. from the Wharton School of Finance at the University of Pennsylvania, he worked as an analyst covering the oil, gas and electric power industries for firms including Merrill Lynch, Drexel Burhnam Lambert and First Boston. He is currently director of research for a boutique firm here, the **Sanders Morris Harris Group.**

Enron may recover, an analyst says, blaming its demise on rogue financing.

His small corner office, on the 31st floor of one of Houston's many downtown office towers, has a splendid view of Enron Field, the city's new baseball stadium. The wood-framed note from Mr. Lay hangs near a wire sculpture of an oil derrick and a silver yo-yo.

The note was scrawled in the margins of a story from U.S. News & World Report in which Mr. Olson was quoted as saying, "They're not very forthcoming about how they make their money." He went on to say: "I don't know an analyst worth his salt who can seriously analyze Enron." A messenger delivered the note from Mr. Lay the next day by hand.

When Mr. Sanders, his boss, showed him the note, Mr. Olson recalls shrugging. "You know that I'm old and I'm worthless," he said, "but at least I can spell 'consistent'."

In Houston, opposing Enron was a little like being against the city itself, said Stephen L. Klineberg, a professor of sociology at Rice University. "You could make a case that it was especially hard in Houston to be a skeptic on Enron," he said, because "Ken Lay and Enron were very much at the center of Houston's sense of positioning itself for success in the post-oil age" of trading and high technology.

The cost of such pessimism could be high, Mr. Olson said. "They are a very combative culture over there," he said. "They always played to win."

Those who did not join the chorus of praise for Enron, he said, could be punished. "There was a strong mandate, unwritten, unspoken, at Enron that if you the investment banking house ever wanted to do business with Enron, your analyst had to have a strong buy on the stock," he said. "I was continually at war with investment bankers."

His consistency, however, has not been complete. He did recommend Enron stock when its troubles first drove the price down to $27 a share last September. "I thought it was a real bargain at the time," he said. The slide, of course, continued as Enron headed toward bankruptcy.

Surprisingly, he does not believe that Enron is finished. He said that he believes Enron can, and should, recover because of its trading prowess. "They were the best of the breed," he said. "Trading did not bring them down. It was a rogue financing operation."

Mr. GREENWOOD. The Chair thanks the gentleman for your very excellent testimony. Before I recognize Mr. Bauer, I want to inform the subcommittee of some important matters relating to his testimony. First, Mr. Bauer is here to discuss his knowledge of and involvement in the Chewco transaction for which he served as the principal Andersen audit partner. He was not involved in the LJM transactions, which are the foci of our investigation today, and thus he is not in a position to answer questions relating to those transactions on behalf of Andersen.

Accordingly, I would encourage members to keep their questions to Mr. Bauer focused on Chewco rather than on LJM or any other broader accounting issues or policies that I know the members would like to ask about. We will address those issues at a later hearing.

Second, Mr. Bauer has cooperated fully and voluntarily with this committee with respect to the provision of documents and was interviewed by committee staff for more than 3 hours. Mr. Bauer is here, pursuant to subpoena, however, because he is not in a position to voluntarily testify about matters relating to his client, Enron, without its consent. We welcome him today, and we thank him for his testimony.

With that, Mr. Bauer, I now recognize you for 5 minutes for an opening statement, sir.

TESTIMONY OF THOMAS H. BAUER

Mr. BAUER. Thank you, Mr. Chairman. Good morning, Chairman Greenwood, Representative Deutsch, Chairman Tauzin, Representative Dingell and members of the subcommittee and full committee. I am Tom Bauer. I am a partner at Andersen, where I have worked since 1974. I am appearing today at the request of the subcommittee to discuss the accounting issues associated with the Chewco transaction.

It recently has become clear that in 1997, when the Chewco transaction was conceived, Enron withheld information from me and misled me on the accounting issues related to Chewco. I knew nothing of this at the time. I was told I had been provided with all relevant documentation in Enron's possession. Had the information that was withheld been timely provided to me in 1997 when I requested it, the accounting advice and opinion of Andersen would have been different.

Let me describe the background. In 1993, an Enron subsidiary and CalPERS formed an investment partnership known as JEDI. Because JEDI was a 50/50 partnership between Enron and CalPERS, Enron appropriately did not consolidate JEDI for financial reporting purposes.

In late 1997, Ben Glisan of Enron, contacted me to discuss the accounting for a transaction that Enron was entering into. Mr. Glisan is an able accountant, who at the time was thoroughly familiar with the accounting rules governing special purpose entities. He told me CalPERS' limited partnership interest in JEDI would be acquired by an entity called Chewco Investments, LLP. In our discussion, Mr. Glisan told me that Chewco would be structured as a special purpose entity so that it would qualify for non-consolidation. Mr. Glisan also told me that an Enron employee, who I later learned was Michael Kopper, would have a very small interest in Chewco.

I reminded Mr. Glisan that for Chewco to qualify for non-consolidation, as he proposed, two tests had to be met. First, at least 3 percent of its capitalization had to be at-risk and attributable to entities independent of Enron. Second, neither Enron nor a related party of Enron, such as an employee, could control Chewco. Mr. Glisan assured me that Chewco would have 3 percent independent equity and would not be controlled by Enron or an Enron employee.

As the transaction unfolded, Mr. Glisan told me that Chewco's independent equity would come from two sources. First, he said that a large financial institution independent of Enron would make a large equity contribution. I later understood this large financial institution to be Barclays. According to Mr. Glisan, the second component of Chewco's third party equity would come from wealthy individual investors, who, with the exception of Mr. Kopper, would be independent of Enron.

I requested that Mr. Glisan provide Andersen with all documentation in its possession relating to the transaction. He told me he would do so, and he thereafter provided pertinent documents to me. Enron senior officials also confirmed in writing that I had been given all documentation they had. In my written statement, I list some of the documents I received.

The transaction documents and Enron board minutes I reviewed corroborated the representations I had received from Mr. Glisan and Enron. The documents described an $11.4 million independent equity infusion into Chewco, which represented 3 percent of Chewco's capitalization. Also, the documents described and represented that Chewco was not affiliated with Enron. Thus, in 1997, based on what I was told and what I reviewed, Chewco appeared to meet the criteria for a non-consolidated special purpose entity.

Roughly 4 years later, on October 26, 2001, two Enron accounting employees called me to discuss concerns that had recently arisen about Chewco. On November 2, 2001, Andersen received a set of Chewco documents gathered by the Special Committee of Enron's Board of Directors. When I reviewed these materials, I was appalled to discover a document I had never seen before—a two-page side agreement between JEDI and Chewco amending their 1997 loan agreement. The side agreement was dated December 30, the very same day the loan agreement between JEDI and Chewco was signed. As I mentioned previously, Enron gave me the loan agreement during the 1997 audit. They did not reveal the existence of the contemporaneous side agreement.

The Side Agreement materially altered the accounting treatment of Chewco. By itself, it caused Chewco to fail to qualify as an unconsolidated special purpose entity. Under the side agreement, JEDI was directed to deposit $6.58 million into reserve accounts created for Barclays' benefit at entities known as Big River and Little River. Barclays' $11.4 million equity infusion in Chewco appears to be conditioned upon the receipt of the $6.58 million from JEDI. This means that the independent at-risk equity in Chewco was not $11.4 million as represented, but rather much less, and significantly below the 3 percent necessary for non-consolidation.

The undisclosed side agreement meant that Chewco's and JEDI's financial statements should have been consolidated with Enron's since 1997. I do not know why this critical side agreement was withheld from me in 1997. I do not know who made the apparent decision to mislead Andersen and me. Had Andersen, in 1997, been provided the materials that I received in November 2001, there is no way I would have permitted Chewco to be treated as an unconsolidated special purpose entity, and a significant portion of the November 2001 restatement would have been avoided.

Mr. Chairman, I hope the information I have provided is helpful to the committee's inquiry, and I am here to answer any questions that the committee may have. Thank you.

[The prepared statement of Thomas H. Bauer follows:]

PREPARED STATEMENT OF THOMAS H. BAUER, PARTNER, ANDERSEN LLP

Good morning, Chairman Greenwood, Representative Deutsch, Chairman Tauzin, Representative Dingell, and members of the Subcommittee and full Committee. I am Tom Bauer. I am a partner at Andersen, where I have worked since 1974. I am appearing today at the request of the Subcommittee to discuss the accounting issues associated with the Chewco transaction.

By way of background, I grew up in Western Pennsylvania and attended college at Indiana University of Pennsylvania, where I received a bachelor's degree with a major in accounting in 1974. After graduating from college, I began my career with Andersen and have been with the firm ever since. I became a partner in 1986. In 1995, I joined the Enron audit engagement.

I understand this hearing will focus on several transactions involving Special Purpose Entities. This morning I will discuss the Chewco transaction, with which I am familiar.

It recently has become clear that, in 1997, when the Chewco transaction was conceived, Enron withheld information from and misled me on the accounting issues related to Chewco. I knew nothing of this at the time. I was told I had been provided with all relevant documentation in Enron's possession. Had the information that was withheld been timely provided to me in 1997, when I requested it, the accounting advice and opinion of Andersen would have been different and the major part of the restatement that occurred in November 2001 would have been unnecessary.

Let me describe the background. In 1993, an Enron subsidiary and CalPERS formed a partnership known as Joint Energy Development Investments. It was called JEDI for short. JEDI invested in energy-related securities and other investments. It was a very successful investment. Because JEDI was a 50-50 partnership between Enron and CalPERS, Enron appropriately did not consolidate JEDI for financial reporting purposes. These events occurred before I became involved with auditing Enron.

In late 1997, Ben Glisan, the Enron transaction support employee with principal responsibility for accounting matters in the Chewco transaction, contacted me to discuss the accounting for a transaction that Enron was entering into. Mr. Glisan is an able accountant, who at the time was thoroughly familiar with the accounting rules governing Special Purpose Entities. He told me CalPERS' limited partnership interest in JEDI would be acquired for approximately $300 million by an entity called Chewco Investments, LLP. In our discussion, Mr. Glisan told me that Chewco would be structured as a Special Purpose Entity so that it would qualify for non-consolidation. Mr. Glisan also told me that an Enron employee, who I later learned was Michael Kopper, would have a very small interest in Chewco. He also said Enron was considering guaranteeing a loan that would finance a substantial portion of the transaction.

I reminded Mr. Glisan that for Chewco to qualify for non-consolidation, as he proposed, two tests had to be met. First, at least 3 percent of its capitalization had to be at-risk and attributable to entities independent of Enron. Second, neither Enron nor a related party of Enron, such as an employee, could control Chewco. I confirmed this advice with Andersen's Professional Standards Group in Chicago. Mr. Glisan assured me that Chewco would have 3 percent independent equity and would not be controlled by Enron or an Enron employee.

As the transaction unfolded, Mr. Glisan told me that Chewco's independent equity would come from two sources. First, he said that a large financial institution independent of Enron would make a large equity contribution. I later understood this large financial institution to be Barclays. According to Mr. Glisan, the second component of Chewco's third party equity would come from wealthy individual investors, who, with the exception of Mr. Kopper, would be independent of Enron.

I requested that Mr. Glisan provide Andersen with all documentation in its possession relating to the transaction. He told me he would do so and he thereafter provided pertinent documents to me. Enron senior officials also confirmed in writing that I had been given all documentation they had. In this connection, I reviewed:

- minutes of Enron's Executive Committee of the Board of Directors approving the transaction;
- the $132 million loan agreement between JEDI and Chewco;
- Enron's guarantee agreement of a $240 million loan from Barclays to Chewco;
- the amended JEDI partnership agreement; and
- a representation letter from Enron and a representation letter from JEDI, each of which stated that related party transactions had been disclosed and that all financial records and related data had been made available to Andersen.

I also requested that I be provided documents relating to Chewco's formation and structure. Mr. Glisan told me that Enron did not have these documents and could not obtain them because Chewco was a third party with its own legal counsel and ownership independent of Enron. I did not view this as unusual. Quite frequently an auditor does not receive documents from a third party who is represented as being independent. Andersen did send and received a confirmation regarding the loan agreement from the Chewco representative.

The transaction documents and Enron board minutes I reviewed relating to Chewco corroborated the representations I had received from Mr. Glisan and Enron. The documents described an $11.4 million independent equity infusion into Chewco, which represented 3 percent of Chewco's capitalization. Also, the documents described and represented that Chewco was "not affiliated" with Enron. Thus, in 1997, based on what I was told and what I reviewed, Chewco appeared to meet the criteria for a non-consolidated Special Purpose Entity.

Roughly four years later, on October 26, 2001, two Enron accounting employees called me to discuss concerns that had recently arisen about the sufficiency of Chewco's independent equity. On November 2, 2001, Andersen received a set of Chewco documents gathered by the Special Committee of Enron's Board of Directors. When I reviewed these materials, I was appalled to discover a document I had never seen before—a two-page Side Agreement between JEDI and Chewco amending their 1997 loan agreement. The Side Agreement was dated December 30, 1997, the very same day that the loan agreement between JEDI and Chewco was signed. As I mentioned previously, Enron showed me and gave me the loan agreement during the 1997 audit. They did not show me or tell me about or reveal the existence of the contemporaneous Side Agreement. The same individuals who signed the loan agreement also signed the Side Agreement.

The Side Agreement materially altered the accounting treatment of Chewco. By itself, it caused Chewco to fail to qualify as an unconsolidated Special Purpose Entity. Under the Side Agreement, JEDI was directed to deposit $6.58 million into reserve accounts created for Barclays' benefit at entities known as Big River and Little River. Barclays' $11.4 million equity infusion in Chewco appears to be conditioned upon the receipt of the $6.58 million from JEDI. This means that the independent at-risk equity in Chewco was not $11.4 million as represented, but rather much less, and significantly below the 3 percent necessary for non-consolidation.

The undisclosed Side Agreement meant that Chewco's and JEDI's financial statements should have been consolidated with Enron's since 1997. I do not know why this critical Side Agreement was withheld from me in 1997. I do not know who made the apparent decision to mislead Andersen and me. Had Andersen, in 1997, been provided the materials that I received in November 2001, there is no way I would have permitted Chewco to be treated as an unconsolidated Special Purpose Entity, and a significant portion of the November 2001 restatement would have been avoided.

In addition, other documents provided to me for the first time in November 2001 raised other accounting issues. Had I known this information in 1997, I also would have modified my conclusions and opinions relating to Chewco.

Mr. Chairman, I hope the information I have provided is helpful to the Committee's inquiry. I am here to answer any questions that the Committee may have.

Mr. GREENWOOD. It was very helpful, Mr. Bauer, and we thank you for being with us this morning for your testimony.

Mr. McMahon, you are recognized for 5 minutes for an opening statement, sir.

TESTIMONY OF JEFFREY MCMAHON

Mr. MCMAHON. Thank you, Mr. Chairman. Good afternoon. Mr. Chairman and members of the committee, my name is Jeff McMahon. I am currently the president and chief operating officer of Enron Corp. I have been an employee of Enron since 1994. From late October of last year until last week, I served as chief financial officer of the company. Before that I was president and chief executive officer of Enron's Industrial Markets Group. From 1998 until March 2000, I was the treasurer of Enron Corp. And before that I served as chief financial officer of its European operations.

As the committee knows, I was named as president and chief operating officer just last week, at the same time that Stephen Cooper was named the new interim chief executive officer and chief restructuring officer of the company. As part of the new management team at Enron, my focus is on the future—the future of our business, the future of our nearly 20,000 employees worldwide who are looking for continued employment with the company, the future of our over 8,000 retirees, who are looking for continued retirement benefits from the company, and various other stakeholders, including our creditors, who have an interest in Enron's future.

Working closely with the board of directors and the Creditors Committee, we are developing a restructuring plan designed to bring the company out of bankruptcy and preserve value for the company;s creditors, its employees and its stakeholders. I believe that Enron can emerge from bankruptcy by returning to its roots. As Mr. Cooper has expressed last week, our reorganized business will be dedicated primarily to the transmission of natural gas and the generation of electricity.

With respect to the issues the committee is examining, as the Chairman knows, I have been meeting and fully cooperating with the committee's staff and welcome today's opportunity to answer, to the best of my ability, questions the committee may have about the past events at Enron or our future direction. Thank you, Mr. Chairman.

[The prepared statement of Jeffrey McMahon follows:]

PREPARED STATEMENT OF JEFF MCMAHON, PRESIDENT AND CHIEF OPERATING OFFICER, ENRON CORPORATION

Good morning. Mr. Chairman and Members of the committee, my name is Jeff McMahon. I am President and Chief Operating Officer of Enron. I have been an employee of Enron since 1994. From late October of last year until this past week, I served as Chief Financial Officer of the company. Before that I was Chairman and Chief Executive Officer of Enron's Industrial Markets Group. From 1998 until March 2000 I was Treasurer of the company. Before that I served as Chief Financial Officer of European Operations.

As the committee knows, I was named as President and COO just last week, at the same time that Stephen Cooper was named the new interim Chief Executive Officer of the company. As part of the new management team at Enron, my focus is on the future of Enron, our nearly 20,000 employees worldwide, our over 8,000 retirees and various stakeholders. Working closely with the Board of Directors and the Creditors Committee, we are developing a restructuring plan designed to bring the company out of bankruptcy and preserve value for the company's creditors, its employees and shareholders.

I believe that Enron can emerge from bankruptcy by returning to its roots. As Mr. Cooper expressed last week, our reorganized business will be dedicated to the movement of natural gas and the generation of electricity.

With respect to the issues the committee is examining, as the Chairman knows, I have been meeting and fully cooperating with the committee's staff, and welcome the opportunity today presents to answer any questions the committee may have about the past events at Enron or our future direction.

Thank you, Mr. Chairman.

Mr. GREENWOOD. Thank you, Mr. McMahon.

Mr. Mintz, good morning. You are recognized—good afternoon—for 5 minutes for your opening statement.

TESTIMONY OF JORDAN H. MINTZ

Mr. MINTZ. Thank you, Mr. Chairman.

Mr. GREENWOOD. You might want to pull that right up; it is fairly directional. Thank you.

Mr. MINTZ. Good afternoon, Mr. Chairman and members of the committee. My name is Jordan Mintz. I have served as Enron's vice president and general counsel for Corporate Development since November of 2001. Between October 2000 and November 2001, I was vice president and general counsel for Global Finance. The 4 years prior, I served as vice president for Tax for Enron North America, formerly Enron Capital and Trade Resources.

Mr. Chairman, as you know, I am appearing this afternoon voluntarily and have, to date, fully and freely cooperated with the committee in its investigation. I intend to continue to do so. I welcome the opportunity this hearing presents for the committee to hear directly from me concerning the relevant facts related to my role at Enron.

Mr. Chairman, I will be glad to answer any questions you or any other members of the committee may have. Thank you, Mr. Chairman.

[The prepared statement of Jordan H. Mintz follows:]

PREPARED STATEMENT OF JORDAN H. MINTZ, VICE PRESIDENT AND GENERAL COUNSEL FOR CORPORATE DEVELOPMENT, ENRON CORPORATION

Good morning. Mr. Chairman and Members of the committee, my name is Jordan Mintz. Since November 2001, I have served as Enron's Vice President and General Counsel for Corporate Development. Between October 2000 and November of last year, I was Vice President and General Counsel for Enron Global Finance. The four years prior, I served as Vice President for Tax at Enron North America, formerly Enron Capital and Trade.

Mr. Chairman, as you know, I am appearing this morning voluntarily and have, to date, fully and freely cooperated with the committee in its investigation. I intend to continue to do so. I welcome the opportunity this morning's hearing presents for the committee to hear directly from me concerning the relevant facts related to my role at Enron.

Mr. Chairman, I will be glad to answer any questions you or any other members of the committee may have.

Thank you, Mr. Chairman.

Mr. GREENWOOD. Thank you, Mr. Mintz. The Chair recognizes himself for 5 minutes for purpose of inquiry, and let me start with you, Mr. McMahon, if I may.

In 1999, you were the treasurer of Enron's Global Finance Group. At that time, Andy Fastow, Michael Kopper, Ben Glisan, Ann Yaeger, Trushar Patel and Kathy Lynn also worked there. Would you please explain why the Global Finance Group existed and what its top officers, particularly Fastow, Kopper and Glisan, what they did there, what their roles were?

Mr. McMAHON. At that point in time, the Global Finance Department of Enron existed for several purposes. One portion of it, which I ran at the time as the treasurer, was to maintain adequate liquidity of the company for its ongoing businesses. A separate function—and I reported at the time to Andrew Fastow who was the CFO. At the same time, there was a separate group, also reporting to Mr. Fastow that was headed by Michael Kopper, which was essentially a Special Projects Group. And that group was responsible for various finance activities that were—my understanding were at the direction of Mr. Fastow. And the individuals you named all fell under Mr. Kopper's organization at that point in time, I believe.

Mr. GREENWOOD. Would you describe your efforts to develop a private equity fund at Enron and why Enron wanted to develop the fund?

Mr. McMAHON. Yes. In approximately mid-1999, we identified an area where we thought we could add some efficiency to the finance activities of the company by seeing if we could get third party, unrelated, private equity funds to commit some capital to some future transactions that Enron may want to undertake with these third parties. So at that point in time, we had engaged or hired some outside individual to come and join Enron for the purpose of trying to go into the private equity markets and see if we could create some private equity liquidity for third parties.

Mr. GREENWOOD. At some point, Andy Fastow told you that he was going to develop a private equity fund and that Michael Kopper was going to be the lead man on the project. When was that conversation, and tell the committee about that conversation.

Mr. McMAHON. I believe the timing of that was somewhere around mid-1999, maybe slightly before that. But the individual I just alluded to who we hired to bring to Enron to go do that, prior to his starting with the organization, Mr. Fastow informed me that he had changed his mind, he did not want this new employee to do that; in fact, he wanted Mr. Kopper to do that in his Special Projects Group.

Mr. GREENWOOD. Now, ultimately, Fastow's Private Equity Group was formed under the name LJM. What does that name stand for?

Mr. McMAHON. I believe those are initials of his wife and two children.

Mr. GREENWOOD. And when did you first learn that Fastow had a personal equity interest in the fund?

Mr. McMAHON. I learned of his ownership of the general partner of LJM I believe, again, around mid-1999 when I was present at what I believe——

Mr. GREENWOOD. How did you react to that, when you learned that? And how did you react to the fact that you hadn't known this all along?

Mr. McMAHON. Well, I was at the Finance Committee meeting when it was presented to the Finance Committee. I was surprised——

Mr. GREENWOOD. By whom was it presented?

Mr. MCMAHON. It was presented by Mr. Fastow.
Mr. GREENWOOD. Mr. Fastow announced this.
Mr. MCMAHON. Yes.
Mr. GREENWOOD. And you were taken by surprise.
Mr. MCMAHON. Well, I think at the time he announced it, I was taken by surprise of the fact that the board was ultimately recommending—or was asked to recommend to waive their code of conduct.
Mr. GREENWOOD. What was your reaction to that? Were you comfortable with that?
Mr. MCMAHON. I am sorry?
Mr. GREENWOOD. Were you comfortable with that?
Mr. MCMAHON. I don't know if that was a decision that I would have made at the time, but I was not party to the board deliberations.
Mr. GREENWOOD. Did you think it was appropriate?
Mr. MCMAHON. Again, I am not so sure that would be the same decision I would have made at the time.
Mr. GREENWOOD. Did you see any problems with the chief financial officer having an equity interest in a privately held fund that does business with its own company?
Mr. MCMAHON. I think it is pretty clear that is an obvious conflict of interest for a senior officer——
Mr. GREENWOOD. Was it clear to you at the time?
Mr. MCMAHON. That there was a conflict of interest?
Mr. GREENWOOD. Right.
Mr. MCMAHON. Yes.
Mr. GREENWOOD. So alarm bells went off in your head?
Mr. MCMAHON. Well, at the time, it was unclear exactly what this partnership would evolve into, so it was a conflict that clearly existed, and I think everyone who saw it realized it.
Mr. GREENWOOD. Did you say so at the time?
Mr. MCMAHON. At the time, I was at the board meeting and heard about the conflict but didn't realize the size of the partnership as it would evolve to.
Mr. GREENWOOD. My time has expired. The Chair recognizes the gentleman from Florida, Mr. Deutsch.
Mr. DEUTSCH. Thank you, Mr. Chairman. As I mentioned in my opening statement, I am going to try to understand just one of the, again, thousands of partnerships: the LJM/Rhythms transactions. You are in charge now. In looking at this partnership and what occurred in terms of basically buying the put from yourself, I mean is there any legitimate business purpose in hindsight that someone could defend this partnership?
Mr. MCMAHON. You are asking me the question?
Mr. DEUTSCH. Any of you, but Mr. McMahon?
Mr. MCMAHON. Frankly, I am not very familiar with the details of that, so it is hard for me to tell you what the business reason was at the time.
Mr. DEUTSCH. Well, again, I went through it in the opening statement. Enron had stock in Rhythms that they had bought at IPO for $10 million. The value after the IPO was, I guess, close to $400 million. So they wanted to lock in the gains, so they wanted to buy a put, right? So they, basically—and Fastow was CFO at the

time, he was general partner of LJM, and, basically, Enron bought a put, actually not even from LJM but from a swap sub that LJM created, all right? This was capitalized by shares of Enron stock. And what happened was, and this, again, where I use the word and I use it very seriously, on March 8 of last year, because Rhythms—basically, the $400 million, which it was—when it was $400 million, when the put was bought, that $400 million gain was booked on Enron's balance statement as a gain, right? So if someone was looking at Enron's balance statement, they would see a gain.

Well, first all, where is the arms-length transaction, because could anyone reasonably assume that this entity could in fact ever make good on the put? In other words, this was Enron basically buying a put from itself, and, again, as I had mentioned, Fastow immediately took a general partnership share in the millions of dollars from LJM. Mr. Olson, do you want to respond? I mean is there anyone who can defend what occurred here?

I mean this looks like fraud, and, I guess, let me just mention, on March 8 of last year, because the value had gone down so much, that Enron transferred 3.1 million shares without any consideration at all, zip, nothing, gave it, about $150 million on Enron stock to the partnership, because the partnership at that point was undercapitalized. What ended up happening in this whole—and, again, if you look at the transaction in the hindsight we have now, the only purpose was to lock in the gain on the balance sheet, and then at that point, someone who wanted to—and that is our whole point—wanted to understand what was going to go on could not.

And I look at this transaction, obviously in hindsight, that I cannot come up with any legitimate business purpose for this transaction, that it was in fact set up as a fraud, as a fraud for someone in here, and we still don't know who the limited partners are. We have not been able to obtain that information at this date. Our staff does not—I mean there is a question that $15 million, which is the 3 percent, which was transferred, then some other activity occurred, because, actually, this entity didn't have the 3 percent. But we don't even know if this $15 million ended up being lost. Mr. Olson?

Mr. OLSON. In my opinion, as a securities analyst, there is no meaningful business purpose behind this particular situation. I was obviously not aware, this is the first time I have seen it described as such. They were essentially gaming in their own stock. I recall the word on the street, anecdotal evidence, was that they had done fair value accounting on this in order to shield some other losses or reserves that they had taken the prior year on an oil and gas loan portfolio. And they were trying to preserve this.

Mr. DEUTSCH. Okay. Is this fraud?

Mr. OLSON. I am not qualified to tell you; I am not a lawyer.

Mr. DEUTSCH. If you are an analyst and you knew that this was going on, what would have happened to the stock in the marketplace?

Mr. OLSON. I think the stock would have cratered immediately.

Mr. DEUTSCH. And that is what should have happened.

Mr. OLSON. It was never disclosed.

Mr. DEUTSCH. And that is the illegal activity too, because it was never disclosed, and this becomes an issue on the 8K. This is an extraordinary, an extra ordinary business event. Enron transferred $150 million to an entity without any consideration. That was on March 8. On March 22, what Enron then did is basically they realized that this entity could never make good on the put and so the deal was off. And at that point is when the restatement occurred. I mean and maybe, Mr. Bauer—I mean why was that not recorded as an extra ordinary event?

Mr. BAUER. Congressman, I am not familiar with the transaction. That was not my area of the Enron audit, sorry.

Mr. DEUTSCH. I mean I see my time has expired, but this is one of 4,000 partnerships.

Mr. STEARNS. I thank the gentleman. The gentleman's time has expired. The full chairman of the committee, Mr. Tauzin, recognized.

Chairman TAUZIN. Thank you, Mr. Chairman. I think it is important to note that our investigators have discovered that while that was not being disclosed while this deal was put together, Mr. Skilling, who will testify later, in the same period of time sold Enron stock at a price of between $2.3 million and $2.7 million. So while this deal was inflating the value of Enron stock, Mr. Skilling was profiting in the marketplace, when others, who might have known about problems with this deal, might have recommended a sell.

We have limited time, but I want to try to take all of you through this quickly. One of the questions that has troubled me from the beginning of this investigation is why on Earth investment bankers couldn't see what was going on. And, Mr. Olson, you kind of tell the story, don't you, that Enron is basically saying, "You are either our friend or you are not. Your rate us down, we don't do business with you." You got a call from a CEO of Enron. Who was that, by the way?

Mr. OLSON. That was Mr. Lay.

Chairman TAUZIN. Mr. Lay called you.

Mr. OLSON. Yes. I had called him.

Chairman TAUZIN. And he said, "We are going to deal with our friends," right?

Mr. OLSON. Yes.

Chairman TAUZIN. And then he went through a litany of all the unfriendly comments you made about Enron, right?

Mr. OLSON. Well, the relative lack of enthusiasm, I should say.

Chairman TAUZIN. The lack of friendship.

Mr. OLSON. Yes.

Chairman TAUZIN. And Mr. McMahon, you actually gave us instances where, surprise, surprise, bankers called you up. Here we got a call from Rob First, the Managing Director of Merril Lynch, asking if it is okay for members of Merril Lynch to invest in LJM2, whether you thought that was a conflict of interest. You told him it was, right?

Mr. MCMAHON. Correct.

Chairman TAUZIN. And who called you to complain about that?

Mr. MCMAHON. About my response to Mr. First?

Chairman TAUZIN. Yes.

Mr. MCMAHON. Mr. Fastow.

Chairman TAUZIN. Oh, yes. What did he tell you, "You are messing in my deals here," right?

Mr. MCMAHON. He told me that I was jeopardizing the LJM2 fund-raising exercise.

Chairman TAUZIN. Yes. He was trying to raise money for these bankers, and the bankers are calling you to find out if they can invest, and you are saying, "That is a conflict of interest." And Fastow is calling you to say, "Don't you dare tell them that. I want their money." And in fact you got a call from Paul Riddle with the First Union Bank saying that he was told he would get the next bond deal if he invested, right?

Mr. MCMAHON. Yes. The banks really had two different camps after the fund-raising exercise. One was people who expected deals in the future because of investing and others who were concerned that——

Chairman TAUZIN. And Mark DeVito with Merril Lynch Banker, same kind of call, right?

Mr. MCMAHON. That is correct.

Chairman TAUZIN. Did that shock you, that they were being offered these special bond deals and the next bond deal if they made these investments? These are the people analyzing the stock and telling people whether to buy or not, right? And investing, right?

Mr. MCMAHON. Well, the individuals I spoke to were typically on the bond side of the house rather than the analyst side.

Chairman TAUZIN. The bond side/investment side. But, Mr. Olson, this is what you are talking about. You are basically talking about the incestuous relationship between—what do we call it now, synergy, we call it synergy between the investment bankers who tell people whether or not this is a good place to invest who themselves in it, and the deals they are getting, the good relationships they are getting with Enron are chances to invest in these partnerships, is that right?

Mr. OLSON. Investment bankers are not the friends of securities analysts.

Chairman TAUZIN. I want to turn to you quickly. First of all, Mr. Bauer, let me make sure I understand what you are saying. You are telling us that the deal that brought down the house of cards, the Chewco deal, did not meet accounting standards as you understood them. It didn't meet it because of a side agreement you were not shown; is that correct?

Mr. BAUER. Congressman, I don't know if that is the entity that brought down the house of cards, but in response to your question, I do believe I was not——

Chairman TAUZIN. Well, let us see if it was.

Mr. BAUER. Okay.

Chairman TAUZIN. The failure of Chewco to meet the accounting standards, that 3 percent rule, investment rule, because of the JEDI investment?

Mr. BAUER. Yes, sir.

Chairman TAUZIN. That literally caused Enron to restate its earnings and to declare debt that had been off its books, right?

Mr. BAUER. That is correct, sir.

Chairman TAUZIN. That started the whole tumble, didn't it?

Mr. BAUER. Yes, sir.

Chairman TAUZIN. Now, and you are telling us——

Mr. BAUER. In conjunction with some other——

Chairman TAUZIN. [continuing] it was a side agreement that was not shown to you that literally made that deal a violation of accounting standards, right?

Mr. BAUER. Yes, sir.

Chairman TAUZIN. All right. I want to quickly turn to you, Mr. Mintz, then we will come back later. But your story to us is a struggle. Your story to us is a—just like Mr. McMahon who goes to Mr. Skilling and tells him, "You know, I think there is conflicts of interest, you have got all kinds of problems here. You have got to reassign Mr. McMahon to a new job as a result of all that." And you got some angry calls from Mr. Fastow, according to what you tell us. Mr. Mintz, yours was a struggle to get Mr. Skilling to do a simple thing, and that was to sign the documents approving these deals. Why didn't he sign them?

Mr. MINTZ. I don't know, Mr. Chairman.

Chairman TAUZIN. How long did you try to get him to sign them?

Mr. MINTZ. I sent him a memo in mid-May 2001 and gave him about a week to respond. I didn't hear from him. I asked my secretary to call his secretary to see if I could get on his schedule within 3 days. She didn't return the calls. Maybe I let another 4 or 5 days pass. I asked my secretary to make a call again, and no response.

Chairman TAUZIN. Yours is a story of a constant struggle to force Enron to do what it should have done, and that is document a fair arms-length transaction with these partnerships offering these deals to other companies or other people first to make sure it was in the best interest of Enron, to document the lack of conflict of interest, to document that the Audit Committee was reviewing this. And I am looking at one of those sheets that Mr. Skilling wouldn't sign. I am looking at the bottom. It is an interesting one. It says, Mr. Kopper, employee of Enron, who never got a waiver, is negotiating the deal for LJM2. It says that he has been cleared, and I don't think he was, so that is a kind of interesting point.

But at the very end of it, the very end of it, there is a question: Has the Audit Committee of Enron Corporation Board of Directors reviewed all Enron/LJM transactions within the past 12 months? On that form, you have checked off, "no." Have all recommendations of the Audit Committee relative to Enron/LJM transactions been taken into account in this transaction? The box that is checked off, "no." And then what follows is very interesting. Audit Committee has not reviewed any transactions to date. Was that the reason Mr. Skilling wouldn't sign this document, do you think, because it was an admission that the Audit Committee was not asked to review, had not reviewed any of these deals?

Mr. MINTZ. I don't know.

Chairman TAUZIN. You don't know.

Mr. MINTZ. I just don't know, Mr. Chairman.

Chairman TAUZIN. But he wouldn't sign it, would he? In fact, if we look at the last page, everybody signed. On January 5, everybody signed except one person, the guy in charge, the guy who should have been either approving or disapproving, the guy who should have been sure that the Audit Committee was reviewing these deals, the guy you tried to get to sign who would never sign, who will be before this committee in just a little while. Is that correct, sir?

Mr. MINTZ. Yes.

Chairman TAUZIN. Thank you, sir.

Mr. STEARNS. The gentleman's time has expired. Mr. Stupak's recognized.

Mr. STUPAK. Thank you, Mr. Chairman. I want to pick up where Mr. Mintz—where Chairman Tauzin left off. Isn't it true in June of 2001 you hired a law firm of Fried Frank to investigate and evaluate the propriety of the LJM transactions and agreed to pay them as much as $620 an hour?

Mr. MINTZ. Congressman, if I recall correctly, I engaged them the month before in May, Fried Frank.

Mr. STUPAK. So you hired an outside firm in May of 2001.

Mr. MINTZ. Yes, sir.

Mr. STUPAK. All right. Why did you decide to go outside your corporate counsel? Wasn't Vinson & Elkins your law firm?

Mr. MINTZ. One of the firms we use regularly, that is correct.

Mr. STUPAK. Well, why did you decide to go outside the law firm? Isn't Fried & Frank from New York—Fried Frank, I guess? Is that right?

Mr. MINTZ. New York office with a large presence in Washington, D.C.

Mr. STUPAK. But why did you go outside?

Mr. MINTZ. I came into the job at Global Finance in October 2000. Prior to that, I was a tax attorney for 18 years. I met with my predecessor for 2 days in making the transition. He brought me up to speed on what was going on, reviewed the employees in the Legal Department, et cetera, and never mentioned LJM; got into the office, opened up the files and a substantial amount of documentation, deal approval sheets that Chairman Tauzin was referring to——

Mr. STUPAK. Right. Were all there.

Mr. MINTZ. Were all there.

Mr. STUPAK. Made you nervous.

Mr. MINTZ. Well, very quickly, I was also down on the 20th floor, the Global Finance people were, and sort of meticulously, methodically, as a lawyer may do, I wanted to get my arms around what was going on. And over a period of time, as I performed my due diligence, I brought to the attention to certain members, senior members of the company concerns I had, and I went to Mr. Buy and Mr. Causey and met with them regularly and wrote them a memo about some of the problems I saw in the process and procedures associated with the LJM approval. I started meeting with our general counsel, Mr.——

Mr. STUPAK. Bottom line, you had some real concerns about the LJM transactions, right?

Mr. MINTZ. In April of 2001, Mr. Fastow announced that LJM was going to look to buy the Enron Wind Company, which was approximately a $600 million acquisition.

Mr. STUPAK. We all know that, but yes or no, you were uncomfortable what you were seeing with LJM.

Mr. MINTZ. I am sorry, that is correct.

Mr. STUPAK. All right. Bottom line, you really distrust—I will take the word "really" out of there—but did you distrust the service of the in-house counsel, and that is why you hired the outside counsel from New York to look at this, because you needed an objective opinion of what was going on?

Mr. MINTZ. I wanted somebody that had no linkage, no connections with the company and just to take a fresh look at everything.

Mr. STUPAK. I take it that is a yes answer to my question then.

Mr. MINTZ. Yes, sir.

Mr. STUPAK. Okay. Did they produce a report, anything in writing back to you as to their investigation, the law firm?

Mr. MINTZ. Yes, they did.

Mr. STUPAK. Where is it now, that report?

Mr. MINTZ. There are a number of copies in the company, and they have been turned over to a number of committees as well as the SEC and the FBI.

Mr. STUPAK. I am just—and once again, why didn't you hire Vinson & Elkins to do this, look at this work?

Mr. MINTZ. I was concerned about issues, I wanted to get somebody to look over my shoulders who just had no knowledge, no insight, no background regarding LJM.

Mr. STUPAK. Okay. Now, when you were looking at LJM, you consulted Mr. Jeffrey McMahon, did you not?

Mr. MINTZ. When I started my due diligence regarding LJM, I met with a number of different individuals who had some familiarity with them, and Jeff was one of them.

Mr. STUPAK. Okay. What was your impression? Did Mr. McMahon understand how Mr. Fastow could supervise Enron employees as chief financial officer while at the same time the same employees were negotiating against LJM on behalf of Enron? Would that issue come up?

Mr. MINTZ. As soon as I got down to the 20th floor, I saw a lot of dysfunctionality on that floor along the lines of what you are suggesting.

Mr. STUPAK. Well, dysfunctionality because you had some people at Enron, like Mr. Fastow and others, wearing two hats, trying to look out for LJM at the same time dealing with Enron, negotiating back and forth, basically wearing two hats, and causing real conflicts of interest and real ethical problems, does it not, within a corporation like Enron?

Mr. MINTZ. I think that is a fair assessment.

Mr. STUPAK. Okay. Did Mr. McMahon voice these concerns to you, and did he voice them with Mr. Skilling, if you know?

Mr. MINTZ. Jeff shared with me his concerns and his conversation with Mr. Skilling.

Mr. STUPAK. Is it true that Mr. Buy advised you not to stick your neck out by approaching Mr. Skilling with your concerns about LJM?

Mr. MINTZ. Well, I got with Mr. Causey, Mr. Buy when I wanted to approach Mr. Skilling about reviewing the documentation and making sure they were executed and finding out whether it was ministerial or not. And I also suggested maybe we should check with Mr. Skilling to make sure he is still comfortable with this arrangement. And, yes, Mr. Causey said, "I wouldn't stick my neck out."

Mr. STUPAK. Mr. Causey said that——

Mr. MINTZ. Mr. Buy, I am sorry. I am sorry.

Mr. STUPAK. [continuing] or Mr. Buy said he wouldn't stick your neck out? Meaning if you went to Skilling you would be given a new job or something, like Mr. McMahon? Was that what they did at the corporation, when you didn't agree with the higher ups, they moved you out?

Mr. MINTZ. I can only speak for myself. I don't know what other people's experience was.

Mr. STUPAK. Well, it sounds like maybe they put you down on the 20th floor and you didn't want to go there, it is so dysfunctional you are telling me, right?

Mr. MINTZ. Well, as a former tax attorney, I was looking forward to the opportunity of being a real attorney.

Mr. STUPAK. But you took it as really sort of as a threat, if I went to Mr. Skilling, somehow there would be retribution, right?

Mr. MINTZ. Both Ricks shared with me that Jeff was very fond of Andy, don't go there.

Mr. GREENWOOD. The time of the gentleman has expired.

Mr. STUPAK. Mr. Chairman, thank you for your courtesy, but could I place the Fried Frank report in the record?

Mr. GREENWOOD. Without objection, that document will be incorporated in the record of the hearing.

And the Chair recognizes for 5 minutes the gentleman from Florida, Mr. Stearns.

Mr. STEARNS. Thank you, Mr. Chairman. Mr. Mintz, I would like you to go to document number 22. It is a document that you wrote, and it is dated September 7, 2000 regarding the private placement memorandum for LJM3, a new proposal. Fastow's proposed new partnership that evidently ultimately never got off the ground. It seems that upon review of this PPM you were quite alarmed at some of the discussion in it about how Fastow's dual role at Enron and the partnership would accrue benefits to the partnerships' investors, particularly because of Fastow's insider status and knowledge of proprietary deal flows. What was your reaction to this PPM, and who did you discuss it with?

Mr. MINTZ. Congressman, I wasn't a securities lawyer, but on its face, when I had a chance to review the PPM and I saw the language that was being used in order to attract investors, I was concerned.

Mr. STEARNS. And what was your concern? Just give us a couple sentences.

Mr. MINTZ. It appeared that they were selling to investors inside information.

Mr. STEARNS. They were selling to investors inside information.

Mr. MINTZ. That this fund was effective because they had insights into particular assets of the company.

Mr. STEARNS. Did you feel also that there was any transparency? Was there a problem with transparency too?

Mr. MINTZ. I am sorry, I am not sure I understand.

Mr. STEARNS. In other words, was information being concealed?

Mr. MINTZ. I don't know.

Mr. STEARNS. Okay. Did you raise your concerns with Enron's in-house and outside security experts after you were aware of this, as you say, that you felt that it was not up and up?

Mr. MINTZ. I wanted to make sure that they were aware of it, and I wanted to get their guidance because they were the experts.

Mr. STEARNS. Mr. Mintz, what did they say exactly to you when you went to them, specifically?

Mr. MINTZ. There were some comments made regarding the reference of how the board waived the conflict under the code of conduct. And I passed that onto LJM's outside counsel.

Mr. STEARNS. You mentioned in your—just previously you mentioned insider information is what concerns you.

Mr. MINTZ. Well, it was the way——

Mr. STEARNS. Did they say to you that they agreed with you, that this was a case of insider information, which you voiced your concern?

Mr. MINTZ. Well, again, I wasn't the securities lawyer, so I was relying on their assessment. Their assessment was that this was familiar, it was similar to what was in LJM2. That was approved by the board, so they didn't take exception to it.

Mr. STEARNS. I have got the PPM for LJM2 here, and document number 11, if you could just pull that up. Page 3. Let me draw your attention to the top of the page: "The ability to evaluate investments with full knowledge of the assets due to their active involvement in the investment activities at Enron, the principals will be in an advantageous position to analyze potential investments for LJM2. The principals, as senior financial officers of Enron, will typically be familiar with the investment opportunities LJM2 considers." This is a key part, "The principals believe that their access to Enron's information pertaining to potential investments will contribute to superior returns."

Now, let me just go to page 7 here. Mr. Fastow is at the bottom of the page, dual role advantages. "Mr. Fastow will continue to hold the titles and responsibilities of executive vice president and chief financial officers of Enron and Messieurs Kopper and Glisan will continue to serve as senior financial officers of Enron, while acting as owners and managers of the general partner. As a result investors in the partnership should benefit from Mr. Fastow's and the other principals' due roles which will facilitate the partnership access to Enron deal flow. The principals' dual roles in managing the partnership while remaining employed as senior official officers at Enron, however, raises certain conflicts of interest that could affect the partnership.

Now, what you raised in LJM3 was already in place in LJM2, wouldn't you agree?

Mr. MINTZ. That is correct.

Mr. STEARNS. So the concerns you had on this LJM3, which did not get off the ground, were already replicated in the previous one.

Mr. MINTZ. That is correct.

Mr. STEARNS. And yet everybody signed off on LJM2 Mr. MINTZ. That is my understanding.

Mr. STEARNS. Mr. Olson, just maybe a quick comment on some of our discussion here. In terms of—I mean even Mr. Mintz had indicated that it was a problem. Would you mind giving your—based upon what I read about LJM2 and based upon Mr. Mintz' memo on LJM3, was he right to ask the securities analyst to say, "What is wrong with this?"

Mr. OLSON. I am not sure I understand that he was asking a securities analyst to say, "What is wrong with this?"

Mr. STEARNS. Well, what he did is in his memo had some concern about LJM3, so he went to the securities lawyers and say, "Here are my concerns," and they came back and sort of didn't agree with him. And my question is to you, in your capacity, did you agree with Mr. Mintz about this development of this partnership?

Mr. OLSON. I would be very concerned, again, as a securities analyst. This is a blatant conflict of interest. Again, it would never have passed the smell test had it been publicly disclosed.

Mr. STEARNS. So Mr. Chairman, in conclusion, we have a blatant conflict of interest here on LJM3, and it is identical to LJM2, so what you are saying, Mr. Olson, would also apply to LJM2.

Mr. OLSON. Right.

Mr. GREENWOOD. The time of the gentleman has expired. The Chair recognizes the gentlelady from Colorado, Ms. DeGette, for 5 minutes.

Ms. DEGETTE. Thank you, Mr. Chairman. Mr. Mintz, in Mr. Winokur's testimony, his written testimony, he talks about the transaction approval process for deal approval sheets, or the DASHs, correct?

Mr. MINTZ. I haven't seen——

Ms. DEGETTE. You haven't seen it. Well, what he says is that the deal approval sheets set out the economic basis of significant transactions. It talks about the approvals at various levels, and it says that in the timeframe at issue for the LJM transactions, new business in an amount greater than $35 million required board approval, correct? Do you know that that was the policy?

Mr. MINTZ. That sounds generally like the policy. I know the thresholds change.

Ms. DEGETTE. I mean you wouldn't disagree that that was the policy, correct?

Mr. MINTZ. The threshold would change from time to time.

Ms. DEGETTE. Okay. If you take a look at exhibit 26 in your notebook, that is the LJM approval sheets that we have been talking about. Chairman Tauzin was talking about some, and Mr. Stearns. Those are the LJM approval sheets which were not signed, most of them, by Jeff Skilling, correct?

Mr. MINTZ. The first one I am looking at, that is correct.

Ms. DEGETTE. Now, you were very concerned that Mr. Skilling had not signed those sheets, correct?

Mr. MINTZ. From the beginning of the job, I was very concerned, as I did my due diligence, that the policies and procedures that the board had put in place weren't being——

Ms. DEGETTE. Now, wait a minute. You were concerned that Mr. Skilling had not signed the sheets, and in fact you tried to get him to sign the sheets from time to time, even writing him a memo.

Mr. MINTZ. That requirement was part of the policies and procedures.

Ms. DEGETTE. And you tried to get him to do it, yes or no?

Mr. MINTZ. That is correct.

Ms. DEGETTE. Thank you. And did Mr. Skilling ever sign the sheets, that you know of?

Mr. MINTZ. I don't think so.

Ms. DEGETTE. And do you know why he didn't sign the sheets?

Mr. MINTZ. I don't know.

Ms. DEGETTE. And did you ever go to any of the board members, Mr. Winokur or others, and tell them of your concerns, that Mr. Skilling had not signed these sheets?

Mr. MINTZ. I didn't, Congresswoman.

Ms. DEGETTE. Why not?

Mr. MINTZ. In an organization like Enron, I try to work within the system and report to people who are senior to me who I felt had the direct responsibilities with the board.

Ms. DEGETTE. Okay. Did you ever report to your people who were senior to you of your concerns that Mr. Skilling had not signed these sheets?

Mr. MINTZ. I did.

Ms. DEGETTE. Who was that?

Mr. MINTZ. It was Mr. Buy and Mr. Causey.

Ms. DEGETTE. Mr. Buy and Mr. Causey, you said, "I am concerned Mr. Skilling has not signed these sheets."

Mr. MINTZ. That is correct.

Ms. DEGETTE. What did they tell you they would do?

Mr. MINTZ. They told me to send a memo or get with Mr. Skilling and see if he wanted to get a whole packet of documents or——

Ms. DEGETTE. And you did send a memo, right?

Mr. MINTZ. Yes, Congresswoman.

Ms. DEGETTE. Did you get with Mr. Skilling?

Mr. MINTZ. I did not.

Ms. DEGETTE. Why not?

Mr. MINTZ. Mr. Skilling didn't respond to my memo. I then asked my assistant to call his secretary to see if I could get on his schedule, and made two calls——

Ms. DEGETTE. And you never got on his schedule. Did you then go back to your superiors and tell them Mr. Skilling never met with you or did you just drop it?

Mr. MINTZ. I just dropped it. I told——

Ms. DEGETTE. Thank you.

Mr. MINTZ. Yes.

Ms. DEGETTE. Now, you started in your current position in October——

Mr. GREENWOOD. Mr. Mintz, did you feel like you didn't get a chance to respond to that?

Mr. MINTZ. Yes. I had——

Ms. DEGETTE. Mr. Chairman, I would ask unanimous consent for an additional 30 seconds in that case——

Mr. GREENWOOD. You will have it, you will have it.

Ms. DEGETTE. [continuing] to finish my questioning. Thank you.

Mr. MINTZ. I did mention it to Mr. Causey and Mr. Buy.

Ms. DEGETTE. And what did they say they would do?

Mr. MINTZ. They said, "You tried and—"

Ms. DEGETTE. They said they would try to get him——

Mr. MINTZ. No, no. They said, "You tried, and leave it at that."

Ms. DEGETTE. So they said, "You tried, and oh well." And you took nothing further with it.
Mr. MINTZ. That is correct.
Ms. DEGETTE. Okay. Now, you started with your current position in October of 2000, correct?
Mr. MINTZ. Yes.
Ms. DEGETTE. And in December of 2000, you sent a memo to Rick Buy and to Mr. Causey about the LJM3 Limited Partnerships, kind of outlining the different criteria you thought would be important, right?
Mr. MINTZ. Well, I summarized what I had seen in the PPM for them.
Ms. DEGETTE. And you were concerned, weren't you, about issues of conflict of interest with—go ahead.
Mr. MINTZ. Again, I wasn't a securities attorney. I didn't deal with PPMs that often, but there were issues here that caught my eye that I thought people should be aware of.
Ms. DEGETTE. And those issues were what?
Mr. MINTZ. The sales pitch.
Ms. DEGETTE. And that was in December of 2000, right?
Mr. MINTZ. That is correct.
Ms. DEGETTE. And on March 8, 2000, exhibit 13 in your notebook, you sent another memo to Mr. Buy and Mr. Causey talking about the LJM approval process and talking about issues regarding Jeff Skilling and others—I am sorry, Mr. Fastow and Mr. Kopper having conflicts, correct?
Mr. MINTZ. I summarized my due diligence for Mr. Buy and Mr. Causey regarding——
Ms. DEGETTE. So during that period, October through, say, June, when you hired Fried Frank, you were concerned about conflicts of interests that Mr. Fastow and Kopper would have had.
Mr. MINTZ. I was concerned that the process and the procedures that had been put in place by the board weren't being adhered to to the level that I thought would substantiate arms-length dealing and fairness.
Ms. DEGETTE. And you talked to Mr. Buy and Mr. Causey about those concerns, correct?
Mr. MINTZ. That is correct.
Ms. DEGETTE. Did you ever bring those concerns to anyone on the board?
Mr. MINTZ. No, I didn't.
Mr. GREENWOOD. Time of the gentlelady has expired.
Ms. DEGETTE. Thank you.
Mr. GREENWOOD. The Chair recognizes the gentleman from North Carolina, Mr. Burr.
Mr. BURR. Mr. McMahon, Mr. Mintz, let me ask you a couple of quick questions, just yes or no. Either of you aware of any direction of Enron management for document destruction within Enron at any point?
Mr. MCMAHON. If I understand your question, is any direction related to document destruction?
Mr. BURR. Did any person within management at Enron instruct employees to destruct documents?

Mr. MCMAHON. No, quite the opposite. There were several e-mails sent out from our general counsel's office requesting people not to destroy certain types of documents and ultimately not to destroy any documents.

Mr. BURR. Mr. Mintz, you were general counsel, what actions did you take?

Mr. MINTZ. I made sure that the people in the Global Finance Group had received the e-mails that were sent out from our general counsel's office.

Mr. BURR. Those e-mails were dated 10-25, the first one, if I am correct. The SEC inquiry actually took place on October 17. Can either of you fill in what transpired within Enron management in those 8 days between the SEC inquiry and this decision to put out a document preservation memo?

Mr. MCMAHON. At the time, that would have been handled by the general counsel's office prior to my becoming CFO of the company, so I am not aware of what went on at that point in time.

Mr. BURR. Any light you can shed on that, Mr. Mintz?

Mr. MINTZ. No, Congressman.

Mr. BURR. Mr. Mintz, let me go back to your decision to hire outside counsel. I just need some clarification.

Mr. MINTZ. Yes, sir.

Mr. BURR. Enron hired outside counsel through you or you personally hired outside legal counsel?

Mr. MINTZ. I hired outside legal counsel on behalf of the company as its client.

Mr. BURR. On behalf of the company as its client. And your primary reason for that was what?

Mr. MINTZ. As I mentioned before, this Enron/Wind deal concerned me because of the magnitude, and it was different than apparently the transactions that were engaged in before LJM. Also the issues regarding some of our disclosures continued to gnaw at me, and I wanted somebody to take a fresh look at that.

Mr. BURR. Who above you in Enron management did you share with the fact that you had hired outside counsel to look into this?

Mr. MINTZ. At that time, nobody, Mr. Congressman.

Mr. BURR. You would have answered to Mr. Derrick at that time?

Mr. MINTZ. On the legal side, that is correct.

Mr. BURR. And did any conversations that took place between you and Mr. Derrick prior to your decision to hire outside counsel lead you to believe you needed to hire outside counsel?

Mr. MINTZ. Mr. Derrick is a gentleman of the highest ethics and integrity, but I had brought—I was down on the 20th floor; Jim was on the 50th floor.

Mr. BURR. Am I safe to assume from that answer that the points that you might have raised with Mr. Derrick were on deaf ears?

Mr. MINTZ. I don't think he appreciated the dysfunctionality that I observed on a regular basis.

Mr. BURR. You are still extremely too kind. Mr. McMahon, you were involved in the Chewco buyout, weren't you?

Mr. MCMAHON. Not directly, because it——

Mr. BURR. You had knowledge of it.

Mr. McMAHON. I had knowledge of the proposal to actually buy out Chewco in early 2000. My understanding is it actually got bought out in 2001.

Mr. BURR. You had originally signed off on a deal that would have profited someone a million dollars to Chewco, correct?

Mr. McMAHON. My group actually proposed the transaction to Mr. Fastow in order to essentially unwind the JEDI partnership where Chewco was the other investor. We proposed the transaction to simplify the capital structure of the company. And, yes, the proposal to Mr. Fastow was that we would recommend to spend $1 million to buy out the Chewco equity in JEDI.

Mr. BURR. And, in fact, when that deal came back it was over $10 million.

Mr. McMAHON. That is how I understand it from the Special Committee report. It happened approximately a year after I moved out of the treasurer role.

Mr. BURR. Can you shed any light on who it would take within Enron during that period to approve such a large difference between the proposal that you apparently had some financial basis to come up with and in fact a number that was 10 times larger?

Mr. McMAHON. Well, I wasn't party to the actual negotiations that Mr. Fastow had with the Chewco investors, but as far as the approval goes, I actually am not certain within the company who would have that authority.

Mr. BURR. Would it take Mr. Skilling?

Mr. McMAHON. I don't know.

Mr. BURR. At what level does a decision to execute a buyout like this require?

Mr. McMAHON. That would go through our capital expenditure policy, and this is a $10 million payment, so I am just unfamiliar with what level of management.

Mr. BURR. Could this transaction have taken place and Mr. Skilling not have known?

Mr. McMAHON. I don't know.

Mr. BURR. Was Mr. Fastow involved?

Mr. McMAHON. Well, the discussions I had in 2000 about our recommendation to buyout Chewco, Mr. Fastow was very involved. He listened to our recommendation, understood the proposal of a million dollar buyout. Then he said he would personally handle the negotiations with Mr. Kopper.

Mr. GREENWOOD. The time of the gentleman has expired.

Mr. BURR. Note that that is significantly different than what he suggests his involvement was, which was none. I thank the Chair.

Mr. GREENWOOD. The Chair recognizes the gentleman from Illinois, Mr. Rush, for purposes of inquiry.

Mr. RUSH. Thank you, Mr. Chairman. Mr. McMahon, I want to determine, are you currently—you are still currently affiliated with Enron, is that right?

Mr. McMAHON. Yes. As of last week, I am the president and chief operating officer of the company.

Mr. RUSH. President and chief operating of the company. Well, then, let me ask you this question: This week it was mentioned—noted that Mr. Buy and Mr. Causey would leave Enron. Is that the case?

Mr. MCMAHON. I believe right now Mr. Buy and Mr. Causey are both current employees of Enron. The board convenes next week to deliberate on any type of actions they plan to take with respect to the results of the Special Committee report.

Mr. RUSH. Okay. And so are they in fact, as was indicated earlier, are they negotiating some kind of severance package?

Mr. MCMAHON. Currently, I believe, where it stands, Congressman, is no action has been taken either way. Neither employee to date has resigned. As of to date, the company has not terminated, to the best of my knowledge, and the decision has really been undertaken by the board on what action to take, which will—as I understand it, they will meet next week to talk about that.

Mr. RUSH. Well, can you describe for the committee any severance packages that they might be eligible for?

Mr. MCMAHON. I think, basically, due to the bankruptcy, I don't believe that, as of right now, they are eligible for any severance package that was any different than any of the other severed employees. But, again, that is a matter for the board, not for myself.

Mr. RUSH. Okay. So are you saying that Enron does have an existing policy that would determine severance packages in the event of bankruptcy?

Mr. MCMAHON. That is technically a little bit different. We had an existing policy that, as I understand it, was terminated as a result of the bankruptcy, and therefore we are limited to severance payments that are sanctioned by the bankruptcy court.

Mr. RUSH. Well, then does Enron have a policy that officers who have breached their fiduciary responsibility to the company or are being terminated for cause, that they must forfeit their severance pay, severance package?

Mr. MCMAHON. I am not aware of a policy one way or another with respect to that.

Mr. RUSH. So would you—do you have any role in terms of making recommendations to the committee?

Mr. MCMAHON. No. These are two senior officers of the company that were elected by the board of directors, and the board of directors will take the appropriate action they deem necessary.

Mr. RUSH. Mr. Olson, yesterday we heard some lengthy testimony from Mr. Chanos about short sellers, that for some time they had concern regarding Enron's overstated stock value. These analysts noted Enron's confusing disclosures and related party transactions. They also noted the constant selling of stock by insiders. Give us a panoramic view of the industry. Is this common in the industry?

Mr. OLSON. I would be glad to. In my opinion, Enron way back when, when Mr. Chanos presumably was referring to it, when the stock was $80 or $90, it was gloriously overvalued, in my opinion. You had an era of really good feelings. The stock was up 88 percent in the year 2000, and everybody seemed to be out there recommending it. But no one had really been out there connecting all the dots. There was always a reason that some of the selling was going on, that one person was going to retire and move to Colorado, one person was going to go off and do something else. But I think over 18 months, it turned out that about 68 members of top management left by September 30, 2001. We didn't have all the different pieces to put together. We did not have the off-balance sheet financings. Those really became apparent when the Wall Street Journal got a hold of these partnership documents on LJM, I think, on October 17 or so, or somewhere around that time and revealed just some of the shenanigans going on.

There was a great fan club of Enron on Wall Street because of its tremendous stock market success. Everybody sensed, in my opinion, that they didn't understand it. I know I didn't understand the company very well. I had been covering it for its 15-year horizon, but you couldn't really get past the cosmetics. This company had gone from $13 billion of assets in 1994 to $65 billion 5.5 years later. It had taken its revenue base from $95 billion in the year 2000. It was headed toward $200 billion in 2001. By most measures, it was a great success, but on the other hand, Mr. Chanos and the short sellers were quite right, the stock was way overvalued, and it was coming down. With all due credit to him, I would tell you I think he was as lucky as he was smart.

Mr. GREENWOOD. The time of the gentleman from Illinois has expired. The Chair recognizes the gentleman from New Hampshire, Mr. Bass, for 5 minutes.

Mr. BASS. Thank you, Mr. Chairman. Mr. Burr asked you—Mr. Mintz, Mr. Burr asked you a minute ago about meeting with Jim Derrick who was Enron's general counsel, and you responded, as I recall, that you met with him several times about your concerns over LJM, correct?

Mr. MINTZ. I started a process in meeting with Jim after I had completed my due diligence to keep him abreast of what was going on related to LJM. I didn't feel that he had an appreciation up on the 50th floor.

Mr. BASS. Was there a situation where Fastow and Kopper came to you to complain about Enron's attorneys negotiating on behalf of Enron about LJM? Was there a discourse there that you are aware of?

Mr. MINTZ. There was a situation just when I began the job in October that almost immediately one of the senior attorneys brought to my attention that the buzz on the floor was that one of our attorneys was being fired. When I started the job, Mr. Kopper and Mr. Glisan came to me and told me that they wanted me to fire a particular attorney. I said, "You just hired me. Let me do my job. Let me make my own assessment."

Mr. BASS. Why was that? Why was that?

Mr. MINTZ. That they felt that he was unresponsive on a transaction.

Mr. BASS. Involving LJM?

Mr. MINTZ. That is correct.

Mr. BASS. Is it your understanding that Mr. Fastow left this lawyer of a voice mail message or any kind of communication, and what was the nature of that?

Mr. MINTZ. Well, I wanted to understand the facts that triggered all of this. I met with my colleague, and he told me his view of what happened, and he had told me during the process of the negotiations that he did receive a voice mail from Andy, from Mr. Fastow.

Mr. BASS. Did he describe the nature of that voice mail message?

Mr. MINTZ. What I read in the papers, I think, was accurate; it was expletive-laced.

Mr. BASS. I see. One quick question for you, Mr. Olson, then I would like to yield the balance of my time to the chairman of the committee. Just in general, and it may be—the answer may be obvious, but in your opinion, would any investor, anybody, even a brokerage firm that was not inside the corporation, be able to determine that there was any problem with Enron's accounting practices and the partnerships and generally the whole discussion that we have been having today?

Mr. OLSON. I am afraid to say that that is correct. From the outside looking in, you could not go beyond the accounting cosmetics that you would like to, but how do you—when they had $7.5 billion global assets out there, assets in India, Turkey, Sicily, you had no idea, they had over 2,500 subsidiaries, and, again, it was almost impenetrable, and I think that Enron was able to game us in that sense. We were increasingly reliant upon their judgment as to where their earnings trends were going.

Mr. BASS. Thank you.

Mr. GREENWOOD. The Chair thanks the gentleman for yielding. Mr. McMahon, would you turn in your document folder to Tab 10? And while you are doing that, let me indicate that the entire binder of documents that has been distributed to the members, without objection, will be made a part of the record.

Tab 10, Mr. McMahon, is the March 2000/April 2000 your calendar. Do you have that document?

Mr. MCMAHON. Yes, I do.

Mr. GREENWOOD. Okay. Let me ask you this question: Did you ever discuss your concerns regarding the LJM situation with other officers at Enron?

Mr. MCMAHON. Yes. I had frequent conversations, well, you say other officers, beginning with Mr. Fastow.

Mr. GREENWOOD. In looking at your calendar, perhaps you could help us develop a chronology——

Mr. MCMAHON. Oh, sure.

Mr. GREENWOOD. [continuing] and we will come back to this.

Mr. MCMAHON. On March 6, there was a social event where I met with Mr. Baxter that evening, who is one of the——

Mr. GREENWOOD. And Mr. Baxter is, identify him, please.

Mr. MCMAHON. Cliff Baxter was, at the time, one of the vice chairmen of the company. We had a conversation about the variety of conflicts that the LJM matters were——

Mr. GREENWOOD. And how did Mr. Baxter react to your concerns?

Mr. MCMAHON. He was aware of the conflicts as well as I was. He encouraged me to go see Mr. Skilling directly.

Mr. GREENWOOD. You said he was aware. Did he indicate to you that "This is bad, this is wrong, we need to do something about this," or did he just say, "Hey, if that is bothering you, go see Skilling."

Mr. MCMAHON. Well, there was a little bit of acknowledgment. I think it was widely known that the conflict existed. I mean, again, it——

Mr. GREENWOOD. This was a big dead elephant in the center of the room, right?

Mr. MCMAHON. I think it was widely known among frankly all—several layers of management about the conflicts. I explained to him personally how they manifested within my group. His suggestion to me was nothing probably will get resolved unless——

Mr. GREENWOOD. I am going to run out of time. You took your concerns to Skilling.

Mr. MCMAHON. Correct, and I——

Mr. GREENWOOD. Can you show us on the calendar when you did that?

Mr. MCMAHON. Yes. On the calendar, there is a meeting with Mr. Skilling on March 16. But, actually, the day before that, on March 15, you see a meeting with Mr. Fastow where I——

Mr. GREENWOOD. Let us go 1 day before that, to the 14th, with Mr. Greg Waley?

Mr. MCMAHON. Right, Mr. Waley.

Mr. GREENWOOD. What was that about?

Mr. MCMAHON. At that point in time, Mr. Waley had approached me about moving internally. He was also one of the senior members of management I had spoken to about my concern, and he knew I was unhappy in my current role. So he suggested that I move into the group he was now heading up.

Mr. GREENWOOD. Did you turn him down?

Mr. MCMAHON. I ultimately did turn him down. It was probably several days from that meeting, but it was not an internal move at the time I was willing to make.

Mr. GREENWOOD. And then—I will yield after this—but on the 16th, you met with Skilling in his office, according to your calendar, at 11:30. Could you describe that meeting for us?

Mr. MCMAHON. Yes. That meeting was about a 30-minute meeting where I sat down with Mr. Skilling and——

Mr. GREENWOOD. Did you make notes at that meeting?

Mr. MCMAHON. I did make notes at the meeting, actually prior to going into the meeting.

Mr. GREENWOOD. Do those notes at Tab 9 reflect the notes from that meeting?

Mr. MCMAHON. Yes. These are the two pages of an outline, a talking outline that I took into the meeting with me.

Mr. GREENWOOD. Tell us what this committee can learn from your notes.

Mr. MCMAHON. Essentially, the notes on the meeting, which was really, again, my talking points, were that the LJM situation had gotten to basically a point that was just untenable for myself and my group. We found ourselves negotiating against people who represented LJM. They were Enron employees. Andy Fastow was the ultimate senior person that all those people reported to. He set compensation and promotion——

Mr. GREENWOOD. I am out of time, and in respect for my colleagues——

Ms. DEGETTE. Mr. Chairman? I would ask unanimous consent that you grant 2 additional minutes to the gentleman and yield to me to follow-up on your questions about these notes. I think this is an important line of questioning, and I have got the notes in my hand.

Mr. BASS. I have no objection to that, Mr. Chairman. My time is expired, though.

Mr. GREENWOOD. Well, I would yield the gentleman 2 additional minutes with unanimous consent, and I would be happy to have you yield them to me, and I will finish the line of inquiry.

Mr. BASS. That is fine. I will yield to the distinguished chairman.

Mr. GREENWOOD. And I will be generous with the time of the gentlelady from Colorado as well.

Now, your notes, sir, do they reflect in fact what you discussed with Mr. Skilling or did they reflect what you intended to discuss with Mr. Skilling? Did you in fact discuss the points that are reflected in your notes?

Mr. MCMAHON. Yes. I would characterize that my notes reflect both. This was what I intended to discuss when I——

Mr. GREENWOOD. You made these notes before you entered the meeting or during the meeting?

Mr. MCMAHON. Before I walked in the meeting, these notes were made as a talking outline for me.

Mr. GREENWOOD. And what was Mr. Skilling's reaction to your discussion with him?

Mr. MCMAHON. Mr. Skilling listened to my concerns. I went through a variety of conflict matters and asked him to do one of two things: Either remedy the situation——

Mr. GREENWOOD. What were the conflicts that you raised, how did you phrase it?

Mr. MCMAHON. I said there were several conflicts that I thought he needed to be aware of that were going on because of this. The Enron employees were negotiating against LJM representatives, and yet they all reported to Mr. Fastow. I saw that as a major conflict. Mr. Kopper——

Mr. GREENWOOD. How did he react to that?

Mr. MCMAHON. Throughout the meeting he pretty much listened, not a lot of——

Mr. GREENWOOD. You read body language pretty well, do you, facial language? Did he look like, "Oh, horrors, I didn't know this" or did he look like, "Yes, yes, I know."

Mr. MCMAHON. He didn't have much of a reaction, frankly.

Mr. GREENWOOD. He was kind of stone-faced about this. You couldn't read him.

Mr. MCMAHON. I could not read him, that is a fair assessment.

Mr. GREENWOOD. You walked out of the room and you thought to yourself, "Hmm." What did you think? Did you think—what did you think? You couldn't read him, but what did you think?

Mr. MCMAHON. Well, his parting words to me were that he understood all my concerns and that he would remedy the situation.

Mr. GREENWOOD. My time has expired. The Chair recognizes the gentleman from Louisiana, Mr. John.

Mr. JOHN. Thank you, Mr. Chairman. I am going to get back to that point here real quick. A lot of my questions have been answered, except something sticks in my mind that is very fascinating with Mr. Mintz' situation. It is fascinating to me that you, as the general counsel of Enron, would go outside your department, and I assume you paid a nice little fee to Vinson & Elkins to be your in-house attorneys, and to go outside it is fascinating to me. Why would you do that? I think you shed a little bit of light, but I don't think you went far enough to satisfy at least some of my curiosities. Did Vinson & Elkins have anything to do with the structuring of these partnerships?

Mr. MINTZ. Congressman John, I think they were involved in many of the transactions as——

Mr. JOHN. Actually setting them up or providing legal advice on how to structure them?

Mr. MINTZ. I think it really related to legal advice regarding whether true sales opinions needed to be obtained, not so much the structure but rather what were the requirements from a legal perspective in order to reach the accounting objective?

Mr. JOHN. And that is what concerned you about the conflicts of interest.

Mr. MINTZ. Well, not so much the substantive aspects of the transaction. I was just concerned with something larger about the whole LJM relationship, and I wanted somebody to help me think through it.

Mr. JOHN. So in June 2001, you hired Fried Frank, correct?

Mr. MINTZ. Congressman, I think it might have been the month before, but that is correct.

Mr. JOHN. Okay. Yes, you had answered that earlier. And during the line of questioning with one my colleagues, we were getting to the fact of what came out of their investigation. How long—two-sided question: Give us a little synopsis of what their findings were, (a), and then, (b), it seems like in your conversation and in my notes that the relationship stopped all of a sudden with you and Fried Frank. Give us a little input about what their findings were and why they stopped?

Mr. MINTZ. If I may take even a step further back. When I approached——

Mr. JOHN. Can you push the microphone a little bit closer?

Mr. MINTZ. When I approached Fried Frank, it was really to focus on two different issues: One, this larger issue of the relationship, the related party relationship with LJM and what were their views about it; and then, second, I had lingering concerns about the disclosures that we had made in the proxy, and I asked them to review our disclosures. Almost immediately we had phone conversations thinking about the process. They were telling me the type of research that they were going to do, and we had an ongoing dialog. I provided them with some additional documentation along the way.

About a week or 10 days into their research and their review, Mr. Fastow, Andy, brought to my attention that he was working with his law firm, Kirkland & Ellis, to try to restructure his interest to reduce it below the threshold that it would no longer constitute a related party transaction. I think Arthur Andersen at that time told him that if he had any interest at all in the partnership, he would still be considered to be a related party, and they would have to disclose it. He came back and told me that he was going to sell his entire interest in the partnership.

And I was sort of elated by that news, because it was going to go away and presumably a lot of the dysfunctionality was going to go away. So when I brought that to Fried Frank's attention, I asked them could they change their focus somewhat and help me think through about what is the best way to terminate the interest and to clean things up, if you will.

Mr. JOHN. When and with whom did you share any of this information about bringing in an outside firm? Did any of the top management know or did you, at any point in time after this, share with them what you were doing?

Mr. MINTZ. I did. The most important thing that I gleaned from the advice from Fried Frank was, "Although the disclosures probably pass muster, here is an opportunity to sort of clean things up. So in the quarter that Mr. Fastow sells his interest, why don't you expand your disclosures in the 10-Q, and then when you go ahead and file your proxy in the following year, why don't you make a more expansive disclosure at that time?"

And I had—I think it was sometime in August when we were starting to think about the—well, the problem was Mr. Fastow—it lingered until he sold his interests. So instead of it being the second quarter, it turned out to be the third quarter, as we started getting ready to think about preparation of the Q. I had discussions with one of our senior securities attorneys about making a fuller disclosure.

Mr. JOHN. Okay. My time is running out. I got one more——

Mr. GREENWOOD. The Chair would ask unanimous consent for the gentleman to have an additional 2 minutes of time and would note that if he would like to yield that to his colleague, Ms. DeGette, that would be consistent with my——

Mr. JOHN. I will be glad to. I have got two more very, very quick questions. First of all, Mr. Mintz, another fascinating aspect of this is the signing of this document. Is there any doubt in your mind that Mr. Skilling was never aware of these transactions? Is that why maybe he didn't want to sign them?

Mr. MINTZ. No, I don't think that is the case.

Mr. JOHN. You think he knew all about them.

Mr. MINTZ. Certainly the majority of them, I do.

Mr. JOHN. Okay. And, finally, we were getting down to Mr. McMahon's—to maybe the crescendo of this meeting he had with Mr. Skilling about what all happened. And as you walked out, he said that he is going to try to fix this. But isn't it true that you also shared a lot of the concerns with Mr. Causey, Mr. Buy, Mr. Lay and Mr. Sutton, and not one of them helped you or gave you advice, other than maybe just, "Get out of the way." In fact, you even told some of the committees that you told Mr. Sutton that Mr. Fastow could make as much as $15 million. Is that true?

Mr. MCMAHON. Yes. When I met with Mr. Sutton, which actually was after Mr. Skilling's meeting, apparently, according to Mr. Sutton, Mr. Skilling delegated the responsibility to Mr. Sutton, who was also vice chairman of the company, to deal with my issue that I had raised in the previous meeting. And it was at that point in time Mr. Sutton was asking me about what type of compensation one could get from this type of fund, and I explained to him, based on the math as I knew it, which was standard, private equity could be somewhere at $10 million to $20 million per year.

Mr. JOHN. And final, maybe a comment, maybe not. When things got so bad you finally gave Mr. Skilling an ultimatum, you either had to fix this or get a new job, and it was very fortunate for you that there was another job waiting for you. And as you left Mr. Skilling's office, not much time has passed before Mr. Fastow had called you and said, maybe I can paraphrase it, "We have got a new job for you. The pay is the same, but you have a new job." Can you comment on that?

Mr. MCMAHON. Actually, the process was a little bit different. I actually had a long discussion with my wife before I even walked into Mr. Skilling's office, because I knew the potential ramifications. Mr. Fastow, actually, did not suggest I take a new job; in fact, quite the opposite. About a week or two later, he called me in and suggested that he was unclear whether he and I could continue to work together.

Mr. JOHN. Mr. Fastow.

Mr. MCMAHON. Mr. Fastow, who was my boss. It was hours after that meeting when Mr. Skilling advised me that he thought there was a much better job in the company for me and that I should seriously consider taking it.

Mr. JOHN. And I will yield the balance of my time to the lady——

Mr. GREENWOOD. The gentleman has consumed all 3 of the 2 minutes that was yielded to him.

The Chair asks unanimous consent that the Chair be granted an additional 2 minutes and then yields that to the gentlelady from Colorado.

Ms. DEGETTE. Thank you for you comity, Mr. Chairman. Let me follow-up, Mr. McMahon, on Mr. John's question. Why did you think you were being transferred within the company?

Mr. MCMAHON. Maybe naively at the time I certainly believed Mr. Skilling when he told me that he thought I would be better able to use my skillsets elsewhere in the organization at a new startup group related to e-commerce.

Ms. DEGETTE. Now, in March and April of 2000, what was your title with the company?

Mr. MCMAHON. In March of 2000, I was treasurer of Enron Corp.

Ms. DEGETTE. You were treasurer of Enron Corp. And, as such, you owed a fiduciary duty to Enron Corp. at that point, correct?

Mr. MCMAHON. I believe that is correct.

Ms. DEGETTE. And, as we have been discussing here, you had this meeting with Mr. Skilling. These are your notes, exhibit 9. I think it bears hearing some of the things you said: "Untenable situation, LJM situation where AF wears two hats, I find myself negotiating with Andy"—I assume that was Fastow.

Mr. MCMAHON. That is correct.

Ms. DEGETTE. "On Enron matters and am pressured to do"—I can't read the—do you have those in front of you?

Mr. MCMAHON. I do.

Ms. DEGETTE. "And am pressured to do—"

Mr. MCMAHON. "A deal."

Ms. DeGETTE. "A deal that I do not believe is in the best interest of the shareholders." That is what you wrote in your notes, in March of 2000, right?

Mr. McMAHON. That is correct.

Ms. DeGETTE. And did you talk about that with Mr. Skilling in the meeting?

Mr. McMAHON. I did talk about that with Mr. Skilling.

Ms. DeGETTE. And what was his response?

Mr. McMAHON. Again, he was—as I said earlier, he was hard to read. He actually didn't have a response.

Ms. DeGETTE. So he didn't say anything when you said, "I do not believe it is in the interest of the shareholders," right?

Mr. McMAHON. That is correct.

Ms. DeGETTE. And then you have here, "Request options. My integrity forces me to continue to negotiate the way I believe is correct," right?

Mr. McMAHON. Correct.

Ms. DeGETTE. And then you said, "In order to continue to do this, I must know I have support from you." Did you say all that to Mr. Skilling?

Mr. McMAHON. I did say that to Mr. Skilling.

Ms. DeGETTE. Now, after that meeting, in March 2000, nothing really changed, did it?

Mr. McMAHON. With the structure? My job changed.

Ms. DeGETTE. Yes, okay. They moved you to another job. But as far as you know, the LJM situation that you were so concerned about never changed, did it?

Mr. McMAHON. As far as I know. I really don't know what happened. My new job took me away——

Ms. DeGETTE. Well, were you worried about the LJM situation after that? I mean you were a fiduciary of the corporation at that point.

Mr. McMAHON. That is correct, and I spoke to Mr. Skilling who was a board member, as well as Mr. Sutton, after that, who was a vice chairman, who both indicated to me that they would resolve these problems.

Ms. DeGETTE. But they never—so you never took any further duty to see if the problems were resolved, did you?

Mr. McMAHON. Well, after that I had different responsibilities with the company.

Ms. DeGETTE. Okay. But the answer is no, you didn't take any additional duty. You just said, "Well, I am transferred, so it is not my problem any more," right? Pretty much?

Mr. McMAHON. I don't think that is a fair characterization, frankly.

Ms. DeGETTE. Did you ever talk to any board members about this?

Mr. GREENWOOD. The time of the gentlelady has expired.

Mr. McMAHON. Yes. Mr. Skilling is a board member.

Ms. DeGETTE. Oh, okay. Thank you.

Mr. GREENWOOD. The gentleman from Oklahoma has waited three and a half hours patiently for a question, and the Chair yields him 5 minutes.

Mr. LARGENT. Thank you, Mr. Chairman. Mr. Bauer, I wanted to address my first question to you. In your opening statement, you talked about special purpose entities and some of the accounting parameters that have to apply to those. And some of those parameters dealt with the relationship between the parent company and the SPE.

Mr. BAUER. Yes, sir.

Mr. LARGENT. What are those parameters that have to be in place to qualify as an SPE?

Mr. BAUER. Yes, sir. I identified in my comments two specific matters: One, that the 3 percent equity needed to be independent of Enron or independent of the sponsor of the SPE, and then also that the sponsor could not control the SPE.

Mr. LARGENT. Okay. Given that definition, Mr. Mintz, I wanted to go—this issues checklist that is under Tab 26, that has been referred to, that you gathered several signatures minus Mr. Skilling, is that an issues checklist that you compiled or was that an Enron document that was just a standard blank document?

Mr. MINTZ. Congressman Largent, when I started my job in October 2000 in Global Finance, that LJM approval sheet and the issues checklist was already in place.

Mr. LARGENT. Okay. That leads me to this question: Question 4(c) that is on the second page of this document says, "Have all Enron employees involvement in this transaction on behalf of LJM been waived by Enron's Office of the Chairman, in accordance with Enron's conduct of business affairs policy, yes or no?" It seems to me that the very question is stating that it is violating one of the parameters that has to be in place to qualify as a special purpose entity, is it not? I mean that Enron just routinely waived this arms-length understanding to qualify for an SPE. But it is on a standard form, this isn't a handwritten note. This is a standardized form saying that "We waive that parameter, that restriction."

Mr. MINTZ. Congressman Largent, I was very troubled with the checklist when I came into the job and shared that with Mr. Buy and Mr. Causey in a memo that I wrote to them a couple months into the job.

Mr. LARGENT. Mr. McMahon, I want to ask you, and a couple of other members, and this is my last question, a question. And this is an opinion, this is a subjective question; I understand that. But as I mentioned in my opening statement, the issue before this committee, we are not—we should not be, although I think that it is carrying a tone of being prosecutorial, that is the Justice Department's responsibility, not Congress'. We are trying to figure out are there some things that we need to do to ensure that this doesn't happen again. My question, Mr. McMahon, is this: In your opinion, are other businesses practicing in this way that Enron has been the subject of this hearing? Are other businesses participating in this same sort of practice, the accounting gymnastics and all of the things that were going on with SPEs in an effort to fool Wall Street and analysts? Is that commonplace?

Mr. MCMAHON. Congressman, I am really unable to respond how other businesses operate.

Mr. LARGENT. I am asking for your opinion. I mean you talk to people that work at Dynegy or other companies, whether it is—

whoever it is. Are other businesses conducting themselves, in your opinion—this is an opinion, this is subjective—are they doing the same thing that you all were doing?

Mr. MCMAHON. I am afraid I really can't give you an opinion on that, because I don't know enough——

Mr. LARGENT. How about Mr. Mintz, do you have an opinion? Do you think this is commonplace or is this an anomaly?

Mr. MINTZ. He is the president of the company, I think I am going to have to defer to him.

Mr. LARGENT. Okay. Mr. Olson, how about you? Your business is to look at these companies inside and out. Is this a common practice or is Enron an anomaly?

Mr. OLSON. Congressman, the conventional asset structures that Enron used are very commonplace. General Electric, banks, credit card companies and so forth use these kind of structures very conventionally. What Enron did was to mutate that structure into something virtually unrecognizable and used this SPE capital structure of 97 debt, 3 percent equity. Corporate America for the last 10 years has been about a 50/50 debt/equity capital structure, and, in essence, Enron put a lot of basically LBOs with the stockholders at risk, put a lot of paper on their off-balance sheet financings, I want to say this way.

We are about to find out, I am sure, about some of the other companies out there. I don't know if any others among Enron's competitors who went anywhere to this degree. I have to say that when you deal with derivatives they are like hand grenades or land mines or something. JP Morgan Chase, for instance, just found out about that the hard way. That is my opinion.

Mr. LARGENT. Okay. Mr. Olson, let me just list one final question. I guess the issue that is before us, and I think most people—the question is, is this a case—and this is important for this Congress to understand too—is this a case that we just got a bunch of bad actors that were bending the laws, if not breaking the laws? Is this a case where we need additional laws to tighten this up, to make sure that this thing does not happen without breaking the law? Or is it a combination of both?

Mr. OLSON. In my very unvarnished opinion, you definitely need to institute regulations at the SEC level or at the accounting level. Some of the SPE accounting and the capital structure, for instance, is highly, highly borderline from an equity and investor point of view. The accounting, as I mentioned in my speech or testimony earlier, is as flaky as one could ever see. Enron, as the saying goes, they rode the edge, they crossed the line, they have paid the price, and it is a terrible price.

Mr. LARGENT. Thank you, Mr. Olson. Thank you, Mr. Chairman.

Mr. GREENWOOD. The Chair thanks the gentleman. The Chair recognizes the gentleman from Ohio, Mr. Strickland, for 5 minutes.

Mr. STRICKLAND. Thank you, Mr. Chairman. One of the things that I find fascinating about this particular committee is that people who appear before us take an oath. And I find it incredulous that there could be a meeting like the one that occurred between Mr. McMahon and Mr. Skilling with such important issues being discussed and that there would be no dialog. We have been told that he said nothing, and that seems like a rather strange meeting.

Now, I think to say, "I don't remember what he may have said," may be believable to me, but it is difficult for me to believe that you had this exchange with him, you shared these very important matters with him and that there was no response. Is that what this committee should believe or did he say something in response?

Mr. MCMAHON. As I mentioned earlier, he let me walk through my talking notes, and at the end of the meeting Mr. Skilling indicated to me that he understood my concerns and he would try and remedy the situation.

Mr. STRICKLAND. So he did say something in response.

Mr. MCMAHON. Yes. At the end of the meeting. I think I said that earlier.

Mr. STRICKLAND. And what he said, as you related to us, at this point, is that he understood or comprehended what your concerns were.

Mr. MCMAHON. That is correct.

Mr. STRICKLAND. And that he would——

Mr. MCMAHON. And that he would remedy the situation.

Mr. STRICKLAND. So he told you he understood the situation, the understood your concerns, and that he would remedy the situation.

Mr. MCMAHON. That is correct.

Mr. STRICKLAND. And in all due respect, I think that is a different kind of response than perhaps we were led to believe that he gave before. What does a remedy mean, sir, in your judgment?

Mr. MCMAHON. I took that to mean that he would—well, let me step back. Part of the solution here, I felt, a fairly easily mitigant to these conflict matters internally, was just some pretty simple restructuring. Take Mr. Fastow out of the performance review process, move some of these LJM representatives off the floor so they didn't have the proprietary information, et cetera, et cetera. So I thought they were fairly simple structural changes that could be made to mitigate this. And I took the "remedy the situation" meaning that he would investigate these and try and make those changes.

Mr. STRICKLAND. So you left the meeting with a personal conviction that you had been heard, that your concerns were understood and that there was a commitment to do something about them.

Mr. MCMAHON. And I was even, further than that, encouraged by the next day when the vice chairman of the company called me and said that he had been relayed the meeting information and that he was now responsible for solving the problem.

Mr. STRICKLAND. Thank you. Mr. Olson, I think the question—maybe the most basic question facing the country and perhaps this committee is who knew what, and when did they know it? And many of the senior officers have told the staff interviews that they didn't know the train wreck was coming until October. And I am asking for your belief here now, understanding that you may not be able to back it up factually. But is it your belief that senior officers in this company knew that trouble was coming prior to October?

Mr. OLSON. In a word, yes.

Mr. STRICKLAND. If so, do you have any estimate as when they may have known that this was going to happen?

Mr. OLSON. In a word, no, but if I may qualify that. The turnover, the departure of stock sales and the like all were pointing to something bad happening. This is why this stock lost so much of its credibility, going from $90 a share down to the 40's when Mr. Skilling resigned when the stock was around $42.

Mr. STRICKLAND. What are some of the signs that these upper management folks may have been aware of?

Mr. OLSON. I think that they were continuing to provide very bullish forecasts of the future. Mr. Lay was out there saying that the future was never better. Mr. Skilling made similar kinds of comments, even at his departure.

Mr. STRICKLAND. But isn't it true that these individuals were dumping their stock? Is there any reasonable explanation for why someone would sell of so much stock at the same time they were painting a rosy picture and encouraging others to buy it? Can you think of any reasonable explanation for that?

Mr. OLSON. No, in effect. I mean we were massaged, if you will, by saying, well, these people here are going through a lifestyle change or someone is going to retire or leave and the like. But, again, it was a matter of connecting all the dots. We really didn't know that so-and-so was cashing in $353 million. I mean we didn't—we were just too busy to ever add these kind of numbers up. And low and behold, when someone did that kind of dirty work, it was stunning. But no one really had connected the dots.

Mr. STRICKLAND. Which officers do you think may have had information that was unavailable to the board members and the stockholders?

Mr. OLSON. I would say that the rogue financing, rogue accounting operation that was underway there, there may have been—I am not qualified to tell you just how many people there were—this company had 245 lawyers, and you would think that we would have these checks and balances in there. But I would imagine anybody in the Fastow organization or directly reporting to him or in the Special Projects kinds of things had to know that they were using borderline accounting and highly leveraged transactions.

Mr. GREENWOOD. The time of the gentleman has expired. The gentleman from California, Mr. Waxman, while not a member of the Oversight Committee, is a member of the full committee and is recognized for 5 minutes for inquiry.

Mr. WAXMAN. Thank you very much, Mr. Chairman. Over the past 2 months, investigators on my staff have interviewed numerous former Enron employees. These interviews have given us a glimpse of how the company was run. The picture that emerged is one in which executives profited handsomely while the employees suffered. I would like to ask maybe Mr. McMahon this question. We have been told that many—this is in response to some of the allegations we have picked up from former Enron employees—we have been told that many Enron executives cashed in their deferred compensation plans last November after Dynegy made a $1.5 billion cash infusion into Enron at the time, the two companies were discussing a merger.

The allegation is that the Enron executives cashed out because they would have lost all their deferred compensation money if the company went into bankruptcy. And according to information we have been told, Enron executives were draining the company's coffers right before the company went under. And even though these executives received less in deferred compensation than they were entitled, they got a lot more than thousands of average employees who lost their jobs and were given minuscule severance payments. Suspicion has been raised by others about how Dynegy's money was spent. Dynegy's CEO, Chuck Watson, was quoted in the New York Times as saying Enron had burned through over $1.5 billion in less than 3 weeks. Neither the treasurer nor the CEO could explain where the cash went.

I would like to substantiate whether this was a significant activity in the deferred compensation plan. Do you know or did you personally—did you personally withdraw any or all of your deferred compensation funds?

Mr. MCMAHON. No, I did not withdraw any, nor do I have any. The matter you are talking about I am not 100 percent familiar with. During that time period, I was appointed CFO late October. That matter would have been handled by our Human Resource Department, so, unfortunately, I don't have the facts with me on the deferred comp plan, but I would be happy to get back to the committee.

Mr. WAXMAN. Do you know whether there were executives that were cashing out their deferred compensation plans before the bankruptcy?

Mr. MCMAHON. My understanding is during that timeframe there were deferred compensation payment requests. I am not familiar with who or how much was disbursed.

Mr. WAXMAN. Who at Enron would keep the records of deferred compensation withdrawals?

Mr. MCMAHON. That would be in our Human Resource Department.

Mr. WAXMAN. And I would like to request to the chairman that he be sure to subpoena copies of these records to see if there were these deferred compensations at the time we were told.

I understand that companies keep track of the stock options owned and exercised by its employees. While Enron is required by the SEC to report all stock transactions involving officer, directors and major shareholders, it is not required to report transactions of other senior executives. Who at Enron keeps records of stock options and when they are exercised?

Mr. MCMAHON. Again, that would be their Human Resources Department.

Mr. WAXMAN. Well, I think it is important for this committee to determine whether senior executives profited from insider knowledge about Enron's financial situation, and I would also like to request that the chairman issue a subpoena, if that is necessary, for all the records of employee stock sales or purchases, including any exercises of stock options of over 1,000 shares that occurred during 2001.

Mr. GREENWOOD. The Chair will take the gentleman's requests under consideration.

Mr. WAXMAN. Last fall, as Enron was unraveling, Enron reportedly made millions of dollars in payments to a number of Enron executives. In press accounts, Enron characterized these payments as retention payments. We have heard, however, that payments amounting to hundreds of thousands of dollars were made to executives of non-core Enron businesses or to Enron businesses that are now essentially defunct. We also heard that some of those who have received such payments did not remain at Enron. Mr. McMahon, who at Enron would have records of the names, positions and current employment status of all the Enron employees who received significant retention payments between October through December of 2001?

Mr. MCMAHON. Again, that would be in our Human Resource Department.

Mr. WAXMAN. And, Mr. Chairman, I would like to make a request for you to consider subpoenaing those records as well.

Mr. Olson, you answered the question about SPEs of Mr. Largent. These are the special purpose entities. And you said it is not just Enron but other corporations that are using these in ways that may be for the same purpose but maybe not. But it was the way that Enron was able to move debt off its balance sheets and inflate the company's revenues. And you indicated you thought Congress ought to deal with this issue.

I do want to point out that in the late 1980's, the Securities and Exchange Commission raised concerns about SPEs and they asked the Financial Accounting Standards Board to establish rules for SPEs. And FASB, a private organization in charge of establishing standards for financial accounting and reporting, is funded and overseen by accounting firms and their clients. The result has been a weak set of rules that continue to mask from investors many off-balance sheet transactions. Congress should have done more, shouldn't it——

Mr. OLSON. Absolutely.

Mr. WAXMAN. [continuing] rather than just let FASB do this?

Mr. OLSON. Either at the SEC level or FASB level, so someone is asleep at the switch.

Mr. GREENWOOD. Time of the gentleman has——

Mr. OLSON. To put the equity owners of a company at such risk with recourse to the company and to threaten its credit ratings and the like, with this kind of capital structure and marginal assets, is unconscionable.

Mr. WAXMAN. I think there are a lot of areas where Congress was asleep at the switch and that this whole debacle is an indictment of our political system as well.

Mr. GREENWOOD. Chair thanks the gentleman. The Chair also recognizes the gentleman from Texas, Mr. Green, who while not a member of the Oversight Committee is a member of the full committee and has been very assiduously participating in these hearings and is recognized for 5 minutes.

Mr. GREEN. Thank you, Mr. Chairman. Again, thank you for your courtesy to those of us who are members of the full committee, and, again, I want to reiterate the interest that I have being a Member of Congress from Houston in this situation.

Mr. McMahon, did you just tell Mr. Waxman that you didn't have stock options with Enron?

Mr. MCMAHON. No. I believe Mr. Waxman was talking about Deferred Compensation Program and withdrawals.

Mr. GREEN. Okay. But you had stock options.

Mr. MCMAHON. Yes.

Mr. GREEN. And were those cashed in within the last year with Enron?

Mr. MCMAHON. I believe the last stock options—you are talking about myself, personally.

Mr. GREEN. You, sir, personally.

Mr. MCMAHON. Last stock options I exercised was in March of 2001.

Mr. GREEN. Okay. In the Powers report, and I would like you to outline some of the transactions relating to the decision to have JEDI buyout Chewco. On page 60 and 61 of the Powers report, it outlines how Mr. Fastow and Mr. Kopper negotiated with you on the rate of investment return to the Chewco investors. The report states that you wanted to offer the Chewco investors a million dollar rate of return, but after discussions were held between Mr. Fastow and Mr. Kopper, that rate was increased to $10 million. What kind of justification did Mr. Fastow have for increasing the rate of return by nearly 10-fold?

Mr. MCMAHON. Mr. Fastow indicated to me that in a liquidation analysis of the partnership, if you were to liquidate all the assets within the partnership at the time, which actually my group agreed with, that the value of that interest to Chewco would be in excess of $20 million. So he felt, or he indicated to me that based on that the negotiations—the million dollars was unacceptable to the Chewco partners, so he negotiated a settlement of $10 million.

Mr. GREEN. Where did you come up with a million dollars?

Mr. MCMAHON. The way that we had looked at it was my group did look at that liquidation of the partnership and saw that in fact there could be a scenario where that equity could be worth in excess of $20 million. However, the partnership had 10 or 15 years more to run on it. So our notion was as a commercial transaction that you should be able to approach the equity holder and say, "Do you really want to wait 10 or 15 years and take the risk of the value or do you want to take a million dollars now and have a nice return?" So we felt a million dollars was reasonable enough return on their equity, but it was substantially less than the value of share liquidation.

Mr. GREEN. Did Mr. Fastow directly benefit from that particular transaction?

Mr. MCMAHON. Not that I am aware of.

Mr. GREEN. It does seem like, though, the partnership in a fiduciary relationship, you started with a million and you—if the $10 million that went to the partnership, obviously if it had been a million, that money would have stayed in Enron.

Mr. MCMAHON. That is correct.

Mr. GREEN. Okay. So the fiduciary relationship that maybe Mr. Fastow had with Enron he was more interested in the partnership.

Mr. MCMAHON. It is hard to say, Congressman. I mean there was a commercial negotiation that underwent that I wasn't part of.

Mr. GREEN. But he was negotiating for the partnership and not for Enron.

Mr. MCMAHON. No, he actually was negotiating on behalf of Enron with Mr. Kopper, who was negotiating for the partnership.

Mr. GREEN. I have a question concerning Enron's 401(k) plan that was offered to your employees, and, again, I know most of your responses have been Human Resources, but let me ask if you have the knowledge about it. In the copy of Enron Corporation's savings plan, I would like you to define the term found in article 15. Article 15 deals with the company's fiduciary responsibility to manage that land. It states that, "The committee shall have final say over decisions impacting the savings plan." And then I flip back to article 1 of the savings plan to examine the definitions. And when I found the defined term of the committee, it is the Administrative Committee appointed by Enron Corp. to administer the plan. This definition doesn't seem to shed light on who was responsible for administrating the 401(k) plan, which, as we know, devastated the employees. Can you tell me do you have knowledge of who was on that committee and who supposedly managed the Enron savings plan?

Mr. MCMAHON. Unfortunately, I do not have knowledge of who was on that committee. I was not on that committee, and as I testified earlier, my responsibilities are fairly new here. But I would be happy to get those facts and get them back to the chairman when we can get them.

Mr. GREENWOOD. The time of the gentleman has expired.

Mr. GREEN. Thank you, Mr. Chairman. We would love to have that information for the committee.

One last question, if I——

Mr. GREENWOOD. Time of the gentleman has expired. There will be a second round.

Mr. GREEN. Okay. Thank you, Mr. Chairman.

Mr. GREENWOOD. The Chair recognizes the gentleman from Massachusetts, Mr. Markey, who while also not a member of the subcommittee is a member of the full committee. We are happy to have his presence. You are recognized for 5 minutes.

Mr. MARKEY. Thank you, Mr. Chairman, for your courtesy. Mr. McMahon, you have been Enron's CFO since last October and Enron's president and chief operating officer since last week. So I am going to ask you a set of questions now which will determine whether or not what we are hearing here today is the iceberg or just the tip of the iceberg.

In addition to Raptor, Chewco and LJM entities, how many other special purpose entities has Enron created?

Mr. MCMAHON. I don't know the answer to that.

Mr. MARKEY. You don't know. Were any of these other SPEs set up with current or former Enron employees, officers, directors or their relatives, either as general partners, limited partners or as investors or beneficiaries?

Mr. MCMAHON. I am not aware of any of those.

Mr. MARKEY. You are not aware of any. Have you looked at that issue yet?

Mr. MCMAHON. In my current capacity as president, I have not.

Mr. MARKEY. How about in your capacity as chief financial officer since October, the navigator of the financial well-being of the company? Did you look at that issue from October through last week?

Mr. MCMAHON. No, I have not, because my focus, as the chief financial officer, late October was to try to keep the company's liquidity in place.

Mr. MARKEY. Understand that.

Mr. MCMAHON. We had a Special Committee of the Board was looking for investigative work, looking backwards.

Mr. MARKEY. So you didn't think that was your job as the chief financial officer.

Mr. MCMAHON. That is not quite what I said, Congressman. What I said was I was trying to keep the liquidity within the company, and I think that was a higher priority.

Mr. MARKEY. No, but necessarily you have had 5 months to look at it and these other questions, which relate to the liquidity of the company in fact. How much has Enron invested in other SPEs, do you know?

Mr. MCMAHON. I do not know.

Mr. MARKEY. Do you know if any of these other SPEs have been used to remove debt from Enron's books, conceal investment losses or inflate Enron's earnings?

Mr. MCMAHON. I believe several of the SPEs are related to debt transactions, but I don't know what they all have been or——

Mr. MARKEY. How many?

Mr. MCMAHON. I do not know.

Mr. MARKEY. How much debt?

Mr. MCMAHON. I don't know the answer to that.

Mr. MARKEY. You don't know the answer to that. Has Enron provided any guaranties to any of these other SPEs against investment losses?

Mr. MCMAHON. I am not aware of any, but I don't know.

Mr. MARKEY. You don't know the answer to that. Do any of these other SPEs have any contract agreement or understanding with Enron that if it loses money, Enron will issue it Enron stock or options, warrants or other rights to obtain such stock?

Mr. MCMAHON. There are two that I am aware of that have that feature.

Mr. MARKEY. They are?

Mr. MCMAHON. There is a transaction called Marlin, there is a transaction called Osprey, or Whitewing.

Mr. MARKEY. Okay. And what happened in those? What is the arrangement there?

Mr. MCMAHON. The arrangement there, as I understand it, is if there is a shortfall in the asset values within the vehicles, that the company is required to issue a sufficient amount of shares to satisfy the deficiency between the asset value and the debt obligations of the vehicle.

Mr. MARKEY. Now, Sherron Watkins' August 14 memo to Ken Lay warned about, quote, "NTM problems, mark-to-market problems in Enron Energy Services and Enron International Investments." What problems was she alluding to?

Mr. MCMAHON. I do not know.

Mr. MARKEY. You have been the chief financial officer since October. There is a memo there saying there is big financial problems there, and you haven't look at it yet?

Mr. MCMAHON. The Special Committee was charged with that responsibility.

Mr. MARKEY. Beginning in October?

Mr. MCMAHON. Yes.

Mr. MARKEY. So you have never looked at it. In fact, on page 1 of the Powers report, it says, "Many questions currently part of the public discussion, such as questions relating to Enron's international businesses and commercial electricity ventures, broadband, et cetera, transactions within Enron securities by insiders, are beyond the scope we were given by the board." So they did not have authority to look at it. Did you look at it? The board was not given authority. As the chief financial officer, did you look at it in your fiduciary responsibility?

Mr. MCMAHON. I have not looked at that at this point in time. Again, we are focused on liquidity, then of course the bankruptcy. These are matters that are related to ultimately looking back and determining what the audited—ultimately getting an audited set of financial statements.

Mr. MARKEY. I understand, but you are the chief financial officer.

Mr. MCMAHON. No, actually, I am the president of the company.

Mr. MARKEY. You were. Have you conducted any investigations or inquiries to determine whether there is false or misleading mark-to-market accounting treatment of any of Enron Energy Services?

Mr. MCMAHON. Not at this point.

Mr. MARKEY. You have not. Have you, as chief financial officer or as chief operations officer, conducted any investigations or inquiries into any of the other SPEs to determine whether any of them raise accounting or disclosure issues which might be material to investors?

Mr. MCMAHON. We are currently, as part of the bankruptcy process, trying to understand all these other SPEs, and so that work is ongoing as we speak.

Mr. MARKEY. You are conducting an investigation of each of those matters?

Mr. MCMAHON. We are looking through every special purpose entity that the company has at this point in time with respect to our bankruptcy and determining who our creditors are and how much they are owed.

Mr. GREENWOOD. Time of the gentleman from Massachusetts has expired.

Mr. MARKEY. Mr. Chairman, if I may just finish the sentence. If I may just finish the sentence. I would just say, Mr. McMahon, I think what your testimony is telling us is that all we know so far is the tip of the iceberg, that the iceberg is yet to be discovered, because thus far you, as the chief financial officer since all of us became public, did not look for the rest of the iceberg, and that is why the Congress and other investigators are going to have to do the work that, in my opinion, you and others inside of the firm should have done as soon as you were put on notice there were problems, especially with these SPEs, after the letters that—the documents that came from Ms. Watkins.

Mr. GREENWOOD. Time of the gentleman has expired. The Chair would inform the subcommittee members, full committee members and the witness that we do intend to undertake a second round of questioning. It should not take as long as the first one. Do any of the witnesses need to take a 5-minute convenience break at this point? You are all good, strong men.

Then in that case, the Chair recognizes the chairman of the full committee, Mr. Tauzin, for 5 minutes.

Chairman TAUZIN. Thank the chairman. Let me turn, Mr. McMahon, to some questions that continue to puzzle the dickens out of me, and, first of all, I want to lay the groundwork for something you—you did know Sherron Watkins, did you not?

Mr. MCMAHON. That is correct.

Chairman TAUZIN. Did you know her before her work at Enron?

Mr. MCMAHON. Yes. I have known Sherron for several years.

Chairman TAUZIN. Did you know about her August 14 or 15 memo to Mr. Ken Lay describing what she considered to be problems that might amount to an implosion of the company and a wave of accounting scandals?

Mr. MCMAHON. She sent me a copy of that one-page letter after she had delivered it to Mr. Lay. And then she came and we spoke about it.

Chairman TAUZIN. Did you speak to Mr. Lay about Sherron Watkins and her letter?

Mr. MCMAHON. I did. When Sherron came by to see me, I encouraged her to actually take authorship of that letter and see Mr. Lay directly.

Chairman TAUZIN. That is to not do it anonymously but to let him know it was she who was writing it. Did you recommend her to Mr. Lay?

Mr. MCMAHON. I did. I called Mr. Lay and explained to him that although I was unaware of any of the facts in her letter, whether they had merit or not, I did validate that Ms. Watkins was in fact a reputable source and employee and she should be listened to with——

Chairman TAUZIN. So you did vouch for her to Mr. Lay?

Mr. MCMAHON. That is a fair assessment.

Chairman TAUZIN. In the letter, she says that, “Skilling is resigning for personal reasons, but I think he wasn’t having fun, looked down the road and knew this stuff was unfixable and would rather abandon ship now than resign in shame in 2 years.” Do you concur with that analysis?

Mr. MCMAHON. First off, I am not sure that was in her one-page letter.

Chairman TAUZIN. It is in the memo.

Mr. MCMAHON. Which I did not see. She shared me with her one-page letter, and I don’t know——

Chairman TAUZIN. Here is what is confusing to me, and I want you to tell me what you know about who knew this stuff. We learned from the Powers report and our own investigation that there were numerous, a rather healthy number of, employees of Enron who were investing in these deals. Ms. Ann Yaeger while still employed with Enron was invested in South Hampton to the tune of a $2,900 investment that turned into $500,000 in 6 weeks. Mr. Glisan, Ms. Mordaunt invested each $5,800; they got a million dollars in 6 weeks. They were employees of Enron. Mr. Kopper is an employee of Enron. Mr. Fastow, not just an employee, he is the guy in charge of making recommendations of who is going to move up the ladder. He does a peer review, doesn't he? Pretty responsible.

Mr. MCMAHON. That is correct.

Chairman TAUZIN. In fact, you complained to Mr. Skilling you were worried about your bonuses.

Mr. MCMAHON. That is correct.

Chairman TAUZIN. Because of your problems with questioning Mr. Fastow's dealing, is that correct?

Mr. MCMAHON. Yes. The conflict of interest that was presented by Mr. Fastow sitting on top of the entire financial organization and having interest in the general partner was problematic on many fronts.

Chairman TAUZIN. What is confusing to me, amazing I think to all of us as we examine this is who knew that all these employees—did Mr. Skilling know that Mr. Fastow was in a position where he could, in fact was, threatening to punish people because they were negotiating too well for Enron against him and his partnerships, when he himself was an officer of fiduciary capacity with Enron? Did Mr. Skilling know that?

Mr. MCMAHON. Certainly, Mr. Skilling knew the structure of the organization as well as——

Chairman TAUZIN. Did Mr. Lay know that?

Mr. MCMAHON. I don't know what Mr. Lay's knowledge was.

Chairman TAUZIN. Did Mr. Lay know about all these employees investing in these partnerships and making these outrageous returns?

Mr. MCMAHON. Again, I don't know what Mr. Lay knew, but I, for one, was certainly surprised about the additional employees.

Chairman TAUZIN. Mr. Mintz, maybe you can help me here. Did either one of you catch some heat for attempting to disclose to other people in the corporation the kind of monies these people were making while they were still members of the Enron family, working for the company?

Mr. MINTZ. I caught some heat from Mr. Kopper when I sent that March memo to Mr. Buy and Mr. Causey.

Chairman TAUZIN. In fact, didn't Mr. Kopper contact one of you about the Enron/Wind deal?

Mr. MINTZ. Yes.

Chairman TAUZIN. Was it you, Mr. Mintz?

Mr. MINTZ. Yes, Mr. Chairman.

Chairman TAUZIN. And Mr. Kopper, what was he trying to get from you? Apparently, Enron/Wind—you were negotiating with someone else, right?

Mr. MINTZ. That is correct.

Chairman TAUZIN. What was he trying to learn from you?

Mr. MINTZ. That the company was negotiating with a third party, and a colleague of mine was representing the company, and Mr. Kopper came to me and asked me if I could find out some information as to the status of the negotiation with the third party.

Chairman TAUZIN. On behalf of whom?

Mr. MINTZ. On behalf of LJM.

Chairman TAUZIN. On behalf of the partnership?

Mr. MINTZ. That is correct.

Chairman TAUZIN. So he was trying to get you to give him inside information about the third party transaction so he could be better positioned to negotiate his deal for himself? Is that the deal?

Mr. MINTZ. One could draw that conclusion.

Chairman TAUZIN. What did you tell him?

Mr. MINTZ. I told him a couple of things. I told him, one, I was an employee of Enron and Enron was my client. And, two, that the transaction was being represented by one of the finest lawyers in the company, Lance Shuler, and that if he wanted to talk with anybody, he should talk with Lance.

Chairman TAUZIN. And at one point, you went to Jim Derrick, didn't you, the general counsel for Enron, to talk about the dysfunctionality of this arrangement, where you had Enron employees negotiating on both sides of the table. In fact, with Ms. Yaeger—it was really strange here—she is negotiating on one side of the table, and her fiance is on the other side of the table, is that right?

Mr. MINTZ. That is correct.

Chairman TAUZIN. And the eventually signed one document as husband and wife later on, on either side of the table, right?

Mr. MINTZ. That is my understanding.

Chairman TAUZIN. You complained about that dysfunctionality to Jim Derrick, the general counsel from Enron. Did you get any help?

Mr. MINTZ. Again, Mr. Chairman, as I said before, I saw this dysfunctionality on a regular basis, and I wanted to bring it to Mr. Derrick's attention, because he didn't see it on day-to-day basis.

Chairman TAUZIN. Where is the disconnect? Why were you having such a great deal of trouble getting this information to the right people who might be able to do something about it? Were there people blocking you in the middle? Is Mr. Lay correct that he was being deceived by someone, that he didn't know this was going on? I mean that is basically what he told the Powers' investigators in his interviews, that he was deceived by his own managers, his own people in the corporation, didn't know what was going on, didn't understand all this dysfunctionality and these conflicts of interest. Is that correct?

Mr. MINTZ. Mr. Lay's statement?

Chairman TAUZIN. Yes.

Mr. MINTZ. I don't know.

Chairman TAUZIN. Mr. McMahon, you talked to Mr. Lay personally, did you not, and you vouched for Ms. Watkins, and you told him to pay attention to her concerns, did you not?

Mr. MCMAHON. I did. As far as Ms. Watkins' allegations, I did speak to Mr. Lay personally about that, although that was the first time I had heard of any of those allegations.

Chairman TAUZIN. Did Andy Fastow know about the letter that Sherron Watkins sent to Mr. Lay?

Mr. MCMAHON. I don't know when he found out about it, but at some point he did find out about it.

Chairman TAUZIN. Did he talk to you about it?

Mr. MCMAHON. At a very high decibel level he spoke to me about it.

Chairman TAUZIN. High decibel level. What was his problem with it?

Mr. MCMAHON. He accused me of being the ghost writer of that letter. And when I found that out, I had a fairly, again, loud exchange with him about it.

Chairman TAUZIN. In fact, when you went to complain to Mr. Skilling about the whole deal, did you get a call from Mr. Fastow right after that?

Mr. MCMAHON. I did. About 2 weeks later, Mr. Fastow called me into his office and, as I testified earlier, he indicated that he was unsure at this point in time whether we could continue to work together, because he said, "You should assume everything you say to Mr. Skilling gets to me."

Chairman TAUZIN. In other words, it doesn't help you to complain to Mr. Skilling, because he comes right to me with the complaint.

Mr. MCMAHON. His comment was, "Everything Mr. Skilling says I hear about."

Chairman TAUZIN. So the message was, "Go get another job, because you can't work with us. You are messing in our deals, and everything you tell him is going to come to me anyhow, so it is not going to do you any good to go report on me," right?

Mr. MCMAHON. Well, again, I don't know what his intent of the message was, but he clearly was telling me he was very aware of the conversation I had.

Chairman TAUZIN. So you got bumped, you are not treasurer anymore. Who took your place?

Mr. MCMAHON. Mr. Glisan took my place.

Chairman TAUZIN. Mr. Glisan? Who did he report to?

Mr. MCMAHON. At the time, I believe he reported to Mr. Kopper.

Chairman TAUZIN. And Mr. Kopper is working for Chewco.

Mr. MCMAHON. As I have come to determine now, apparently Mr. Kopper has an investment in Chewco.

Chairman TAUZIN. So is it fair to say that you are complaining, giving them trouble, they move you over to another spot and put somebody in who is working with them?

Mr. MCMAHON. Certainly, Mr. Glisan was working with Mr. Kopper when he took that role.

Chairman TAUZIN. Is he the same person that did not give the side agreement to Arthur Andersen? Mr. Bauer?

Mr. BAUER. The side agreement was withheld. Mr. Glisan gave us the document that the side agreement would have been appended to.

Chairman TAUZIN. So Mr. Glisan gave you the document without the side agreement. He is the guy, he gets the job as soon as Mr. McMahon is moved out of the way, right? That is the picture we get? I think we are beginning to understand this. Thank you very much, Mr. Chairman.

Mr. GREENWOOD. The Chair thanks the gentleman. The Chair recognizes the gentleman from Michigan, Mr. Stupak, for 5 minutes.

Mr. STUPAK. Thank you, Mr. Chairman. Mr. McMahon, as COO, chief operating officer, what are your duties and responsibilities?

Mr. McMAHON. A week into it, my duties right now are predominantly focused on attempting the company to reorganize——

Mr. STUPAK. Okay. If we didn't have this mess, as COO, what would you be doing? What are your responsibilities as a COO of Enron? And not right now, I mean——

Mr. McMAHON. But right now is pretty important. We happen to be in bankruptcy.

Mr. STUPAK. There must be a written——

Mr. McMAHON. And so the majority of my responsibilities right now are working with the Creditors Committee and reorganize the company to emerge——

Mr. STUPAK. Let me ask it this way: Is there a written description of a COO for Enron?

Mr. McMAHON. Not that I am aware of.

Mr. STUPAK. In Sherron Watkins' memo, she states, "Cliff Baxter complained mightily to Skilling and all those who would listen about the inappropriateness of our transactions with LJM." Did any of you, Mr. Bauer, Mr. McMahon, Mr. Mintz, talk to Cliff Baxter about his complaints, and is there any documentation of those conversations, any written documentation or oral preservation through recording or anything like that? Start with you, Mr. Bauer.

Mr. BAUER. I was unaware of Mr. Baxter's concerns about LJM.

Mr. STUPAK. Mr. McMahon?

Mr. McMAHON. As I testified earlier, I had a conversation with Mr. Baxter about my concerns, and he acknowledged the conflicts, but I was not aware of the conversations he had with Mr. Skilling.

Mr. STUPAK. So he acknowledged the conflicts, but what else did he say, Mr. Baxter?

Mr. McMAHON. Our discussion was mostly focused on—and this was right before I met with Mr. Skilling—the concerns I had as they manifested themselves in the Finance Department. He acknowledged that there were conflicts. When I expressed my concerns he understood them, and he was the one actually who encouraged me directly to go see Jeff directly to try and get it resolved, Mr. Skilling.

Mr. STUPAK. Mr. Mintz?

Mr. MINTZ. I had lunch with Mr. Baxter about a month before he had left the company, and we talked about LJM, and I shared with him my concern about the dysfunctionality. And Mr. Baxter was concerned about it and made the comment to me that he didn't understand why the board was allowing Andy to do this.

Mr. STUPAK. Did Mr. Baxter——

Mr. MINTZ. It was never memorialized.

Mr. STUPAK. Pardon?

Mr. MINTZ. It was never memorialized.

Mr. STUPAK. Memorialized? Did any memos from Mr. Baxter or anything like this to either one of you gentlemen about the meetings or anything at all about his concerns in writing?

Mr. McMAHON. Not that I am aware.

Mr. STUPAK. Okay. Mr. McMahon, you told us all about the people that you contacted about your concerns about Mr. Fastow's conflict of interest. You took personal abuse from Mr. Fastow, and no one, not Mr. Skilling, Mr. Causey, Mr. Buy, Mr. Lay, Mr. Sutton, not one lifted a finger to do anything to get you out of the way.

You even told Mr. Sutton that Mr. Fastow would be making as much as $15 million, did you not?

Mr. MCMAHON. I think it was $10 million to $20 million per year, that is correct.

Mr. STUPAK. Okay. And as Chairman Tauzin pointed out, it basically got so bad that you gave Mr. Skilling an ultimatum: Either he had to fix it or you would get a new job, is that right?

Mr. MCMAHON. That is correct. I asked him either to remedy the situation or move me within the company.

Mr. STUPAK. And that is when shortly thereafter Mr. Fastow called you in and said you couldn't work together any longer?

Mr. MCMAHON. That is correct.

Mr. STUPAK. Okay. And then about that—shortly thereafter then Mr. Skilling offered you a new job, is that correct?

Mr. MCMAHON. That is correct, yes.

Mr. STUPAK. And that new job was what?

Mr. MCMAHON. It was chief operating officer of a new e-commerce group that we had set up, called Enron Networks.

Mr. STUPAK. Mr. Mintz, if I can go back with your lunch with Mr. Baxter, was it an attorney-client type lunch or was it a free flow of discussion? Did you feel some of this was privileged, the conversation?

Mr. MINTZ. I looked at it as two friends getting together for lunch.

Mr. STUPAK. And can you explain anymore what was discussed in any detail? Can you give any more details of what was discussed over this lunch? It was about a month before he left, you said.

Mr. MINTZ. That is correct. We touched upon that topic. Clearly, we had the conversation, but we talked about a number of different things, and the majority of the lunch didn't dwell on the LJM issue.

Mr. STUPAK. Okay. Was it mostly LJM, Chewco, JEDI or mostly LJM?

Mr. MINTZ. It was more focused on Andy running a private equity fund that was transacting with Enron.

Mr. STUPAK. Then I take it he was very concerned about this private transaction that was taking place with Enron?

Mr. MINTZ. He expressed just bewilderment about why the board was allowing this to happen, why they were allowing Andy to do it.

Mr. STUPAK. Thank you.

Mr. GREENWOOD. Time of the gentleman has expired. The Chair recognizes himself for 5 minutes. Mr. McMahon, if appears that Lea Fastow, Andy's Fastow's wife, performed certain management tasks for Chewco. We are going to hand you a document, staff is bringing the document, that is not in the binder. If you take a look at—and I would ask unanimous consent that the two documents be placed in the record.

If you take a look at the two documents we are about to distribute to you, you will see a facsimile letter dated October 13, 1998, from Lea Fastow to Michael Kopper regarding bank account balances for the various partnerships and corporations that made up the Chewco Partnership and an e-mail dated April 10, 1998 from Bill Dodson, Kopper's domestic partner and business partner in the Chewco partnerships, where he provides certain bank account information, and he writes, quote, “Send lots of,” and then that is followed by seven dollar signs. Do you know what compensation Mr. Fastow received—Mrs. Fastow received for her services to Chewco?

Mr. MCMAHON. I do not know that.

Mr. GREENWOOD. Mr. Mintz, do you know that?

Mr. MINTZ. No, Mr. Chairman.

Mr. GREENWOOD. Okay. Enron made an $2.6 million tax indemnity payment to Chewco in September 2001. The Powers report states that there is credible evidence that Fastow approved this payment to Chewco, even though Enron’s in-house counsel advised him, unequivocally, that there was no basis in the original 1997 purchase agreement for the payment and that Enron had no legal obligation to make that payment. That is from page 65 in the binder. Do you know which in-house counsel advised Fastow that Enron did not have to make the payment?

Mr. MCMAHON. I am not aware of which counsel Mr. Powers was referring to here.

Mr. GREENWOOD. Do you know why Fastow would ignore his attorney’s advice and authorize an unnecessary $2.6 million payment?

Mr. MCMAHON. No, I do not.

Mr. GREENWOOD. I would assume you can’t conclude then whether this was in Enron’s interest for this payment. You don’t know anything about this.

Mr. MCMAHON. I really don’t know anything about it, Congressman.

Mr. GREENWOOD. Look on page——

Mr. MINTZ. Mr. Chairman, I am sorry to interrupt you, but I have got some insight into that, because I was that in-house counsel.

Mr. GREENWOOD. Be delighted to hear from you, sir, Mr. Mintz.

Mr. MINTZ. I had worked on the original tax indemnification back in 1997, which was not unusual when you had a partner and there was a disconnect between income and cash distributions. What that indemnification agreement provided for was that if there was income without the attendant cash, there would be a cash distribution made to the partner. However, when that particular partner was able to claim tax benefits, that cash would be paid back. So in the tax parlance, it just took care of a timing issue, not a permanent issue.

Mr. GREENWOOD. So does this appear proper to you, appropriate to you?

Mr. MINTZ. When the Chewco was being bought out, the transaction closed, and shortly thereafter Michael Kopper came to me—I am sorry, his accountant called me and said that Chewco was looking for an indemnification payment. And I said, “Well, if there is any money being paid, it should go back to Enron, because there were some small payments before that time.” And in fact I lost my temper with his accountant, because I said, “You know how the indemnification agreement read, educate your client and leave me alone.”

It didn't go away, and Michael was insistent that the indemnification agreement was written incorrectly. I consulted with counsel from Vinson & Elkins, who I worked with on the indemnification. They confirmed my reading and understanding of it, and I reported back to Michael's accountant about that. Shortly thereafter, I got a call from Mr. Fastow. He said, "I understand there is a problem on the tax indemnification agreement." I said, "Andy, there is no problem, it reads correctly, and this was supposed to take care of a timing issue." So Andy said, "Well, I really don't have any insight into the Chewco deal, Mr. Skilling does, Jeff does, and I will go talk to Jeff about it."

A couple days later, Andy called me back and said, "I spoke to Jeff, and Jeff said the economics of the transaction with Chewco were to provide an after-tax return, and therefore the tax gross payment, if you will, was supposed to be made." I said, "Andy, my understanding from the accountants on this is that it would have a cost to the company of a million to $2 million," and he said, "That's what the arrangement was."

Mr. GREENWOOD. Would you consider this to be more dysfunctionality? If you saw a man come into a bank with a hood over his head and a gun and take out a bag of money, would you call that dysfunctionality?

Mr. MINTZ. I was very frustrated and disappointed.

Mr. GREENWOOD. Quickly, Mr. McMahon, as you may know, many officers and directors of Enron have now professed utter shock at Mr. Fastow's compensation from these partnerships. Despite his role as general managing partner, tell us about how these private equity funds normally work and what your own estimate was of Mr. Fastow's compensation without ever being told about the numbers specifically?

Mr. MCMAHON. The compensation of general partners in private equity funds I think are fairly standardized across the industry, the private equity fund industry, and that is essentially whereby the general partner gets—the rule of thumb is a 2 percent annual fee on the total funds raised and then a 20 percent promote or carried interest related to earnings of the fund above some certain benchmark.

Mr. GREENWOOD. Do the math. What did that amount to for Mr. Fastow?

Mr. MCMAHON. Based on my understanding of LJM2, which was about a $300 million fund, 2 percent of that is $6 million a year for the GP fee. And then if they had standard private equity returns, which are typically in excess of 30 percent, there could be another $15 million or so earned for the general partner.

Mr. GREENWOOD. Is it reasonable to have expected that Mr. Skilling to have had a good idea of Fastow's compensation in LJM2, not of LJM2?

Mr. MCMAHON. I don't know how familiar Mr. Skilling was with private equity compensation or not, but it is pretty standardized in the industry.

Mr. GREENWOOD. My time has expired. The Chair recognizes the gentlelady from Colorado, Ms. DeGette, for 5 minutes.

Ms. DEGETTE. Thank you, Mr. Chairman. Mr. Bauer, you said in your testimony that Enron withheld the information from you about the side agreement, which you were later horrified to find. Who was it that withheld that information from you?

Mr. BAUER. Congresswoman, I don't know who withheld the——

Ms. DEGETTE. But who was responsible for giving you the information?

Mr. BAUER. Mr. Glisan was responsible for giving us the documentation related to that.

Ms. DEGETTE. So far as you are concerned, it was Mr. Glisan who didn't give it to you.

Mr. BAUER. It is fair to say that we did ask him for all the documentation.

Ms. DEGETTE. How many of these SPEs did you deal with in your role?

Mr. BAUER. None of the Raptor or LJM1 transactions or things like that, but I have seen——

Ms. DEGETTE. Do you have an estimate? Ten, 20?

Mr. BAUER. Yes. A dozen, 20, something like that.

Ms. DEGETTE. A dozen? Okay, 20-something? And how did you go about collecting information for these various entities?

Mr. BAUER. The typical process that I employed was to have a discussion with the transaction support person at Enron who would describe the transaction, we would provide accounting advice——

Ms. DEGETTE. And they would give you the documentation?

Mr. BAUER. [continuing] and they would give us the documentation on it.

Ms. DEGETTE. And so you would assume you were getting the correct documentation.

Mr. BAUER. That is correct. And we would typically ask for the executed copies at the completion of the transaction.

Ms. DEGETTE. Okay. Mr. McMahon, I believe you told Chairman Tauzin that you had discussed the Sherron Watkins memo with Mr. Lay; is that correct?

Mr. MCMAHON. It is not quite accurate. I discussed Ms. Watkins' credibility.

Ms. DEGETTE. You discussed Sherron Watkins and her credibility with Mr. Lay.

Mr. MCMAHON. That is correct.

Ms. DEGETTE. And I assume that was after Mr. Lay had received her memo.

Mr. MCMAHON. That is correct.

Ms. DEGETTE. So when was that?

Mr. MCMAHON. I am not quite certain of the dates, but it was a day or two after Ms. Watkins claimed authorship of the letter with Mr. Lay.

Ms. DEGETTE. Did Mr. Lay tell you or had you seen Ms. Watkins' memo? Did you know what was in her memo?

Mr. MCMAHON. I saw the one-page letter that she had written anonymously to Mr. Lay.

Ms. DEGETTE. Okay. And so you were aware of the allegations in general that she was making.

Mr. MCMAHON. Yes. What was in that letter I was aware of when I spoke to Mr. Lay.

Ms. DEGETTE. Right. Okay. Now, did you take that opportunity, when you were meeting with Mr. Lay a day or two after the Watkins letter, to tell him about your conversation in March of 2000 with Mr. Skilling that we have been talking about here today, where you said it is not in the best interest of the shareholders to be doing these kind of deals?

Mr. MCMAHON. At the time——

Ms. DEGETTE. Sir, yes or no, did you?

Mr. MCMAHON. Did I have a conversation with——

Ms. DEGETTE. Yes. Did you talk to him about your concerns about these deals?

Mr. MCMAHON. I did not talk to Mr. Lay with the concerns—with the meeting I had with Mr. Skilling a year and a half earlier, no.

Ms. DEGETTE. Okay. Did you talk to him about your concerns in general about these LJMs?

Mr. MCMAHON. Now, I was not aware—I am not aware of any of the allegations Ms. Watkins made in her letter, so——

Ms. DEGETTE. No, but you had concerns way back in March of 2000. In fact, you said that you thought it was a potential breach of your fiduciary duty to have to work on both sides of these deals.

Mr. MCMAHON. Well, the allegations that Ms. Watkins made in her——

Ms. DEGETTE. No, I know, but I am talking about you, because you had concerns in March of 2000, and now here is Sherron Watkins coming forward with concerns over a year later, well over a year later. Did you take the opportunity then to say to Mr. Lay, "You know, back a year and a half ago, before I got transferred, I also had some concerns about the company's financial structures." Did you talk to him about it?

Mr. MCMAHON. No. Ms. Watkins' and my concerns were radically different. Mine were about structural management issues on conflicts; hers were about specific accounting matters.

Ms. DEGETTE. Right. Well, okay. But I am just saying because you had the bully pulpit, here you are talking to Mr. Lay. Did you ever talk to Mr. Lay about your concerns about these financial matters?

Mr. MCMAHON. No. The matters I spoke with Mr. Skilling about and Mr. Sutton about were with those two.

Ms. DEGETTE. Okay. Now, did you ever prepare an analysis of Chewco's distributions purchase interest in JEDI on behalf of—let us see, who would it have been on behalf of? To Mr. Fastow?

Mr. MCMAHON. I am not so sure if I personally did that, but someone in my group prepared an analysis when we were considering the Chewco buyout.

Ms. DEGETTE. Okay. If you will look at exhibit 28 in your notebook, that is a memo that says, "Andy, here is my analysis of the distributions purchase of Chewco's interest in JEDI. I am showing you the numbers Jeff M. gave you." I assume that is you. Is that you?

Mr. MCMAHON. It is not my memo, so——

Ms. DEGETTE. Well, did you give him numbers?

Mr. MCMAHON. I did give him an analysis of the Chewco buyout.

Ms. DEGETTE. Okay. Did you ever find out what happened with your analysis after that time?

Mr. MCMAHON. You mean did I ever find out what ultimately got executed?

Ms. DEGETTE. Yes.

Mr. MCMAHON. I found out when the Special Committee report came out last week.

Ms. DEGETTE. So you didn't find out the result of this until last week?

Mr. MCMAHON. No.

Ms. DEGETTE. Okay.

Mr. MCMAHON. I had moved out of the treasurer role apparently when——

Ms. DEGETTE. Okay. I just have one last question for you, Mr. Mintz, and that is your supervisor, Mr. Derrick, had been a former partner at Vinson & Elkins, correct?

Mr. MINTZ. That is correct.

Ms. DEGETTE. And you went to Mr. Derrick, and you told him about the concerns you were seeing, correct?

Mr. MINTZ. I was bringing—I advised him on what was going on on the 20th floor.

Ms. DEGETTE. When was that?

Mr. MINTZ. I think our first formal meeting was in March of 2001.

Ms. DEGETTE. Okay. And you told our committee staff that when you told him about all of this, he was just sort of poker-faced, didn't say anything, right?

Mr. MINTZ. That is correct.

Ms. DEGETTE. And so it was after you expressed those concerns to him that you went out and hired outside counsel, going around your supervisor.

Mr. MCMAHON. We had a subsequent meeting, and then after that time, you are correct, Congresswoman, I did hire Fried Frank.

Ms. DEGETTE. So you had a couple meetings with him, you didn't get satisfaction. You went out of the line really and instead of hiring Vinson & Elkins, which was Enron's attorney, you went and got independent counsel, correct?

Mr. MINTZ. That is correct.

Ms. DEGETTE. And just to finish, Vinson & Elkins was the law firm that prepared the response to the Sherron Watkins memo, whistleblower memo, correct?

Mr. MINTZ. Correct.

Ms. DEGETTE. Thank you, Mr. Chairman.

Mr. STEARNS [presiding]. I thank the gentlelady. Mr. Mintz, where was your office? You were the general counsel. Where was your office in this building relative to Mr. Fastow?

Mr. MINTZ. Mr. Fastow was on the 50th floor where many of the executives were, and I was on the 20th floor where a number of the Global Finance employees were.

Mr. STEARNS. Okay. I just call your attention to document number 23 and document number 2 in the notebook. These are quite detailed documents, memorandum, inter-office memorandum. It appears you have had several conversations with Mr. Fastow about issues relating to disclosure of his interests, Mr. Fastow's interests and compensation from these LJM partnerships. And then you wrote these memos, which are quite detailed. It seems like you could also get up on the elevator and talk to him, and I wonder about these memos. In these conversations you had, is it fair to say that Mr. Fastow was interested in trying to minimize his disclosure to the greatest extent possible?

Mr. MINTZ. I think that is a fair description.

Mr. STEARNS. And, you know, I look at some of your memos here. You sort of point out to him some of the steps taken to minimize any related party and proxy disclosure in document number 2 and document 23. "The decision not to disclose in this instance was a close call," you said. "Arguably, the more conservative approach would have been to disclose the amount of your interest." So, obviously, these memos seem to be a memorandum for the record, plus you have had conversations. Did Mr. Fastow ever suggest a reason for wanting to keep the disclosure of his compensation, how much money he was making, and interest a secret, particularly from Mr. Skilling?

Mr. MINTZ. He did.

Mr. STEARNS. And what did he say to you?

Mr. MINTZ. He said that if Jeff ever knew how much he made from the Rhythms Net transaction, he would have no choice but to shut down LJM.

Mr. STEARNS. In fact, did Enron ever disclose Mr. Fastow's economic interest or compensation from these partnerships and the transactions prior to October 2001 when it fired him?

Mr. MINTZ. No monetary figure was provided prior to that time.

Mr. STEARNS. Okay. Mr. Fastow never did disclose, even to you, the amount of his compensation from the LJM deals, is that correct?

Mr. MINTZ. That is correct.

Mr. STEARNS. Did you ask Mr. Causey to raise the issue of Mr. Fastow's compensation with the board of directors at his February 12, 2001 meeting?

Mr. MINTZ. I did.

Mr. STEARNS. You did. Okay. Did Causey raise it too?

Mr. MINTZ. With the board at that meeting?

Mr. STEARNS. Did Mr. Causey raise it to the board?

Mr. MINTZ. No, sir.

Mr. STEARNS. Okay. Mr. McMahon, prior to firing Glisan, you had a conversation with Mr. Glisan where you ask him if he any interest in the LJM partnerships. What did he say to you?

Mr. MCMAHON. This is prior to his termination. He said he had no interest. Actually, my question to him was a little broader, because I was not aware of all the partnerships, so I said, "I want to make sure that this new management team doesn't have any baggage, and do you have any interest in any of these partnerships? I don't even know the names to ask you, but you know what I am asking, whether it is direct or indirect."

Mr. STEARNS. So he knew what you were talking about.

Mr. MCMAHON. There is no question he knew what I was talking about.

Mr. STEARNS. And so he didn't tell the truth to you.

Mr. MCMAHON. Well, he responded no to that question.

Mr. MCMAHON. Okay. Would you consider that he was not telling the truth?

Mr. McMAHON. He responded no to the question. Subsequently, I did learn that he was in fact an investor in one of these LJM partnerships.

Mr. STEARNS. So it would appear to me that is why you fired him.

Mr. McMAHON. Yes. The grounds of Mr. Glisan's termination I believe were related to a violation of the code of ethics, or code of conduct, sorry.

Mr. STEARNS. Mr. McMahon, I have a memo which is number 9, and it has been gone over a couple of times, which is some of the memo is talking about your negotiations with Mr. Fastow with Enron, and also talking about, I guess, some of your conversation with Mr. Skilling. As a result of this memo, did you feel uneasy about the Enron stock at all?

Mr. McMAHON. No, not at the time. My concerns, frankly, were related to internal management of a conflict. I did not see this being a large issue from a stock price perspective.

Mr. STEARNS. We have a schedule of March 2000, which is your calendar, which is tab number 10, I think, in which it shows that you met with numerous people—Mr. Skilling, with Mr. Fastow—all during this period, in which you also wrote this memo, which is document number 9 in which you are talking with these people. And looking at the calendar and also looking at your notes, my first impression is that you had some concern here about Enron, its stock and its partnerships, and there seems to be some apprehension. Would that be a fair assumption?

Mr. McMAHON. I don't think that is a fair assumption. My concern was how the situation was affecting the management of Finance Department internally.

Mr. STEARNS. What does that mean?

Mr. McMAHON. Meaning that it was disruptive the way that the organization was set up, with Mr. Fastow and his personal interests, et cetera, et cetera, and him being the chief financial officer of the company. I did not, at that point in time, have concerns on the stock.

Mr. STEARNS. Now, I noticed that you had a sale of a large block of your stock, up to $1.8 million, that was exercised on March 16, and I guess the sale was on March 16. This is based upon insider trading list. I have Mr. Baxter had a sale of almost a million dollars on March 22. Mr. Fastow had a sale on March 27 of almost $7.5 million. Then before that, on March 27, he exercised that option. So I mean there was a lot of insider trading as a result of all these activities. And I am just—I don't know, I am just asking, based upon the insider trading and some of the memos that you wrote to yourself as well as the calendar and the people you met with. Is it possible that some alarms, some flags went up and suddenly people start saying, "Wow, I better start moving on here and cash in my chips." I mean that is just an observation. And my time has expired, and would you like to respond? You are welcome to.

Mr. McMAHON. I would like to respond to that.

Mr. STEARNS. Sure.

Mr. McMAHON. I can't respond to everyone else's stock sale program, but personally I have a program of diversifying my investments. Generally speaking, when our unvested option vest, I generally sold them in the market. And given the other activities just described, it wouldn't surprise me at or around that point in time there was a vesting date that may have occurred.

Mr. STEARNS. Okay. Mr. John, for questions?

Mr. JOHN. Yes. Thanks, Mr. Chairman. I have a quick question, both to Mr. McMahon and Mr. Mintz. Give me a short description of Mr. Skilling's management style. I mean you guys worked with him every day.

Mr. MINTZ. Congressman John, I did not have a working relationship with Mr. Skilling, so I really—I can't answer——

Mr. JOHN. You never interacted with him or had meetings with him at any time?

Mr. MINTZ. No, sir.

Mr. JOHN. So you don't have an opinion formed because of your interactions with him about his management style?

Mr. MINTZ. Really, my only dealings with Jeff were in a social setting, company Christmas party.

Mr. JOHN. Mr. McMahon?

Mr. MCMAHON. My description of Mr. Skilling's management style would be he was an intense, hands-on manager.

Mr. JOHN. Intense, hands-on. The New York Times this morning described him as the, quote, "ultimate control freak," this morning. Would you agree with that?

Mr. MCMAHON. I did not actually catch that article, but——

Mr. JOHN. It was there.

Mr. MCMAHON. [continuing] I think I stand by my intense, hands-on description.

Mr. JOHN. In fact, it goes on to say, "The sort of hand-on corporate leader who kept his fingers in all pieces of the puzzle." Do you agree generally with——

Mr. MCMAHON. My description is Jeff was actively involved in the businesses that Enron was in.

Mr. JOHN. Okay. I have got one final question to ask, and this question is actually from Congresswoman Jackson Lee who is not a member of this committee, who cannot ask a question, but I have decided that it is a very good question, and I would like to ask you, because she hasn't been allowed to participate in the proceedings.

Enron, itself, and many of the ex-Enron employees and retirees live in her district, in her congressional district. Do you guys have any plans, short of the bankruptcy proceedings, for interim finance relief to the ex-Enron employees and their families?

Mr. MCMAHON. When you say short of the bankruptcy, you mean short of what was authorized via the bankruptcy.

Mr. JOHN. Correct.

Mr. MCMAHON. We are actually working with the Creditors Committee on a variety of matters that include that as well. The company at this point in time, because of the bankruptcy, cannot single-handedly authorize that type of activity. But there are discussions ongoing with the Creditors Committee for some additional relief, and we are going to see where that goes with the Creditors Committee at this point.

Mr. JOHN. Okay. Will there be any voluntary help that you are aware of amongst the Enron family for some of these folks?

Mr. MCMAHON. If you are speaking about non-financial assistance, something that the employees are going to deal with——

Mr. JOHN. Correct.

Mr. MCMAHON. [continuing] I am not exactly aware of exactly what the various employee groups are planning at this point in time. But, again, the financial side of it, unfortunately, the management and the company is not in complete control at this point.

Mr. JOHN. Okay. Mr. Mintz, do you have anything to add to that?

Mr. MINTZ. No, sir.

Mr. JOHN. Okay. And, finally, my questioning and lines of questions always are always falling back on this SPE document that Mr. Skilling, who is the ultimate control freak, according to the New York Times, and a hands-on kind of guy, didn't sign. My question to Mr. Mintz is are you aware of any advice that he got—that he may have received from you or anyone else as to not—as it would be in his best interest not to sign this SPE document?

Mr. MINTZ. I am not aware of that advice, Congressman.

Mr. JOHN. Okay. That is all I have. I will yield——

Chairman TAUZIN. But would the gentleman yield a second?

Mr. JOHN. Sure, I will yield to the gentleman from Chack Bay, Louisiana.

Chairman TAUZIN. I thank my friend from Crowley. Let me, for the record, indicate that Congresswoman Sheila Jackson Lee has been a welcome guest of our committee proceedings from the beginning of this inquiry, and that we are delighted that she is with us today because of her sincere interest on behalf of her constituents living in that area. Committee rules do not allow the participation of non-members of the committee in these kind of proceedings, but we have not only welcomed her but encouraged her attendance because of her extraordinary interest, obviously, on behalf of her constituents. And I wanted to recognize her presence today and thank her again for that help she has given us.

Mr. STEARNS. Thank the gentleman. Gentleman from Oklahoma, Mr. Largent?

Mr. LARGENT. I don't have any additional questions.

Mr. STEARNS. No additional questions? Gentleman from Massachusetts, Mr. Markey, is——

Mr. MARKEY. Thank you, Mr. Chairman. Mr. McMahon, before you were transferred, you were a treasurer at Enron. You were involved in numerous frenzies to deal with cash-flow problems through SPEs. Could you describe what kinds of cash-flow problems Enron had when you were treasurer at the end of 1999 and early 200 and how they were dealt with? We are talking about some rather major crisis with potential impacts of $100 million or more.

Mr. MCMAHON. I am not sure if I know exactly what you are referring to, but as part of the whole management of the liquidity, the company cash-flow was an important issue for the company.

Mr. MARKEY. Well, let me move on. A week before the bankruptcy, when you were CFO, the company paid out retention bonuses to executives. As CFO, you would have known that the $100 million was about to be paid out. Did you also know about the imminent bankruptcy at that time, since you were CFO?

Mr. MCMAHON. The retention payments were something that was recommended and approved by the board. And, in fact, yes, they were paid out prior to the bankruptcy. And the——

Mr. MARKEY. Did you know about the imminent bankruptcy at the time that the bonuses were paid out?

Mr. MCMAHON. We knew, certainly, that the bankruptcy was one of several options that could occur.

Mr. MARKEY. Were you a beneficiary? Did you receive a bonus?

Mr. MCMAHON. Yes, I did.

Mr. MARKEY. Did you have knowledge that a bankruptcy was looming at that time?

Mr. MCMAHON. I think bankruptcy had been looming for a time period at that point in time. It was one of the many options that we were exploring.

Mr. MARKEY. As CFO, did you raise objections that bonuses were being paid with bankruptcy looming?

Mr. MCMAHON. The notion behind the retention payments, Congressman, was one that if we were to go into bankruptcy, that these key individuals would remain within the company to protect the businesses' and assets' value for the creditor.

Mr. MARKEY. You can see, though, where ordinary investors and ordinary employees would think that this was just the first class passengers in the company taking care of themselves as the other passengers would all be going——

Mr. MCMAHON. Well, again, the notion is preserve the value for all stakeholders, predominantly the creditors at that point in time. So I think that it is not uncommon in bankruptcy for these type of things to happen, and I think frequently, in the long run, the asset values are protected by keeping certain individuals around long enough to——

Mr. MARKEY. All right. Let me ask this, Mr. McMahon: Earlier, you said that you recalled that in the Marlin, Osprey and Whitewing transactions, Enron had agreed to provide these SPEs with Enron stock if there was a shortfall? Has the trigger been hit that results in Enron being required to issue stock to Marlin, Osprey or Whitewing?

Mr. MCMAHON. Yes. I believe that both the stock price trigger and the credit rating trigger have——

Mr. MARKEY. How much was issued, do you know?

Mr. MCMAHON. I don't believe any additional stock has been issued because the bankruptcy stayed all those contracts, as I understand it.

Mr. MARKEY. How much is the shortfall in those three?

Mr. MCMAHON. I do not know the answer to that.

Mr. MARKEY. Could you provide that for the record?

Mr. MCMAHON. I will be happy to provide that to the committee as soon as we know the answer to that.

Mr. MARKEY. Who are the investors and general partners in Marlin, Osprey and Whitewing?

Mr. MCMAHON. Again, I don't know the investors here today, but I will be happy to provide that to the committee when we get that information.

Mr. MARKEY. What was your relationship with Osprey?

Mr. MCMAHON. Osprey was initially put together——

Mr. MARKEY. Did you have any relationship with at all, Osprey?

Mr. MCMAHON. Yes. I was treasurer at the time that the Osprey transaction was executed.

Mr. MARKEY. What was your compensation in that deal, if any?

Mr. MCMAHON. I had no compensation in that deal whatsoever.

Mr. MARKEY. How about your relationship with Marlin or Whitewing?

Mr. MCMAHON. Actually, Osprey and Whitewing are the same.

Mr. MARKEY. Osprey and Whitewing?

Mr. MCMAHON. Marlin was a separate transaction, which was also executed when I was treasurer of the company.

Mr. MARKEY. Did you have any financial benefit that you were the beneficiary of?

Mr. MCMAHON. No, I had no financial benefit or interest whatsoever in Marlin.

Mr. MARKEY. Mr. Chairman, I thank you.

Mr. GREENWOOD. The Chair thanks the gentleman. The gentleman from Texas, Mr. Green, I believe has not yet had a second round.

Mr. GREEN. Thank you, Mr. Chairman, and, again, I want to—like my colleagues, I want to thank you for both your effort but also in allowing some of us to sit in on the hearings.

Mr. McMahon, do you believe that Mr. Fastow would act independently of Mr. Skilling? And I ask because I have a feeling that when we hear testimony in the next panel and of course whatever we find out from Mr. Fastow they might want to blame each other. But do you think they acted independently of each other or did they work together, in your relationship and your experiences?

Mr. MCMAHON. Frequently, they—as one being president and one being chief financial officer, frequently they worked together.

Mr. GREEN. Okay.

Mr. MCMAHON. I am not sure if I understand your——

Mr. GREEN. Well, I am just wondering if both in the congressional hearings, but since we are not going to hear from one but we will hear from the other, if it will be just saying, "Oh, that was all—" if they were so close, and it looked like, at least from the paper trail we are seeing, of course it hasn't been filled out, but it looks like they worked fairly close together.

Mr. MCMAHON. Again, I think that organizationally one was a direct report of the other, and I really can't speak to the closeness of their relationship, frankly.

Mr. GREEN. Let me ask another question. Out of concern for the former employees who received their $4,500 in severance pay and lost their life savings, were withdrawals made from the deferred compensation plan during the period when Enron's 401(k) was locked down by anyone that you could think of, like whether it be Kenneth Lay or Greg Whalley or yourself or any list of executives who received withdrawals during that period, during the lockdown?

Mr. MCMAHON. I can only speak to myself, and I had no withdrawals during that time period, but, unfortunately, I don't have that information with me on the other parties, and I would be happy to provide it to the committee.

Mr. GREEN. So you did personally have withdrawals or——

Mr. MCMAHON. No, I did not.

Mr. GREEN. You did not. Okay. Let me ask, were you allowed a line of credit as an officer of Enron?

Mr. MCMAHON. I was not.

Mr. GREEN. Okay. Are you familiar with how many officers had lines of credit? Like, for example, I know Kenneth Lay had a line of credit. Do you know if Mr. Skilling had one or Mr. Fastow?

Mr. MCMAHON. The only line of credit I am familiar with of any officers was Mr. Lay, but I am not aware of one or the other, frankly.

Mr. GREEN. And how do you know about Mr. Lay's line of credit, just from the publicity?

Mr. MCMAHON. No. Shortly after I took over as chief financial officer, Mr. Lay had a drawdown on his line of credit, and I received a phone call from our Cash Management Group to validate that that was an appropriate drawdown.

Mr. GREEN. Okay. So that while you were the chief financial officer, you didn't have any—there was no other drawdowns by any of the other executives, if there was a line of credit?

Mr. MCMAHON. I think I can—all I can respond to that is I was not aware of any other drawdowns.

Mr. GREEN. Okay. Thank you, Mr. Chairman.

Mr. GREENWOOD. The Chair thanks the gentleman and recognizes the gentleman from California, Mr. Waxman, for 5 minutes.

Mr. WAXMAN. Thank you, Mr. Chairman, and I want to join Mr. Green in thanking you for making time available to those of us who are not on this subcommittee.

Mr. Olson, we talked in my last round about these partnerships, these special entities, and I want to discuss with you the problems with mark-to-market accounting. According to press accounts, Enron pushed the limits of mark-to-marketing accounting, which allows a company to recognize all revenues upfront on a long-term contract. In order to determine the profitability of a contract, Enron had great leeway to make assumptions about future energy prices, energy use and other factors.

The New York Times reported that Enron Energy Services, or EES, deliberately used questionable revenue assumptions to inflate its profits, and the vice chairman of EES at the time that these questionable practices were occurring was Thomas E. White, who became the secretary of the Army in May 2001. A former EES employee called this accounting practice a license to print money. Mr. Olson, did Enron abuse market-to-market accounting, in your view?

Mr. OLSON. I am not an accountant, Congressman. From what I read in the press as well, there was certainly—they were stretching the limits, and I think what you are alluding to is what is called a variation on that mark-to-model accounting, where you go out and make these assumptions which may or may not work out. Everything else, if you again connect the dots, would suggest to me that they were using mark-to-market accounting very, very aggressively.

Mr. WAXMAN. Do you know whether Enron was an aberration or other energy companies are currently using the same accounting practices, as they are pushing for electricity deregulation?

Mr. OLSON. Mark-to-market accounting is used by lots of people—banks, securities firms and the like—except they are only marking to 12 months out, 18 months out and the like. There are people who do have power plant towing agreements out there, which go out to seven or 8 years where they do make a significant impact on their current earnings. But in terms of—I don't think it would tie at all to electricity deregulation. There are many companies out there using mark-to-market accounting or accrual accounting even, and they are still—they are more profitable under accrual accounting.

Mr. WAXMAN. Should we be concerned that if these accounting practices are being used at other energy companies, that they can be hiding fundamental problems as they did with Enron?

Mr. OLSON. You should be very concerned, yes.

Mr. WAXMAN. Well, I think this is a very important issue, and I hope the committee will seriously examine it.

Mr. McMahon, I want to ask you about the mark-to-marketing accounting at Enron and whether it might have been limited to EES. You were formally the president and CEO of the Enron Industrial Market. Did that division also use mark-to-marketing accounting?

Mr. MCMAHON. Yes, it did.

Mr. WAXMAN. And did other divisions or subsidiaries of Enron also use this form of accounting?

Mr. MCMAHON. To my knowledge, they did, yes.

Mr. WAXMAN. This committee has heard testimony from economists and Wall Street analysts who claim that Enron abused the use of mark-to-marketing accounting to inflate profits. In your view, did Enron abuse the mark-to-marketing accounting to inflate the appearance of profitability?

Mr. MCMAHON. I am not sure I can respond to that as a global statement, because I was not responsible for the accounting for Enron, but my understanding of the mark-to-market accounting was that was a requirement for the type of business activity that Enron's—predominantly the wholesale business was undertaking. My understanding was that was a requirement to follow that type of accounting.

Mr. WAXMAN. It was a requirement to follow that kind of accounting. Was it also helpful, to inflate profits, to use that kind of accounting?

Mr. MCMAHON. Again, I don't know whether it was applied across the board appropriately or not, but my understanding is it was a requirement for the company to follow that type of accounting for those activities.

Mr. WAXMAN. You are the president and CEO of Enron, you are the former chief financial officer of Enron. Based on what has happened at Enron, we now know what has happened at Enron, do you believe that mark-to-marketing accounting is inappropriate for energy contracts because of the difficulty in assessing what the upfront value is?

Mr. MCMAHON. I am not sure I am actually the qualified person to respond to whether that is the appropriate accounting for the activity, frankly, Congressman.

Mr. WAXMAN. Anybody else in the panel have any views on this issue? Mr. Olson?

Mr. OLSON. I think the system has been gamed so much so that Wall Street, whether you use mark-to-marketing accounting or not, will not believe the earnings. You see this in this collateral damage from the whole Enron shakeout. If you show me a dollar a share of incremental earnings, I will tell you that the market won't pay for it. You see it in certain companies right now, in Oklahoma, for instance.

Mr. GREENWOOD. The time of the gentleman has expired. Members of the panel, we thank you for your testimony. It has been a long day for you, and you are excused.

The Chair now would now call forward Mr. Jeffrey K. Skilling, former President and CEO, Enron Corporation; Dr. Robert Jaedicke, Enron Board of Directors, who is Chairman of the Audit and Compliance Committee of Enron Corporation; and Mr. Herbert S. Winokur, Jr., Board of Directors, Chairman of the Finance Committee of Enron Corporation.

Please be seated, Mr. Skilling, Mr. Jaedicke, and Mr. Winokur. Thank the witnesses for your attendance today.

Gentlemen, you are aware that this committee is holding an investigative hearing, and that it is the practice of this committee when holding an investigative hearing to take testimony from our witnesses under oath. Do any of you object to testifying under oath?

Seeing no such objection, I would advise you that under the rules of the committee and the rules of the House you are entitled to be represented by counsel. Do any of you gentlemen prefer to be—choose to be represented by counsel today? Mr. Skilling?

Mr. SKILLING. My counsel is here, Mr. Bruce Hiler and Mr. Liebler.

Mr. GREENWOOD. Your attorney may advise you during your testimony?

Mr. SKILLING. I assume so.

Mr. GREENWOOD. Mr. Jaedicke, do you have an attorney advising you?

Mr. JAEDICKE. Mr. Chairman, my counsel will be Robin Gibbs and Neil Egglestrom, and they are both here.

Mr. GREENWOOD. They are with you as well?

Mr. Winokur, do you choose to be advised by counsel today?

Mr. WINOKUR. Mr. Chairman, the same counsel.

Mr. GREENWOOD. Okay. Thank you.

In that case, if you gentlemen would rise and raise your right hands, I will swear you in.

[Witnesses sworn.]

Mr. GREENWOOD. Mr. Skilling, do you have an opening statement, sir?

Mr. SKILLING. Yes, I do.

Mr. GREENWOOD. The Chair would recognize you for 5 minutes to offer your opening statement.

TESTIMONY OF JEFFREY K. SKILLING, FORMER PRESIDENT AND CEO, ENRON CORPORATION; ROBERT K. JAEDICKE, ENRON BOARD OF DIRECTORS, CHAIRMAN OF AUDIT AND COMPLIANCE COMMITTEE, ENRON CORPORATION; AND HERBERT S. WINOKUR, JR., BOARD OF DIRECTORS, CHAIRMAN OF THE FINANCE COMMITTEE, ENRON CORPORATION

Mr. SKILLING. Thank you, Chairman Greenwood and members of the committee. My name is Jeff Skilling. I worked for Enron for over 10 years, leaving in August of 2001 after being CEO of the company for 6 months.

During my time at Enron, I was immensely proud of what we accomplished. We believed that we were changing an industry, creating jobs, helping to resuscitate an ailing energy industry, and, by bringing choice to a monopoly dominated industry, we were trying to save consumers and small businesses billions of dollars each year. We believed fiercely in what we were doing.

But today, after thousands of people have lost jobs, thousands of people have lost money, and, most tragically, my best friend has taken his own life, it all looks very different. As proud as I was of what we tried to accomplish at Enron, as I sit here today I am devastated by and apologetic about what Enron has come to represent.

I know that no words can make things right. Too many people have been hurt too much. I am here today because I think Enron's employees, shareholders, and the public at large have the right to know what happened. I have done all I can to help this investigation. I have testified for 2 days at the Securities and Exchange Commission. I have spoken on three occasions to the Special Committee of the Board and have spoken to the committee of this staff as well.

I have not exercised my rights to refuse to answer a single question, not one, and I don't intent to start now. So let me talk about Enron and its demise.

First, contrary to the refrain in the press, while I was at Enron I was not aware of any financing arrangements designed to conceal liabilities or inflate profitability. The off balance sheet entities or SPEs that have gotten so much attention are commonplace in corporate America, and if properly established they can effectively shift risk from the company shareholders to others who have a different risk/reward preference. As a result, the financial statements issued by Enron, as far as I knew, accurately reflected the financial condition of the company.

Second, it is my belief that Enron's failure was due to a classic run on the bank—a liquidity crisis spurred by a lack of confidence in the company. At the time of Enron's collapse, the company was solvent, and the company was highly profitable, but apparently not liquid enough. That is my view of the principal cause of the failure.

Now let me address some of the questions about my specific involvement in these events. First, I left Enron on August 14, 2001, for personal reasons. At the time I left the company, I fervently believed that Enron would continue to be successful in the future. I did not believe the company was in any imminent financial peril.

Second, similarly, I did not dump any stock in Enron because I knew or even suspected that the company was in financial trouble. In fact, I left Enron holding about the same number of shares that

I held at the beginning of 2001. On January 1, 2001, the start of my final year at Enron, I owned approximately 1.1 million shares of Enron stock. On August 14, the day I left, I owned about 940,000 shares of Enron stock. Indeed, in June of that year, I terminated an SEC sanctioned stock sell plan and elected to hold more Enron shares.

Third, with regard to the so-called LJM Partnerships, the Powers report criticizes me for supposedly not taking a more active role in reviewing the conflict of interest arising from the involvement in those partnerships of Enron's then CFO. I believed at that time there were adequate controls in place to manage that conflict of interest, that the controls were being complied with, and that I was discharging, to the full extent of my mandate, my obligations to the Board with respect to that process.

Fourth and finally, the Powers report also criticizes me for supposedly approving the restructuring of certain hedging transactions. The report then suggests that, "If the account of other Enron employees is accurate, that transaction was designed to conceal losses on some of Enron's investments," and that I personally may have withheld information from the Board about that restructuring.

I can state here today that I did not have any knowledge that the transaction was designated to conceal losses, and I did not do anything to withhold information from the Board of Directors of Enron Corporation.

Ours was a company that emphasized creativity but always in a manner that relied on the advice of the best people we could find, both those inside the company and the lawyers and accountants outside the company who advised us.

With that, Mr. Chairman, I am prepared to answer any questions that you may have.

[The prepared statement of Jeffrey K. Skilling follows:]

PREPARED STATEMENT OF JEFFREY SKILLING, FORMER PRESIDENT AND CEO, ENRON, CORP.

Good morning Chairman Greenwood and members of the Committee. My name is Jeff Skilling. I worked for Enron for over 10 years, leaving in August of 2001 after being CEO for six months.

During my time at Enron, I was *immensely* proud of what we accomplished. We believed that we were changing an industry, creating jobs, helping resuscitate a stagnant energy sector, and, by bringing choice to a monopoly-dominated industry, were trying to save consumers and small businesses billions of dollars each year. We believed fiercely in what we were doing.

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So, let me first talk about Enron and its demise.

First, contrary to the refrain in the press, while I was at Enron, I was *not* aware of *any inappropriate financing arrangements, designed to conceal liabilities, or overstate earnings.* The off-balance sheet entities or SPE's that have gotten so much attention are commonplace in corporate America; and if properly established, they can effectively shift risk from a company's shareholders to others who have a different risk/reward preference. As a result, *the financial statements issued by Enron, as far as I knew, accurately reflected the financial condition of the company.*

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First, I left Enron on August 14, 2001 for personal reasons. At the time I left the company, I fervently believed that Enron would continue to be successful in the future. I did *not* believe that the company was in financial peril.

Second, similarly, I did not "*dump*" any stock in Enron because I knew—or even suspected—that the company was in financial trouble. In fact, I left Enron holding almost the same number of shares that I held at the beginning of 2001: On January 1, 2001—the start of my final year at Enron—I owned approximately 1.1 million shares of Enron. On August 14, the day I left, I owned about 940,000 shares. Indeed, in June of that year, I terminated an SEC-sanctioned stock sale plan, and elected to hold on to more Enron shares.

Third, with regard to the so-called LJM Partnerships, the Powers Report criticizes me for supposedly not taking a more active role in reviewing the conflict of interest arising from the involvement in those partnerships of Enron's then CFO. *I believed at that time that there were adequate controls in place*—that the controls were being complied with and that I was discharging—*to the full extent of my mandate*—my obligations to the Board with respect to this process.

Fourth and finally, the Powers Report also criticizes me for supposedly "approving" the restructuring of certain hedging transactions. The Report then suggests that "if the account of other Enron employees is accurate," that transaction "was designed to conceal" losses on some of Enron's investments and that I may have withheld information from the Board about that restructuring. I can state here today that I did *not* have any knowledge that that transaction was designed to conceal losses, and *I did not do anything to withhold information from the Board.*

Ours was a company that emphasized creativity, but always in a manner that relied on the advice of the best people we could find—both those inside the company and the lawyers and accountants outside the company who advised us.

With that, Mr. Chairman, I am prepared to answer any questions that you may have.

Mr. GREENWOOD. Thank you, Mr. Skilling.

Mr. Jaedicke, do you have an opening statement, sir? You are recognized for that opening statement.

TESTIMONY OF ROBERT K. JAEDICKE

Mr. JAEDICKE. Chairman Greenwood, Congressman Deutsch, and members of the subcommittee, good afternoon, and thank you for the opportunity to address the subcommittee.

I am the Chairman of the Audit Committee of the Board of Directors of Enron Corporation. I have held that position since the mid-1980's. Let me tell you about my background. I joined the faculty of the Stanford Graduate School of Business in 1961. I served as dean of the school from 1983 to 1990, and at that time I returned to the faculty of the business school and retired in 1992.

Throughout my tenure as Chairman of the Enron Board's Audit Committee, I have been committed to ensuring that it is an effective and actively functioning body. Over the last few years, we undertook to review and strengthen our already vigorous control systems. In 1999, we began a number of initiatives to ensure that we remained a best practices Audit Committee.

Throughout 2000 and into 2001, our committee worked with Arthur Andersen to make certain we complied with the recommendations of the Securities and Exchange Commission, the New York Stock Exchange, and the Blue Ribbon Committee on Improving the

Effectiveness of Corporate Audit Committees. That effort culminated in February 2001 when the Audit Committee finalized a new charter which was approved by the full board.

Throughout that lengthy process involving both Enron management and Arthur Andersen, we implemented a series of further refinements to our corporate policies and controls. The life blood of the work of any audit committee is the development and implementation of adequate controls, many of which cross-check each other.

And the oversight function of the committee depends on the full and complete reporting of information to it. Without full and accurate information, an audit committee cannot function.

I have now read the Report of the Special Committee. What comes across to me most clearly is that the controls the Board put in place to monitor these transactions broke down. Enron management, Arthur Andersen, the internal legal department, each had a role in our systems and controls. The Report of the Special Committee sets forth many instances where they did not fulfill their duty to us.

We put in place multiple controls involving numerous parties, because we are aware that one check may not be sufficient. We could not have predicted that all controls would fail.

The Special Committee concludes that the Audit Committee and the Board failed in their duties to oversee these transactions, and that we were insufficiently vigilant. I do not agree with that conclusion.

As the Special Committee found, the Board understood that these were special transactions, and we reviewed the economic benefits to Enron. We established numerous controls to ensure that these transactions were properly structured, executed, reviewed, and reported, and the Board reasonably believed that these controls were adequate and would work.

The Board was entitled to rely on these controls. The successful implementation of these controls turned on management's and outside consultants' thorough evaluation and review of these transactions, and full reporting back to the Board.

As stated in the Report of the Special Committee, internal management and outside advisors did not raise concerns with the Board, and they regularly assured us that the transactions had been reviewed and that they were lawful and appropriate. It is now clear that management and the outside consultants failed to disclose critical information about these transactions of which they were clearly aware.

After reading the report, I would like to add that if even some of the Board's controls had worked as expected, I believe that we could have addressed these issues and avoided this terrible tragedy.

Thank you very much.

[The prepared statement of Robert K. Jaedicke follows:]

PREPARED STATEMENT OF ROBERT K. JAEDICKE, CHAIRMAN, AUDIT COMMITTEE, BOARD OF DIRECTORS, ENRON CORPORATION

Chairman Greenwood, Congressman Deutsch, and Members of the Subcommittee. Good afternoon, and thank you for the opportunity to address the Subcommittee.

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The Special Committee concludes that the Audit Committee and the Board failed in their duties to oversee these transactions, and that we were insufficiently vigilant. I do not accept that conclusion. As the Special Committee found:

- The Board understood that these were special transactions and we reviewed their economic benefit to Enron. We established numerous controls to ensure that these transactions were properly structured, executed, reviewed, and reported, and the Board reasonably believed that these controls were adequate and would work.
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After reading the Report, I would like to add that if even some of the Board's had controls worked as expected, I believe that we could have addressed these issues and avoided this terrible tragedy.

A. ROLE OF THE AUDIT COMMITTEE

There has been much written of late about the role of Audit Committees, and about the performance of the Enron Audit Committee in this matter. I would like to comment about what we are and what we are not. The Audit Committee's function is one of oversight. Its responsibility is to receive reports from management and the outside auditors, to review the adequacy of internal controls, and to oversee the filing of financial statements. We do not work full time in this job. None of the members of the Audit Committee is an employee of Enron. We do not manage the Company. We do not do the auditing. We are not detectives.

We held regular meetings, at which we received reports from a broad range of management and Arthur Andersen. There is an entire body of accounting literature known to Enron management and known to Arthur Andersen about the duties of those two groups to provide information to the Audit Committee and ultimately to the Board of Directors. We were entitled to rely on the representations made to us about the appropriateness of the accounting for the partnerships, and the adequacy of disclosure. We asked questions. We provided oversight, and set direction based on the information we received. I respectfully submit that we did our job.

Arthur Andersen representatives attended each meeting of the Audit Committee. At each meeting, they made reports to us about issues of interest or concern. Further, it was my invariable practice to hold an executive session with the Arthur Andersen representatives, or at the very minimum offer one, where they could meet with us without management present. Arthur Andersen was free to report to the Committee any matters regarding the corporation and its financial affairs and records that made the auditors uncomfortable, including; (1) whether the auditors had had any significant disagreement with management; (2) whether the auditors had full cooperation of management; (3) whether reasonably effective accounting systems and controls were in place; (4) whether there are any material systems and controls that need strengthening; and (5) whether Arthur Andersen had detected instances where company policies had not been fully complied with. At each of these sessions, Arthur Andersen was given the opportunity to meet privately with the Committee outside the presence of management to discuss any of these matters. It now appears that Arthur Andersen had significant concern about Enron's financial practices, at least as early as February 2001, but failed to raise those concerns with the Audit Committee at that time.

Over the last several weeks, through disclosures by this Committee, the media, and the Report of the Special Committee of the Board of Directors, I have learned that within the management of Enron and within Arthur Andersen, there was substantial turmoil about the partnerships that are the subject of these hearings. For example, until recently, I was unaware that:

- In February 2001, Arthur Andersen officials met and raised concerns about the accounting for the partnerships;
- In the summer of 2001, an Enron in-house attorney was sufficiently concerned about the partnerships that he consulted with a separate law firm;
- In September or early October 2001, Arthur Andersen retained outside counsel and formed a consultative group regarding these partnerships;
- In October 2001, Arthur Andersen reportedly told a member of management of Enron that Enron's soon to be released earnings statement for the third quarter of 2001 could be fraudulent and could bring SEC enforcement action.

Contrast what Arthur Andersen knew and was doing during at that time with what it was telling the Audit Committee. In a February 12, 2001 Audit Committee meeting, Arthur Andersen reported:

- That Arthur Andersen's financial statement opinion for the 2000 financial statements would be unqualified. The 2000 statements would cover the first full year of existence of the LJM partnerships.
- That Arthur Andersen's opinion on the company's internal controls would be unqualified.
- That the use of structured transactions and mark to market accounting required significant judgment, but Arthur Andersen did not suggest that anything about the judgments being made was inappropriate.
- Arthur Andersen specifically reviewed with us the related party transactions, and did not indicate any impropriety with the accounting.

In our October, 2001 Audit Committee meeting, Arthur Andersen told us that there were no material weaknesses in our internal controls.

B. THE REPORT OF THE ENRON BOARD'S SPECIAL COMMITTEE

Much of the focus of the hearings this week has been on the Report of the Special Investigative Committee, which was formed by Enron's Board of Directors to examine Related Party transactions entered into by Enron Corp. The Committee's investigation was both a thorough and impartial investigation into the transactions in question.

In reading the report, I was deeply disturbed to learn of the marked lack of candor of both company management and our professional advisers concerning these transactions. The lifeblood of an effective Board is the ability to receive full and candid information by its outside advisors and management. It is clear now that substantial and critical information was in many instances concealed from the Board—and in others was affirmatively misrepresented to us—by both company management and its outside advisers. This lack of full disclosure severely undermined the Board's effectiveness and oversight ability. No Board can properly execute its duties or make informed decisions without it.

I want to highlight two critical pieces of information about these transactions that the Report concluded management did not reveal to the Board. First, the Special Committee determined in its Report that many Enron employees never disclosed to the Board that employees other than Andrew Fastow had acquired interests in, or become parties to, additional Related Party transactions with Enron. This dereliction of duty is a clear violation of the existing Code of Conduct applicable to all Enron employees. Of equal importance, as the Report makes clear, is that other Enron employees apparently knew about—but did not report to the Board—the existence of these undisclosed conflicts of interest. Neither the conduct of the employees who acquired these interests, nor the conduct of others who knew of it and failed to tell the Board, is in any way excusable.

It is also apparent that Management's lack of candor was not limited simply to the non-disclosure of conflicting interests. According to the Report, many Enron employees believed that particular transactions with the LJM entities were unfair to Enron, were an improper effort to manipulate the company's financials, or were not properly being disclosed in Enron's proxy statements and financial disclosures. These are serious issues, and the Board was entitled to have them brought to its attention. These officers and employees may have made their objections known to other management, but that does not excuse their failure to bring these problems to or to notify properly the Board so that it could address them. This marked disregard for the Company's best interests—and for the Board's directives—is deeply disturbing.

With respect to the various transactions that were the subject of the Special Committee Report, I would like to make a few comments about what the Board did, why we did it, and what we knew at the time. I want to first address the current criticism directed at Enron's use of widely-accepted and well-established off balance sheet financing or special purpose vehicles to raise money. This practice is permitted by the accounting rules (if structured correctly). Many companies use off-balance sheet financing every day. Enron's extensive use of off-balance sheet financing was widely known and well-publicized.

Now, let me begin with the earliest Enron transaction at issue, which was in 1997 and involved an entity called Chewco.

1. Chewco

The Chewco transaction was part of Enron's restatement of its financial statements last November, when it was determined by Enron and Arthur Andersen accountants that Chewco was a related party that did not satisfy the accounting rules which permit an entity to remain unconsolidated. When the Board learned last fall that Chewco did not satisfy the SPE rules and Enron's financial statements had to be restated because of it, we were shocked. I do not recall the Board ever being made aware that Chewco was an affiliated transaction until last fall, and the Special Committee apparently found no evidence of anyone informing the Board of this critical fact.

The Board had relied on senior management and its external advisers, including Arthur Andersen and Vinson & Elkins, to structure and account for the Chewco transaction. The Board had no reason to question the accounting for the Chewco transaction because, as far as the Board knew, Chewco was entirely unaffiliated with Enron, and Enron's internal and external auditors would ensure that it was properly accounted for.

Yet these internal and external controls failed to bring to the Board's attention the critical fact that Michael Kopper, an Enron employee, had a interest in Chewco. To the contrary, the representation made to the Board was that Chewco was a completely unaffiliated third party. Those presenting this transaction in 1997 had to know this was untrue, and they had an obligation under Enron's Code of Conduct to disclose Mr. Kopper's involvement to the Board. According to the Special Committee Report, they did not. Had they done so, I am confident that we would have taken appropriate steps to avoid what ultimately happened.

2. LJM

With the benefit of hindsight, the Report of the Special Committee concludes that the presence of extensive, Board-initiated controls over the LJM transactions should have signaled that the LJM structures should never have been approved from the outset. I disagree with this conclusion

As noted in the Report, LJM1 and LJM2 were presented to the Board as having significant benefits to Enron. The Office of the Chairman determined that the LJM structure—with Mr. Fastow as the general partner of the LJMs' would not adversely affect the interests of the company. Senior management discussed with the Board the very real and substantial benefits to Enron of such a structure. The Board thought, based upon these presentations, that the LJM partnerships offered real business benefits to Enron that outweighed the potential risks. Even today, the Special Committee recognizes—as did the Board when it approved the LJM structure—that significant and legitimate economic benefits were presented to justify why Mr. Fastow should be permitted to assume the role that we ultimately permitted him to assume. The Special Committee can disagree with the Board's weighing of the benefits and potential risks of the LJM structure, but it cannot fairly be characterized as a decision that the Board was not entitled to make.

I first want to note that the Board did not waive Enron's Code of Business Conduct when it approved Mr. Fastow's participation in LJM. Mr. Fastow was at all times bound by Enron's Code of Conduct, as well as its Code of Ethics, and Mr. Fastow always owed a fiduciary duty to act in the best interests of Enron Corporation. That Code of Conduct allows a senior officer to participate in a transaction in which he has a conflict of interest with Enron if the Office of the Chairman determines that this would not adversely affect the interests of the Company. Mr. Fastow was allowed to participate in LJM because the Office of the Chairman made such a determination, and the Board ratified it. This action had no affect whatsoever on Mr. Fastow's obligation to comply with all other requirements of Enron's Code of Business Conduct and its Code of Ethics as a senior officer and fiduciary of Enron, including the requirement that all LJM transactions be on terms fair to Enron and in its best interests

In addition, the Board was certainly aware of the problems that could result from Mr. Fastow transacting business with Enron as the general partner of LJM. That is why the Board put in place an added layer of strict controls specifically for transactions between Enron and LJM. The controls established for LJM include the following:

1. Enron and LJM had no obligation to do business with each other.
2. Enron's Chief Accounting Officer, Mr. Fastow's equal in the corporate structure, was to review and approve any transactions.
3. Enron's Chief Risk Officer, also Mr. Fastow's equal in the corporate structure, was to review and approve any transactions.
4. Jeff Skilling, President and Chief Operating Officer, and Mr. Fastow's superior, also was to review and approve any transactions.
5. Arthur Andersen was involved from the beginning in structuring and accounting for these transactions to ensure that they were done properly.
6. Once a year the Audit Committee reviewed the transactions that had been completed in the prior year.
7. An LJM Approval Process Checklist was to be filled out to ensure compliance with the Board's directive for transacting with LJM, including questions regarding alternative sales options, a determination that the transaction was conducted at arms-length, and review of the transaction by Enron's Office of the Chairman, Chief Accounting Officer and Chief Risk Officer.
8. Enron employees who reported to Mr. Fastow were not permitted to negotiate with LJM on behalf of Enron.
9. The Commercial, Legal and Accounting departments of Enron Global Finance were to monitor compliance with the procedures and controls, and were to regularly update the Chief Accounting and Risk Officers.
10. Mr. Fastow was not relieved of his fiduciary duties to Enron.
11. The Office of the Chairman or the Board could ask Mr. Fastow to resign from LJM at any time.
12. Mr. Skilling was to review Mr. Fastow's economic interest in Enron and LJM.
13. Enron's internal and outside counsel were to regularly consult regarding disclosure obligations concerning LJM, and were to review any such disclosures.

These are extraordinary controls. The Audit Committee was repeatedly assured by senior management and by Arthur Andersen that these controls were being followed. The Board was told, and had every reason to believe, that Jeff Skilling, Enron's President and Chief Operating Officer at the time, Richard Causey, Enron's Chief Accounting Officer, Richard Buy, Enron's Chief Risk Officer, and Arthur Andersen, Enron's auditor, were ensuring that the Board's policies were followed and that any transactions with LJM were fair to Enron and properly accounted for. The Board relied on Enron's accounting staff, external auditors and legal counsel to ensure the accuracy of Enron's disclosures in its proxy and financial statements. Unfortunately, it is now clear that our reliance—while reasonable and expected—was misplaced.

Despite the existence of these controls, the Special Committee has found that numerous critical and troubling facts about LJM1 and LJM2 do not appear to have been brought to the attention of the Board or the Audit Committee, even though LJM was generally discussed at almost every meeting and there was a formal presentation and review once a year to the Audit and Finance Committees. Some of the facts about LJM that the Special Committee found appear to have been concealed from the Board are:

1. As with Chewco, the Board did not know that Michael Kopper was involved in LJM. According to the Report, the Private Placement Memorandum—which was reviewed by Enron's in-house lawyers and by Vinson & Elkins—indicates that Michael Kopper would be involved in managing LJM's day-to-day activities. Both Enron's in-house lawyers and Vinson & Elkins, Enron's outside counsel, apparently reviewed this memorandum, but failed to inform the Board of what they learned.
2. The Board was not informed of and did not approve any other Enron employees—besides Mr. Fastow—working for or having a financial interest in LJM. It turns out that a number of other employees—in violation of the Enron Code of Conduct—did work for or took a financial interest in LJM.
3. The Board was not told that Enron sold seven assets to LJM1 and LJM2 in the third and fourth quarter of 1999, and then turned around and repurchased five of those seven assets after the financial reporting period closed. I do not believe any of those repurchase transactions were presented to the Board for review.
4. The Board was not told that Enron agreed to protect LJM from losses on any of its transactions with LJM.
5. The Board was not told that the requirement that only employees who did not report to Fastow could negotiate with LJM on behalf of Enron was ignored.
6. In early 2001, the Board was not told that the Raptor transactions were several hundred million dollars undercapitalized, or that management therefore intended to restructure those transactions requiring issuance of some 800 million additional shares of Enron stock.
7. Finally, the senior management and external advisors of Enron, on whom the Board relied for information, never reported to the Board that any of the LJM transactions were unfair to Enron, involved questionable terms, or violated any accounting rules. Instead, the Board and the Audit Committee were regularly told by those who had no personal stake in LJM that all of the controls were functioning properly, and that all of the transactions being done were properly accounted for, were at arms length and were fair to Enron.

The Report itself makes clear that the controls established by the Board were not adequately executed, and important information was affirmatively concealed from the Board. The Audit Committee reviewed all of the LJM transactions with Enron's Chief Accounting Officer each year, in the presence of Arthur Andersen, and was assured that all of the transactions were done at arms length and were fair to Enron. The Board and the Audit Committee had no reason not to trust the assurances they received.

Some now contend that we should have spent more time, and asked more questions. I can assure you that the controls and the transactions were given more than just a superficial review. Furthermore, they were reviewed by two committees. Considering the amount and seriousness of information that was concealed from us and misrepresented to us, I am not confident as I sit here today that we would have gotten to the truth with any amount of questioning and discussion. Nobody seems to be saying that they did not have an opportunity to inform us about the problems with Enron's related party transactions. They had plenty of opportunity to tell us the complete truth, we imposed numerous controls that required them to report to us fully and honestly—but they chose not to do so.

The Report recognizes that a Board of Directors can fulfill its duty to act with due care either "through one of its Committees or through the use of outside Consultants." The Board was, as the Report notes, repeatedly assured by its outside auditors, Arthur Andersen, that all of the Related Party transactions were on fair terms consistent with those available to Enron from Third Parties. Importantly, this was an audited representation by Arthur Andersen—and was made to the Board even in the face of significant, and undisclosed, internal concerns at Arthur Andersen that the transactions were not in fact on arms' length terms. During the relevant period I cannot remember Arthur Andersen expressing any concerns to the Board about the fairness or legitimacy of any of the related party transactions. Instead, Arthur Andersen repeatedly assured the Board, and specifically the Audit Committee, that it had reviewed the structuring of the transactions and that it was being proactive with respect to the accounting issues involved. For example, Arthur Andersen made the following assurances to the Board:

1. In October 1999, when LJM2 was approved, Arthur Andersen assured the Audit Committee that it had spent considerable time during the third quarter reviewing a joint venture Enron was forming to assist in monetizing investments.
2. In presenting LJM2 to the Finance Committee in October 1999, senior management discussed the fact that Arthur Andersen had reviewed LJM2 and were fine with it.

3. In May 2000, Arthur Andersen reported to the Audit Committee that Enron's related party transactions were a high priority area, that Arthur Andersen would be spending additional time specifically on Enron's structured transactions and hedging vehicles, and that Arthur Andersen gets involved in these structures at the front end to discuss applicable accounting issues.
4. In December 2000, Arthur Andersen reported to the Audit Committee that there were no significant audit adjustments to be made, no disagreements with management and no significant difficulties encountered during the audit.

Arthur Andersen often mentioned that Enron was utilizing highly complex structured transactions that required significant judgment in the application of the accounting rules. Arthur Andersen assured us that they were working with their experts in Chicago to make sure that Enron properly accounted for those transactions.

All the time that Arthur Andersen and senior management were assuring the Board that the controls were all being followed and the transactions were being done at arms length and were fair to Enron, many of the controls were in fact being completely ignored. Perhaps the most egregious example of this occurred in and around February 2001. According to the Report, sometime in the first quarter of 2001 it became clear to Enron management that the Raptor vehicles were no longer creditworthy. That meant that Enron was in danger of having to take an enormous charge to earnings. Senior management, however, did not come to the Board with this extremely serious problem. At the same time, Arthur Andersen held an internal meeting involving Houston and Chicago management on February 5, 2001, in which they discussed the fact that they had serious concerns about Enron's accounting. The next week, however, when Arthur Andersen came to meet with the Audit Committee, the Report concludes that they did not mention even a single concern to us. Instead, Arthur Andersen simply reported that their financial statements opinion would be unqualified, there were no significant accounting adjustments, there were no disagreements with management and that their opinion on Enron's internal controls would be unqualified and no material weaknesses had been identified.

We now know that the Raptors were underwater by hundreds of millions of dollars in early 2001, and nobody brought that to the immediate attention of the Board or the Audit Committee. Instead, senior management entered into a transaction to provide $800 million of Enron stock in an attempt to prop up the failing Raptor structures. The Board was not told about this transaction at the time. I agree with the Report's conclusions that Arthur Andersen "failed to provide the objective accounting judgment that should have prevented these transactions from going forward." (Report, p. 24-25).

C. FINDINGS OF THE SPECIAL COMMITTEE REPORT

The Report clearly recognizes that the controls implemented by the Board were "a genuine effort by the Board to satisfy itself that Enron's interests would be protected." (Report, p. 156). Importantly, as I have discussed, had the controls been adhered to—in particular the requirements that the terms be fair to Enron and obtained at arms' length—none of the transactions criticized in the Report would, or should, have occurred. Under no circumstances should it ever have been the case that LJM was guaranteed that it would never lose money. (Report, p. 135) Under no circumstances should a transaction have been approved that offered LJM2 the "internal rates of return on the four Raptors of 193%, 278%, 2500% and a projected 125%." Report, p. 128) These returns were "far in excess of the 30% annualized rate of return described in the May 1 2000 Finance Committee"—but none of the Enron employees who knew these facts disclosed them to the Board. (Report, p. 128-29) The Board cannot be faulted for failing to act on information that was withheld from it, nor can it be faulted for failing to respond to information that was affirmatively misrepresented to it. (Report, p. 156-58).

I agree with the Report's conclusion that "[t]he evidence available to us suggests that Andersen did not fulfill its professional responsibilities in connection with its audits of Enron's financial statements, or its obligation to bring to the attention of Enron's Board (or the Audit or Compliance Committee) concerns about Enron's internal controls over the related-party transactions." (Report, p. 20) By necessity, Boards of Directors must rely—and the law allows them to rely—on outside advisers who are hired by the Board and owe their duties to the Board. As the Report found, Enron's Board of Directors "reasonably relied on the professional judgment of Arthur Andersen concerning Enron's financial statements and the adequacy of internal controls. Andersen failed to meet its responsibility in both respects." (Report, p. 25) The Report's additional findings about Andersen's inexcusable failure to fulfill its professional duties include the following:

- “It is particularly surprising that the accountants at Andersen, who should have brought a measure of objectivity and perspective to [the transactions] did not do so . . . and there is *no question that Andersen accountants were in a position to understand all the critical features of the Raptors and offer advice on the appropriate accounting treatment* . . . Indeed, there is abundant evidence that Andersen in fact offered Enron *advice at every step, from inception through restructuring and ultimately to terminating the Raptors.* Enron followed that advice.” (Report, p. 132) (emphasis added)
- “Enron’s outside auditors supposedly examined Enron’s internal controls, but did not identify or bring to the Audit Committee’s attention the inadequacies in their implementation.” (Report, p. 148).
- “The Board was *entitled to rely* on assurances it received that Enron’s internal accountants and Andersen had fully evaluated and approved the accounting treatment of the [Raptor] transaction . . . The involvement of Enron’s internal accountants, and the reported (and actual) involvement of Andersen, gave the Finance Committee and the Board *reason to presume that the transaction was proper.* Raptor was an extremely complex transaction, presented to the Committee by advocates who conveyed confidence and assurance that the proposal was in Enron’s best interests. (Report, p. 156-18)
- “The Board appears to have *reasonably relied upon the professional judgment of Andersen concerning Enron’s financial statements and the adequacy of controls for the related-party transactions.”* (Report, p. 25)

These statements establish, as the Report acknowledges, that the Board could and did discharge its obligations to understand and evaluate these transactions “through its Outside Consultants,” Arthur Andersen. That Andersen, in the words of the Report, “failed to meet its responsibilities in both respects” cannot be laid at the feet of the Board.

II. CONCLUSION

The Board recognizes that these transactions had catastrophic consequences for Enron—in an environment already made difficult by investments that were otherwise performing poorly in its broadband, retail energy and water businesses. In retrospect, and with the knowledge of the duplicity of its employees and the failures of its advisers, the Board deeply wishes that it had never agreed to these transactions. The Board, however, did not—and could not—have foreseen that significant information about these transactions would be withheld from it.

The Board cannot be faulted for failing to respond to information that was concealed from them, or that was actively misrepresented to them. It is not accurate to suggest that the Board “did not effectively meet its obligation with respect to the LJM transactions” when the record is replete with evidence that—without Board approval—the most senior management of Enron was willing to enrich itself at company expense, to deceive the Board and to disregard its fiduciary obligations of candor to the Company and its shareholders. Indeed, it seems evident—from a review of the Chewco, Raptor and Southhampton transactions—that no amount of process or oversight would or could have prevented the actions of these employees.

Of equal importance, there is absolutely no suggestion that the Board was in any way personally interested in these transactions. The Board acted at all times with a good faith belief that these transactions—though they presented risks—were in the company’s best interests and were being carefully structured and reviewed by internal and external professionals to ensure that they were done properly.

Finally, the Board did consider these transactions carefully, attended to the risks created by Mr. Fastow’s conflict of interests, and was repeatedly assured by company management and by the company’s advisers that these transactions were appropriate and in the Company’s best interests. While others may differ with that business judgment, it is incorrect to imply that the Board’s decision to authorize the transactions was reached carelessly or without considered attention to, and good faith reliance upon, the information made available to us at the time. This is the proper role of a board of directors—but it simply was not adequate to prevent the deliberate and improper actions of certain of the Company’s employees.

What happened at Enron has been described as a systemic failure. As it pertains to the Board, I see it instead as a cautionary reminder of the limits of a director’s role. We served as directors of what was then the seventh largest corporation in America. Our job as directors was necessarily limited by the nature of Enron’s enterprise—which was worldwide in scope, employed more than 20,000 people, and engaged in a vast array of trading and development activities. By force of necessity, we could not know personally all of the employees. As we now know, key employees whom we thought we knew proved to be dishonest or disloyal.

The very magnitude of the enterprise requires directors to confine their control to the broad policy decisions. That we did this is clear from the record. At the meetings of the Board and its committees, in which all of us participated, these questions were considered and decided on the basis of summaries, reports and corporate records. These we were entitled to rely upon. Directors are also, as the Report recognizes, entitled to rely on the honesty and integrity of their subordinates and advisers until something occurs to put them on suspicion that something is wrong.

We did all of this, and more. Sadly, despite all that we tried to do, in the face of all the assurances we received, we had no cause for suspicion until it was too late.

Thank you.

Mr. GREENWOOD. Thank you, Mr. Jaedicke.

Mr. Winokur, do you have an opening statement?

Mr. WINOKUR. Yes, sir.

Mr. GREENWOOD. You are recognized, sir.

TESTIMONY OF HERBERT S. WINOKUR, JR.

Mr. WINOKUR. Chairman Greenwood, Congressman Deutsch, and members of the subcommittee, good afternoon, and thank you for the opportunity to address this group.

My name is Herbert S. Winokur, Jr. I am Chairman of the Finance Committee of the Board of Directors of Enron, and have held that position for several years. I have been a Board member since the mid 1980's. I also was a member of the Special Investigative Committee of the Board, which issued what has become known now as the Powers report.

Let me keep my opening remarks brief. The recent events involving Enron weigh heavily on me as they do on many people. I have given them much thought. Beyond anything else, I deeply regret the impact that Enron's decline has had on the lives of so many people—our employees and our shareholders.

Like you and many others, I have been searching for explanations, answers, and lessons. I volunteered to be on Enron's Special Committee, the Board's Special Committee, because I wanted to find out what happened, what went wrong.

You all have read the Powers report that resulted. It is the product of an intense effort to get to the bottom of many questions surrounding the related party transactions. The other directors on the Special Committee—Dean Powers and Ray Trobe—and our legal and accounting advisors, essentially were strangers to Enron before the committee commenced its investigation. I want to thank them and commend them for undertaking the task and for their efforts and long hours.

My role in the committee was unique. As a Director of Enron during the period investigated, my performance, and that of my fellow directors, was part of what was being reviewed. For this reason, as the report states, I did not participate in that part of the report relating to its assessment of the Board. I think it is clear from the report that it was no whitewash on any front.

As a Board member, I am deeply disturbed by what the investigation revealed. The report makes clear that those in management on whom we relied to tell us the truth did not do so. Although I bear them no ill will, it appears that the outside experts at Arthur Andersen and Vinson & Elkins failed us and their professions as well.

We, too, have been criticized for approving these transactions and for failing in our duties to oversee these relationships. Those criticisms have hit us hard, because I firmly believed at the time, and believe today, that the Board made a reasonable business judgment to permit Mr. Fastow to serve in these partnerships for one reason and one reason only. Based on the information presented to us and on the advice of our outside auditors and lawyers, we believed those transactions would be in the best interest of Enron and its shareholders.

In the superheated environment surrounding the collapse of Enron, and in the face of the Powers report, I must, therefore, respectfully disagree with some aspects of the report relating to the Board's performance and corporate governance principles. What are these principles?

The reality in the modern corporation is that directors cannot, and are not expected to, manage a company on a day-to-day basis. Rather, to be a director is to direct. As directors, our role was to form general corporate policy and approve Enron management's strategic goals.

We were required to do so on an informed basis, in good faith, and in the honest belief that the actions we took were in the best interest of Enron. In reaching our decisions, we are entitled—and the Powers report concurs—to rely on the information we received from management and our outside experts, such as Arthur Andersen and Vinson & Elkins that we believed to be honest and reliable.

The report makes clear that the directors were acting in good faith when we approved these transactions. We had no personal interest in them, and we honestly believed that these transactions, though not without risk, were in the best interest of Enron shareholders. With the benefit of hindsight, the report criticizes our decision, but our business decision can only be evaluated based on the facts known to us at the time when we made it.

In this regard, I think the following points are important. First, as a Board, we were told by management and believed that this arrangement offered substantial benefits to the company and its shareholders in terms of supplying an entirely optional, quick, and efficient source of capital for Enron. We were told that our counsel and Arthur Andersen concurred in the judgment that the structures were appropriate.

We recognized the risk of having Mr. Fastow involved in a transaction with Enron and put in place supplemental controls to manage those risks. I will mention two of those today.

The Chief Risk Officer, Mr. Buy, and the Chief Accounting Officer, Mr. Causey, were to review each LJM transaction independently to ensure that they were fair to Enron and on arms length terms.

Second, Mr. Fastow remained a fiduciary to Enron under the code of conduct. He, therefore, was required at all times to put Enron's interest ahead of his own. The basic controls already in place at Enron remained as well. The transaction approval process required Board approval of all transactions in excess of $75 million. Had this control been followed, the Raptor III and Raptor recapitalization transactions, which the Powers report says were concealed from the Board, could never have occurred.

The code of conduct which prohibited related party transactions without the approval of the CEO remained in effect as well. Had this control been followed, neither the Chewco nor the Southhampton transactions, both of which also were concealed from the Board, could not have occurred. Neither of the transactions could have occurred.

Third, the regular credit risk reports we received in the Finance Committee should have informed us of the credit problems at Raptor. Mr. Buy knew this, but at no time that I can identify did any LJM transaction appear on our top 25 credit exposures list, even though the credit risk in these transactions, as we now learned, was massive and should have been disclosed.

Next, Arthur Andersen's responsibility to audit our financial statements, and the disclosure of related party matters, should have, but did not, reveal to the Board another fact that we did not know—that a number of investments were repeatedly being sold to and then repurchased from LJM.

Finally, Arthur Andersen's internal controls audit should have revealed all of these transactions to us, as they were all transactions to which existing or enhanced controls applied. I still do not understand why over a period of years Arthur Andersen did not tell either the Audit Committee or the Board that the controls we had put in place were not being followed.

The Powers report was an important first step in understanding what happened at Enron. We, as the Board, commissioned that report in an effort to get at the truth. As Board members, Dr. Jaedicke and I are here today to continue our dialog with you and the American people about what happened at Enron and how it can be prevented in the future.

I thank the committee for inviting us here today and look forward to a productive discussion of these important issues. Thank you.

[The prepared statement of Herbert S. Winokur, Jr. follows:]

PREPARED STATEMENT OF HERBERT S. WINOKUR, JR., CHAIRMAN, FINANCE COMMITTEE, BOARD OF DIRECTORS, ENRON

Chairman Greenwood, Congressman Deutsch, and Members of the Subcommittee. Good afternoon, and thank you for the opportunity to address the Subcommittee.

I am the Chairman of the Finance Committee of the Board of Directors of Enron. I have held this position for several years.

I. INTRODUCTION

On October 16, 2001, Enron announced that it was taking a $544 million after-tax charge against earnings related to transactions with LJM2, a partnership created and managed by Enron's CFO, Andrew Fastow. On the same day Ken Lay announced at an analysts' meeting that, in connection with the same transactions, it would take a $1.2 billion non-cash reduction to shareholder equity. Two weeks later, in order to learn how these losses had been incurred, the Board of Enron Corp. appointed a Special Investigative Committee. At that time, we committed to make public the results of that investigation. We did so on Saturday, when the Board authorized the release of a 217 page report detailing the Committee's investigations and findings.

I must tell you that I, as a member of the Special Investigative Committee and more generally as an independent member of the Board, have been deeply disturbed by what the investigation revealed. The Report makes clear that those in management on whom we relied to tell us the truth did not do so. The outside experts at

Arthur Andersen and at Vinson & Elkins failed us, and their professions, as well. We, too, have been criticized for approving these transactions and for failing in our duties to oversee these relationships. Those criticisms have hit us hard, because I firmly believed at the time—and believe today—that the Board made the business judgment to permit Mr. Fastow to serve in these partnerships for one reason and one reason only: Based upon the information presented to us, and upon the advice of our outside auditors and lawyers, we believed these transactions would be in the best interests of Enron and its shareholders. That this turned out to be untrue has been devastating to all of us.

I volunteered to serve on the Special Investigative Committee because I wanted to find answers to why this occurred. The Committee's Report was an important first step in that process, but it was only a step. This is our next step. Dr. Jaedicke and I are here today, voluntarily, to continue to share with the members of this Subcommittee what we now know about what happened at Enron.

We come here, of course, as independent members of a corporate board of directors. The reality in the modern corporation is that directors cannot, and are not expected to, manage a company on a day to day basis. Rather, to be a director is to direct. As directors, our role was to form general corporate policy and to approve Enron management's strategic goals. We were required to do so on an informed basis, in good faith and in the honest belief that the actions we took were in the best interest of Enron. We then delegated to the company management and its outside advisors the responsibility to carry out our directions. Importantly, an informed decision to delegate responsibility is as much an exercise of business judgment as any other.

The Report makes clear that the directors were acting in good faith when they approved these transactions. It also recognizes that we as a Board held an honest belief that these transactions—although not without risk—were in the best interests of Enron's shareholders. The Report acknowledges that this was our independent business judgment, formed in consultation with outside experts from Arthur Andersen and Vinson Elkins, on which we were—and are—entitled to rely. With the benefit of hindsight, my colleagues on the Special Committee, without my participation, disagree with some of the decisions made by the Board, but they offer no suggestion that the Board did not act honestly and in good faith in approving these structures.

The Report questions whether we acted on an informed basis and suggests that we failed properly to oversee these transactions after they had been approved. I respectfully disagree. It is unfair to suggest we were uninformed simply because it has now become apparent that we were deceived. Our business decision can only be evaluated based upon the facts known to us at the time we made it. I am prepared today to answer questions both about the decisions we made, the controls we put in place, and the information we received, so that you and the public will understand that we sought to fulfill our duty while using what was our best business judgment.

A number of senior Enron employees, we now know, did not tell us—the full truth. Our accountants at Arthur Andersen, and our lawyers at Vinson & Elkins, we now know, did not provide good advice to us. The related party arrangements were terribly abused. I feel, however, that the tragedy of Enron's bankruptcy might well have been avoided if the controls we put in place had been followed as we intended, and if the important transactions about which we were not informed had not occurred. But I assure you that my colleagues and I, at the time, did our best to understand the risks and benefits involved in permitting Mr. Fastow to become the general partner of the LJM partnerships.

With that in mind, I would like to turn to a general discussion of three areas. The first is to describe how the Enron Board of Directors went about discharging its obligations to act in the company's best interests. The second summarizes the controls we had put in place—both generally and specifically with regard to these transactions—to contain and measure accurately the risks and rewards of Enron's business activity. Finally, I would like to discuss the specific circumstances in which we approved the LJM structures and—of equal importance—will share with you the important facts that were concealed from us at the time.

II. DISCUSSION

A. Enron's Management Direction

Enron's Board of Directors was composed of 12 independent directors and two inside directors, Kenneth Lay and Jeffrey Skilling. Many had advanced degrees. Others have significant government and regulatory experience. Still others are the heads of major corporate and non-profit organizations. My colleagues on the Board are highly accomplished in their fields, are highly intelligent, and, I believe, highly ethical as well. As a Board, we worked well as a unit to help move Enron forward into a new business environment characterized by increased globalization of investment, rapid regulatory and technological change, and increased sophistication in the capital markets.

To some extent, as now has been learned, by early 2001 Enron's reach had exceeded its grasp. Business decisions that made sense at the time, such as the building of an extensive broadband network, or Enron's entry into developing markets abroad, did not work out. Other broadband companies, such as Level 3 and Qwest, have experienced severe declines in the price of their stock as the demand for bandwidth dried up. Global Crossing, another broadband company, is—like Enron—in bankruptcy. Our initiatives in power and water deregulation abroad were also less productive than we believed they would be. But companies such as AES also have seen significant declines in their stock prices. At the time, however, Enron's expansions were hailed in the media as brilliant initiatives. Over the decade of the 1990's, Enron became the dominant company in providing electricity and gas to customers around the world.

I raise this to make an important point. Enron, as a company, took a number of business and financial risks. These risks were disclosed in our Form 10-Ks. They were also recognized by the analysts and rating agencies who followed the company. To suggest otherwise is to ignore the disclosed, and well-publicized facts about Enron and its business strategy.

B. Enron's Internal Controls

Although the Company took risks, it also took careful steps to monitor and contain those risks. Enron had a significant risk management function called "Risk Assessment Control." Under the leadership of Rick Buy, this department employed over 100 people whose responsibility it was to measure the risks of Enron's trading operations, to assess the valuation of its assets and approve the valuation of contracts and assets, and to assess the credit-worthiness of Enron's trading counterparties—including the LJM entities.

The Finance Committee met regularly five times per year for 1½-2—hours typically the afternoon before each regular Board meeting. Our formal responsibilities were to recommend to the Board Enron's financial policies and to monitor its financial affairs. In that capacity, we received regular reports concerning proposed transactions, various credit ratios, Enron's value at risk modeling—which was an assessment of the unrealized risks of its trading operation—its liquidity, measures of borrowing cost and risk from capital markets, and its balance sheet. The Board's efforts to monitor Enron's risk activities were highly successful.

We also were available to management, when asked, to review possible pending transactions. On several occasions, management informally proposed and later withdrew large investment opportunities from consideration when committee members expressed their disapproval.

Of equal importance, our attention to risk control and the questions asked at presentations to the Board enabled us to identify and ask management to remedy problems within the risk management activities of an Enron retail power subsidiary, EES. As has been discussed in the press, the Board acted to remedy these problems when they were detected. Enron consolidated the risk management functions of the retail unit into that of the larger wholesale division—and disclosed the resulting restatement of results in the Form 10Q for the first Quarter of January 2001.

In addition to the Risk Assessment Control procedures, the Board implemented transaction approval controls. These included both general controls and additional controls specific to the LJM transactions.

Enron's general transaction approval process incorporated written presentations and various levels of required executive approvals. The written presentation was in the form of a Deal Approval Sheet, called a DASH. The DASH set out, in detail, the economic basis of significant transactions by Enron. It required the business unit to set out the merits and risks of any proposed investment, to explain its strategic purpose for Enron, to discuss its funding sources and to set out its projected returns. Depending upon the size of a given transaction, approvals at various levels were required. In the time frame at issue for the LJM transactions, new business in an amount greater than $25 million required Board approval. Below that level, at various breakpoints, approvals were required from the CEO or the business unit heads. Investments of between $25 million and $75 million required the approval of the Office of the Chairman. Investments in existing businesses above a $75 million threshold required the approval of Enron's Board.

C. Special Controls for the LJM Partnerships

Even before the LJM matters were brought to the Board, Enron maintained a code of conduct for its employees, which required annual certification as to their compliance.

In addition to the regular deal approval process and the code of conduct, we imposed specific controls related to the LJM transactions. These controls were extensive and robust. They included a requirement that both the Chief Accounting Officer, Rick Causey, and the Chief Risk Officer, Rick Buy, review and approve the merits of each transaction to be sure the terms were fair to Enron, were negotiated at arms' length, and that the accounting treatment was correct. Under the Code of Conduct, and under the procedures we implemented, each transaction also required a separate approval from the CEO or his delegate before it could proceed. That approval should not have been given to any transaction that was not absolutely fair to Enron and in its best interest. Approval was also required from internal and external legal counsel and from our external auditors, Arthur Andersen. Specific additional disclosure requirements as mandated by the SEC were subject to Andersen's and Vinson & Elkins' review, as well.

An additional structural control we imposed was that transactions with LJM were entirely optional. The business unit heads—whose compensation and incentives were outside Mr. Fastow's control—had every incentive to maximize the value they received in any sale of their assets. Unless they truly believed that a transaction was in the best interest of the company, there was no reason for them to do business with LJM, because it would directly, and adversely, affect their compensation if they failed to maximize Enron's value.

We also required the Office of the Chair to remain in control of Mr. Fastow's participation. This was important because Mr. Fastow explicitly acknowledged that he remained a fiduciary to Enron. In order to ensure that this duty was honored, Messrs. Skilling and Lay were given the authority to require Mr. Fastow to resign at any time from his involvement with LJM. Mr. Skilling also was charged with the responsibility to supervise Mr. Fastow's involvement, to make sure it did not become a disruption to the company and to ensure that his compensation from the LJM transactions was moderate. Mr. Skilling reported to us that he was discharging these obligations; it now appears that he did not do so.

There is no doubt that senior management, our outside accountants, and lawyers who were involved in these transactions understood these requirements. In fact, Enron created an additional and special LJM Deal Approval sheet specifically to verify that each and every LJM transaction complied with the internal controls that the Board had imposed. These requirements, like the regular transaction approval requirements, applied at all times to the LJM transactions, and the responsible people at the Company and Arthur Andersen knew this. We were repeatedly assured by both management and Andersen and Vinson & Elkins that these internal controls were being followed, that the transactions were indeed at arms' length and fair to Enron and that the company was realizing real and legitimate economic benefit from these transactions.

I describe the Risk Management system in detail because it was an important part of how the Board and the Finance Committees evaluated the risks associated with the LJM partnerships. That will become apparent, as I will now turn to the specific LJM transactions that were the subject of the Special Committee's report.

D. Transactions Discussed in the Special Committee Report

1. The Rhythms Net Connection Transaction

Enron had within its portfolio certain highly volatile investments, such as Rhythms NetConnection. Enron, as has been discussed, was required to use mark to market accounting on its "merchant" investments. That combination of volatile investments and mark to market accounting created instability and unpredictability in the Company's income statement. Putting in place hedges to mitigate and stabilize those risks was an important and sound thing to do. I don't think anyone can seriously question that Enron should have taken steps to hedge its risks. Indeed, just this week, I learned that the directors of Ford were sued by a class of shareholders because they failed to put in place hedges on significant and volatile investments in metals Ford used in catalytic converters.

The Special Committee was highly critical of Enron's decision to use forward contracts on its own stock in its hedging activities. I make the following observations.

First, the Report recognizes that at the time these transactions were authorized, Enron had significant unrealized value in forward contracts previously issued on its own stock. These forward contracts were written by Enron in order to hedge the expense of Enron's stock-based incentive compensation plan. In simple terms, Enron wrote forwards at today's prices in order to protect itself against the risk that its stock would appreciate in value and thus make its incentive compensation plan more expensive. The Report does not criticize this decision. I believe that this is a common business practice.

The Report also notes that these forward hedges had been very successful. As a result of the appreciation of Enron's stock price, Enron was now able to purchase Enron stock at a substantial discount to the then existing market price. In fact, the value in these forwards—called the UBS forwards in the presentations made to us—was in the hundreds of millions of dollars. That value was an asset to Enron's shareholders. We were told, both by the company's management and by its accountants, that the most effective way to capture this value was to use this asset to support hedging transactions with a third party.

The Report contends, based on advice from the Special Committee's accounting consultants, Deloitte & Touche, that Enron's decision to use the forward contracts to hedge other risks was improper. It is not specific as to why this is so. It does not specify which accounting rules, in particular, were allegedly violated by this practice. Nor did the Special Committee know whether Deloitte as a firm agreed with its consultants' conclusions. In my view, it is more important to bear in mind what the Board actually knew when it made this decision.

What I knew was this. As a director, I was told that the Company had assets—in the form of forward contracts—that had appreciated significantly in value. I believed it made sense to try to find a way to use that value most effectively for the benefit of the shareholders. I, like the others on the Board, turned to Arthur Andersen for advice concerning whether the transactions being proposed made sense from an accounting perspective. As has been said by Andersen officials in testimony, Arthur Andersen was "very much involved in giving [its] advice as to whether these structures passed the accounting rules." The Report is even more explicit: "There is abundant evidence that Andersen in fact offered Enron advice at every step, from inception through restructuring and ultimately to terminating the Raptors. Enron followed that advice."

As Board members, we fulfill our duty to the shareholders when we act "through one of [our] Committees or through the use of outside Consultants." We relied on Arthur Andersen to assure us that these transactions were appropriate and permissible. They assured us they were. The Rhythms Net hedge also was the subject of a separate fairness opinion by PriceWaterhouse Coopers. The Rhythms Net transaction with LJM, as with all of the hedging transactions that were disclosed to us, were heavily scrutinized by our inside and outside counsel. As a result, until these transactions were restated, we had no reason to believe these transactions were in any way improper or impermissible.

Let me be absolutely clear. I knew that Rhythms Net, and later the Raptor transactions, involved the use of forwards on Enron stock. That fact was also disclosed in Enron's public filings. This matter is set out in Enron's regulatory filings, in disclosures that Arthur Andersen and Vinson & Elkins assured us were both sufficient and proper. What I did not then know is what the accounting consultants to the Special Committee now have said, namely that in their opinion this wasn't permitted under the accounting rules.

Media accounts of the Special Committee report seemed to imply that the Board of Directors knew that the LJM transactions, in particular the Raptor hedges, were undertaken for the purpose of creating fictitious earnings. I could not disagree more.

The transactions that were presented to us—and many were not—were presented as valid economic hedges of Enron's risks, using the gains in the Enron stock forward positions. I want to make clear that I never understood, and was not told, that the business purpose of entering into the LJM transactions was to create fictitious earnings. Quite the contrary, I was told that the LJM transactions were being undertaken to hedge the risks and volatility of our assets, and to assist Enron in obtaining additional third-party debt and equity capital on favorable terms to Enron shareholders to support the company's growth.

The Report concludes otherwise, based in part on an unverified handwritten note by the corporate secretary, to the effect that a particular Raptor transaction "does not transfer economic risk but transfers P & L volatility." From that single reference, which is inconsistent with the very document on which it is written, the Report generalizes that the Board knew these hedges did not really shift risk. That note is inconsistent with my recollection of the events at that meeting, and with the minutes of the meeting, prepared by the same secretary, that were approved and ratified by the committee as a whole.

Of equal importance, I am aware of specific representations to the Board that controvert the contention that the Board understood these hedges weren't real hedges. First, in an Audit Committee meeting—in the presence of Arthur Andersen—the

Audit Committee was advised that the LJM transactions were not earnings related but were, instead, primarily related to deconsolidations, securitizations or monetizations of assets. Arthur Andersen did not disagree with this statement. Second, as I indicated earlier, every presentation of the LJM and Raptor transactions described them as financial hedges for Enron's risks. If the hedges were imperfect, or if they were impermissible under the accounting rules, no one made the Board aware of that fact.

Finally, I want to emphasize that the particular transactions cited by the Committee, including myself, as evidence of earnings improprieties were transactions that either were not disclosed to the Board or that were, in fact, affirmatively misrepresented to us. I list a few of them here to illustrate the point.

2. Transactions Not Disclosed to the Board

a. Raptor III/New Power—The Report notes that a vehicle called Raptor III was created by Enron management, purportedly to hedge an investment in New Power stock. The Report makes clear that this transaction was never disclosed to the Board by anyone in management, although it was reviewed by Andersen.

I cannot and will not defend this transaction. It seems obvious to me that one cannot hedge an investment in New Power with warrants on the same New Power stock. It is equally obvious to me that the terms of this transaction, which seem to me to fail to properly value the New Power stock being contributed, were grossly unfair to Enron. We did not know that at the time, and neither company management nor Arthur Andersen—which was involved in valuing this transaction—told us the truth about it.

This particular transaction would and should have been avoided by simple adherence to the controls we put into effect. The Board of Directors required Messrs. Causey, Buy and Skilling to determine that each of the LJM transactions were fair to Enron. Of equal significance, given the size of the transaction, this transaction plainly required Board approval before it could be authorized. For reasons I do not understand, these approval requirements were ignored in this instance.

These approval requirements were known to Arthur Andersen. It was a critical part of the internal controls that they implemented at our direction, and that they were required to audit as Enron's internal and external auditors. That Andersen attended any number of subsequent Board and committee meetings, yet failed to raise this control failure, among others, with us, simply is astonishing.

b. Raptor Recapitalization—The credit problems with the Raptor entities which began in late 2000 were not disclosed to the Board. The decision in early 2001 to recapitalize the Raptor structure with an $800 million forward contract on Enron stock was, likewise, concealed from us.

Given its magnitude, and the critical issues it raised, this transaction is one that absolutely required Board approval. The existing risk management mechanisms also should have, but did not, reveal this to the Board. At each Finance Committee meeting, Mr. Buy presented to the Finance Committee a list of the Top 25 credit exposures for Enron. In February of 2001, when the Raptors were allegedly $350 million underwater, neither Raptor nor LJM appeared on the list that Mr. Buy presented to the Finance Committee, nor did he, Mr. Fastow, or Mr. Skilling, all of whom were in attendance at that meeting, raise this mat

As has been disclosed in the press, on February 5, 2001, Arthur Andersen held an internal meeting in which it expressed significant concern about the credit capacity of the Raptor vehicles and the quality of the earnings being attributed to them. Just one week later, however, with full knowledge of the Raptor credit problems, Arthur Andersen assured the Audit Committee that Enron would receive a clean audit opinion on its financials. Andersen also told the Audit Committee that there were no material weaknesses in Enron's internal controls—even though one week earlier its auditors had discussed, but not shared with the Board, the fact that the controls imposed by the Board for these related party transactions were *not* being followed.

Had the Raptor restructure been presented to the Board, the Board might well have chosen the alternative—to shut down the Raptors—would have by definition avoided the accounting error related to issuance of new equity which accounted for the bulk of the $1.2 billion reduction in shareholders' equity we took in October. I find this to be particularly tragic.

Andersen's failure to disclose its concerns to the Board, as with management's marked disregard for the required internal controls and lack of candor with respect to information owed to us, deprived the Board—us—of the ability to deal proactively with this problem. We cannot, I submit, be criticized for failing to address or remedy problems that were concealed from us.

c. Churned Transactions—The Report notes that there was an observable pattern of assets being sold to LJM in one quarter, with earnings being booked, only to be repurchased by Enron in the following quarter. This, too, was concealed from the Board. As best as I can tell, the lists of transactions presented to the Board for their review did not include these "churned" transactions. Of equal importance, I cannot fathom why Messrs. Causey, Buy and Skilling would have authorized such activity to begin with—much less why they would have failed to call it to our attention. Arthur Andersen and our lawyers may have been aware, as well, of these transactions because they either audited or documented them for Enron. They said nothing to the Board either.

Certainly neither I, nor any other outside director, would have permitted this to occur had we been aware of it.

B. The Board was Not Informed of Critical Information

The Report makes clear that important facts about many of these transactions were concealed from, or affirmatively misrepresented to, the Board of Directors. I attribute this to a failure not of controls, but of character. Everyone involved in these transactions—including Arthur Andersen, Vinson & Elkins, Andrew Fastow, Jeff Skilling, Rick Buy, Rick Causey and our internal legal counsel—knew that the Board had imposed extensive procedures to ensure that a critical overarching requirement would be met: Before any transaction could be approved, it had to be demonstrated that the transaction was on terms that were fair to Enron and negotiated at arms' length. Had that single control—much less all of the other controls we had imposed—been adhered to, none of these unfair transactions could have been approved.

As the Committee Report indicates, Andersen, in connection with the 10Q and 10K reports, and Vinson & Elkins, in connection with the Proxy, were required to ensure that our disclosures were truthful, complete and met the SEC requirements in dealing with related parties. As the Report indicates, there is much evidence that they did not fulfill their responsibilities.

Thus, while the Report contends that our controls were inadequate, it is more accurate to say they were ignored by those responsible to implement them. A few examples will suffice to illustrate the point.

1. Chewco

There is no suggestion in the Report that any Board member knew that Chewco was, in fact, an affiliated transaction.

Plainly, however, this fact was known to Vinson & Elkins. They drafted the transaction documents that created Michael Kopper's interest in this transaction. That interest, it is undisputed, was a violation of Enron's Code of Conduct. It was never presented to or authorized by the Board.

Andrew Fastow and Michael Kopper both knew this violated the Code. It appears that this was known to other Enron employees within the legal department as well.

2. Rhythms

The decision to unwind the Rhythms transaction was not disclosed to the Board. Our requirement that all related party transactions be reported to the Audit Committee therefore was violated.

This, too, is a transaction that was grossly unfair on its face—but, as the Special Committee report states, we simply didn't know about it. I am horrified that Mr. Fastow and other employees of Enron apparently have profited, secretly, at Enron's expense as a result of this transaction. I am particularly unhappy that Enron employees were permitted to participate in what clearly seems to be a corporate opportunity.

Importantly, however, this transaction could not have occurred had our Code of Conduct been followed in two important respects. First, the Code of Conduct's requirement that transactions be on terms fair to Enron remained in effect as to all LJM transactions. That was emphasized, repeatedly, by the Board and was incorporated expressly into the LJM approval processes. Under no circumstances should a transaction this unfair ever have been authorized.

Second, we never authorized any other employee to participate in any self-dealing transaction. Thus, Messrs. Kopper, Fastow, Glisan and others all consciously and deliberately violated the Code of Conduct in connection with these events. Mr. Causey, who knew the terms of the unwind, also failed in his obligation to report to us both the existence—and the unfair terms—of this transaction. Mr. Skilling, who was required to monitor the LJM transactions apparently failed, as well, in this obligation.

3. Raptor I

The Report makes clear that this transaction was materially and deliberately misrepresented to the Board. Throughout the Board minutes and in the presentation materials, the Board was assured that the projected return for this transaction was 30%. In fact, as is evident from Deal Approval sheets signed by Ben Glisan, and Scott Sefton, management of the company knew that LJM's projected return was, in fact, a minimum of 76%. Mr. Fastow also must have known these facts, because they were presented to the partners of LJM2 at their annual meeting. Both Mr. Glisan and Mr. Fastow attended the Board meeting where Raptor was presented. Neither of them told us the true rate of return they had projected.

4. Rhythms Restatement

It is also important, I believe, to point out that the restatement of $100 million in earnings from the Rhythms transaction is not the result of a hedge that "didn't work.'" There has never been any question that—as PriceWaterhouse Coopers assured us—the transaction was authorized on arms' length terms that were fair to Enron. To the contrary, as Arthur Andersen has acknowledged, this transaction had to be restated solely because of an accounting error. None of us could have anticipated that Arthur Andersen, which was heavily involved in structuring this transaction, would make a technical error on a matter of this importance. We relied on them to ensure that this transaction was both permissible under the accounting rules and to be sure that it was structured properly, in compliance with those rules. That they failed in that obligation is a great disappointment to all of us.

III. CONCLUSION

All transactions with LJM were required to be on terms that were fair to Enron and negotiated at arms' length. Had that requirement been adhered to, none of the unfair transactions criticized in the report could—or should—have occurred.

What happened at Enron has been described as a systemic failure. As it pertains to the Board, I see it instead as a cautionary reminder of the limits of a Director's role. We served as directors of what was then the 7th largest corporation in America. This was a part-time job. It was necessarily limited by the nature of Enron's enterprise—which was worldwide in scope, employed more than 20,000 people, and engaged in a vast array of trading and development activities. By force of necessity, we could not know personally all of the employees. As we now know, key employees whom we thought we knew proved to disappoint us significantly. Although I am not a lawyer, I have found the following paraphrase to be an accurate description of both the scope—and the limitations—of a corporate director's role:

The very magnitude of the enterprise requires directors to confine their control to the broad policy decisions. That we did this is clear from the record. At the meetings of the Board and its committees, in which all of us participated, these questions were considered and decided on the basis of summaries, reports of management and corporate records. These we were entitled to rely upon. Directors are also, entitled to rely on the honesty and integrity of their subordinates and advisers until something occurs to put them on suspicion that something is wrong.

We did all of this, and more. Despite all that we tried to do, in the face of all the assurances we received, we had no cause for suspicion until it was too late.

Mr. GREENWOOD. Thank you, Mr. Winokur. We certainly appreciate all of your testimony today.

The Chair recognizes himself for 5 minutes for purposes of inquiry, and let me start with you, Mr. Skilling. During your voluntary interview with our committee staff, and then today in your opening statement, you repeatedly have stated that you believe that the related transactions in question were beneficial to Enron and not sham transactions.

However, the Special Committee's report and additional documents make clear that these transactions were not true hedges. According to the minutes of the May 1, 2000, Finance Committee, Ben Glisan presented Raptor I and described it as "a risk management program to enable the company to hedge the profit and loss volatility of the company's investments." And if you'd like to refer to that document, it's Tab 4 in your notebook.

While not mentioned in the minutes, the Finance Committee was also given information suggesting that the Raptor vehicle was not a true hedge. Notes on the three-page written presentation materials titled "Project Raptor: Hedging Program for Enron Assets"—apparently taken by Enron's corporate secretary. According to the Special Committee's report—that is on page 106—states, "Does not transfer economic risk, but transfers P&L—profit and loss—volatility."

Was this the primary goal and benefit of these transactions, Mr. Skilling?

Mr. SKILLING. It was my understanding, and I believe it was the understanding of the Board, that the transaction, the purpose of the transaction, was to provide a real hedge of certain high technology investments that had been extremely attractive for Enron over the last year and a half.

Compensation was provided, and in return derivatives were written that should have protected that position. That was my understanding of the nature of the transaction.

Mr. GREENWOOD. How would you explain, then, the corporate secretary at that Board meeting handwriting in, "Does not transfer economic risk, but transfers profit and loss volatility"?

Mr. SKILLING. I think you would probably have to ask——

Mr. GREENWOOD. You were there, I believe.

Mr. SKILLING. Well, there is an issue as to whether I was actually—the particular meeting that you're talking about was in Florida, Palm Beach, Florida. And on the day of the meeting the power had gone out at 3 in the morning, and we were scrambling to get it fixed. Never mind. I was incorrect. I take it back.

Mr. GREENWOOD. So were you at this meeting, in fact, this Board meeting?

Mr. SKILLING. I don't know. I don't recall, but I—I don't recall.

Mr. GREENWOOD. Okay. You have not checked records that you might have as to your whereabouts?

Mr. SKILLING. Well, I would have been in at least a portion of the meeting. Was I there for the entire meeting? I just don't recall.

Mr. GREENWOOD. All right. Here is what we have. This is minutes of that meeting, May 1. Committee members present: Ronnie Chan, Jerome Myers, a whole long list. And it lists you as being there, as well as Mr. Buy, Mr. Causey, Mr. Fastow, Mr. Glisan, etcetera. So you were there. The meeting was supposed to begin at 4. It actually began at 4 minutes after 10 on May 1. So you're not disputing that you were at this meeting.

Mr. SKILLING. I just don't recall, Mr. Chairman.

Mr. GREENWOOD. Can you imagine why the minutes would include you as being present at the meeting if you weren't there?

Mr. SKILLING. Well, if I stepped out of the meeting for some period of time. I just don't recall.

Mr. GREENWOOD. Okay. So you don't recall—it is your testimony under oath today that you do not recall any discussion at that Board meeting that would have led you or anyone else to believe that, in fact, this did not transfer economic risk, but transfers profit and loss volatility? Is that——

Mr. SKILLING. I do not recall any discussion at that meeting that would have suggested that there was no economic risk transfer from the transaction.

Mr. GREENWOOD. Okay. In retrospect, do you believe it was a true hedge?

Mr. SKILLING. There is nothing I have seen that would suggest anything different to date.

Mr. GREENWOOD. Let me go to this question, Mr. Skilling. The Special Committee's report is most critical of the lack of oversight by management of the transactions. It states that management had the "primary responsibility for implementing the Board's controls." However, the Special Committee finds that no one was minding the store. Further, that the "most fundamental management control flaw was the lack of separation between LJM and Enron personnel and the failure to recognize that the inherent conflict was persistent and unmanageable."

"Fastow, as CFO, was in a position to exert great pressure and influence, directly or indirectly, on Enron personnel who were negotiating with LJM. Enron employees worked for LJM while still in their Enron offices, side by side with people who were acting on behalf of Enron." That is a closed quote from the report.

These are pretty strong statements against the management of Enron, of which you were one, Mr. Skilling. How do you refute these allegations, or do you?

Mr. SKILLING. To the best of my knowledge, the procedures that were enacted by the Board should have been effective at managing the conflict of interest that was involved.

Mr. GREENWOOD. During the committee staff interview with you in December 2001, just 4 months after you left Enron, August 14, 2001, you said that, "The company was in the best shape it ever was."

I would like for you to explain that statement in light of the fact that Enron has, subsequent to your departure, declared bankruptcy, fired its auditor, discovered massive insider dealing by its CFO and other employees, fired its CFO, treasurer, and one of its general counsels, seen Ken Lay's resignation as President and CEO and as Director, laid off over 4,500 employees, and has since reneged on its promise to pay them a severance, is under investigation by both Houses of Congress, the Department of Justice, and the SEC, had to restate its earnings from 1997 to 2000 in the amount of $586 million, and had to announce an equity writedown of $1.2 billion, not to mention likely additional earnings adjustments in excess of a billion dollars that indicates that Enron was not even profitable while you were at the helm as CEO.

Enron's condition today seems nothing like being in good shape. How do you explain this?

Mr. SKILLING. All I can say is on August 14, the date that I left the company, I believed that the company's financial statements were an accurate reflection of its financial condition. Beyond that, there were a number of areas that we had made significant progress in the last 6 months. As you remember, there was a terrible issue related to the California energy crisis. By that point, prices had dropped. It looked as if the California energy problem had been contained and resolved.

Second of all, the broadband business. As we all know, in the first quarter of 2001, the stock and equity prices for broadband companies were under enormous pressure. We had restructured that business, two separate restructuring activities, the first in late March of 2001, the second in late June of 2001, and we believed that we had significantly reduced any exposure, further exposure from the broadband business to the rest of Enron's activities.

And third, and probably most important in my mind, we had completed the best quarter we had ever had, the second quarter of 2001, in our wholesale merchant business. The growth rates had remained at levels that, quite frankly, were extremely high, and the profitability from the business was extremely good. So on August 14, again, I believe the financial statements were an accurate reflection of the state of the company, and I believed that we had made progress on a number of different dimensions that put the company in a good position for the future.

Mr. GREENWOOD. Mr. Skilling, a massive earthquake struck Enron right after your departure. And people in far inferior positions to you could see cracks in the walls, feel the tremors, feel the windows rattling, and you want us to believe that you sat there in your office and had no clue that this place was about to collapse.

Mr. SKILLING. On the day I left, on August 14, 2001, I believed the company was in strong financial condition.

Mr. GREENWOOD. My time has expired. The Chair recognizes the gentleman from Michigan, Mr. Stupak.

Mr. STUPAK. Thank you, Mr. Chairman.

Mr. Skilling, The New York Times this morning described you as, and I am going to quote, "the ultimate control freak, a sort of hands-on corporate leader, who kept his fingers in all pieces of the puzzle." And The Times isn't the first publication to describe you this way. Do you really want us to believe and the American people to believe that a control freak was ignoring the very transactions that were providing 70 percent of the company's revenues in 2001?

Mr. SKILLING. First, with all due respect, the 70 percent, I don't know where that comes from, and we would have to spend some time discussing that. But in terms of the assertion by The New York Times that I was a control freak, I think probably a more accurate description would be that I was a controls freak. We had a company that was an enormous organization that was far flung across the globe.

We had to put in place the ability for our managers across the world to make decisions on a timely basis. To do that, we put in force what I believe was a very effective control structure for the company. And if you would like I could go into some of the elements of that control structure.

Mr. STUPAK. No, because the earlier panel—one of the witnesses there described you as being intense hands-on, not a control freak but an intense hands-on, that you really knew every part of this operation. From 1997, you were Chief Operating Officer until you became the CEO. So you are either one or two in the company for the last 4 years. And from what I have heard from your testimony today, you don't know what went on. Everything was fine when you left.

Mr. SKILLING. Congressman, Enron Corporation was an enormous corporation. Could I have known everything going on everywhere in the company? I had to rely on the best people. We hired the best people. We had excellent, excellent outside accountants and law firms that worked with us to ensure——

Mr. STUPAK. With all due respect, Mr. Skilling, you couldn't even answer the Chairman's question about a Board meeting. You know, the Board meetings, that was May 1 the one he asked you about. Every Board meeting, when you leave the room, anyone leaves the room, it is all marked in there—left the room for a short period of time. So the transaction that the Chairman was asking you about you certainly were there. You certainly were there.

Mr. SKILLING. Well, first of all——

Mr. STUPAK. But let me just ask you a couple of other questions, then.

Mr. SKILLING. Sure.

Mr. STUPAK. You were COO when LJM1 was initiated, were you not?

Mr. SKILLING. Yes.

Mr. STUPAK. And you were also the COO when LJM2 was created, were you not?

Mr. SKILLING. Yes, that is correct.

Mr. STUPAK. And you were also the COO when JEDI was created, were you not?

Mr. SKILLING. I was not. I believe at that time I was Chairman and Chief Executive Officer of Enron Capital and Trade, which was our wholesale merchant business.

Mr. STUPAK. Okay. Well, you were the COO, then, when Chewco was set up.

Mr. SKILLING. I don't believe so. I believe I was still Chairman and Chief Executive Officer.

Mr. STUPAK. Well, that was later in 1997. When in 1997 did you become COO?

Mr. SKILLING. It was January—I believe January 1997.

Mr. STUPAK. Okay.

Mr. SKILLING. I think that's correct.

Mr. STUPAK. Well, the side agreement between Chewco and JEDI was—I believe testimony earlier today was December 1997, so you would be COO then.

Mr. SKILLING. Then I would have been, yes.

Mr. STUPAK. Okay. Now, in looking at all of this, and in looking at your code of ethics, it says—it is on page 49, investments and outside business interests of officers and employees. And you asked from every person complete loyalty to the best interests of the company and a maximum application of skill, talent, education, to the discharge of the job responsibilities without any reservation whatsoever.

"Therefore, it follows that no full-time officer or employee should"—I will go to B—"make investments or perform services for his or her own related interests in any enterprise under any circumstances for the reason or nature of the business conducted by such enterprise. There is, or could be, a disparity or conflict of interest between the officer and the employee and the company." True statement, right, that code of ethics there?

Mr. SKILLING. I assume that is our code of ethics.

Mr. STUPAK. Okay. Then why did you then waive that code of ethics for Mr. Fastow, not once but twice, to create these companies, these SPEs?

Mr. SKILLING. You are asking a somewhat different question. You were asking about Chewco. Is it Chewco that you are interested in, or are you interested in——

Mr. STUPAK. No, no. No, I am asking about—you were there when all of these—you were the COO when all of these were created.

Mr. SKILLING. Yes.

Mr. STUPAK. Especially the side agreement, which is the real problem between Chewco and JEDI. So they sell an asset, the next day they sell it back, real roundabout way to make a lot of money here for some people.

Mr. SKILLING. Sir, I don't believe there were any transactions subsequent with Chewco. To my knowledge, there were no transactions with Enron subsequent to the Chewco purchase of JEDI.

Mr. STUPAK. There was a conflict on June 28, 1999. I am referring to the Board meetings. I believe it is number 7 in your book. And if you look on page 2 and page 3, page 3 in particular, "Resolved, therefore, the Board hereby adopts and ratifies the determination by the Office of the Chairman, pursuant to the company's conduct of business affairs, investments, and outside business interests of officers"—the thing I just read to you—"and, therefore, that participation of Andrew S. Fastow as the managing party, manager of the partnership, will not adversely affect the interests of this company."

You and the Board did it on June 28, 1999. You did it again for Mr. Fastow again on October 11 and 12, 1999. And on October 11, 1999, it is found on page 18 of your Board meetings. Is this part of your creative corporation that you——

Mr. SKILLING. Sir, I think we are going to need to go back. If we want to answer this accurately, we are going to need to go back specifically—at specific separate transactions. The Chewco transaction, there was no waiver.

Mr. STUPAK. Oh, wait a minute. Wait.

Mr. SKILLING. To my knowledge, there was no waiver of the code of conduct for the Chewco transaction. On LJM1, there was a waiver of the code of conduct that was based on a fairness opinion that we had from an accounting firm that the transaction was in the interest of Enron shareholders. On LJM2, we recognized that there was a potential creation of conflict of interest. To mitigate or eliminate that conflict of interest, we established some very tight controls to ensure that Enron's interests would be protected.

At no time did I enter into any transaction or was I personally involved in any transaction that I believed was not fully in the interest of Enron shareholders.

Mr. STUPAK. And the controls didn't work, and those controls were—that were there in your code of ethics, you waived them.

Mr. SKILLING. The code of ethics does not have a description of codes or specific procedures to be followed. The code of ethics is a code of ethics that was waived in lieu of establishing a range of very sophisticated procedures to eliminate the conflict of interest so that Enron could benefit from the creation of these——

Mr. STUPAK. And they never did.

Mr. GREENWOOD. The time of the gentleman——

Mr. STUPAK. They never did benefit.

Mr. GREENWOOD. [continuing] from Michigan has expired.

The Chair recognizes the gentleman from Louisiana, Mr. Tauzin, for 5 minutes.

Chairman TAUZIN. Thank you, Mr. Chairman.

Mr. Winokur, in your testimony you say that the report makes it clear that those in management in whom you relied to tell us the truth did not do so. Was Mr. Skilling one of those people?

Mr. SKILLING. Sir, I missed it. Is that directed at——

Chairman TAUZIN. I have asked Mr. Winokur the question.

Mr. WINOKUR. I think it is for me.

Mr. SKILLING. That is what I thought. I just missed——

Mr. WINOKUR. Congressman, I believe the report says that we have conflicting information about the Raptor transaction.

Chairman TAUZIN. Please answer the question. You said that people in management did not tell you the truth. Was Mr. Skilling one of those people?

Mr. WINOKUR. I don't believe that Mr. Skilling ever lied to us. No, sir.

Chairman TAUZIN. Did he tell you the whole truth?

Mr. WINOKUR. I believe that management, including a large number of people, did not disclose items we were entitled to receive.

Chairman TAUZIN. Well, let us look at the secrets that were kept from the Board according to you, Mr. Jaedicke. One of the seven deadly secrets you mentioned in your testimony at page 10, and I will go through four of them. The first is that the Board didn't know that Mr. Kopper was involved in LJM. Is that correct, Mr. Jaedicke?

Mr. JAEDICKE. We did not know he was involved in LJM. That is correct.

Chairman TAUZIN. Right. Let us turn to you, Mr. Skilling. Did you know that Mr. Kopper was involved with LJM?

Mr. SKILLING. Yes, I did.

Chairman TAUZIN. Did you tell the Board?

Mr. SKILLING. I don't recall.

Chairman TAUZIN. Let us look at the second deadly secret. The Board was not informed and did not approve of any other Enron employees besides Mr. Fastow working for or having financial interest in LJM. Mr. Skilling, did you know that other employees besides Mr. Fastow had interest or investments in LJM deals?

Mr. SKILLING. I did not.

Chairman TAUZIN. You did not know that. Who knew that?

Mr. SKILLING. Certainly, whoever had the records for financial disbursements by LJM, which I assume would be the partnership records, would know.

Chairman TAUZIN. You didn't see the approval sheets that were sent to you by Mr. Mintz on these deals?

Mr. SKILLING. I am sorry. What——

Chairman TAUZIN. He sent them to you in May according to his testimony. He sent you approval sheets on all of these deals, and these deals outline who was negotiating for and against the corporation. And they indicated in one case that Kopper was negotiating for LJM, and Mr. Yaeger was negotiating for the corporation. You have seen all of these sheets?

Mr. SKILLING. Can you give me a specific reference, Mr. Chairman, that I can look at?

Chairman TAUZIN. It is Tab 26.

Mr. SKILLING. Tab 26.

Chairman TAUZIN. You were not aware that Messrs. Glisan, Morantz, Yaeger, and others had investments in deals that were being done by LJM?

Mr. SKILLING. I had no knowledge that Messrs. Glisan, Morantz, Yaeger, or Linn had interest in LJM.

Chairman TAUZIN. So Mr. Fastow never told you this?

Mr. SKILLING. He never told me that.

Chairman TAUZIN. And, therefore, you never communicated to the Board that other members of the corporation were engaged in investments in these corporations?

Mr. SKILLING. Mr. Chairman, I didn't know.

Chairman TAUZIN. But you had your hands in everything. But you didn't know this.

Mr. SKILLING. Have I said I had my hands in everything? I think——

Chairman TAUZIN. Well, people have said you did.

Mr. SKILLING. [continuing] my comment was that this is a very large corporation. We are a multinational corporation—operation spread around the world. It would be impossible——

Chairman TAUZIN. One of the seven deadly secrets apparently that was kept from you, according to you, Mr. Jaedicke, was the secret that the Board had sold—turned around and sold, rather, assets right before the financial reporting period only to buy five of them back immediately after the reporting period.

Mr. Skilling, were you aware of that fact?

Mr. SKILLING. I was not aware of that fact.

Chairman TAUZIN. You didn't know that the company was selling assets and repurchasing them after the financial reporting period?

Mr. SKILLING. There is only one asset that I was aware of that was sold and repurchased, and that was an interest in LJM1 in a project in Brazil, a power project in Brazil, that was called Queba.

Chairman TAUZIN. And, finally, fourth deadly secret. That the Board was not told that Enron agreed to protect LJM from losses on any of its transactions. Mr. Skilling, you deny knowing that at all?

Mr. SKILLING. I absolutely unequivocally deny that there was any arrangement, any agreement, period, that would have provided a riskless rate of return to anyone that we dealt with as Enron Corporation.

Chairman TAUZIN. Well, Mr. Jaedicke, you're telling me that that is true and that you were never told of it. Is that correct?

Mr. JAEDICKE. Well, sir, I was quoting the findings of the Special Committee here and saying we did not know—we did not have available to us that information.

Chairman TAUZIN. Let me quote you, then. On page 9 of your testimony you say that one of the 13 controls that you put in——

Mr. JAEDICKE. Right.

Chairman TAUZIN. [continuing] to make sure that there weren't any conflicts of interest, and that the special transactions would be reviewed correctly—look at number 4. It says, "Not only that Buy and Causey would approve all of these transactions, but that Jeff Skilling, President and Chief Operating Officer, and Mr. Fastow's superior, also was to review and approve any transactions." Is that correct?

Mr. JAEDICKE. That is correct, sir.

Chairman TAUZIN. Were you aware that Mr. Skilling was refusing to sign the approval forms?

Mr. JAEDICKE. No, sir, I was not.

Chairman TAUZIN. You were never told that he refused to sign the forms.

Mr. JAEDICKE. No, sir, I was not.

Chairman TAUZIN. You also have a control number 6, that once a year the Audit Committee, which I believe you chaired, is that correct?

Mr. JAEDICKE. Right, sir.

Chairman TAUZIN. Was to review the transactions that had been completed in the prior year. Did the Audit Committee do that?

Mr. JAEDICKE. Yes, they did, sir.

Chairman TAUZIN. Did you ever see these approval forms at all?

Mr. JAEDICKE. Not the approval forms.

Chairman TAUZIN. Let me read to you the bottom of the one I am referring to. It is the one that has to do with the Cortez—the deal name is Cortez. It is a deal negotiated by Michael Kopper for LJM and negotiated by Yaeger on behalf of the corporation. I am sorry, by Tustar Patel.

And in this deal the last statement is, "Has the Audit Committee of Enron Board of Directors reviewed all Enron LJM transactions within the past 12 months?" And the answer on the form is no. Is that correct?

Mr. JAEDICKE. Sir, I don't have the form.

Chairman TAUZIN. I am asking to look at that tab. I think it is number 26.

Mr. WINOKUR. Sir, it is the back part of the tab, the——

Chairman TAUZIN. It is multiple pages. But if you will look at page number 2 on the approval sheet, item number 3F, you will see the question. Has the Audit Committee of Enron Corporation Board of Directors reviewed all Enron LJM transactions within the past 12 months? And the answer checked off is no.

The next question, "Have all recommendations of the Audit Committee related to Enron LJM transactions been taken into account in this transaction?" And the box is marked no, with the further explanation that the Audit Committee has not reviewed any transactions to date. Is that accurate?

Now, everybody signed off on this. If you look at the next page, you will see where the business unit, business unit legal, Enron Corporation legal, Global Finance legal, Mr. Buy, Mr. Causey, all signed off on it as being accurate. The only person who apparently didn't sign it was Mr. Skilling. Was this accurate or not?

Mr. JAEDICKE. Our first review of the LJM transactions would have been—which we did once a year, would have been in February of 2000. And I am just—I don't know what the—the date is what is hanging me up here. I have not seen this information.

Chairman TAUZIN. Well, let me ask Mr. Skilling. Did you personally follow the control number 4, which required you to review and approve every single one of these transactions?

Mr. SKILLING. I think there are a number of points I would like to make, and I hope——

Chairman TAUZIN. Could you just answer that first? Did you, in fact, review and approve all of these transactions as required by control number 4?

Mr. SKILLING. Did I meet my responsibilities as Chief Operating Officer——

Chairman TAUZIN. Just answer that question. Did you review and approve all of the transactions as required by number 4 of the controls?

Mr. SKILLING. I was not required to approve those transactions.

Chairman TAUZIN. So you disagree with the control provision?

Mr. SKILLING. I take it as very——

Chairman TAUZIN. Mr. Jaedicke's testimony——

Mr. SKILLING. Sir, if you would go back to the October 1999 minutes of the Board of Directors meeting when the original control system was set up, it is absolutely explicit and absolutely clear that approval was to be made by Mr. Rick Buy and Mr. Causey, and it was going to be reviewed by the Audit Committee.

Chairman TAUZIN. So, Mr. Jaedicke, let me go to your testimony. Look on page 9. Mr. Jaedicke, you tell us here in writing that Jeff Skilling, President/Chief Operating Officer, and Mr. Fastow's superior, also was to review and approve any transactions. He is telling me that is wrong. Who is correct?

Mr. JAEDICKE. Mr. Chairman, in the Audit Committee meeting of—and the Finance Committee meeting, too, I think, of February 2001, the controls are enumerated. And I believe it says the controls that had been in place—these were covering the LJM transactions—required the approval of Mr. Skilling, Mr. Buy, and Mr. Causey.

Chairman TAUZIN. In fact, I am reading it right now. It is on page 2 of the minutes of October 6, and let me quote it. It says that he then discussed the mechanisms that had been put in place to mitigate any potential conflicts, including, one, his fiduciary responsibilities to the companies, to the Office of the Chairman of the Board, could ask him to resign from LJM at any time apparently.

Number 3, Messrs. Buy, Causey, and Skilling approved all transactions between the company and LJM funds. Mr. Skilling, do you deny the existence of these Board meetings?

Mr. SKILLING. Can you give me the specific reference, Mr. Chairman?

Chairman TAUZIN. The reference is on page 2 of the minutes of the meeting of the Finance Committee of the Board of Directors of Enron Corporation, October 6, 2000.

Mr. SKILLING. Which tab? Do you know which tab?

Chairman TAUZIN. It is Tab 18.

Mr. SKILLING. Tab 18.

Chairman TAUZIN. I am sorry, 8. Tab 8.

Mr. SKILLING. Tab 8. I would refer you back earlier into the paragraph on page 2 of those minutes. In that paragraph it says, "Mr. Fastow then discussed the company's private equity strategy." Mr. Fastow is the person that represented what controls had been in place inside the company to review LJM transactions. This is a verbatim report of what Mr. Fastow said to the Finance Committee——

Chairman TAUZIN. Let me read you the next sentence, Mr. Skilling. It says, "Messrs. Causey and Skilling then discussed the benefits of the company." You were at that meeting, weren't you?

Mr. SKILLING. Mr. Causey and Mr.——

Chairman TAUZIN. The lights weren't out. The power wasn't out. You were at the meeting. You heard Mr. Fastow say that you were going to approve each one of these transactions. Did you say, "I am not going to do that"?

Mr. SKILLING. I got a little confused. I mean, we are all under a tremendous amount of tension and a tremendous amount of pressure with what is going on here. And I will admit to being under a tremendous amount of pressure and an intense amount of——

Chairman TAUZIN. I grant you that, Mr. Skilling. I would just like a clear answer. Were you at that meeting?

Mr. SKILLING. This meeting was the meeting that occurred in Palm Beach, Florida. This is October 6, 2000. In that meeting, the power had gone out, and as everybody remembers we were in a room—the room was dark, quite frankly, and people were walking in and out of the meeting trying to——

Chairman TAUZIN. You never heard Mr. Fastow say that you would approve all of these transactions?

Mr. SKILLING. I don't recall.

Chairman TAUZIN. You just don't recall.

Mr. SKILLING. I do not recall.

Chairman TAUZIN. But you never ever said to the Board or the committee, "I am not going to do that. I am not going to approve these transactions"?

Mr. SKILLING. I wouldn't have to. In October 1999, when the process was established for approval of transactions with LJM, the process is absolutely crystal clear. It involved approval by Mr. Causey and Mr. Buy.

Chairman TAUZIN. Is that why you wouldn't sign these documents?

Mr. SKILLING. No, and I——

Chairman TAUZIN. Why didn't you sign them? Tell me that, please.

Mr. SKILLING. May I give you—you will give me time to answer?

Chairman TAUZIN. You have got it.

Mr. SKILLING. Okay.

Chairman TAUZIN. Please do.

Mr. SKILLING. Okay. Thank you, sir. First, I did not receive that memo. Second of all, I——

Chairman TAUZIN. Wait. Are you saying you did not receive Mr. Mintz's memo?

Mr. SKILLING. To my recollection, I did not receive that memo. Second, I would have had no problem signing that, and I believe if you look at the specifics of the memo of Mr. Mintz's—in fact, do you have the reference for Mr. Mintz's memo in here? Do you have a copy of that memo?

Chairman TAUZIN. We have a copy of the memo. We also have his testimony right before you got here. It said he tried three times to ask you for a meeting to talk about the memo. Do you recall that?

Mr. SKILLING. I do not recall that. Would you mind if we turn to that memo?

Chairman TAUZIN. Sure.

Mr. SKILLING. Which——

Chairman TAUZIN. Tab 15.

Mr. SKILLING. Number 13?

Chairman TAUZIN. 13, I am sorry. Tab 13. It is 15, I am sorry.

Mr. SKILLING. 15. I draw your attention to a couple of points in this memo——

Chairman TAUZIN. Please do.

Mr. SKILLING. —Mr. Chairman. The first one is it says, "Accounting and RAC require the signatures of Rick Causey and Rick Buy. Such approval sheet also provides for your signature." In the next paragraph it says, "All required signoffs for the 2000 transactions have recently been completed." All signoffs have recently been completed.

And then further in that same paragraph it says, "In our discussions arranging for your signature," which, as it said, the form provides for my signature, "it says that we have—it was decided to provide you with all finalized approvals in aggregate rather than on a piecemeal fashion, and we are now ready to do so," which meant——

Chairman TAUZIN. In other words, everybody else had signed, they were ready to get your signature——

Mr. SKILLING. The transactions were done. The transactions had been completed.

Chairman TAUZIN. Of course. I am not arguing that. I am just asking you——

Mr. SKILLING. Transactions could not have been completed. Jordan Mintz is a lawyer for Enron Corporation. Those transactions could not have been completed if it was necessary for me to authorize those transactions. It couldn't have been done.

Chairman TAUZIN. I am not asking whether you authorized them. I am asking whether you signed the approval sheets, because there is an issue here, Mr. Skilling, whether or not under the controls set up by the Board, as they understood them, you were required to do so, to review and approve. And you are telling us, No. 1, you never got the Mintz memo; No. 2, you don't recall anybody asking you to set up a meeting to discuss signing these documents; and, No. 3, I am still asking you, why didn't you sign them at all?

Mr. SKILLING. They were not given to me.

Chairman TAUZIN. You never saw them?

Mr. SKILLING. I do not recall being presented with these documents. I do not recall being presented with these documents.

Chairman TAUZIN. I have exceeded my time. Thank you, Mr. Chairman.

Mr. GREENWOOD. The time of the gentleman has expired. The Chair recognizes the gentlelady from Colorado, Ms. DeGette.

Ms. DEGETTE. Thank you, Mr. Chairman.

Mr. Skilling, you knew certainly in 2000, and probably sooner, that these LJM transactions in particular—there were risks of a conflict of interest with Mr. Fastow, did you not?

Mr. JAEDICKE. Are you——

Ms. DEGETTE. Because Mr. Fastow——

Mr. JAEDICKE. [continuing] addressing that to Mr. Skilling, or to me?

Ms. DEGETTE. Mr. Skilling.

Mr. SKILLING. Are you asking if I knew that there was a conflict of interest associated with LJM?

Ms. DEGETTE. There was a potential conflict of interest.

Mr. SKILLING. Absolutely. That is why——

Ms. DEGETTE. Absolutely.

Mr. SKILLING. [continuing] we put the procedures in place to eliminate those conflicts.

Ms. DEGETTE. And that is why, as you said, you were a controls freak, to make sure the controls were in place, right?

Mr. SKILLING. We would not have entered into the LJM transaction——

Ms. DEGETTE. Yes or no.

Mr. SKILLING. [continuing] without an adequate control——

Ms. DEGETTE. You wanted control, right? Yes or no.

Mr. SKILLING. We would not have entered into the transactions if we had not had adequate controls to manage the conflict of interest.

Ms. DEGETTE. Okay. Now, you said that October 6, 2000, you don't recall being there for this discussion about—by Mr. Fastow about the LJM funds because the lights were out?

Mr. SKILLING. I do not recall.

Ms. DEGETTE. Okay. So you don't recall him talking about how his role in the LJM funds could potentially create a conflict of interest in that he negotiates for the LJM funds?

Mr. SKILLING. We were all——

Ms. DEGETTE. Did you know he negotiated for the LJM funds?

Mr. SKILLING. Actually, I believe Andy had represented to the Board—my recollection is Andy had represented to the Board that he would not be involved in direct negotiations of LJM transactions.

Ms. DEGETTE. So as the captain of this ship, which was Enron, you don't recall being at a meeting in Palm Springs, Florida, where Mr. Fastow said his role in the LJM funds could potentially create a conflict of interest in that he negotiates for the LJM funds?

Mr. SKILLING. There was no question in anyone's mind on the Board of Directors or in management that there was not a conflict of interest created. The objective was to create a process——

Ms. DEGETTE. No. But you don't recall him ever saying to you or anyone that he negotiated for the LJM funds?

Mr. SKILLING. Actually, it is my recollection that Andy had represented that he would not negotiate for the LJM funds.

Ms. DEGETTE. Okay. So did you, in your role, ever review the minutes of the Finance Committee?

Mr. SKILLING. I did not review them.

Ms. DEGETTE. You did not review the minutes.

Mr. SKILLING. No.

Ms. DEGETTE. So what you are saying is if someone wrote this in here—it is in Exhibit 8—that would be a lie?

Mr. SKILLING. No. If that was an accurate representation of what Andy described to the Finance Committee, that is what is in the Board minutes.

Ms. DEGETTE. And that was the meeting you don't recall if you were there.

Mr. SKILLING. I was in the meeting. I don't recall if I was there at the time Mr. Fastow specifically went through the steps for control.

Ms. DEGETTE. Do you recall an agreement that you would approve all transactions between the company and the LJM funds?

Mr. SKILLING. No, I do not recall that.

Ms. DEGETTE. Did you think you had to approve all transactions?

Mr. SKILLING. I did not. That was not my understanding.

Ms. DEGETTE. You did not think you had to approve the transactions between the company and the LJM funds?

Mr. SKILLING. No. We had——

Ms. DEGETTE. Okay.

Mr. SKILLING. [continuing] a process in place where Mr. Causey and Mr. Buy, who each had organizational units of several hundred people, probably in aggregate several thousand controls people—we had Arthur Andersen——

Ms. DEGETTE. Okay. Did you——

Mr. SKILLING. [continuing] reviewing the transactions, and we had Vinson & Elkins reviewing the transactions.

Ms. DEGETTE. Okay. Did you ever hear about a thing called a deal approval sheet, which was one of the controls that the Board put into place?

Mr. SKILLING. Absolutely. I am familiar with the deal approval process.

Ms. DEGETTE. And you knew those deal approval sheets were supposed to be signed off on by a variety of people when there was one of these transactions, correct?

Mr. SKILLING. That is incorrect. The deal approval process was the standard capital approval process. Any time Enron was disbursing cash, any time Enron was disbursing cash of a certain level of magnitude——

Ms. DEGETTE. Right.

Mr. SKILLING. [continuing] there had to be a dash generated.

Ms. DEGETTE. Right.

Mr. SKILLING. And that dash had different authority levels within the company.

Ms. DEGETTE. Right.

Mr. SKILLING. So there were some people——

Ms. DEGETTE. And some of the authorities required your approval, didn't they?

Mr. SKILLING. For capital——

Ms. DEGETTE. Some of the financial levels.

Mr. SKILLING. [continuing] expenditure—for a capital expenditure where cash was leaving Enron Corporation, there were different levels of authority within the company. Business unit managers had a level of authority. I, as Chief Operating Officer, had a level of authority. As CEO, I had a level of authority.

Ms. DEGETTE. Did you thin——

Mr. SKILLING. Mr. Sutton, as Vice Chairman, had a level of authority. Mr. Lay——

Ms. DEGETTE. Did you——

Mr. SKILLING. [continuing] as CEO had a level.

Ms. DEGETTE. Okay. I got you. Did you ever think that you had to sign the dash sheet for any of the LJM transactions?

Mr. SKILLING. Any LJM transaction that involved a cash disbursement that would have been within my signing authority either had to be signed by me or someone else higher in the hierarchical chain of the company.

Ms. DEGETTE. Do you recall ever seeing a dash sheet for any LJM transaction?

Mr. SKILLING. I don't recall.

Ms. DEGETTE. Do you recall ever signing one?

Mr. SKILLING. I don't recall.

Ms. DEGETTE. Do you recall ever seeing one and then not signing it?

Mr. SKILLING. There would never be a case on a dash where I would have been required to sign a dash, that if someone higher in the authority chain had not signed it that I would have to sign, because we wouldn't have disbursed cash.

Ms. DEGETTE. Okay. With respect to the LJM transactions, where is the written policy that says either you or someone superior to you has to sign these dash sheets?

Mr. SKILLING. The cash sheets are a totally separate issue from the LJM transactions. The LJM transactions—any transaction with LJM2 was governed, in addition by the—to the dash process——

Ms. DEGETTE. But there were special dash sheets for LJM, right?

Mr. SKILLING. Not initially. I think that there was a supplementary sheet that was developed later.

Ms. DEGETTE. Well——

Mr. SKILLING. From the original—the original approval of LJM2, which is where the transactions occurred, please go back to the Board of Directors meetings and the Finance Committee meetings of October 1999. The process is very clearly established in light of that.

Ms. DEGETTE. So you remember 1999; 2000 you're not so sure.

Mr. SKILLING. That was the time that the process was set up.

Ms. DEGETTE. And the lights were out and stuff like that. I understand.

Mr. SKILLING. That was in the year 2000, not in 1999.

Ms. DEGETTE. Now, please take a look at—right, the lights were out in 2000.

Mr. SKILLING. 2000, not in 1999.

Ms. DEGETTE. But everything was okay in 1999. I think that is kind of prophetic, Mr. Chairman.

Exhibit 13—I want you to just take a quick look at that. We talked about that before. The Chairman talked about this. It is a memo from Jordan Mintz to Rick Buy and Rick Causey about the LJM approval process transaction substantiation. And on page 2,

it says, “The company subsequently adopted a written LJM approval sheet,” and it says, “Such approvals are to be reviewed and executed by certain members of Enron senior management, including Jeff Skilling.” Do you see that? And it doesn’t say, “Jeff Skilling or someone else” does it?

Mr. SKILLING. It says “reviewed,” and it says, for example, “the checklist provides.” In the memo that Jordan wrote, which was clearly not contemporaneous with approval of LJM transactions, they were basically saying they were putting these together, bundling them up. It was not necessary for approval of the transaction for me to sign, but they had a provision for me to sign.

I don’t recall receiving that memo. Had I received that memo, what I would have done is looked at the specific transactions. If Rick Buy and Rick Causey had signed those transactions, and I looked at the transactions and they looked reasonable, I would have had no trouble signing for those transactions.

Mr. GREENWOOD. The time of the gentlelady from Colorado has expired. The Chair recognizes the gentleman from Florida, Mr. Stearns.

Mr. STEARNS. Thank you, Mr. Chairman.

Mr. Skilling, just sort of as an oversight, I think that your strategy at Enron has been basically to build an asset light strategy. Hasn’t that been true? I mean, I have seen that in Business Week and other literature, that you have always said that you believed it should be asset light is your strategy for business.

Mr. SKILLING. We were trying to do as much profitable business per unit of assets as we could.

Mr. STEARNS. So just as a commentary, then, the fact that this went into bankruptcy and failed to provide liquidity was really a failure of your strategy for this company, I mean, just in a man-to-man talk here, that you are going around telling all of the literature and all of these magazines that it is asset light, and you just didn’t have liquidity, and this company failed in a large part because of you. I mean, you are not trying to say this morning—this afternoon that you are here saying this company was just flying along 100 percent in good shape, and then you left and things fell apart just because you left?

Mr. SKILLING. Congressman, I think—and we have all read business history—there are things called runs on banks, and you can have——

Mr. STEARNS. Things called what?

Mr. SKILLING. Things called run on the bank. You can have a fundamentally solvent company that is profitable that has an illiquidity problem. That’s my interpretation of what occurred.

Mr. STEARNS. No, I understand that. But it is just awfully hard to believe after looking at all of these partnerships, and how they were financed, and Fastow taking money out when nobody on the Board of Directors knew about it, and this fellow reported to you. And I understand he was your protege.

And so here we have all of these partnerships, and you are saying—you are saying today basically you did not know any of the financial structure of LJM. Isn’t that what you are saying today?

Mr. SKILLING. I said that we knew that a——

Mr. STEARNS. I mean, you. You. I mean——

Mr. SKILLING. Me, as a member of the Board of——

Mr. STEARNS. Yes, you are saying you didn't know anything——

Mr. SKILLING. [continuing] Directors and a member of management of Enron Corporation, knew that a private equity fund was being established, and that one of our executives, Andrew Fastow, would have a role, an economic interest in that entity. We did know that, yes.

Mr. STEARNS. So Mr. Fastow reported to you. Did you ever talk to Jeffrey McMahon?

Mr. SKILLING. Yes.

Mr. STEARNS. Okay. Was he in your office regularly, or did you talk to him infrequently?

Mr. SKILLING. Pretty infrequently.

Mr. STEARNS. Pretty infrequently. Now, as I understand, his title was basically he was President and Chief Operating Officer of Enron. And you just didn't talk to him very much.

Mr. SKILLING. I am sorry. Say again?

Mr. STEARNS. It says here that he was President and Chief Operating Officer of Enron.

Mr. SKILLING. I think that happened last week.

Mr. STEARNS. Okay. Okay. Yes. But you are saying you talked to him infrequently, then.

Mr. SKILLING. I would guess probably Jeff and I would talk once a month.

Mr. STEARNS. We have got a calendar of his which shows that he met with you on March 16 at 11:30 a.m. Now, this is Tab Number 10. You might want to just take a look at that. And, you know, one of the reasons he was meeting with you, because he had some concerns about the LJM partnerships.

And we have Tab Number 9, which is before that—you are welcome to look at—talks about his concern and basically conflicts of interest, talking about the financing structure. Do you remember talking to him about this on March 16?

Mr. SKILLING. Yes, I do.

Mr. STEARNS. Okay. Well, that is good. We have established that Mr. McMahon's schedule is correct. He had you down for an 11:30 appointment. We have his notes before he met with you, which you can look at at Tab 9. We have his schedule. So he did meet with you.

So my question is to you, did he talk to you about LJM and the financing structure or any of the partnerships?

Mr. SKILLING. My recollection of the meeting is Jeff came in and had some concerns about his compensation related to LJM.

Mr. STEARNS. He never talked about any conflict of interest in any of these partnerships? He never mentioned anything like that to you?

Mr. SKILLING. What his concern was as far as compensation was concerned is Jeff felt that he was being put in an awkward position in having to negotiate with Andy, and that that might—this is my recollection. That it might impact his compensation package.

Mr. STEARNS. He never mentioned to you that, "I am concerned what is the best interest of the shareholders here"?

Mr. SKILLING. I don't recall that. I recall this being an issue of compensation.

Mr. STEARNS. Well, you know, if you look at his schedule, he went out and talked to—on the 31st of March he met with Fastow, and we have had a case on April 6 he had an appointment, and basically his job changed. Did you know about that?

Mr. SKILLING. Yes.

Mr. STEARNS. And why did his job change?

Mr. SKILLING. At the time we were setting up a new business that was related to some internet activities that we developed at the company, and we were looking for someone to be a senior executive in that business. And that search had been under the discussions, and that search had been underway for quite some time.

Mr. STEARNS. My time has expired, but I have a hard time believing, Mr. Skilling, that when he came to you he did not describe these conflicts of interest. He didn't describe his huge apprehension with these partnerships. And he didn't relay his angst about this whole process. And you are saying to me today that you remember him coming in, but he was just talking about compensation, and you really don't really have much information on the financing structure of the LJMs. I have a hard time believing that.

Mr. GREENWOOD. The time of the gentleman from Florida has expired. The Chair recognizes the gentleman from Illinois, Mr. Rush.

Mr. RUSH. I want to try to get us out of the quagmire that we seem to be in as it relates to the meeting in Florida and what transpired at that meeting in Florida. And I want to ask Dr. Jaedicke, were you at that meeting in Florida?

Mr. JAEDICKE. Yes, I was, sir.

Mr. RUSH. Okay. Do you recall Mr. Fastow telling you that Mr. Skilling would approve every LJM deal?

Mr. JAEDICKE. Sir, that occurred, I believe, in the Finance Committee or the Board of Directors. I know it is in the minutes. I do not personally recall that discussion.

Mr. RUSH. Yes. Mr. Winokur, were you at that meeting in Florida?

Mr. WINOKUR. Yes, sir, I was.

Mr. RUSH. Do you recall Mr. Fastow telling you that Mr. Skilling would approve every LJM deal?

Mr. WINOKUR. Sir, I believe that the minutes, as presented, were correct and were approved by the Finance Committee. And so to the best of my recollection these are what happened.

Mr. RUSH. Okay. Let me ask Mr. Skilling, were you at that meeting?

Mr. SKILLING. Like I said, I was at the meeting. I walked into and out of the Finance Committee on several occasions, but I was at that meeting.

Mr. RUSH. Okay. Mr. Winokur, do you recall Mr. Skilling being at that meeting?

Mr. WINOKUR. Sir, the minutes report that he was there, and that he participated in the conversation. I have no other recollection than what the minutes say.

Mr. RUSH. Okay. So he participated in the total discussion, all of the conversations, particularly as it related to the issue of controls and his sign-off?

Mr. WINOKUR. Sir, to the best of my knowledge, the minutes reflect what happened. I have no other recollection.

Mr. RUSH. Okay. Did anyone ever tell the Board that Mr. Skilling wasn't going to sign off on the LJM deals?

Mr. WINOKUR. Congressmen, if that is a question directed at me, no one ever told me of that.

Mr. RUSH. How about you, Dr. Jaedicke?

Mr. JAEDICKE. No, sir. I do not recall ever hearing that.

Mr. RUSH. So are you—are both of you under the opinion that Mr. Skilling would sign off on all of the LJM deals?

Mr. JAEDICKE. Yes, sir, I was.

Mr. RUSH. Okay. Do you—Mr. Winokur?

Mr. WINOKUR. Sir, the presentation said—the minutes described that these were mechanisms that already had been put in place. I believe that these had been put in place, and I never was told otherwise.

Mr. RUSH. All right. Let me refer you to the minutes here on page 2. It says, "He," which is Mr. Fastow, "He then discussed the mechanisms that had been put in place to mitigate any potential conflicts, including, one, his fiduciary responsibilities to the company; two, the Office of the Chairman or the Board could ask him to resign from LJM funds at any time; three, Messrs. Buy, Causey, and Skilling approve all transactions between the company and the LJM funds; four, that there is an annual Audit and Compliance Committee review of the company's transactions with the LJM funds; five, a review of his economic interest in the company and the LJM funds is presented to Mr. Skilling; and, six, there is no obligation for the company to transact with the LJM funds." Do you recall those statements?

Mr. WINOKUR. Yes, sir, I believe that the minutes reflect accurately the discussion to the best of my recollection.

Mr. RUSH. Okay. Now, as of on the fifth criteria that you have here, "Review of his economic interest in the company and the LJM funds is presented to Mr. Skillings," was that ever done? Was that financial review or economic interest review ever done by the company or by your committee?

Mr. WINOKUR. Not by my committee, sir.

Mr. RUSH. Okay. Was that ever done by Mr. Skilling?

Mr. WINOKUR. Sir, I think Mr. Skilling is better——

Mr. RUSH. Mr. Skilling, was that ever done by you? Did you ever do——

Mr. SKILLING. Yes. This was requested, that Mr. Fastow give me a summary of his economic interest. He presented me with a handwritten document subsequent to that that gave a view of his economic interest in LJM.

Mr. RUSH. Can you explain to the committee what that economic review indicated? What did it state?

Mr. SKILLING. As best I recall—and I don't have a copy of it—but as best I recall, it was a handwritten sheet of paper, and it basically was split onto two sides. And on one side it said something to the effect of total return to Mr. Fastow under a set of assumptions. And the set of assumptions, as I recall, was a 20 to 25 percent rate of return on LJM over a 5-year period, and this was a cumulative 5-year return that he would earn from his interest in LJM.

On the other side of the page was a calculation that showed under the assumption that Enron stock price continued to grow at 15 percent a year, which was our basic assumption when we were doing compensation decisions, if Enron stock continued to grow at 15 percent a year, what would his total compensation package be from Enron.

And, again, I do not have a copy. I don't have a copy of this, but my recollection is that the number that was shown for Enron compensation from his ownership of Enron stock and options was consistent with what had been presented to our Compensation Committee, because we did the same sort of calculation in the Compensation Committee.

The number that was shown for LJM was something on the order of one-fifth of that number. It was a much smaller number. And I said to Andy, "How have you calculated or accounted for fees?" Because I think, as Mr. McMahon mentioned, it would be typical to have a 2-percent fee related to this. He said, "I have not included—I have included the fees, but I have not included expenses associated with that fee."

Mr. RUSH. Can you tell us what those numbers were, what percentages?

Mr. SKILLING. You know, I eyeballed it, and what I came up with just eyeballing it was that a cumulative 5-year rate of return, or return to Mr. Fastow, would be something on the order of one-tenth of what his return would be from his Enron stock assuming that our stock continued to escalate. And if pushed——

Mr. RUSH. Can you tell us the amounts? Can you——

Mr. SKILLING. You know, horseshoes and hand grenades. My recollection is that the number he had for total Enron-based compensation if the stock continued to escalate would have been something on the order of $50 million. And so a ten to one ratio—it is my recollection that the number that was presented for LJM would have been something on the order of $5 million over the time period.

Mr. RUSH. So he was really making—he said he would make $10 million, but he was really making $30 million over a 2-year period, is that right? Is that what you are saying?

Mr. SKILLING. The presentation that Mr. Fastow presented to me was a projection for a cumulative 5-year rate of return. So this was from that—from the inception of LJM, for the next 5 years under a set of assumptions, which was a rate of return of the fund, how much he would make over 5 years. And my recollection is that was something one-tenth of the order of the number that——

Mr. RUSH. But he really made $30 million during this period of time, is that right?

Mr. SKILLING. I don't know. I have read the same newspaper accounts that I am sure you have read. I have seen those numbers. I have no first-hand knowledge of that.

Mr. GREENWOOD. The time of the gentleman has expired. The Chair recognizes the gentleman from Louisiana, Mr. John.

Mr. JOHN. Thank you, Mr. Chairman.

Mr. Skilling, do you believe that the implosion of Enron started August 15?

Mr. SKILLING. No, I don't believe that.

Mr. JOHN. Okay. So you left on August 14, and what I am hearing from you is that you did not know about these documents or deals, and you were not apprised of that. And it just seems fascinating to me that the seventh largest corporation, the largest bankruptcy in America's history, if you like football somewhat, the analogy could be that you were at times the quarterback as the CEO, did not know of anything happening, and your departing words were everything seemed fine when you left on August 14.

So think that maybe it started before you left, the deterioration of Enron, and what ultimately happened and took only 4 months?

Mr. SKILLING. Listen, all I can do is I can hypothesize. I don't have the facts. I mean, I left——

Mr. JOHN. You were the quarterback.

Mr. SKILLING. I left on August 14, and I know what I knew on August 14, and I know what I didn't know on August 14. And a lot transpired subsequent to me leaving. Again, as I have said, my hypothesis, my conjecture, is that it was a run on a bank, that there was a liquidity issue. That is pure conjecture on my part.

It seems consistent with the sort of panics and the sort of changes or meltdowns of financial institutions that you used to see at the turn of the century because I can't for the life of me—cannot for the life of me understand how we could go from where I thought the company was to bankruptcy in such a short period of time.

Mr. JOHN. Mr. Jaedicke, do you—in as short as you can, can you surmise what you think ultimately happened?

Mr. JAEDICKE. I am sorry. Do you mean what ultimately——

Mr. JOHN. What ultimately happened to the demise in the deterioration of 4 months. I mean, in as few words as you possibly can, I know it is a very complicated situation.

Mr. JAEDICKE. Well, sir, I am not the expert on this. As I look back, I guess I would say that if some of our asset sales and things like that had gone better at the time, that may have helped. That didn't happen. There was a liquidity issue. I think the market lost confidence in Enron.

Mr. JOHN. Why do you believe that they did lose confidence? Did it have anything to do with these partnerships that were capitalized by Enron's stock?

Mr. JAEDICKE. I would imagine it did, sir. I would imagine it did.

Mr. JOHN. Okay. Let me read—Mr. Skilling, I would like to read a part of the Powers report, and I would like your—if you agree or not. As a result of Enron's partnerships, particularly the Raptors, Enron improperly inflated its reported earnings for a 15-month period from the third quarter 2000 to the third quarter 2001 by over a billion dollars.

This means that more than 70 percent of Enron's reported earnings for the period were not real. How could this have happened? Let me ask you, how could this have happened?

Mr. SKILLING. I have no understanding of where that number came from. That was certainly not my——

Mr. JOHN. Is that a fact that in a 15-month period that the earnings were overstated?

Mr. SKILLING. As I told you, when I left on August 14, I thought the financial reports accurately represented the financial condition of the company. I don't know what that billion dollars number is. I don't know what the assumptions were that went into that.

Mr. JOHN. Mr. Winokur, do you, as an architect of this report, do you agree with what I just read?

Mr. WINOKUR. Sir, the committee relied on the Deloitte & Touche accounting consultants for those numbers. To the best of my knowledge as a member of the committee, those are right under the assumptions that they used to develop them. We have not heard, obviously, Arthur Andersen's response to the Deloitte & Touche analysis.

Mr. JOHN. Here is another statement of the Powers report, which really I think surmises, I believe, the root of what happened, and it was the non-transfer of risk in some of these partnerships. So when, in particular, one that I am somewhat familiar with—there were lots of them—was the Rhythms. I think it was—I don't remember the—the Cayman partnership.

Basically, what happened is that partnership needed capitalization to purchase a put from Enron. And the capitalization—under the rules they needed 3 percent outside funds at an arms length and unrelated party. The money that this partnership got was stock from Enron.

So, in fact, it was a double whammy as the stock of Rhythms obviously, as a dot com, would go down—was going down. The partnership could not—did not have the assets that they had because the fact that the dollars were eroding from the stock, plus the stock at Enron.

So there was no risk, and that is what the Power Report kept alluding to, that the only way that these things were legal and not fraudulently done was to make sure that some of the risk was out of the hands of the primary company. And in this case Enron's stock was supporting and capitalizing all of these partnerships, and they were approved by somebody in the companies. And I believe that that is ultimately what happened. And we have 4,000 people that—and many, many investors that lost their money.

I am out of time, but I will be back.

Mr. GREENWOOD. The time of the gentleman has expired. The Chair recognizes the gentleman from Texas, Mr. Green.

Mr. GREEN. Thank you, Mr. Chairman.

And I guess the frustration that my colleague from Louisiana has expressed I can't believe a Board of Directors that is paid $300,000 a year, that for two and a half hours on the Finance Committee did not see what was happening.

And, Mr. Skilling, sitting here and listening that you didn't know as the CEO—let me quote—in your testimony earlier you said financial statements, when you left on August 14, were reflective of the good condition of the company. I am paraphrasing, but is that what you said?

Mr. SKILLING. I said that I believed that the financial statements that had been released were reflective of my understanding of the financial condition of the company.

Mr. GREEN. Well, I don't know how you could tell that, because we had testimony yesterday that nobody could understand Enron's financial statements. And it was based on trust, and that is what, if it was a run on the bank—I disagree with that—but it was because that trust was lost, and that is what happened.

Let me follow up on the testimony of my colleague. On August 14, everything was fine, and yet in the Powers report from the Board, as a result of Enron's partnerships, particularly the Raptors, it inflated its reported earnings for a 15-month period from the third quarter of 2000 to the third quarter of 2001 by more than a billion dollars.

That means that 70 percent of Enron's reported earnings for this period were not real. How could this have happened? That was on your watch. How could it have happened without some inkling that the COO would know?

Mr. SKILLING. Congressman, again, I don't know where that number came from.

What was the accounting firm that did it, Mr. Winokur?

Mr. GREEN. Well, let me go on to continue to quote the Powers report, so we don't—we only have 5 minutes. "By March of 2001, it appeared that Enron would be required to take a charge against earnings of more than $500 million." That is in March of 2001; didn't actually have to do it until October that maybe started the run on the bank that you said. Five hundred million to reflect the inability of the Raptors to pay. Rather than take that loss, Enron compounded the problem by making even more of its own stock available to the Raptors, $800 million worth.

Again, that was on your watch, well before August 14. You know, and, again, that is in the Powers report from the Board of Directors that you served with. Again, how can someone who is a CEO not have some inkling of what is happening?

Mr. SKILLING. Well, again, the intent, as I understood it—and I believe the intent as the Board and the rest of management understood it—is that we were creating a hedge for some highly volatile, high technology stock investments. In the first quarter of 2001, many of those high technology investments were dropping in value. The entire optical fiber business was collapsing at that point.

Mr. GREEN. Okay. That was a half a billion dollar hedge. Now, even with Enron that was more than pocket change.

Mr. SKILLING. I did not hear that number, Mr. Green. I had asked, what is the status of our hedges? Are our hedges all right? And I was assured that our hedges were correct. So to the best of my knowledge——

Mr. GREEN. Okay. Let me——

Mr. SKILLING. [continuing] it was not an issue at that time.

Mr. GREEN. Well, let me get on to another question to Mr. Winokur. Mr. Winokur, in your testimony you said, "I must tell you that as a member of the Special Investigative Committee, and more generally as an independent member of the Board, have been deeply disturbed by what the investigation revealed. The report makes clear that those in management on whom we relied to tell us the truth did not do so." Who didn't tell you the truth? Was it Mr. Skilling before August 14? And what didn't they tell you?

Mr. WINOKUR. Sir——

Mr. GREEN. Was it the half a billion dollars that we knew about that management—somebody in management knew about in March of last year?

Mr. WINOKUR. Congressman, the earnings restatement—accounting restatement in September included Chewco, and we were not told that Mr. Kopper was a participant as an Enron employee. And we, of course, did not know as the Board that there was not adequate capitalization. It was the LJM Rhythms——

Mr. GREEN. Okay. The Powers report——

Mr. WINOKUR. [continuing] who had been there as an accounting——

Mr. GREEN. Excuse me. Let me finish. The Powers report reported—and I mentioned it—the $800 million.

Mr. WINOKUR. Yes, sir.

Mr. GREEN. Did the Board have any idea that that was being done?

Mr. WINOKUR. We had no idea.

Mr. GREEN. You know, the Powers report also mentions that the Finance Committee met regularly, five times per year, for an hour and a half to 2 hours, typically before each regular Board meeting. It seems like there should have been a lot more time spent if a half a billion dollars and $800 million can be lost.

Mr. WINOKUR. Sir, had we been presented with the prospect of an $800 million equity requirement to be issued to overcome the $500 million of losses in Raptor, I believe we would have taken substantially more time.

Mr. GREEN. I know a lot of Members of Congress—and I was on a hospital board as an outside member, and we had the lead because—as a Member of Congress. But our job was to ask those questions of management on a very small scale compared to Enron. And those questions weren't asked. I can see maybe in 1½ or 2 hours five times a year maybe the Finance Committee didn't have the time to do it.

But, again, the Board has a responsibility, and it looks like from the Powers report you can only say they didn't tell us so far. And I guess that is what surprises me. The testimony from both of you today—and Mr. Skilling is that, you know, we were—maybe we were born at night but not last night. And that is just amazing what we are hearing, that we didn't know as Board members. We were paid $300,000 a year to be Board members, and you didn't ask questions. I know people who are paid $1,000 for a meeting or $500 a meeting who ask tougher questions.

Mr. GREENWOOD. The time of the gentleman has expired. The Chairman recognizes the gentleman from Massachusetts, Mr. Markey, for 5 minutes.

Mr. MARKEY. Thank you, Mr. Chairman.

What day, Mr. Skilling, did you leave Enron?

Mr. SKILLING. August 14.

Mr. MARKEY. August 14. Sherron Watkins wrote a memo on August 14 to Ken Lay, and she said, "Skilling is resigning now for personal reasons, but I think he wasn't having fun, looked down the road and knew this stuff was unfixable and would rather abandon ship now than resign in shame 2 years later." Same day you are resigning this woman down deep in the company knows about all of these problems, everything that is going on. And you are sitting here as the CEO saying you just decided on the same day you are walking away and you really don't know much about any of the things that any of the members here are asking about here today.

Wasn't Ms. Watkins really correct that you were abandoning ship on a day that you already knew, as she did, that this company had deep problems, that you had already identified them, and you were just walking away without warning investors, without warning employees, without telling everyone what the real reason was that you were quitting Enron?

Mr. SKILLING. Congressman, I can just say, again, on the day I left I absolutely unequivocally thought the company was in good shape.

Mr. MARKEY. Well, it is hard to believe, Mr. Skilling, given your reputation or competence or hands-on knowledge, and the fact that there was plenty of evidence that other people knew all throughout the company that there was a big problem, not just one big problem but multiple problems.

Now, Mr. Skilling, according to the Watkins memo, Mr. McMahon and Mr. McMahon's testimony and the Powers Committee report, Mr. McMahon approached you with serious concerns about the inherent conflicts of interest in LJM. Is that true?

Mr. SKILLING. Again, my recollection of the discussion that I had with Jeff is that he was concerned that because there was a conflict of interest with Andy that in discussions that they had that that would somehow hurt his compensation.

Mr. MARKEY. So did he lay out specific steps that he thought should be taken to address these conflicts?

Mr. SKILLING. I don't recall.

Mr. MARKEY. You don't recall. Now, according to both the Watkins memo and the Powers report, you took no action after McMahon warned you, even after being told that Fastow was pressuring Enron employees who were negotiating with LJM. Is that true?

Mr. SKILLING. In the discussion, again, as I recall on that day when Jeff came in to see me, he said he was concerned about his compensation. And I said, "Jeff, you know how compensation is determined around here," and maybe you all don't know this. But our compensation system was based on something called the PRC, Performance Review Committee. There were typically 20 to 24 people on the Performance Review Committee. Jeff's concern was that Andy was on that Performance Review Committee and might influence his compensation.

What I said to Jeff is, "Jeff, if you negotiate hard on behalf of Enron, and if you take a baseball bat to Andy Fastow in a negotiation that benefits Enron Corporation, 23 of the 24 people on that committee will be cheering for you."

Mr. MARKEY. Okay. Three days later, you reassign Mr. McMahon. Now, why did you reassign him?

Mr. SKILLING. Well, first, I will say there was absolutely no connection—no connection——

Mr. MARKEY. He is warning you about conflicts of interest. You don't take any action. Three days later he gets reassigned. There is no connection.

Mr. SKILLING. There is absolutely no connection.

Mr. MARKEY. You resign on August 14. Sherron Watkins writes a memo on August 14. There is no connection.

Mr. SKILLING. I think Sherron wrote the memo in part because I did resign.

Mr. MARKEY. Right.

Mr. SKILLING. I wouldn't be at all surprised if that is what triggered it.

Mr. MARKEY. Exactly.

Mr. SKILLING. She certainly didn't confide her concerns with me. But as far as the relationship between Jeff McMahon moving the finance group into the industrial products group, there was no connection whatsoever. It was a huge promotion for Jeff.

Mr. MARKEY. A huge promotion. Not viewed as——

Mr. GREENWOOD. The time of the gentleman has expired. The Chair recognizes the gentleman from California, Mr. Waxman, for 5 minutes. Mr. Waxman, do you care to inquire?

Mr. WAXMAN. I do.

Mr. GREENWOOD. You have 5 minutes, sir.

Mr. WAXMAN. Mr. Skilling, did you know—you knew there were partnerships, didn't you?

Mr. SKILLING. Yes.

Mr. WAXMAN. Who came up with the idea of the partnerships?

Mr. SKILLING. Which partnerships in specific—I mean, Enron had literally thousands of partnerships, and they came from various of the operating business units.

Mr. WAXMAN. So you knew there are thousands of partnerships. Did you know that—you have said that to your knowledge you didn't have any idea that Enron was in a shaky financial situation, and you don't think you misled others. But in March 2001, Bethany McLean, a reporter with Fortune magazine, first raised questions about Enron's financial condition.

She wrote in Fortune magazine that the company's financial reports were missing crucial information. She asked a simple question in the article that no one could seem to answer. How exactly does Enron make its money? Mr. Skilling in response to this criticism—you reportedly called Ms. McLean unethical and not doing her research. Three Enron executives flew to New York to try to convince Fortune's editors that Ms. McLean was wrong. Kenneth Lay also called Fortune's managing editor to complain.

Mr. Skilling, it is clear now that Ms. McLean was right, and that you were wrong. She was asking all of the right questions about how Enron made its money. If that is the case, it appears as if you were trying to bully someone who was asking very basic questions about Enron. How could it be that she would know basic questions about Enron and raise them, and you didn't seem to know about them? You got very upset at her, didn't you?

Mr. SKILLING. I very specifically remember the telephone conversation that I had with the Fortune reporter. As a matter of fact, she had been working on a story, it was my understanding, for about a week. She had called up and said she wanted 15 minutes of time to discuss some issues, remaining issues related to this report. I said fine.

And I was between two meetings—I think it was at 9:30, between 9:30 and 9:45 some Tuesday—or it might have been a Monday morning. I forget the specific day, but there was 15 minutes carved out of my calendar to spend some time with the Fortune reporter. She called up and started asking some very, very specific questions about accounting treatment on things. I am not an accountant, and I could not answer them, and I said to her——

Mr. WAXMAN. But her——

Mr. SKILLING. I said to her, "Look, we can have our people come up. I will have our Chief Accounting Officer. I will have our Chief Financial Officer. I will have whoever you want come up to explain these specific transactions. I have got 6 minutes left before I have to be in a meeting, and I can't get into the details, and I am not an accountant." And she said, "Well, that is fine. We are going to do the article anyway," and I said, "If you do that, I personally think that is unethical, because we are making available whatever resources you need to get full and fulsome answers to the questions that you have."

Mr. WAXMAN. Mr. Skilling, let me interrupt you.

Mr. SKILLING. And the next day——

Mr. WAXMAN. Let me interrupt you.

Mr. SKILLING. [continuing] our Chief Financial Officer and our Chief Accounting Officer flew to New York at Enron's expense to sit down, not with the editors but to sit down with the reporter on that story and help her understand the questions that she was asking.

Mr. WAXMAN. And was her article critical?

Mr. SKILLING. Yes, it was.

Mr. WAXMAN. And did that raise any concerns in your mind that maybe she knew something that you should know about?

Mr. SKILLING. I will give you my recollection of the gist of the article—is basically she was saying that we continue to sell at a high PE multiple, and that was at a time when anyone that had a high PE multiple was being absolutely hammered in the stock market. This was February and March of 2001, and so I think the basic accusation was that we were at a high PE multiple and our PE multiple was too high.

Mr. WAXMAN. The next month, April 2001, you were in a conference call with Anliss to discuss the company's first quarter earnings. During that conference call, Richard Grubman of High Fields Capital Management was critical of you for not being able to produce the company's balance sheet, which is a basic piece of financial information. Instead of providing him with a balance sheet, you called him a vulgar name. As I understand, you called him an asshole.

Now, you were obviously upset that he was raising a question. He was an outsider raising a question about the balance sheet of your company. Why were you so upset, and did it raise in your mind that maybe that he knew something you ought to find out about?

Mr. SKILLING. Congressman, he did not, to my recollection, raise an issue about our balance sheet. He was raising an issue about why we didn't publish our balance sheet on the same day that we came out with our earnings, which we have never done. There is a 3-day delay between the time that we issue our earnings release—or I think it is a 3-day delay—between the time we issue our earnings and when the balance sheet came out.

And I explained that to him probably two or three times, and he kept coming back to it. We had a conference call. We had something on the order of 300 analysts who were waiting to ask questions on that conference call, and he refused to accept the fact that this was standard operating practice and always had been standard operating practice within Enron.

If I could go back and redo things, I would not now have used the term that I used. I apologize to my shareholders. I apologize to you for having done that. At the time, I was tired. The man—I believe he was a short-seller of the stock. He had no interest in what was in the balance sheet. In my opinion, I thought he was very interested in just monopolizing the conversation to suggest that there was something wrong that I didn't believe was the case.

Mr. GREENWOOD. The time of the gentleman from California has expired. The Chair notifies the committee and the witnesses that we are going to do a second round of questions. It probably will not take as long as the first round of questions, but we would ask your forbearance.

The Chair recognizes himself for 5 minutes.

Mr. Skilling, here is the problem I have at the end of this day. You came in here and you and I stood up and we raised our right hands and you swore to tell the truth. And before you did that, Mr. McMahon came in here and he and I raised our right hands and he swore to tell the truth.

And when all is said and done, I can believe him or I can believe you, but there is no way I can believe both of you. And that is the problem that I have. And let me tell you why.

On March 16, 2000, at 11:30, Mr. McMahon came into your office, and he brought with him these notes. And these notes would indicate he says—it is Tab 9 in your book if you would like to turn to it. And he says to you, "I am in an untenable situation." He says that Andy Fastow wears two hats, and his up side compensation is so great that it creates a conflict.

He says, "I am right in the middle of it." He says, "I find myself negotiating with Andy on Enron matters and am pressured to do what Andy wants. I do not believe this is in the best interest of the shareholders. I did not ask to be put in this position," he says.

He says, "My integrity forces me to continue to negotiate the way I believe is correct. However, Andy Fastow is my boss." He says, "I must know, in order to continue to do this, I must know I have support from you, and there won't be any ramifications. I believe Andy Fastow has already affected my compensation."

He poured his soul out to you. He told you he is conflicted, his integrity is at stake. And he essentially said to you, "We have got a cesspool here, boss, and I need you to clean it up, because I am not comfortable swimming in this cesspool any more." And he said, "If you can't clean up this cesspool"—and this is the cesspool, of course, that took the company down not that long afterwards, he says, "Then, get me out of it. Get me out of this cesspool, because I am not comfortable here anymore."

And you say, according to him, "I will fix it. I will fix it." And he brings additional matters up. He brings up the fact that LJM is on the same floor, that the staff meeting has attendees from both. This is all a description of how this is a cesspool.

So he says to you, "You either clean up the cesspool or you get me out of the cesspool." You say, "I will fix it." It looks to me like what you do is you say, "I will get you out of the cesspool." Now, when you have been asked about that meeting, you have been asked repeatedly about that meeting, which to me if I were in your shoes and one of my staff people came in and said, "The situation I am in is untenable, and it is compromising my integrity. Boss, help me," I would remember that. I would remember that if that were 3 years ago or 10 years ago. Okay?

And your recollection of that meeting seems to be, yes, Jeff came to see me about his compensation package, and we worked that out. Who is telling the truth?

Mr. SKILLING. I can only tell you my recollection of the meeting. I don't think from what I have seen on this piece of paper that there is anything that is radically different in my recollection. What Jeff is saying here is that requests are options. You have got to do one of two things. One, I must know I have support from you and there won't be compensation ramifications.

Mr. GREENWOOD. What did he want your support for? He wanted your support because his integrity was at stake.

Mr. SKILLING. He wanted support——

Mr. GREENWOOD. He said, "It is untenable. It is wrong. How can we be in this situation we are"——

Mr. SKILLING. Congressman, my assumption and my recollection of the meeting was that he wanted my support in the Compensation Review Committee meetings, and I made it absolutely clear to him in that session, absolutely clear to him, that he should go with his conscience, he should do everything humanly possible to protect the interests of the Enron shareholders, and I would absolutely support him in that.

And I think it is somewhat telling that he would come to me and he would say as long as I have got that commitment from you I am okay. And so——

Mr. GREENWOOD. Well, why did he switch—well——

Mr. SKILLING. He switched jobs for—it was a totally, totally unrelated——

Mr. GREENWOOD. Let me retract that question for a second. A guy comes to you and he says, "Whether I am in this job, or the next guy is in this job, it is still a cesspool, because this is crazy, having my boss negotiating with me. He is in charge of my salary. I have got to either represent the stockholders or do what he wants me to do." He says, "This is a nutty way and a dishonest way to do business." You don't walk out of that meeting saying, "I have got to fix this"?

Mr. SKILLING. Congressman, again, your boss, under our compensation system and our performance review system, was not responsible for your compensation. It was a committee called the Performance Review Committee. And if everyone in that room believed that you were sticking up for Enron's interests, and your boss was——

Mr. GREENWOOD. I am not asking you that question. I am asking you why it was that when he came to you and said, "Either get me out of the cesspool, or clean up the cesspool," that you didn't say, "I will clean up the cesspool. I will not let this stand. I will go to Andy and say, 'This doesn't work.' I will not only back you up if you happen to go to bat; I am going to go to bat because that is my job. I am the boss."

Mr. SKILLING. I think you are mischaracterizing what the decision was and what the options were that were put to me. It is my recollection that Andy said he wanted my support. He wanted my support, and he wanted, if he got that support——

Mr. GREENWOOD. Right. But the job that he ended up with he turned down. You know he didn't want that job. That wasn't his first choice. Earlier in the month he had turned that job down.

Mr. SKILLING. I have no recollection of that.

Mr. GREENWOOD. He came to you and said, "Boss, this place stinks. It is wrong. It is not right for the shareholders. It is an untenable position that conflicts the integrity of anybody who sits in this seat."

Mr. SKILLING. I don't recall——

Mr. GREENWOOD. And you say to him, "We will get you another job."

Mr. SKILLING. [continuing] that he said anything about this being bad for the shareholders. He was concerned that it could become bad for the shareholders if he did not have my support for him sticking up for Enron in those discussions, and I gave him my unequivocal support. There is no time—no time—that I have been at Enron Corporation that I have engaged in any decision that was not in the interest of——

Mr. GREENWOOD. You said that you said you will fix it. And it seems to me that there is a difference between saying, "I am right behind you. You go and cross swords. I will be behind you," and saying, "Give me the sword. That is my job. I will fix it."

Mr. SKILLING. I told Mr. McMahon, to the best of my recollection, that I totally supported him doing whatever necessary to protect the interests of Enron shareholders. And I believe that subsequent to that I also had some people check into this whole logistics issue of where people were sitting on the floor and all the rest of that, to see if we could clean that up as well.

The decision of Mr. McMahon to leave, the decision was totally separate, was not in any way influenced—I have nothing but respect for Mr. McMahon, and there is absolutely no connection between those two activities.

Mr. GREENWOOD. So he comes to you and he says, "The Titanic is headed for an iceberg," and you say, "I am going back to bed. But if you tell the guys to steer to the left, I will be right beyond you."

Chairman TAUZIN. Mr. Chairman?

Mr. GREENWOOD. My time has——

Chairman TAUZIN. Mr. Chairman, before you leave the line of questioning, if you will yield a second, I think it is important to note, and perhaps Mr. Skilling would like to comment upon it, that part of the fixing it was to bring in Mr. Glisan into that position, who not only was apparently willing to negotiate with Mr. Fastow but later on actually invested in one of his deals, I think contrary to the Board's policy, and turned a $6,000 investment into a million dollar investment. Was that part of fixing it?

Mr. SKILLING. As I have said before, and I will absolutely conclusively tell you, I did not know that Mr. Glisan has any investment interest whatsoever in any of those partnerships.

Chairman TAUZIN. And it should be stated for the record, Mr. Chairman, if you would continue to yield, that Mr. Glisan has repeatedly declined an invitation to be interviewed by investigators or to give us any statements in the matter. But it's important to put it in context, Mr. Chairman, that when Mr. McMahon was found a new job, the guy brought in to replace him not only apparently felt it a lot easier to negotiate with Mr. Fastow but actually got in bed with him and invested in the partnerships, and in 6 weeks turned a $6,000 investment into a million dollars. That was fixing it.

Thank you, Mr. Chairman.

Mr. GREENWOOD. The Chair thanks the gentlemen. The Chair recognizes the gentlemen from Louisiana, Mr. John.

Mr. JOHN. Thank you, Mr. Chairman.

Mr. Jaedicke and Mr. Winokur, as Board members, what do you know about the Southhampton partnership?

Mr. JAEDICKE. Sir, we did not know about the Southhampton partnership until we read about it in the paper.

Mr. WINOKUR. I agree with that.

Mr. JOHN. So let me refresh your memory of what the Powers report said about the Southhampton partnership. Mr. Fastow invested $25,000 in this partnership and received $4-1/2 million in approximately 2 months. Two other employees, Mrs. Mordant and Mr. Gleason, invested $5,800 into that same partnership, Southhampton, and 2 months later they returned a million dollars. You did—as the Board of Directors of this company, you didn't know anything about this.

Mr. JAEDICKE. No, sir, not until we read about it in the paper. Not to my recollection.

Mr. JOHN. Since you have discovered this in the Powers report, your experience with being on the Board of Directors, you obviously should have had some say so or some knowledge of this. Who was responsible for notifying you or bringing it in front of you, the Board of Directors?

Mr. JAEDICKE. Well, sir, the original transaction to buy out CalPERS was represented to us as an unaffiliated third party. That was the arrangement to be engaged in. It was never ever brought back to us that it was not an unaffiliated third party, and that there was a related party in it.

Certainly, the code of conduct would have required—take the code of conduct that was read, says that if any officer engages in a transaction that is adverse to the interest of Enron, he needs to have prior approval of that. That was not done.

Mr. JOHN. If this would have gone through the proper channels, and you would have received this as a Board of Directors, do you think that the Board would have signed off on this deal?

Mr. JAEDICKE. No, sir. Not if it was not proper. We also were assured that Arthur Andersen would be following the transaction of the buyout of JEDI, and that we also understood that they were reviewing those kinds of transactions. So I think it could have come to the Board for many different sources. It did not.

Mr. JOHN. It is interesting, let us move down to Chewco, too. For the life of me, I really can't understand how Mr. Kopper and his partners took a $125,000 investment in the Chewco deal and turned it into $10 million. Can you explain that? That is also part of the Powers report of which, Mr. Winokur, you were a part of.

Mr. WINOKUR. Sir——

Mr. JOHN. How is this possible? How is this deal possible?

Mr. WINOKUR. Congressman, the first I knew of those fees was what came to me during the investigation, the Special Committee report. I did not know, and I think no Board member knew, as the report says, that Mr. Kopper was involved in Chewco. And on the Southhampton matter that you asked before, again, none of those people should have been able to purchase the interests in Southhampton without a specific waiver from the CEO, according to the code of conduct.

Mr. JOHN. Mr. Skilling, have you ever heard of Southhampton?

Mr. SKILLING. No, I have—I had not heard of it until I believe the Special Committee asked some questions.

Mr. JOHN. The Special Committee that Enron——

Mr. SKILLING. The Board of Directors.

Mr. JOHN. [continuing] that the Board of Directors put together, of which Mr. Winokur was on.

Mr. SKILLING. I think that was in November.

Mr. JOHN. So you don't know—not only you just heard of this partnership, you had no idea about this extraordinary rate of return with Enron employees and being partners in Southhampton and Chewco.

Mr. SKILLING. Did not.

Mr. JOHN. Did not know anything about it.

Thank you, Mr. Chairman.

Mr. GREENWOOD. The Chair recognizes Chairman Tauzin.

Chairman TAUZIN. Thank you, Mr. Chairman.

Mr. Skilling, I want you to look at Tab 17, please. It is the Sherron Watkins letter to Ken Lay. In that letter on page 2, the very bottom—and I quote—she states, "Employees quote our CFO as saying that he has a handshake deal with Skilling that LJM will never lose money." The CFO she is talking about is Fastow.

And also, if you will look at the Special Committee's report on page 12, the Special Committee says, "We have identified some evidence that in three of the transactions where Enron ultimately bought back LJM's interest, Enron had agreed in advance to protect LJM partnerships against loss." That is on page 12.

Very specifically, is the allegation by Ms. Watkins' letter and the conclusions of the Special Committee report true? Did you, in fact, have an agreement, a handshake deal with Mr. Fastow to make LJM whole for any losses whatsoever?

Mr. SKILLING. Absolutely not.

Chairman TAUZIN. You totally, unequivocally deny her allegation and the findings of the Special Committee.

Mr. SKILLING. I believe Ms. Watkins said that rumor had it, so I don't believe it is her allegation. But, yes, I absolutely——

Chairman TAUZIN. What she said was that employees have quoted the CFO, Mr. Fastow, as saying that.

Mr. SKILLING. Yes.

Chairman TAUZIN. You say that is not true whatsoever.

Mr. SKILLING. Mr. Chairman, there was no handshake deal between myself and Mr. Fastow, period.

Chairman TAUZIN. And the committee, the Special Investigative Committee for the Board's finding of evidence to substantiate that is also incorrect?

Mr. SKILLING. I don't believe that the Special Committee of the Board used my name with relationship to that. I can only tell you what I know. I had no handshake agreement with Mr. Fastow that would guarantee him a rate of return on his investment.

Chairman TAUZIN. Mr. Skilling, what is the Office of the Chairman?

Mr. SKILLING. The Office of the Chairman was a concept that we applied for reporting purposes. The Office of the Chairman, when I originally joined the Office of the Chairman, when I became Chief Operating Officer, included myself, Ken Lay, and Rebecca Mark. When Rebecca Mark left, it was myself, Ken Lay, and Joe Sutton. And when Joe Sutton left, it was myself and Ken Lay.

Chairman TAUZIN. Now, according to the testimony given by Mr. Jaedicke, the code of conduct allows a senior officer to participate in a transaction in which he has a conflict of interest when Enron—with Enron, if the Office of the Chairman determines this would not adversely affect the interest of the company.

Did the Office of the Chairman make such a determination when it came to Mr. Kopper and his dealings with Chewco or LJM Partnerships?

Mr. SKILLING. I do not recall that it did.

Chairman TAUZIN. But you knew that Mr. Kopper was involved in those partnerships.

Mr. SKILLING. I knew that Mr. Kopper was involved in the management of some of the partnerships. I did not know if Mr. Kopper had any——

Chairman TAUZIN. Is it your understanding that according to Mr. Jaedicke's testimony that the Office of the Chairman in which you were a part must have approved his operations in Chewco or LJM?

Mr. SKILLING. It was my understanding that the CEO of the corporation would have to approve a waiver from the conflict of interest.

Chairman TAUZIN. No, I have just read you what Mr. Jaedicke says is the policy, that the Office of the Chairman can authorize it if it is in the interest of the company.

Mr. SKILLING. We didn't——

Chairman TAUZIN. If you think Mr. Kopper was involved with Chewco and LJM, did you, as a member of the Office of the Chairman, understand that he had to get this approval from you and from Mr. Lay?

Mr. SKILLING. To be quite honest, Mr. Chairman, it is not clear. I am not the person that makes the determination of whether there is a conflict of interest. We have lawyers and our outside lawyers that determine if——

Chairman TAUZIN. I am not asking you about a conflict of interest. Let me try once again to take you through it very carefully, because you are under oath and I don't want to get this wrong for you.

Mr. SKILLING. Neither do I.

Chairman TAUZIN. I am going to read it carefully. The code of conduct allows a senior officer to participate in a transaction in which he has a conflict.

Mr. SKILLING. Wait. Say that again.

Chairman TAUZIN. The code of conduct allows a senior officer to participate in a transaction in which he has a conflict of interest——

Mr. SKILLING. Right.

Chairman TAUZIN. [continuing] with Enron, if the Office of the Chairman determines that this would not adversely affect the interest of the company.

Mr. SKILLING. Yes.

Chairman TAUZIN. My question is: knowing that Mr. Kopper was involved with Chewco, knowing he was involved with LJM, did you make such a determination as a member of the Office of the Chairman?

Mr. SKILLING. I don't recall that any determination was made, because I don't recall that there was ever an issue that there was a conflict of interest involved.

Chairman TAUZIN. Did you inform Mr. Lay that Mr. Kopper was involved with Chewco and LJM?

Mr. SKILLING. I don't recall.

Chairman TAUZIN. Do you know whether Mr. Lay was aware of whether Mr. Kopper was involved?

Mr. SKILLING. I am not aware what Ken knew, but the—Mr. Kopper's participation was well known throughout the company.

Chairman TAUZIN. Mr. Jaedicke, on page 9 of your——

Mr. SKILLING. By the way, it was known by Vinson & Elkins, who would have had responsibility——

Chairman TAUZIN. I am sorry. I didn't hear that. Say that again.

Mr. SKILLING. His participation in Chewco was also known by Vinson & Elkins, to my knowledge. It is my understanding that Vinson & Elkins knew that he was involved, and I believe they would have identified, to the extent there was a conflict of interest, that a waiver needed to be received.

Chairman TAUZIN. Did Vinson & Elkins report to Mr. Lay or to you after they had researched the issue following Ms. Watkins' letter that Mr. Kopper might require such a waiver?

Mr. SKILLING. Mr. Chairman, I had left the company at that point.

Chairman TAUZIN. Let me go back to page 9, then, Mr. Jaedicke, on the—on number 7 of the controls that you say were instituted to protect the company in this extraordinary situation of these partnerships. On number 7 you say, "An LJM approval process checklist was to be filled out to ensure compliance with the Board's directive that transacting with LJM, including questions regarding alternative sales options, a determination that the transaction was conducted at arms length, and a review of the transaction by

Enron's Office of the Chairman." Now, you just heard Mr. Skilling define the Office of the Chairman——

Mr. JAEDICKE. Yes, sir.

Chairman TAUZIN. [continuing] as being Mr. Lay and himself and another officer from time to time, is that correct, sir?

Mr. JAEDICKE. Yes, sir.

Chairman TAUZIN. So it was the Board's opinion that all of these transactions had to be approved by Mr. Lay and by Mr. Skilling, is that correct?

Mr. JAEDICKE. I think by the Office of the Chairman, sir, probably would mean either one of them. It could be Mr. Lay or Mr. Skilling.

Chairman TAUZIN. But in any event, the Board's own controls required that you get the approval from one of these two top guys, right?

Mr. JAEDICKE. That was exactly our understanding, sir.

Chairman TAUZIN. But were you satisfied on every one of these transactions that either Mr. Skilling or Mr. Lay approved the transaction?

Mr. JAEDICKE. Sir——

Chairman TAUZIN. And apparently an approval process checklist was to be filled out. Did you ever ask for the approval process checklist to see whether either one of them had approved these transactions?

Mr. JAEDICKE. I don't know that I ever saw the approvals checklist, but we always inquired and were—and had read—had gone over this in the Audit Committee, for example, the controls that were in place.

Chairman TAUZIN. So, in effect, are you telling us in all cases somebody told you Mr. Skilling or Mr. Lay has approved this.

Mr. JAEDICKE. We were told that the controls were in place, they were being followed, and they were working.

Chairman TAUZIN. Mr. Winokur, could you help us with this?

Mr. WINOKUR. Congressman, the Finance Committee also was told repeatedly by members of management that the controls were in place and were working effectively.

Chairman TAUZIN. Including this control number 7.

Mr. WINOKUR. I don't recall in the Finance Committee that the specific control was listed when we got our report, I believe it was from Mr. Causey.

Chairman TAUZIN. Just as a general statement, I mean, help me here, you are members of a Board, and the Board has managers. It has a Chairman and a Chief Operating Officer, all of these officials.

Mr. JAEDICKE. Sir, this particular control would have been one that was listed, identified as a specific control in the report to the Audit Committee.

Chairman TAUZIN. Right.

Mr. JAEDICKE. That was there.

Chairman TAUZIN. Did you ever ever, in the conduct of all of your business as a Board member, ever believe that Mr. Lay or Mr. Skilling was not aware of and approving these transactions?

Mr. JAEDICKE. If your question is, did I think there was any misunderstanding on that? Is that——

Chairman TAUZIN. Yes.

Mr. JAEDICKE. No, they knew the importance of these transactions must have been—had to be well known throughout management.

Chairman TAUZIN. Certainly, the——

Mr. JAEDICKE. Because the Board spent a lot of time on these controls.

Chairman TAUZIN. Yes.

Mr. JAEDICKE. And it was alleged to us that they were being followed, that they were in place, and they were working.

Chairman TAUZIN. Well, how do you——

Mr. JAEDICKE. They were being followed.

Chairman TAUZIN. [continuing] react to Mr. Skilling sitting there right next to you today saying he didn't know that—didn't approve—didn't know he had to approve, didn't know as part of the Office of the Chairman that he had to handle the potential conflict of Mr. Kopper? How do you handle that, knowing as a Board member that common sense tells you the top officers of the corporation must know about these transactions, must know about who is a party to them, who is running them, who is negotiating for the company, and on the other side of the table? How do you handle that? Is his testimony, in your opinion, correct, that he didn't know?

Mr. JAEDICKE. Sir, I could only tell you what the requirements were, what the Audit Committee and others heard about the controls working. It was—we did not know that—to my knowledge, that these approval sheets were not being signed and not being reviewed as it was—as these controls called for. I cannot tell you why that happened.

Chairman TAUZIN. Now, in fact, Mr. Winokur, in your testimony, you make it pretty clear. You say on page 7 that Mr. Skilling reported to us that he was discharging these obligations. It now appears that he did not do so. Do you stand by that testimony?

Mr. WINOKUR. Sir, in the Finance Committee—and I don't—I will have to find the date—we had a report from Mr. Causey with Mr. Buy and Mr. Skilling present is my recollection, that said all of the controls that had been put in place with respect to the LJM partnerships were working effectively.

Chairman TAUZIN. I just want to leave you with one little fact that just astounds me. That if you had a control that said there was an approval process checklist to be filled out, to be filled out to guarantee that the Office of the Chairman approved these transactions—and I am looking at one, and it says very clearly on it, person negotiating for LJM, Michael Kopper, this approval sheet that under your controls had to be filled out and one of the two top officers of the corporation at least, perhaps Mr. Skilling specifically if number 4 is correct, had to sign it to say that everything was okay, identifies Mr. Kopper as the guy negotiating for LJM, when everybody knows that he is an important official in Enron, that he never got a waiver from anybody to negotiate against Enron, and, nevertheless, we are doing deals with him, under controls that require this thing to be filled out, signed, so all of you could see that, in fact, things were being operated under the code of conduct that you guys obviously were there to enforce. How could this happen? Yes, sir, please.

Mr. JAEDICKE. I don't know how it could happen, sir. I would expect that if it had happened it would have been brought to our attention.

Chairman TAUZIN. But it did. And nobody brought it to your attention?

Mr. JAEDICKE. Nobody brought it to our attention, sir.

Chairman TAUZIN. And the gentlemen sitting next to you, Mr. Skilling, is one of those who didn't bring it to your attention, is that correct, Mr. Winokur?

Mr. JAEDICKE. Well, sir, I would expect—there were a number of controls, I believe, where this could have come to our attention. One is the sign-off of the Office of the Chairman.

Chairman TAUZIN. Yes.

Mr. JAEDICKE. And so if that control had worked, I think we would have known about it. To my knowledge, we did not know about it.

Chairman TAUZIN. Do you believe that Mr. Lay is correct in the interviews he gave to your Investigative Committee that he, too, was being deceived?

Mr. JAEDICKE. Sir, I was not on the Investigative Committee.

Chairman TAUZIN. Mr. Winokur?

Mr. WINOKUR. Congressman, I was not at the interview of Mr. Lay. I read the interview notes, and I believe that he did not know that Mr. Kopper participated in Chewco or LJM, but that is my belief. I was not there to question them.

Chairman TAUZIN. Thank you very much, Mr. Chairman.

Mr. GREENWOOD. The time of the gentleman has expired. The Chair recognizes the gentleman from Michigan, Mr. Stupak.

Mr. STUPAK. Thank you, Mr. Chairman.

Mr. Winokur, I am looking at your testimony and I am on page 7. In the third paragraph down it says, "We also required the Office of the Chair to remain in control of Mr. Fastow's participation." Office of the Chair, who was that at that time that you are referring to here?

Mr. WINOKUR. Well, I believe in the time period of 1999 and 2000 it was Mr. Skilling and Mr. Lay to the best of my recollection.

Mr. STUPAK. Okay. So both Mr. Skilling and Mr. Lay.

Mr. WINOKUR. Yes, sir.

Mr. STUPAK. Okay. In order to ensure that—going on, that this duty was honored, Mr. Skilling and Mr. Lay were given the authority to require Mr. Fastow to resign at any time from his involvement with LJM. Mr. Skilling was also charged with the responsibility to supervise Mr. Fastow's involvement to make sure it did not become a disruption to the company and to ensure that his compensation from the LJM transactions were moderate. Mr. Skilling reported to us that he was discharging these obligations. Now it appears he did not do so.

So this control that you had here, which really was at the hands of Mr. Skilling, failed in this aspect with Mr. Fastow. Is that your testimony?

Mr. WINOKUR. Congressman, Mr. Fastow reported to Mr. Skilling and Mr. Lay. Mr. Skilling and Mr. Lay had every bit of their compensation tied totally to Enron's stock. So it seemed to the Board when this was set in place that they had two reasons to make sure that the compensation was moderate.

Mr. STUPAK. I am not talking about his moderate. I don't care what he was compensated. I care about the last line that I just read to you. Mr. Skilling reported to us that he was discharging these obligations. Now it appears he did not do so. He did not do what? What didn't he do?

Mr. WINOKUR. Congressman, as we have seen——

Mr. STUPAK. Mr. Winokur, this is your testimony. Nothing I am making up. I want to know, what does that line mean? What did Mr. Skilling fail to do?

Mr. WINOKUR. Congressman——

Mr. STUPAK. What I have heard here so far today—we didn't have the information, we don't know, the lights went out during this Board meeting—this is pretty explicit here. It is your statement, sir. I would like you to tell me, what does that statement mean?

Mr. WINOKUR. Congressman, the Special Committee report found that the Office of the Chairman in several instances did not review the LJM deal approval sheets, and that the compensation—I am sorry—that those sheets were to be signed by Mr. Causey, Mr. Buy, and Mr. Skilling. In the October 2000 meeting, we were told they were—had been done so.

Mr. STUPAK. So in the first part of this sentence, Mr. Skilling reported to us that he was discharging these obligations. What did he tell you he was doing to lead you to believe he was discharging these obligations?

Mr. WINOKUR. Mr. Fastow told us in October of——

Mr. STUPAK. Mr. Skilling. What did Mr. Skilling say—what did—Mr. Skilling reported to us that he was discharging these obligations, not Mr. Fastow, Mr. Skilling. What did he say that led you to believe that he was discharging his duties?

Mr. WINOKUR. We were told by people with Mr. Skilling present that these duties were being fulfilled.

Mr. STUPAK. That is not what it says. It doesn't say other people reported to us, with Mr. Skilling present, certain things. What did Mr. Skilling report to us that he was discharging these obligations? I don't think my question—not my question, your words, are that difficult. All I want to know, what did he tell you? What did he report to you that he was doing his duties as CEO/COO? What was it?

You put your faith in this man. He reported back to you. What did he report to you?

Mr. WINOKUR. Congressman, I don't recall a specific report of his dealing with each of these controls. We had reports by other people with him present about his responsibilities, that the controls were working properly.

Mr. STUPAK. This is your testimony under oath.

Mr. WINOKUR. Yes, sir.

Mr. STUPAK. That is not what you are telling me now. You said under oath in your testimony, "Mr. Skilling reported to us that he was discharging"—reported to you as a member of the Board that he was discharging these obligations. It now appears he did not do so. What did Mr. Skilling report to you as a member of the Board that he was discharging his obligations? You are the Board. He reported to you. You are the only one who can answer that. Not what someone else told you, what did Mr. Skilling tell you as a Board member?

Mr. WINOKUR. Congressman, Mr. Skilling did not report to me personally. I believe that he reported to the Board in a variety of circumstances that the partnerships were being managed properly and that all of the controls were in place. There is not a specific instance in which he reported to me personally that——

Mr. STUPAK. Reported to you as a Board member, right? He reported to you as a Board member. You are a member of the Board.

Mr. WINOKUR. Yes, sir.

Mr. STUPAK. Okay. And you wrote this, right, this testimony?

Mr. WINOKUR. Yes, sir.

Mr. STUPAK. So when it says, "Mr. Skilling reported to us." I will give you that Board—that he was discharging these obligations. It now appears he did not do so. Is that your testimony here today?

Mr. WINOKUR. Yes, sir.

Mr. STUPAK. And you can't remember exactly what it was that he reported to you that now in hindsight he is not doing?

Mr. WINOKUR. No, I do not recall a specific instance of a report, but I recall specific instances of reports to the Finance Committee with Mr. Skilling present that the controls were all working, including the ones that Dr. Jaedicke referred to.

Mr. STUPAK. So then the written portion here, at least this line and a half that I read to you and we have in the record now, that is not correct? Is that what you are saying?

Mr. WINOKUR. Well, Congressman, I believe I have tried to answer that question.

Mr. STUPAK. The controls that you all wanted to make sure that these SPEs worked, and that Enron would be back up and running, they don't work. Who is responsible?

Mr. WINOKUR. Well, sir, the senior officials, the Chief Executive, the Chief Operating Officer, the Executive Vice Presidents, all of the people responsible——

Mr. STUPAK. Mr. Skilling, Mr. Lay, Mr. Buy, Mr. Causey.

Mr. WINOKUR. Yes, sir.

Mr. STUPAK. Where is the Board's responsibility here?

Mr. WINOKUR. Sir, the Board is responsible to, as I said in my opening statement, to direct, to set policy, to review strategic directions, oversee corporate policy, and to monitor. And were told by senior officials at many times—it is all I think laid out in the Powers report——

Mr. STUPAK. Page 3. A number of senior Enron officials we now know did not tell us the full truth. Page 3, middle of the page, who are these senior Enron employees we now know did not tell us the full truth? Who are they? This is your testimony.

Mr. WINOKUR. Well, sir, the Board did not know that Mr. Kopper, Mr. Glisan, and others who participated in the Chewco and the Southhampton partnerships had taken actions that appeared to be adverse to Enron without getting code of conduct approval.

Mr. STUPAK. So when you say, "A number of senior officials"—sorry, "A number of senior Enron employees," you are only referring to Mr. Kopper and Mr. Glisan?

Mr. WINOKUR. Well, I am referring to them as far as I do not believe, as we now know as the Powers Committee report says, that we got the full story of what was going on from others in the company.

Mr. STUPAK. Going back to my earlier question: did Mr. Skilling, then, give you all of the information that the Board requested when he reported to you, all of the relevant information you needed?

Mr. WINOKUR. Well, I don't know that. I know that the Finance Committee did not receive full reports from Mr. Causey and Mr. Buy.

Mr. STUPAK. I am just taking here retrospect after the investigation these are your words. One page it said, "Mr. Skilling reported to us he was discharging his obligations, and he did not do it." Page 3 you said, "A number of senior Enron employees did not tell us the full truth."

Mr. WINOKUR. Sir——

Mr. STUPAK. So I am asking if Mr. Skilling, then, would be one of them.

Mr. WINOKUR. In the Powers report, with respect, for example, to the Raptor restructure transaction in the spring of 2001, I believe the report says that there were conflicting experiences or conflicting indications about the extent to which Mr. Skilling knew or didn't know about the Raptor restructure.

Mr. STUPAK. And he didn't tell the Board.

Mr. WINOKUR. Well, the Board did not know at all about the Raptor restructure, to the best of my knowledge.

Mr. STUPAK. And Mr. Skilling never told you about it?

Mr. WINOKUR. Well, the committee report says there was conflicting evidence as to whether he knew or not. But the Board never knew from anybody—Mr. Skilling, Mr. Causey, Mr. Buy, or anybody—about the Raptor restructure.

Mr. STUPAK. So see no evil, speak no evil, hear no evil, right?

Mr. WINOKUR. I don't understand, sir.

Mr. STUPAK. Thank you, Mr. Chairman.

Mr. GREENWOOD. Thank you.

Mr. Skilling, let me touch on something that is sort of sad, and that is, of course, the suicide of Cliff Baxter. And you mentioned he was your best friend in your opening statement. And I am just wondering, before he died, did you have many conversations with him?

Mr. SKILLING. Yes.

Mr. GREENWOOD. And in any of your conversations, did you have any indication what went wrong or why he was upset? Did he relate to you any of his concerns about anything that would explain what happened?

Mr. SKILLING. Yes.

Mr. GREENWOOD. And were any of them relative to Enron?

Mr. SKILLING. Yes.

Mr. GREENWOOD. And these that were relative to Enron, were they dealing with the financial condition of Enron?

Mr. SKILLING. No.

Mr. GREENWOOD. Were they dealing with the conflicts in the partnerships?

Mr. SKILLING. No.

Mr. GREENWOOD. Were they dealing with the management?

Mr. SKILLING. No.

Mr. GREENWOOD. Were they all just personal, or were they business?

Mr. SKILLING. There were serious business and personal issues.

Mr. GREENWOOD. In the serious business issues, were they dealing with Enron?

Mr. SKILLING. Yes.

Mr. GREENWOOD. And without being indiscreet, is it possible you could give us just a brief explanation of what the serious business problems were that would create in his mind so much angst and concern that he took his life?

Mr. SKILLING. There is—I personally believe the——

Mr. GREENWOOD. Can you pull the mike up just a little bit? I know it is a long day and you are coming to the end of this. I appreciate your help here.

Mr. SKILLING. Cliff's family has gone through a lot. I don't know if it is my job or my role to describe some of the things Cliff talked with me about. I would prefer leaving that to the family, if you could.

Mr. GREENWOOD. I understand. That is why I say that if there is something that was relative to this hearing, to this investigation by this committee, that would help us understand what happened.

Mr. SKILLING. I don't think there is anyone that knew Cliff and spent time with Cliff toward the end that didn't realize—and I don't think this is betraying any confidence with the family—there is no one that knew Cliff toward the end that didn't realize that he was heartbroken by what had happened.

He believed that his reputation, my reputation, the reputation of the Board of Directors, reputation of Ken Lay, people that we had worked with for a long time, and his own personal reputation, were ruined by what had happened to the company and the treatment of what happened to the company by the press. And he was heartbroken by that.

He believed, as I believed, that we had created a great company, that we were doing good things. And to have a lifetime of work denigrated as it was in the press was very painful to Cliff. And he—he is—I can tell one other—Carol, if you are out there, I hope you are okay with this. Carol, his wife, is a very private person. He told this story to a number of people, so I don't believe I am—I mean, you will get the story sooner or later, but Cliff was a very articulate individual. He was a fine man.

And Cliff came over to my house a week before he took his life, maybe a week and a half before he took his life, and we spent an hour—almost 3 hours talking. And Cliff summed it up, he was very angry about the plaintiff's lawyers and they were coming after him. He was very angry about that, because he had spent a lifetime building security for his family.

But he said, "Jeff, the thing that really gets me"—he said, "It is like this." He said it is like it is a beautiful day in Houston, Texas, and you are out in your front yard, you have got a hose, and it has got a nozzle on it, and you are watering your front lawn. And it is a beautiful day and all of the kids in the neighborhood are out. Your neighbors are out drinking coffee. They are all talking to one another. And it is just a great day.

And then, suddenly the guy that lives next door to you comes crashing out of his front door. He walks up to you and says in a voice loud enough for everyone to hear that "I hear you are a child molester." And then he turns around and he walks back inside his house and closes the door. And Cliff said, you know, from that day forward your life is changed. And he said, "They are calling us child molesters." He says, "That will never wash off."

Mr. GREENWOOD. But, Mr. Skilling, you don't believe that.

Mr. SKILLING. I don't believe what?

Mr. GREENWOOD. You don't believe that the press and everybody calling Cliff Baxter or yourself or anybody on the Board of Directors—denigrating or tainting you, you don't think it is accurate. That is what you are saying here today, that you are standing up here saying everything the press is saying, everything that Sherron Watkins is saying, all of the testimony you have had before you, including the dean of the law school, the University of Texas, all of that is wrong is what you are saying to us here today.

Mr. SKILLING. I will not say that. I have read everything I can read, every press account I can read over the last 4 months, for the specific meetings or representations that the press has made that I was intimately familiar with, where I was there. I would say the press is getting it right maybe one-third of the time, and the other two-thirds of the time they are just totally, totally off base.

Mr. GREENWOOD. And the Special Committee report, that the Board of Directors, that the dean of the law school of the University of Texas, is off base, in your opinion.

Mr. SKILLING. I can only comment on what I know. To the extent that that report in any way says I did something that was not in the interest of the shareholders of Enron Corporation, then, yes, I disagree with those passages in the report vehemently. I did not do anything that was not in the interest, in all of the time that I worked for Enron Corporation, that was in the interest of the shareholders of the company.

Mr. GREENWOOD. Mr. Skilling, I am not an attorney, but you are practicing plausible deniability, which is a term you are using to deny all what people have said. Sherron Watkins said Cliff Baxter complained mightily to you and all who would listen about the inappropriateness of these transactions with LJM. Jeff McMahon did the same thing. You have Cliff Baxter. You have Jeff McMahon.

Mr. SKILLING. I related——

Mr. GREENWOOD. You have Sherron Watkins. There are three people who have said that you were told specifically all about these transactions, the conflict of interest. In fact, Jeff McMahon laid out five steps to you on how he thought that it should be corrected, because of all of the conflict of interest, inherent conflict of interest.

So are you asking me to forget——

Mr. SKILLING. Congressman, you are flat out misreading—misreading——

Mr. GREENWOOD. I am reading right from Sherron Watkins' letter. Cliff Baxter complained mightily to Skilling and all who would listen about the inappropriateness of these transactions. Are you saying Sherron——

Mr. SKILLING. When you give me time——

Mr. GREENWOOD. —Watkins is not telling the truth? Are you telling me that today?

Mr. SKILLING. Will you give me time——

Mr. GREENWOOD. Just yes or no. Is Sherron Watkins telling the truth?

Mr. SKILLING. Can you give me time to specifically go through—this is serious stuff, sir.

Mr. GREENWOOD. It is serious stuff, but I am just asking whether she——

Mr. SKILLING. This is very serious stuff.

Mr. GREENWOOD. [continuing] whether Sherron Watkins' letter is truthful or not.

Mr. SKILLING. The discussion that I had with you about what Cliff Baxter said to me related to a time subsequent to me leaving the company. Did Cliff Baxter raise an issue about LJM? Cliff Baxter raised an issue with me probably in January or February of last year, to my best recollection. Cliff said, "I don't know anything about the transaction," because he would have no basis for knowing about the transaction. But he said he and Andy were not—they had a very strained personal relationship, and he says, "I don't think you ought to be doing anything for Andy Fastow." That was the sum total of our discussion about it.

And then Cliff, I think subsequent to that, was open with people that he did not particularly like any investment vehicle that Andy would have a personal interest in.

Mr. GREENWOOD. So Sherron Watkins, what she is saying here is not truthful?

Mr. SKILLING. If Sherron Watkins says that Cliff complained mightily, as I think she said, to anyone who would listen, I would say that is probably true. If you are asking when Cliff Baxter and I discussed the situation, I have a very clear recollection that Cliff said—and, in fact, I even asked him. It is my recollection I asked him, "Do you think there is anything wrong with the structure in place?" And his answer to me was, "I don't know what the structure in place is."

I said, "Do you have any reason to think that there is anything bad going on?" He said, "No." He said, "I think it looks bad to have a related party transaction." Period. And that was the last discussion that we had about it.

Mr. GREENWOOD. Mr. Skilling, I am going to give you the last word. My time has expired.

Ms. DeGette?

Ms. DEGETTE. Thank you, Mr. Chairman.

Mr. Winokur, you have three degrees from Harvard. You have been Chairman and Chief Executive Officer of an investment firm, Capricorn Holdings, Inc. You have also been the managing general partner of three affiliated limited partnerships. Correct?

Mr. WINOKUR. Congresswoman, yes, that is correct.

Ms. DEGETTE. And so you are familiar with—well, let me ask you this. You are on the Enron Board. You have a fiduciary duty to Enron stockholders/shareholders as a member of that Board, do you not?

Mr. WINOKUR. Yes, ma'am.

Ms. DEGETTE. As do the senior management, like the CEO or COO, correct?

Mr. WINOKUR. Yes.

Ms. DEGETTE. And you also are aware that when you have a potential conflict of interest by a member of the senior management of the Board or of a company like Enron, for example, Mr. Fastow, that is a very serious potential conflict, is it not?

Mr. WINOKUR. Yes, it is.

Ms. DEGETTE. And, in fact, that is why in the Finance Committee which you chair—do you still chair that now, sir?

Mr. WINOKUR. Yes, Congresswoman, I do.

Ms. DEGETTE. Okay. There was lengthy discussion about Mr. Fastow's potential conflict of interest in the LJM funds, correct?

Mr. WINOKUR. Yes.

Ms. DEGETTE. And why the Finance Committee and the Board felt that it was important to put a set of controls in place, so that Mr. Fastow's dual roles would be disclosed—and I assume any other officers or employees of the corporation, correct? Those would be disclosed and——

Mr. WINOKUR. Yes.

Ms. DEGETTE. [continuing] there would be firewalls insured——

Mr. WINOKUR. Yes.

Ms. DEGETTE. [continuing] to make sure that those individuals' fiduciary duties would be preserved, correct?

Mr. WINOKUR. Yes.

Ms. DEGETTE. And that is all laid out in Tab 8. You don't have to look at it, but it is those meetings we have been talking about from October 6, 2000, right?

Mr. WINOKUR. Yes.

Ms. DEGETTE. So you and all of the other Board members were aware of the potential conflict that Mr. Fastow had, correct?

Mr. WINOKUR. Yes.

Ms. DEGETTE. And, Dr. Jaedicke, you also knew of the potential conflict, did you not?

Mr. JAEDICKE. Of Mr. Fastow?

Ms. DEGETTE. Of Mr. Fastow.

Mr. JAEDICKE. In the——

Ms. DEGETTE. Or anyone else who would have an interest in——

Mr. WINOKUR. No, Congresswoman, we didn't—I didn't know of any other person who was conflicted—who is in this conflict person but Mr. Fastow.

Ms. DEGETTE. But what you thought you would do is put controls into place——

Mr. WINOKUR. Yes.

Ms. DEGETTE. [continuing] so if there was anyone like that you would know about it and make sure that the controls were followed, right?

Mr. WINOKUR. That is correct.

Ms. DEGETTE. Because that is your duty as a Board member, isn't it?

Mr. WINOKUR. That is correct.

Ms. DEGETTE. Now, in your testimony today, your written testimony on page 6, you talk about this dash sheet. We have been talking about it at length today, right? That is the sheet that discloses the conflict, and all of these people are supposed to sign off, correct?

Mr. WINOKUR. Congresswoman, the dash sheet, as Mr. Skilling said, applies to all capital investments.

Ms. DEGETTE. Right.

Mr. WINOKUR. There was a separate LJM approval sheet that was put in place—I don't know exactly when—but put in place during this same period of time, which was another not replacement but incremental sheet.

Ms. DEGETTE. But you, as the Chairman of the Finance Committee, never saw those sheets, did you?

Mr. WINOKUR. We saw dash sheets, but never the LJM approval sheets.

Ms. DEGETTE. Did you see——

Mr. WINOKUR. And we didn't see dash sheets that related to the LJM transactions, to the best of my knowledge.

Ms. DEGETTE. Well, did you see the dash sheets that are included in Tab 26 here? Those relate to a variety of LJMs.

Mr. WINOKUR. Congresswoman, we would——

Ms. DEGETTE. Did you see those dash sheets?

Mr. WINOKUR. I have no recollection of having seen these during the time in which they were done. I saw them during the context of the Special Committee report.

Mr. SKILLING. I am sorry. What tab were you talking about?

Ms. DEGETTE. Exhibit 26.

Mr. SKILLING. These are not dash sheets.

Mr. WINOKUR. These are LJM approval sheets.

Ms. DEGETTE. I am sorry, the LJM approval sheets. I am sorry. The LJM approval sheets, have you seen those? Thank you, Mr. Skilling.

Mr. SKILLING. You are welcome.

Mr. WINOKUR. No, I have not. I had not until I—the Special Committee——

Ms. DEGETTE. You didn't see them at the time.

Mr. WINOKUR. No.

Ms. DEGETTE. Okay. But you felt that you didn't need to see those, correct?

Mr. WINOKUR. I didn't feel that the Finance Committee needed to review them——

Ms. DEGETTE. Because you felt, as the Finance Committee, that you would get assurances from the senior management——

Mr. WINOKUR. The senior management——

Ms. DEGETTE. [continuing] that the procedures were being followed, right?

Mr. WINOKUR. Yes, ma'am.

Ms. DEGETTE. What did you do to get that assurance if you didn't look at the paperwork?

Mr. WINOKUR. We had presentations from the Chief Accounting Officer, the Chief Risk Officer, Mr. Skilling present. We had presentations from the Chief Financial Officer, then Mr. Fastow——

Ms. DEGETTE. Were those presentations written presentations?

Mr. WINOKUR. Well, there usually were three or four pages of slides—a slide format or handout.

Ms. DEGETTE. And what did the slides say?

Mr. WINOKUR. Well, I would have to refer to each meeting, but I recall that Mr. Causey told us at one meeting that all of the controls were being followed, and that they were all working effectively.

Ms. DEGETTE. And so you, in your fiduciary duty as a member of the Board, thought that that was enough to ensure that this—that all of the controls were taken care of.

Mr. WINOKUR. Congresswoman, that presentation had other senior officials of the company in attendance who didn't speak up and say otherwise. I also knew that——

Ms. DEGETTE. So by silence, you thought that was assent, correct?

Mr. WINOKUR. I believe that if somebody sitting there hears something that is not true, they should say something, absolutely.

Ms. DEGETTE. And Mr. Skilling never spoke up and said anything?

Mr. WINOKUR. Not to my recollection. I also knew that the Audit Committee would receive additional presentations from similar people, and from Arthur Andersen, about the controls.

Ms. DEGETTE. Okay. Mr. Jaedicke, then——

Mr. JAEDICKE. Yes, ma'am.

Ms. DEGETTE. [continuing] did you get additional presentations?

Mr. JAEDICKE. Our review was from slides or lists showing the transactions, usually categorized by what kind of transactions they are. We did not have the—we did not look at every—whatever they are called, deal approval sheets, the——

Ms. DEGETTE. The LJM approval sheets.

Mr. JAEDICKE. [continuing] the LJM.

Ms. DEGETTE. Well, let me ask you this. Did you ever see a slide that showed that in the LJM Cayman LP, which is the first sheet of Exhibit 26, the persons negotiating for Enron—Joe Defner, Tim Proffitt—persons negotiating for LJM—Michael Kopper, Greg Caudell—did you ever know that?

Mr. JAEDICKE. No, ma'am.

Ms. DEGETTE. Did you know that Michael Kopper was involved in any of these——

Mr. JAEDICKE. No, ma'am.

Ms. DEGETTE. So what, did they just show you some of the slides?

Mr. JAEDICKE. They did not show us the deal approval sheets. We have the control; it says no one is allowed to negotiate for Enron who reports to Mr. Fastow.

Ms. DEGETTE. All right.

Mr. JAEDICKE. And then we have requirements like—they are listed here. The transaction must take place at arms length.

Ms. DEGETTE. But it would be fair to say you told them that, but then you never actually got the information on every deal, correct?

Mr. JAEDICKE. We asked that—yes, we were assured that——

Ms. DEGETTE. You did get the information on every deal?

Mr. JAEDICKE. No, no. I am sorry. I misunderstood you.

Ms. DEGETTE. Okay.

Mr. JAEDICKE. We looked——

Ms. DEGETTE. You told them, have the firewalls in place, but you did not actually have the information on every deal as the Audit Committee did.

Mr. JAEDICKE. Of every deal sheet?

Ms. DEGETTE. Right.

Mr. JAEDICKE. No, ma'am, we did not.

Ms. DEGETTE. Thank you.

I just want to say one final thing, Mr. Chairman. Here is what I think has happened after the last week. I have been listening to all of this, and I think that everybody in the company knew Mr. Fastow had a conflict. I think that there were a whole lot of people paying attention every other place. You have a CEO who is an admitted controls freak. You have a Board that puts controls into place.

In 1999, Mr. Skilling says, "Well, I remember I looked at the controls, but I wasn't involved." In 2000, then, this fellow who says he is a controls freak says, "Well, I don't remember the part that said I was supposed to sign off, because the lights were on and off," which by the way I find ironic for an energy company, but that is a different issue for a different day.

And then you have a Board that says, "Well, we told these guys to put controls in place. We don't really know what happened." To me, it is not so surprising that a ship with captains like this sank and sank big, and I will yield back the balance of my time.

Mr. GREENWOOD. And I thank the gentlelady. The gentleman, Mr. Rush, is recognized.

Mr. RUSH. Thank you, Mr. Chairman.

I want to return to a line of questioning that you engaged in, Mr. Chairman, but I don't want to get into it with the level of intensity that was prevalent in your questioning.

And I just want to ask, Mr. Skilling, when you came here, part of your opening testimony was that you came voluntarily, and I commend you for that. And there are some others who—from Enron who have taken advantage of their Fifth Amendment provisions and they decided not to testify. You have testified voluntarily.

You indicated that the reason, or at least one of the reasons that you came, was because of the tragedy concerning your friend, Mr. Baxter. And we have heard testimony to the fact that he complained mightily to you, and you said that it was subsequent to his resignation from Enron, is that right? Or subsequent—was it subsequent to his resignation?

Mr. SKILLING. No, it probably occurred, I am guessing, in maybe late 2000. So it would have been probably three or 4 months before he left Enron.

Mr. RUSH. When did he leave?

Mr. SKILLING. He left, I believe, in March.

Mr. RUSH. In March of 2001?

Mr. SKILLING. 2001.

Mr. RUSH. And you left in?

Mr. SKILLING. August.

Mr. RUSH. August of 2001. Okay. And Mr. McMahon complained to you, according to the letter to Mr. Lay from Ms. Watkins—Mr. McMahon complained to you mightily also. Is that correct?

Mr. SKILLING. Well, again, characterizations, as I have said, I would not use the term "mightily" with Cliff.

Mr. RUSH. But he complained to you.

Mr. SKILLING. He didn't complain. Cliff brought up the issue. I knew he and Andy had had a degree of animosity that was not insignificant. My discussion with Jeff McMahon was related to what I believe—my perception was a compensation issue, and I recall telling Mr. McMahon that if he did anything to support Enron's shareholders there was no compensation issue, because the name of the game here was to protect our shareholders.

Mr. RUSH. Was there anyone else who complained to you about the LJM transactions?

Mr. SKILLING. I don't recall.

Mr. RUSH. Let me ask you, you are represented by counsel here. You have counsel with you here?

Mr. SKILLING. Yes.

Mr. RUSH. Is there any reason for that?

Mr. SKILLING. I am sorry?

Mr. RUSH. What is the reason for having counsel here with you?

Mr. SKILLING. Well, I am not a lawyer. And I will tell you what, this is one of the most complex set of events I have ever gone through, and I, to be quite frank, am very, very happy to have someone that understands this working with me.

Mr. RUSH. Okay. Mr. Winokur, earlier testimony from Mr. Olson stated that every investment Enron made was unsuccessful, that the international power and water projects, the broadband, and the energy supply contracts, all of these were unsuccessful. And as a result, in Enron's last year before bankruptcy, a billion dollars—well, 70 percent of its earnings came from Raptor.

And the Powers report, on page 24, said that the Finance Committee was on notice that LJM's transactions were contributing very large percentages of Enron's earnings. But the Finance Committee still didn't look at those transactions. Did that surprise you, when you found out about that?

Mr. WINOKUR. Congressman, I was aware that the water business was not performing well, because I was also involved with Azurix. The Board took action with respect to Enron energy services and suggested to management that it be restructured. It was restructured. That was reported in March of 2001 in the 10Q.

I was not aware until the Special Committee report, because we received reports at the Board by division—divisional income before interest and taxes—that showed every division was performing well, and we saw those reports even at the October Board meeting of this year.

The Raptor transaction did not actually come to my attention in the form that it later appeared during the Powers Committee report.

Mr. RUSH. Well, the Special Committee also reported that the LJM made money on every single deal it signed with Enron, even if Enron lost money. Wasn't that kind of strange? Did you find that strange also as a part of the—as the head of the Finance Committee?

Mr. WINOKUR. Congressman, I didn't know that until the Powers Committee report. But I would say, as someone who deals in investments, I found that very unusual.

Mr. RUSH. Mr. Skilling, did you ever tell Mr. Fastow that he—that the investors would never lose money? Did you tell them that they would never lose money?

Mr. SKILLING. No. As I have said earlier, Andrew Fastow and I had absolutely no understanding of any sort, any nature, that suggested that the partnership would be guaranteed a rate of return.

Mr. RUSH. Thank you, Mr. Chairman. I yield back. I yield back, Mr. Chairman.

Mr. GREENWOOD. I thank the gentleman. The gentleman from Massachusetts, Mr. Markey, is recognized.

Mr. MARKEY. Thank you, Mr. Chairman.

Mr. Winokur, you were on the Powers Committee, and I see that on page 21 of the Powers report, that there is evidence from other employees that Mr. Skilling approved the March 2001 restructuring of Raptor. And you say on page 121 of the report that senior Enron employees told you that Mr. Skilling was aware of the problems with Raptor, and "was intensely interested in its resolution."

Your report says, again, on page 121 that, "We are told that during the first quarter of 2001 Mr. Skilling said that fixing the Raptor's credit capacity problem was one of the company's highest priorities. When the Raptor's restructuring was accomplished, Skilling called one of the accountants who worked on the project to thank him personally. Skilling disputes that account." Can you identify the senior Enron employees, Mr. Winokur, who told you these things?

Mr. WINOKUR. Sir, I believe Dean Powers testified—I have not read his testimony—but I did not attend the interviews of any of those people, and so I would not be in a position to tell you who exactly said what in those interviews.

Mr. MARKEY. Did you find the testimony of those Enron employees credible?

Mr. WINOKUR. I believe that the interviews, as presented to us by our legal counsel, seem credible, but I wasn't there.

Mr. MARKEY. Whose account do you think is accurate, theirs or Mr. Skilling's?

Mr. WINOKUR. Sir, I don't have any basis to speculate, other than to report what we heard from our counsel.

Mr. MARKEY. You were on the Powers Commission, were you not?

Mr. WINOKUR. Yes, sir.

Mr. MARKEY. Yes. Just a continuation, Mr. Winokur, of the obvious attitude that the Board has toward these important matters.

Mr. Skilling, were you involved in approving the March 2001 Raptor restructuring?

Mr. SKILLING. Not to my recollection.

Mr. MARKEY. Did you ever say during the first quarter of 2001 that fixing Raptor's credit capacity problem was one of the company's highest priorities?

Mr. SKILLING. I do not recall saying that.

Mr. MARKEY. Did you ever call one of the accountants working on the Raptor's restructuring to thank him for his role?

Mr. SKILLING. It is very possible that I called accountants. Any time a senior executive in the company thought that someone had gone to extraordinary efforts—for example, missing Christmas dinner or something——

Mr. MARKEY. I am talking about on the Raptor's restructuring. Did you call a senior accountant on the Raptor's restructuring?

Mr. SKILLING. I don't recall, but it would be possible.

Mr. MARKEY. You don't recall. It is possible. Now, by August 14, Sherron Watkins says in her memo that, "The Raptor entities are technically bankrupt." Was she right or wrong?

Mr. SKILLING. I don't know.

Mr. MARKEY. You don't know. The Powers Committee, on page 122 of its report, says that, "The potential impact of the problem and the chosen solution to Raptor's problems were of considerable consequence to the company in Skilling's first quarter as CEO." That is the first quarter of 2001. Do you agree with that statement?

Mr. SKILLING. No, I don't.

Mr. MARKEY. You do not. Do you really expect us to believe that you had little knowledge or involvement in a transaction in March of 2001 that allowed Enron to avoid taking a $500 million pre-tax charge against earnings?

Mr. SKILLING. Congressman, again, I don't know where that number came from. I will tell you that, if you think of the way we operated our business, we had electricity sales obligations on one side, electricity and natural gas—I am sorry, electricity and natural gas sales obligations on one side, electricity sales and natural gas purchase obligations on the other.

The total amount of that on our balance sheet at year end was in excess of $30 billion, if you include all risk—what are called risk management assets, plus accounts receivable related to our core natural gas and electricity market.

Mr. MARKEY. This is, however, Mr. Skilling——

Mr. SKILLING. To suggest——

Mr. MARKEY. I understand that $30 billion is a big corporation. But what I am saying here is we have got $500 million. Much of that is already something that is already in progress over the preceding 10 years. Now we are adding in something new. When you are adding something new on to something that is already there, you don't have to look at the old. You are looking at the new. You are the CEO. It is March of 2001.

Mr. SKILLING. Congressman, that is not the——

Mr. MARKEY. You say——

Mr. SKILLING. That is not the way it works.

Mr. MARKEY. Well, it——

Mr. SKILLING. What happened was prices for natural gas and electricity quadrupled in the last 6 months of the year 2000. So our risk management assets went from a number on the order of $6- or $7 billion up to close to $30 billion. So we had losses on one side of the portfolio of a significant amount, and we had gains on the other side of the portfolio of a significant amount.

That was no different in concept from having gains that we had on stock purchases that high technology companies—had done very well at, and we had hedges on the other side of that. So to suggest that this, in the grand scheme of things, was something that I would have been lying awake at night sweating over is just not the case.

Mr. MARKEY. A $500 million charge, which allowed for the maintenance of a myth that the company was profitable is no small number to be concerned with.

Mr. SKILLING. Our company was profitable. That is no myth.

Mr. MARKEY. Well, the Powers report disputes that.

Mr. SKILLING. The Powers report——

Mr. MARKEY. So doesn't all of the other surrounding evidence that this was a cascade—a corporation cascading downwards rapidly. All of the evidence—of course, you know, people say you live life forward and understand it backwards. But it is quite clear that—from the outside now, it is clear that it was already in a freefall.

Now, you were the CEO at the time, and you are a self-avowed—as you are right here today—a brilliant controls freak CEO. But what you have done today is invoke the Hogan's Heroes Sergeant Schultz defense of "I see nothing; I hear nothing." You were basically in the final 6 months of your tenure as the CEO oblivious to all of the surrounding events which clearly were bringing to your attention the numbers, the circumstances, the concerns, which by August 14 made it quite clear that you weren't leaving because of personal reasons. You were leaving because this corporation was in a state of complete collapse, which had not yet come to the full attention of the public, investors, or employees of this corporation.

Mr. SKILLING. On the date I left the company, on August 14, 2001, I had every reason to believe the company was financially stable. And you can say today that everybody agrees that there was a problem. I challenge that. I challenge that. Let us go ahead and go back and look at the numbers.

Mr. MARKEY. Well, but, Mr. Winokur, where did the $500 million figure in the Powers report come from? Where did it come from?

Mr. WINOKUR. Sir, there were risk management reports provided regularly, I am told, to Mr. Causey and Mr. Buy that showed the Raptor negative position. And the action that was taken was to issue forwards on stock which did not come to the Board's attention, and those transactions apparently were recorded improperly because that led to the part of the $1.2 billion reduction in shareholders' equity that was discussed on October 16, I think.

Mr. MARKEY. Do you stand by the Powers report, Mr. Winokur?

Mr. WINOKUR. Yes, sir, except for the part on the Board which I, in my statement, believe I have taken exception to, because I was not associated with it—with that section.

Mr. MARKEY. I think Mr. Powers did a good job, Mr. Winokur. I think he did the job that the Board should have done, and I think they identified a problem that already existed inside of that company long before. And I think the CEO should have known about it.

Mr. Chairman, I thank you for this great hearing. I think it was a very important public service you provided here today.

Mr. GREENWOOD. Thank you, Mr. Markey.

Mr. MARKEY. Ms. Jackson-Lee, if I might say——

Mr. GREENWOOD. Yes, I understand.

Mr. MARKEY. [continuing] wants to ask a couple of questions in writing for the panel, if that would be permissible.

Mr. GREENWOOD. Under our procedures, only members of our committee can do that. But you may submit any questions——

Mr. MARKEY. If I may submit——

Mr. GREENWOOD. [continuing] on her behalf. You certainly may.

In fact, let me make a couple of announcements as we wrap this hearing up. First of all, let me announce that the committee record will remain open for 30 days, and if either—or any of you wish to submit additional testimony or clarifications for the record, as this was a record under oath, you may wish to do that once you have reviewed your testimony. We certainly welcome any clarifications, additions, or corrections for the record.

We would also invite you to answer written questions as they may be submitted to you. I understand a number of members have suggested, including Mr. Markey, that he has some written questions for you. We would appreciate your response in writing, if possible.

And, third, let me thank you for appearing and testifying. There was—obviously, I know this has not been pleasant or easy for you, any one of you, and I want you to know it is not pleasant or easy for us as well.

I would much prefer our committee busy legislating on some important health care issues and technology issues and energy issues rather than doing this. But we, as Mr. Markey said, are trying to fulfill our national obligation to examine this, understand it, and perhaps help make sure it doesn't happen again to any other company or to any other group of citizens who have been so severely affected by it.

Finally, let me also—before we finish, I understand Mr. Rush wants to ask one additional question. Let me let him do that, and then I want to get something for the good of the committee on the record before we finish as well. Mr. Rush?

Mr. RUSH. If I could just ask—have another minute and a half. I just wanted to ask each one of the panelists—we might not have this opportunity again. I just want to ask, in light of this—the situation that we are confronted with as a Nation and that Enron is confronted with, is there anything that you, with 20/20 hindsight, that if you could do differently to avoid this situation that you would do? And I will start with Mr. Winokur, and I would just ask each one of you to answer that question.

Mr. WINOKUR. Congressman, I have thought extensively about that question since October. I believed in Enron. I never sold a share of stock. I had confidence in the management. I had confidence that we had the best consultants—Arthur Andersen and Vinson & Elkins—available to us. I believed we acted with good business judgment, reasonable business judgment. We understood the risks of the decisions. We set in place lots of controls.

What I am deeply saddened by particularly is that it has become apparent from the Powers Committee report that there were many people inside the company and at Arthur Andersen and Vinson &

Elkins who knew something was not right, and nobody, to the best of my knowledge, came forward to the Board of Directors until August of this year when, frankly, it was very late to do anything about it. And I feel terrible about that.

Mr. RUSH. Knew something was right or knew something was wrong?

Mr. WINOKUR. I am sorry. Knew something was wrong, had intimations that something was wrong, and these are people who had contact in some cases with the Board on a regular basis. In some cases, they had contacts at Arthur Andersen and Vinson & Elkins, and not one person came to the Board and said, "We are uneasy. We are uncomfortable. We think something could be done before it turned out to be too late."

Mr. GREENWOOD. Dr. Jaedicke?

Mr. RUSH. And I would like to just ask, what would you do differently, not what someone else would do differently.

Mr. JAEDICKE. Well, like my colleague, sir, I have thought a lot about it also. And it is hard for me to understand why none of the controls that we put into place, of which there were many, seemed to work. And even without making the judgment of people knew something was wrong and they didn't come forth, it is if they had simply been some indication that there was concern out there. But somehow that just did not surface. We were not made aware of that.

There were a number of memoranda that we read about in the paper, such as the discussion among the Arthur Andersen partners about the risks in Enron, and then 3 or 4 days later we have an Audit Committee and we don't hear word one about any of those concerns. I don't know why.

So like my colleague, I am disappointed that somehow all of the effort we put in and all of the controls we put in place, and all of the assurances that we had that those controls were adequate and were, in fact, working and our policies were being complied with, turned out not to be the case, at least according to the Powers report.

I don't know why. I can only tell you that they didn't. And as an Audit Committee chairman that took pride in the work of the committee, as well as had, as my colleague said, very strong feelings for the company—I believed in it—I, too, did really not sell shares except to exercise some options that were expiring. I accumulated shares, I think, during this year. I cared about this company. I cared about my position on the Board, and I cared about my reputation. And so I, too, have great regrets.

Mr. RUSH. So there isn't anything that you would do differently, in other words? Is there anything—I am trying to find out, is there anything that you—that the three of you would do differently in order to avoid the situation if—you know, if you were confronted with a similar situation in the future?

And, Mr. Skilling, maybe you can answer that. What would you do differently?

Mr. SKILLING. I will echo Mr. Winokur's comments and Mr. Jaedicke's comments. And I guess I would also say that I think we all will have a better picture 2 months from now after we have gotten more of the facts about what really did happen, that there may be some mechanical things that can be done that could be helpful for the system, mechanical things, systemic issues. But I just don't know at this point that we have the facts of what happened. I wasn't there when it all came unstuck.

Mr. RUSH. Thank you, Mr. Chairman.

Mr. GREENWOOD. I thank my friend. I should add for his purpose, too, that we are going through the same exercise. What could we have done different, in terms of our rules and procedures? We are going to look very hard next week at the accounting standards, and we are going to look hard at the issues of the energy markets, and this whole situation by which these trading organizations were created and operate, examine them to make sure that they are working in the national interest as well.

We have got a lot of work to do there. In that regard, first of all, Mr. Skilling, let me on behalf of the committee express to you our condolences on the loss of your friend Mr. Baxter. I know that it was hard for you to talk about it today. I want you to know we sympathize with him and his family as well. And we extend our condolences to them.

Before we conclude, however, I would like, Mr. Jaedicke and Mr. Winokur, for you to give us, on behalf of the entire committee and our bipartisan investigative staff, some idea about what you know of the shredding that is going on or has gone on at Enron. Can you tell us anything about that shredding, who has authorized it and what does it consist of?

Mr. WINOKUR. Congressman, I know nothing about it, other than what I have seen on television or read in the newspaper.

Mr. GREENWOOD. Dr. Jaedicke?

Mr. JAEDICKE. Sir, the only thing I can tell you is that probably the last notice that was sent out was sent out at least partially at the request of the Audit Committee when we heard and read about the Arthur Andersen matter. The only thing I can tell you is I called a company and asked that another——

Mr. GREENWOOD. Is the company Shredco, Inc.?

Mr. JAEDICKE. No, Enron—I am sorry—and asked that another reminder be sent out. That was even before Enron was——

Mr. GREENWOOD. A reminder not to get rid of documents?

Mr. JAEDICKE. Pardon me?

Mr. GREENWOOD. Was it a reminder not to get rid of documents?

Mr. JAEDICKE. Exactly right, yes. I asked if there had been steps taken to preserve the documents, to preserve any documents. They said yes, there were several e-mails that went out. I think they were e-mails. Several notifications that went out.

I asked them what the date was that they started, and they gave me the date. I am just reporting to you my only knowledge of this.

Mr. GREENWOOD. Yes.

Mr. JAEDICKE. They gave me the date that they had started. I suggested that they send out one more at least.

Mr. GREENWOOD. We received reports, as did I think Americans generally, that shredding was going on in January, that a company called Shredco had been hired to do extensive shredding, and that this was going on in spite of the fact that the FBI, SEC, everybody else is investigating. Can you tell us whether you think that is true?

Mr. JAEDICKE. Sir, I have no knowledge of that at all. I am reporting to you that the only thing I did was to try to get another—or not try to but ask that another notice be sent out. I am not aware——

Mr. GREENWOOD. Well, our investigators will obviously want to examine that issue more thoroughly with you and others with the Board. If you can, obviously, gather information for us, we would certainly appreciate it. One of the things that obviously we cannot tolerate, either with Arthur Andersen or with officials at Enron, is the destruction of documents pertinent to this investigation.

And we intend to be very diligent about finding out what happened there and who might be responsible for it and what might have been destroyed, if anything was destroyed.

Second, while you are all here without subpoena—and I thank you for coming voluntarily and for testifying—the committee obviously reserves the right to continue forward with possible other visits or interviews or perhaps even a request for you to return, if necessary, to come and testify. I can give you the general outline of where we go from here.

Our investigators are still at work trying to uncover what is still yet to be uncovered in terms of documentary evidence as to what occurred and how it occurred and when it occurred and who knew it was going on. We are still trying to learn whether the rules were broken or whether the rules themselves were broken and ought to get fixed.

In that regard, we are holding two hearings next week, one by the Subcommittee on Commerce, Trade, and Consumer Protection, Mr. Cliff Stearns chairs, which will look at the issues of accounting which were seriously challenged in this collapse, and to see whether or not we have some work to do in terms of stiffening those rules or improving the enforcement of those rules.

We will also look at the energy markets. One of the good news stories out of all of this mess is that somehow the energy markets kept working. Electricity and gas kept being delivered at prices consumers could afford, and there was no real rocking or shaking or dislocation of that marketplace in spite of this tremendous collapse. That is a good news story.

We need to understand why that good news happened in spite of all of this massive collapse, and we will take a look at that, because we are still trying to figure out some good electric policy for this country and what makes sense for the future.

And the O&I Committee will be announcing very shortly a series of additional hearings. We intend before the end of February to bring the head of the Arthur Andersen firm before the committee, and to subpoena, if necessary, the appearance of Mr. Ken Lay to give us a view of what might have occurred from the top of the corporation, and to help us understand the final parts of this puzzle.

I have asked all of the subcommittees involved, to work at diligent speed, so that we can as quickly as possible turn the corner and start working on solutions. To that end, let me make a request of you. You have seen this thing from the inside.

If you think you can make some suggestions to us as to how we can make sure that boards of directors are better equipped to handle these kinds of situations, and that information flows more thoroughly, more transparently to consumers and investors, so that the system works better and confidence is restored in this marketplace as quickly as possible, we need your help.

We thank you for coming voluntarily today. We appreciate your testimony. And the hearing will stand adjourned, with the notion that we have 30 more days to receive testimony.

The hearing is adjourned.

[Whereupon, at 6:08 p.m., the subcommittee was adjourned.]

[Additional material submitted for the record follows:]

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The Honorable John Dingell
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman:

As promised in our letter of February 12, 2002, attached please find the responses to the questions posed in your February 11, 2002 letter. As you may know, the subject of Mr. Skilling's appearance as a guest speaker at the October 2000 LJM2 conference was addressed by Mr. Skilling with the Subcommittee staff on December 20, 2002. At that time he answered all questions presented.

Very truly yours,

Bruce A. Hiler
of O'MELVENY & MYERS LLP

DC1:503332.1

JEFFREY K. SKILLING'S RESPONSES TO QUESTIONS
PRESENTED BY REP. DINGELL
FEBRUARY 11, 2002

1. *Did you attend the October 26, 2000 meeting of the partners of LJM? Did you attend the entire meeting? At what time did you arrive? At what time did you leave?*

As I informed Subcommittee staff on December 20, 2001, I was invited to and did appear as a guest speaker to address the LJM2 partners, as third party investors with Enron. I made a ten to fifteen minute presentation on, as I recall, the growth of Enron. I gave an abbreviated version of a speech I typically gave to third-party investors. I believe I used five slides. I did not attend any other portion of the meeting. I do not recall the exact time that I arrived and left.

2. *Where did the meeting take place? How long did it last?*

As I informed Subcommittee staff on December 20, 2001, it took place at the Ritz Hotel in Palm Beach, Florida. My recollection is that I spoke at the meeting for approximately ten to fifteen minutes, was at the hotel for approximately one and one-half to two hours (largely conducting other business), and do not know how long the LJM2 partner meeting lasted.

3. *Were you provided with a copy of the October 26, 2000 document attached to this letter?*

No. I may have seen the agenda and a list of institutional investors represented.

4. *Who made the presentation to the LJM partners referred* [sic] *that was the basis of this document?*

I do not know who made the presentation referred to in the documents attached to your February 11, 2002 letter.

5. *Were you a guest speaker at this meeting as the document states? What was the topic of your speech? How long was your speech?*

See the answer provided in response to question number one.

6. *Who invited you to this meeting and what was the purpose of your speech and attendance?*

Andrew Fastow invited me to speak at the meeting. My purpose was to provide ten to fifteen minutes of remarks about Enron's growth to a group of third-party investors.

7. *Please provide all records relating to your attendance at and participation in this meeting. This should include invitations and confirmations of your attendance and/or participation in this meeting, copies of calendars, e-mails, telephone records, drafts or notes of your remarks, travel documents, and any other documents that relate to this meeting.*

JEFFREY K. SKILLING'S RESPONSES TO QUESTIONS
PRESENTED BY REP. DINGELL
FEBRUARY 11, 2002

Attached please find my calendar from October 26, 2000. As it shows, my plane was not scheduled to arrive in Palm Beach until 2:15 p.m. on the 26th, and was scheduled to depart at 6:00 p.m.

I have also included a copy of a brochure that I was given for the conference.

I have no other records of this trip.

8. *Did you receive any compensation or reimbursement for attending and/or speaking at this meeting?*

I did not receive any personal compensation for attendance. I am not aware if LJM2 reimbursed Enron for any expenses incurred.

9. *Did the persons listed on page 2 (Andrew Fastow, Michael Kopper, Kathy Lynn, Anne Yaeger, Joyce Tang, Chris Loehr, and Ace Roman) attend this meeting.*

I would not recognize any of the listed persons other than Fastow, Michael Kopper or Kathy Lynn. I do not recall knowing that any of these persons, other than Mr. Fastow, who introduced me, attended the meeting, although I have a vague recollection that I may have seen Kathy Lynn.

10. *Was Amy Flores present and did she make a hotel reservation for you?*

I do not know who made my arrangements. In the ordinary course, my own assistant typically would have been responsible for this. I do not recall if Ms. Flores was present.

11. *Were these employees presented to you as attending the meeting in their role as Enron employees or as LJM representatives? Did you suggest at any time that any of these employees seek waivers of Enron code of conduct policy.*

See the answer provided in response to question number nine.
Mr. Fastow obtained a waiver of the Enron Conflicts of Interest Policy from the entire Board. I was not aware that any other employee had an equity interest in LJM and would require such a waiver of Enron's code of conduct.

12. *Do you agree with the statement on page 7 of the attached document under the heading of "LJM Rationale: Why does Enron need private equity?" that "Energy and communications assets typically do not generate earning or cash flow within the first 1-3 years" and that these investments are "dilutive to Enron's current EPS" and are "dilutive to credit ratings ratios?"*

I would not agree with that blanket statement. Typically energy assets are highly cash generating; as it turns out, telecommunications assets are not.

JEFFREY K. SKILLING'S RESPONSES TO QUESTIONS
PRESENTED BY REP. DINGELL
FEBRUARY 11, 2002

13. *Do you agree with the statement – again on page 7 – that to solve the problems listed above, that Enron must "deconsolidate assets" and "create structures which accelerate projected earnings and cash flow?"*

No. I do not agree with the statement above. In fact, to my recollection the majority of Enron's telecommunications assets were carried on its balance sheet.

14. *Do you agree with the statement on page 9 that additional applications of LJM's private equity are "Earnings generation" and "Nature of earnings?"*

It is my understanding that a private equity investment will shift risk, and that the impact on earnings is totally a function of the specific assets transferred, the carrying value of those assets the specific structure of the transaction.

15. *If you do not agree with any of these statements, please explain why Andrew Fastow, manager of the LJM partnerships, believed them to be the purpose of the LJM investments.*

I cannot not speculate as to Mr. Fastow's beliefs.

16. *Did you know that the return for the LJM limited partners was estimated to be 69 percent IRR or a cash multiple of 2.3X (page 18).*

No.

Katherine - Vacation

26 Thursday

- 12:00 Wheels up to Palm Beach
- 2:00 Arrive Palm Beach
- 5:45 Wheels up to Dallas
- 7:00 Arrive Dallas

27 Friday

Dallas

- 10:00 Board Call
- 10:30 Sanjay Bhatnagar 713 853-3233 #1000
- 12:00 [illegible] call
- 2:00 Phone call from Bannantine - she will call you at [illegible] hotel

Dallas

- 7:00 Party at [illegible] Crescent

28 Saturday

- 9:00 JTS Soccer Grace W
- 10:00 Wheels up to Houston
- 10:45 Arrive ENE Hangar
- 6:00 Rebecca's sister's wedding

29 Sunday

N5732 [illegible] B-day [illegible] Karen [illegible]


LJM2
Co-Investment, L.P.
Conference
The Ritz-Carlton
Palm Beach, Florida
October 26-27, 2000

SKSEC 03027

We are pleased to invite you to attend the

LJM2 Co-Investment, L.P. Conference

October 26 – 27, 2000

at the

Ritz-Carlton Resort

Palm Beach, Florida

We hope you will be able to join us in Palm

Beach for an informal conference, followed by a

Cocktail Reception and Dinner

Please RSVP by October 9, 2000

Agenda

Thursday, October 26, 2000

3:00 p.m.	Check-in
4:00 p.m.	Business Session – Plaza 1 (1st Floor)
6:30 p.m.	Cocktail Reception
7:30 p.m.	Dinner*

*100 South Ocean Restaurant – at the Ritz-Carlton

Friday, October 27, 2000

Breakfast At Leisure

Morning Activities

7:00 a.m.	Buses depart for the Emerald Dunes Golf Course (8:00 a.m. tee times)
9:00 a.m.	Tennis (Optional)
From 9:00 a.m.	Spa Treatments

Attire: Resort Casual

Ritz-Carlton Resort

Palm Beach, Florida
October 26-27, 2000

☐ Yes, I plan to attend ☐ No, I am unable to attend

Name ________________ Telephone ________

Title ________________ Company ________

Assistants Name & Number ________________ ______

Activities

Golf ☐ October 27
☐ Club Rental ☐ Left ☐ Right
☐ Shoe Rental Size ____ ☐ Handicap ____

Tennis ☐ October 27
☐ Racket Rental ____

SPA ☐ October 27
☐ Massage ☐ Facial ☐ Manicure

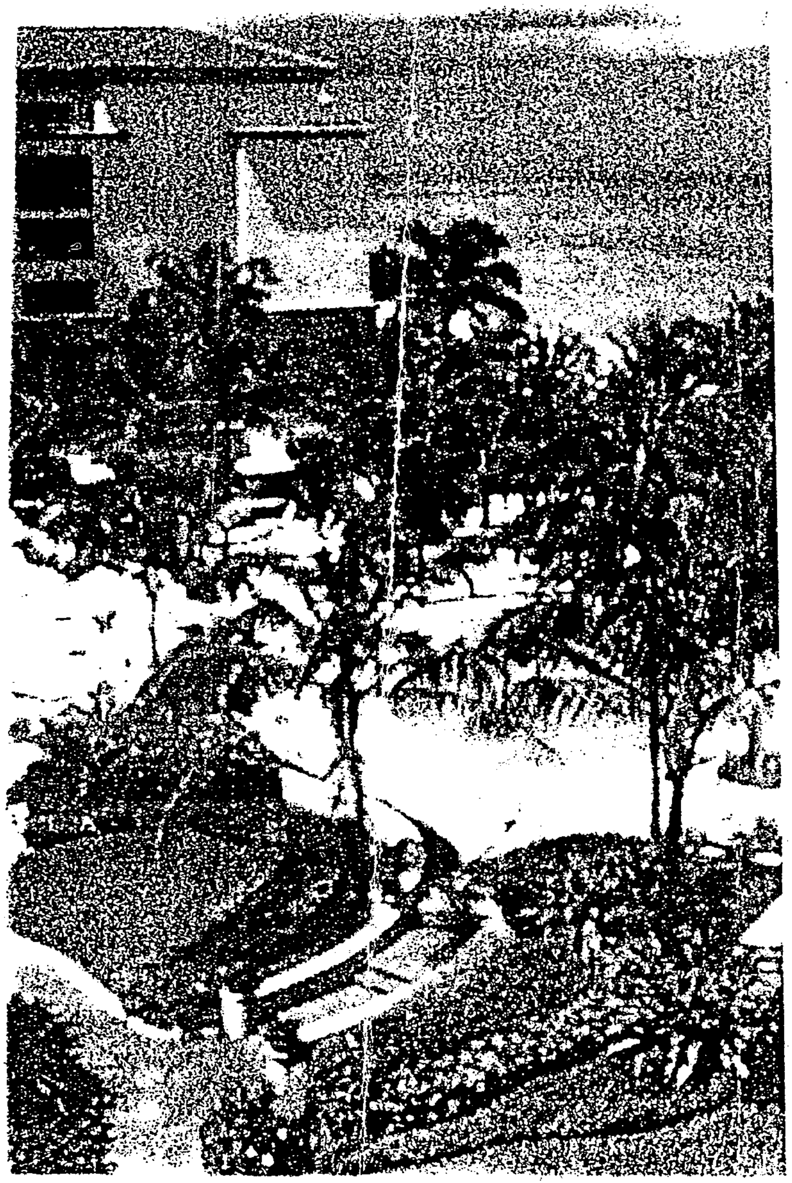
Travel Information

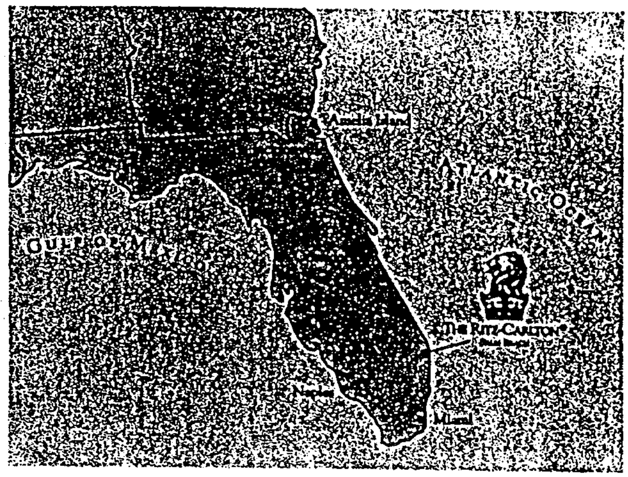
	Arrival	Departure
Date	________	________
Time	________	________
Airline & Flight	________	________
Driving	________	________

Transportation to and from the airport ☐ October 26 ☐ October 27

SKSEC 03028

Please fax by October 9, 2000 to Amy Flores – 713-646-8656





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March 8, 2002

VIA HAND DELIVERY

Mark Paoletta, Esq.
Committee Counsel
Subcommittee on Oversight and Investigations
of the Committee on Energy and Commerce
United States House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

Re: February 7, 2002 Written Statement and Hearing Testimony of Robert K. Jaedicke

Dear Mr. Paoletta:

During the February 7, 2002 Subcommittee hearing, Chairman Tauzin announced that the Committee record would remain open for 30 days, during which, the witnesses could submit additional testimony or clarifications for the record. In response to the Chairman Tauzin's invitation, I enclose the following clarifications and corrections to the written statement and hearing testimony of Robert K. Jaedicke.

I. DR. JAEDICKE'S FEBRUARY 7, 2002 WRITTEN STATEMENT

Dr. Jaedicke clarifies the following sentence, which appears on page 7 of his written statement:

> To the contrary, the representation made to the Board was that Chewco was a completely unaffiliated third party. Those presenting this transaction in 1997 had to know this was untrue, and they had an obligation under Enron's Code of Conduct to disclose Mr. Kopper's involvement to the Board.

(February 7, 2002 Written Statement of Dr. Robert K. Jaedicke, p. 7). The sentence should now read:

> To the contrary, the representation made to the Board **in 1997** was that Chewco was a completely unaffiliated third party. Those presenting this transaction [] had to know this was untrue, and they had an obligation under Enron's Code of Conduct to disclose Mr. Kopper's involvement to the Board.

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(clarification in bold).

Dr. Jaedicke clarifies the following sentence, which appears on page 12 of his written statement:

> In December 2000, Arthur Andersen reported to the Audit Committee that there were no significant audit adjustments to be made, no disagreements with management and no significant difficulties encountered during the audit.

(*Id.* at 12). The sentence should now read:

> In **February 2001**, Arthur Andersen reported to the Audit Committee that there were no significant audit adjustments to be made, no disagreements with management and no significant difficulties encountered during the audit.

(clarification in bold).

The enclosed revised written statement includes these clarifications and corrections. We have also made a few corrections of typographical errors in the written statement..

II. DR. JAEDICKE'S FEBRUARY 7, 2002 HEARING TESTIMONY

Enclosed is a copy of the February 7, 2002 hearing testimony with Dr. Jaedicke's clarifications.

Dr. Jaedicke respectfully requests that the enclosed clarifications and corrections to his written statement and hearing testimony be included in the record.

We thank the Subcommittee for giving Dr. Jaedicke the opportunity to make this submission. If you have any questions, please call me.

Very truly yours,

W. Neil Eggleston

Enclosures

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March 8, 2002

VIA HAND DELIVERY

Mark Paoletta, Esq.
Committee Counsel
Subcommittee on Oversight and Investigations
of the Committee on Energy and Commerce
United States House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

Re: February 7, 2002 Written Statement and Hearing Testimony of Herbert S. Winokur, Jr.

Dear Mr. Paoletta:

During the February 7, 2002 Subcommittee hearing, Chairman Tauzin announced that the Committee record would remain open for 30 days, during which time the witnesses could submit additional testimony or clarifications for the record. In response to the Chairman Tauzin's invitation, I enclose the following clarifications and corrections to the written statement and hearing testimony of Herbert S. Winokur, Jr.

Mr. Winokur appreciates having the opportunity to review and make clarifications to his written statement. Mr. Winokur felt an obligation to the Subcommittee to provide a statement setting forth his views of the matter in advance of his appearance. The tight schedule gave us little time to prepare it, however.

On Monday, February 4, 2001, I received the Subcommittee's request for Mr. Winokur's appearance at the February 7 hearing. Mr. Winokur agreed to appear on very short notice in an effort to cooperate fully with the Subcommittee's investigation. Given this limited timeframe, however, Mr. Winokur was unable to begin working with us on his written statement until late Tuesday afternoon, February 5, when he arrived in Washington. We provided Mr. Winokur's written statement on Wednesday afternoon, as the Subcommittee had requested. During this time period, we were also working with Mr. Winokur to prepare him for his appearance before the Subcommittee.

Mr. Winokur has now had a greater opportunity to review carefully his written statement and the transcript of his hearing testimony, and submits the following limited clarifications for inclusion in the permanent record. The enclosed revised statement and edited transcript incorporate these clarifications.

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ATTORNEYS AT LAW

I. MR. WINOKUR'S FEBRUARY 7, 2002 WRITTEN STATEMENT

Mr. Winokur clarifies the following sentence, which appears on page 2 of his written statement:

> Based upon the information presented to us, and upon the advice of our outside auditors and **our** lawyers, we believed these transactions would be in the best interests of Enron and its shareholders.

(2/7/02 Written Statement of Herbert S. Winokur, Jr., p. 2) (clarification in bold).

Mr. Winokur clarifies the following sentence, which appears on page 2-3 of his written statement:

> The Report acknowledges that this was our independent business judgment, formed in consultation with outside experts from Arthur Andersen and Vinson & Elkins, on which we were—and are—entitled to rely.

(*Id.* at 2-3). The sentence should now read:

> The Report acknowledges that this was our independent business judgment, **based upon management's recommendation formed in what we believed to be consultation with outside experts from Arthur Andersen and Vinson & Elkins.**

(clarification in bold).

On page 7-8 of Mr. Winokur's written testimony, he states:

> We [the Board] also required the Office of the Chair to remain in control of Mr. Fastow's participation. This was important because Mr. Fastow explicitly acknowledged that he remained a fiduciary to Enron. In order to ensure that this duty was honored, Messrs. Skilling and Lay were given the authority to require Mr. Fastow to resign at any time from his involvement with LJM. Mr. Skilling also was charged with the responsibility to supervise Mr. Fastow's involvement, to make sure it did not become a disruption to the company and to ensure that his compensation from the LJM transactions was moderate. Mr. Skilling reported to us that he was discharging these obligations; it now appears that he did not do so.

(*Id.* at 7-8). Mr. Winokur would like to clarify the last two sentences of this paragraph, which were intended to convey his recollection that: (1) the directors believed that Mr. Skilling was charged with executing certain responsibilities pertaining to the LJM controls and (2) based upon reports at Committee meetings with Mr. Skilling present and the Board's understanding of the Code of Conduct and the responsibilities of the Office of the Chairman, and being told

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nothing to the contrary by Mr. Skilling, the directors believed that Mr. Skilling was discharging these obligations, and it now appears that he did not.

Incorporating this clarification, that paragraph should now read:

> We also required the Office of the Chair to remain in control of Mr. Fastow's participation. This was important because Mr. Fastow explicitly acknowledged that he remained a fiduciary to Enron. In order to ensure that this duty was honored, Messrs. Skilling and Lay were given the authority to require Mr. Fastow to resign at any time from his involvement with LJM. **We believed that Mr. Skilling had the responsibility to** supervise Mr. Fastow's involvement, to make sure it did not become a disruption to the company and to ensure that his compensation from the LJM transactions was moderate. **Based upon reports at Committee and Board meetings with Mr. Skilling present, the Board's understanding of the Code of Conduct and the responsibilities of the Office of the Chairman, and being told nothing to the contrary by Mr. Skilling, the outside directors believed that Mr. Skilling was discharging these obligations**; it now appears that he did not do so.

(clarification in bold).

Page 8 of Mr. Winokur's written statement reads:

> We were repeatedly assured by both management and Anderson and Vinson & Elkins that these internal controls were being followed, that the transactions were indeed at arms' length and fair to Enron and that the company was realizing real and legitimate economic benefit from these transactions.

(*Id.* at 8). Mr. Winokur clarifies this sentence as follows:

> We were repeatedly assured by both management and Andersen and Vinson & Elkins **(through its disclosure advice and its annual compliance reviews)** that these internal controls were being followed, that the transactions were indeed at arms' length and fair to Enron and that the company was realizing real and legitimate economic benefit from these transactions.

(clarification in bold).

Mr. Winokur clarifies the following sentence, which appears on page 10 of his written statement:

> I, like the others on the Board, turned to Arthur Andersen for advice concerning whether the transactions being proposed made sense from an accounting perspective.

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(*Id.* at 10). Mr. Winokur clarifies this sentence as follows:

> I, like the others on the Board, **relied on** to Arthur Andersen for advice concerning whether the transactions being proposed made sense from an accounting perspective.

(clarification in bold).

Mr. Winokur clarifies the following sentence, which appears on page 12 of his written statement:

> We did not know that at the time, and neither company management nor Arthur Andersen—which was involved in valuing this transaction—told us the truth about it.

(*Id.* at 12). Mr. Winokur clarifies this sentence as follows:

> We did not know that at the time, and neither company management nor Arthur Andersen—which was involved in **designing** this transaction—told us the truth about it.

(clarification in bold).

Mr. Winokur clarifies the following sentence, which appears on page 14 of his written statement:

> Of equal importance, I cannot fathom why Messrs. Causey, Buy and Skilling would have authorized such activity to begin with—much less why they would have failed to call it to our attention.

(*Id.* at 14). Mr. Winokur clarifies this sentence as follows:

> Of equal importance, I cannot fathom why Messrs. Causey, Buy and Skilling would have **allowed** such activity to begin with—much less why they would have failed to call it to our attention.

(clarification in bold).

Mr. Winokur clarifies the following sentence, which appears on page 16 of his written statement:

> Throughout the Board minutes and in the presentation materials, the Board was assured that the projected return for this transaction was 30%. In fact, as is evident from Deal Approval sheets signed by Ben Glisan, and Scott Sefton,

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> management of the company knew that LJM's projected return was, in fact, a minimum of 76%.

(*Id.* at 16). Mr. Winokur clarifies this sentence as follows:

> Throughout the Board minutes and in the presentation materials, the Board was assured that the projected return for this transaction was 30%. In fact, as is evident from Deal Approval sheets signed by Ben Glisan, and Scott Sefton, **certain members of** management of the company knew that LJM's projected return was, in fact, a minimum of 76%.

(clarification in bold). We have also made a few corrections of typographical errors in the written statement.

II. MR. WINOKUR'S FEBRUARY 7, 2002 HEARING TESTIMONY

Enclosed is a copy of the February 7, 2002 hearing testimony with Mr. Winokur's clarifications.

Mr. Winokur respectfully requests that the enclosed clarifications and corrections to his written statement and testimony be included in the record.

We thank the Subcommittee for giving Mr. Winokur the opportunity to make this submission. If you have any questions, please call me.

Very truly yours,

W. Neil Eggleston

Enclosures

ONE HUNDRED SEVENTH CONGRESS

U.S. House of Representatives

Committee on Energy and Commerce

Washington, DC 20515–6115

W.J. "BILLY" TAUZIN, LOUISIANA,
CHAIRMAN

February 28, 2002

Mr. Jeffrey Skilling
c/o Bruce A. Hiler, Esq.
O'Melveny & Myers, LLP
555 13th Street, N.W.
Suite 500 West
Washington, D.C. 20004-1109

Dear Mr. Skilling:

As you know, the Committee on Energy and Commerce is investigating matters related to the collapse of the Enron Corporation (Enron). We are writing to follow up on testimony that you gave to the Subcommittee on Oversight and Investigations on February 7, 2002. Specifically, documents recently obtained by Committee investigators appear to raise serious questions about the accuracy of your testimony with respect to your involvement in the Raptor transactions.

During 2000 and 2001, Enron engaged in hedging transactions with special purpose entities (SPEs) known as the Raptors. Raptors I, II, and IV were capitalized in a series of transactions that were substantially identical. Specifically, Enron would capitalize the SPE with its own stock (or contingent or forward contracts on its own stock) in return for a note receivable from the SPE, and LJM2 – a partnership run by then-Enron Chief Financial Officer Andrew Fastow – would contribute at least 3% of the SPE's capitalization (roughly $30 million) in order to ensure non-consolidation of the SPE on Enron's books. The SPEs would then enter into an initial "put" arrangement with Enron, whereby Enron would pay the SPE roughly $40 million to take a short-term risk of a significant decline in the value of several million shares of Enron's own stock, which in each case was promptly terminated favorably to the SPE. The SPE, in accordance with its agreements with LJM2, then distributed the $40 million in alleged "earnings" on the put back to LJM2, thus effectively guaranteeing that LJM2 got back its initial equity investment plus a substantial return on that investment in a matter of several months. Once these "earnings" were distributed, the SPE would then enter into hedging transactions with Enron, whereby the SPE would agree to buy, or provide cash equal to the decline in market value of, certain Enron assets (usually equity investments in volatile stocks such as Avici).

As a result of this structure, Enron was, in essence, entering into hedges with entities whose only remaining assets had been contributed to them by Enron, and whose ability to make good on their liabilities to Enron was dependent on the value of Enron's own stock. The purpose of these transactions, as you yourself have admitted, was to provide protection to Enron's profit and loss statements in the event of a decline in the value of the hedged assets.

Mr. Jeffrey Skilling
Page 2

By the end of 2000, however, many of the hedged assets had deteriorated significantly, thus placing significant liabilities on some of the SPEs that their assets – namely Enron stock – were not sufficient to cover. At the same time, Enron was reducing the value of those assets on its books, but also recognizing gains from the hedges with the SPEs in an equal amount – effectively neutralizing or negating the impact of the assets' declines on its books. This strategy would work only so long as Enron could continue to count on the SPEs to make good on their liabilities to Enron. But the deteriorating financial condition of the SPEs ultimately would force Enron to discount the receivables from the SPEs, which in turn would result in Enron having to acknowledge these losses, or some portion of these losses, in its hedged assets.

To avoid the impairment of the Raptors' creditworthiness, in December 2000, Enron and Andersen, its auditor, agreed to a questionable and temporary 45-day "cross collateralization" of the four Raptor vehicles. This maneuver allowed the positive equity in two of the Raptors to offset the negative equity in the other two Raptors. But by March 2001, the financial condition of the Raptors had continued to worsen, to the point that it appeared that Enron would have to take a pre-tax charge against earnings of more than $500 million to reflect the reserves necessary to offset the credit capacity shortfall of two of the Raptor vehicles. To avoid recording a reserve against the credit capacity shortfall, Enron again restructured the Raptors by pumping hundreds of million of dollars of Enron stock or stock contracts into the Raptors, while also making other financial concessions to the Raptors. In return, Enron simply got back another note receivable from the Raptors.

Ultimately, the restructuring failed due to the continuing deterioration of both the hedged assets and the value of Enron's own stocks (which were the SPEs' principal assets upon which to make good on the note receivables and the hedges). Enron then terminated the vehicles in September 2001, resulting in a pre-tax charge to income of more than $700 million. On the same day that Enron disclosed this charge -- October 16, 2001 -- Enron also reported that it had overstated shareholder equity by $1.2 billion because of "accounting errors" related to the recording of notes receivable from the Raptor vehicles.

According to the Powers Report commissioned by a special committee of the Enron Board of Directors, if the accounts of other Enron employees are accurate, you approved a restructuring of the Raptor transactions that was designed to conceal losses from Enron's investments, and one that was not submitted to the Board of Directors for its approval.

During your testimony before the Subcommittee on February 7th,2002 you stated that, upon leaving Enron in August 2001, you believed the company was in strong financial condition and did not have any serious financial problems. Specifically, you testified that "the financial statements issued by Enron, as far as I knew, accurately reflected the financial condition of the company." You also stated that "on the day I left I absolutely, unequivocally thought the company was in good shape." In response to the specific charges of the Powers Report with respect to the Raptors, you testified: "I can state here today that I did not have any knowledge that the transaction was designed to conceal losses, and I did not do anything to withhold information from the Board of Directors of Enron Corporation." Later in your testimony, you also stated that you could not recollect being involved in approving the Raptor restructuring. However, documents obtained by the Committee suggest otherwise.

In an interview of Ryan Siurek, Senior Director, Transaction Support at Enron, by the Powers Committee on January 31, 2002 (written summary attached), Siurek recalled the following:

> Siurek was helping Causey prepare to present Skilling with the alternatives so that Skilling could make decisions regarding the restructuring. It was Siurek's understanding that Skilling was the ultimate decision-maker concerning the restructuring. On at least one occasion, Causey's assistant interrupted Siurek's meeting with Causey to tell Causey that Skilling was ready to meet with him....
>
> Causey said that Skilling approved of the restructuring transaction. Siurek has no doubts that Skilling knew about the Raptor's credit capacity problems and about the restructuring. Ben Glisan told Siurek that he had spoken with Skilling about the Raptors credit capacity problems during the first quarter of 2001....Siurek is certain that Causey spoke to Skilling about the credit capacity problem.

Mr. Siurek also stated that you called him on the day the restructuring closed and congratulated him on the restructuring, making comments that "gave Siurek the impression that Skilling knew the financial aspects of the transaction."

Rodney Faldyn, Siurek's supervisor and Enron's Vice President of Financial Accounting, provided the Powers Committee with an account consistent with Mr. Siurek's. According to a summary of Mr. Faldyn's interview on January 9, 2002 (copy attached), "Causey told Faldyn that Skilling was aware of the credit deficiency issue" involving the Raptors, and Causey also had told him that "Skilling said the restructuring was a top priority and that Causey and his team should be focused on the restructuring."

In an interview of Richard Causey, former Chief Accounting Officer of Enron, by the Powers Committee on January 17, 2002, Mr. Causey confirmed the accounts of Faldyn and Siurek, his employees. (See interview summary attached.) Causey stated that he was certain he had told you about the shortfall in the Raptor vehicles, and had made you aware that he was working to find a solution. He said he had updated you during development of the restructuring plan, after determining the solution to the credit capacity problem, and before executing the Raptor restructuring plan. He stated that he obtained your approval on the restructuring plan that was adopted.

Given the financial significance of the Raptor transactions to Enron's balance sheet during this time period, and the probability of Enron having to take large charges to its earnings because of the Raptors' deteriorating financial conditions, the recollections of these Enron employees with respect to your personal involvement seem highly credible. Accordingly, your testimony regarding your lack of involvement appears less so. In light of these accounts by your subordinates, which may serve to refresh your recollection of these important events, We are requesting that you supplement your testimony by personally responding to the following questions for the hearing record by no later than Thursday, March 7, 2002:

1) Mr. Causey states that he advised you of the Raptor credit capacity problems and his search for potential solutions, and that he obtained your approval for the final restructuring plan. Did you participate in any of these conversations with Mr. Causey, and did you, in fact, approve or give any positive response to the proposed Raptor restructuring? If so, please describe these events to the best of your recollection.

If you do not recall such conversations with Mr. Causey, do you have any reason or basis upon which to dispute Mr. Causey's statements?

2) Did you call Mr. Siurek following the closing of the Raptor restructuring? If so, please describe your to call him and the substance of your conversation with him.

   If you do not recall whether you called Mr. Siurek, do you have any reason or basis upon which to dispute his recollection of events?

3) Mr. Siurek also stated that Mr. Ben Glisan, Enron's treasurer, told him that he (Glisan) had spoken with you in the first quarter of 2001 about the Raptor's credit capacity problems. Did you have such a conversation with Mr. Glisan? If so, please describe the substance of that conversation to the best of your recollection.

   If you do not recall whether you spoke with Mr. Glisan as described above, do you have any reason or basis upon which to dispute Mr. Siurek's account?

4) In light of Mr. Faldyn's statements to the Powers Committee, do you now recall telling Mr. Causey that the Raptors restructuring was a top priority and/or that his team should be focused on the restructuring? If so, please describe the substance of that communication to the best of your recollection.

   If you do not recall whether you made such statements to Mr. Causey, do you have any reason or basis upon which to dispute Mr. Faldyn's account?

5) Were you aware in the first quarter of 2001 that the restructuring of the Raptors in March 2001 would permit Enron to avoid taking a pre-tax charge in the hundreds of millions of dollars in that quarter? If so, please describe your understanding of this matter.

   Was the purpose of the restructuring of the Raptors to avoid an impairment of the Raptor notes and the ability of Enron to collect on its gains on its hedges with the Raptors? If not, or you do not recall, please describe your understanding of the business purpose of the restructuring.

6) At the Subcommittee's hearing, you were asked about whether you knew that the hedges made with the Raptors were in trouble as of March 2001 and that, to avoid taking a $500 million charge against earnings at that time, Enron contributed another $800 million in Enron stock to the Raptors. Your response, however, was that you had not heard of the $500 million number at that time, and you continued by saying: "I had asked, What is the status of our hedges? Are our hedges all right? And I was assured that our hedges were correct. So to the best of my knowledge, it was not an issue."

   Your response appears to indicate that you were not advised of any problems with the Raptor hedges or potential charges against Enron's earnings in the first quarter of 2001, and that, to the contrary, you were told the hedges were "correct." Please explain the meaning of a "correct" hedge; whether you were ever advised of any credit capacity deficiency impacting the Raptor hedges or Enron's balance sheet (and indicate the amount of such deficiency); and whether you knew that Enron was

Mr. Jeffrey Skilling
Page 5

contributing or "selling" additional Enron stock (or forward contracts on Enron stock) to the Raptor entities at that time to shore up their credit capacity (and in what amounts those contributions were made).

7) In your testimony, you stated, in response to a question about whether there was any agreement between you or Enron and LJM that would protect LJM from losses on any of its transactions, that you "absolutely, unequivocally deny that there was any arrangement, any agreement, period, that would have provided a riskless rate of return to anyone that we dealt with as Enron Corporation." Later in your testimony, you further stated: "I had no handshake agreement with Mr. Fastow that would guarantee him a rate of return on his investment." And further into your testimony, you repeated this refrain, saying: "Andrew Fastow and I had absolutely no understanding of any sort, any nature, that suggested the partnership would be guaranteed a rate of return."

Your responses – all of which focused on rates of return – did not specifically answer the questions posed to you at the hearing, which were whether there were any agreements or understandings, written or otherwise, that would protect the LJM partnership or Mr. Fastow from the loss of their investments in the Enron SPEs such as the Raptors, or losses in the specific hedging transactions entered into between Enron, the LJM partnerships or the SPEs. Please state whether you are aware of any such agreements or understandings that would reduce or eliminate the risk of loss of all or a portion of the equity invested into the SPEs by Mr. Fastow and/or the LJM partnerships, or the risk of such loss on specific transactions entered into by the LJM partnerships or the SPEs.

If you have any questions, please contact Mark Paoletta, Chief Counsel for Oversight and Investigations, at (202) 225-2927, or Edith Holleman, Minority Counsel, at (202) 226-3400.

Thank you for your prompt attention to these matters.

Sincerely,

Billy Tauzin

W.J. "Billy" Tauzin
Chairman

John Dingell

John D. Dingell
Ranking Member

James Greenwood

James C. Greenwood
Chairman
Subcommittee on Oversight
and Investigations

Pete Deutsch

Peter Deutsch
Ranking Member
Subcommittee on Oversight
and Investigations

Attachments

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March 8, 2002

OUR FILE NUMBER
798,522-002

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The Honorable W.J. "Billy" Tauzin
The Honorable James C. Greenwood
The Honorable John D. Dingell
The Honorable Peter Deutsch
United States House of Representatives
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515-6115

Re: Jeffrey K. Skilling

Dear Chairmen Tauzin and Greenwood and Ranking Members Dingell and Deutsch:

Your February 28, 2002 letter publicly challenges the credibility of our client, Jeffrey K. Skilling, on a number of issues. Chairman Tauzin has repeated his allegations in the media with some frequency since sending them a copy of the letter (in advance of transmitting it to us). As we stated in our March 1, 2002 letter, these accusations are unfair, untrue and unwarranted on a record that is clearly to the contrary. Having now had the opportunity to review the record upon which your letter's assertions are supposedly based, we see only second-hand interview notes purporting to reflect the unsworn, untested statements of three persons, previously referred to in the Report of the Special Investigative Committee of the Board of Directors of Enron Corp. ("Powers Report"). We believe that even a cursory review of these notes reveals corroboration rather than contradiction of Mr. Skilling's testimony. With regard to the questions posed in your letter, there is little new and Mr. Skilling has already provided his honest recollection to the questions he has already been asked. Your letter does raise one additional question which, we believe, have not yet been posed. We will, however, respond as fully as possible.

At the outset to these proceedings, Chairman Greenwood assured us that the Subcommittee was involved in a legitimate search for the truth. In that spirit we will provide a response to your February 28, 2002 letter. Disappointingly, Members of Congress have publicly questioned the accuracy of Mr. Skilling's memory, presenting this to the press as a question of veracity. There is not a scintilla of evidence supporting such questioning or accusations Moreover, given the manner in which he was questioned -- 73 interruptions, confusing and compound questions, general intimidation, questions premised on false and preconceived assumptions, and rapid-fire grilling – one cannot help but question the motivation of the process.

For example, Chairman Tauzin made the following representations in his question to Mr. Skilling, quoting page 12 of the Powers Report, indicating that the Powers Committee had "some evidence" that on three transactions, "Enron" agreed in advance to protect LJM partnerships against loss. Chairman Tauzin then asked "[i]s the allegation by Ms. Watkins' letter and the conclusions of the special committee true? Did you in fact have an agreement, a hand-shake deal with Mr. Fastow to make LJM whole for any losses whatsoever?" (*Testimony before House Subcommittee on Oversight & Investigations, Feb. 7, 2002 ("Transcript"),* p. 122.) These assertions are not supported by the Powers Report, even assuming the Report is probative. Moreover, these assertions are clearly inaccurate. The Powers Report did not conclude that Mr. Skilling, or anyone from Enron, had a hand-shake deal with Mr. Fastow as to LJM losses. Additionally, as Mr. Skilling pointed out in his response, Ms. Watkins' letter to Ken Lay did not even allege such an agreement, but rather asserted that Ms. Watkins had heard a rumor about it from another employee.

Another example of this type of questioning is where Congressman Stupak represented what he referred to as the "real problem" between Chewco and JEDI." He said, "[t]hey sell an asset, the next day they sell it back, a real roundabout way to make a lot of money here for some people." (Transcript at 94). However, neither Congressional testimony nor the Powers Report indicate or allege that there were any roundabout transactions between Chewco and JEDI.

Yet another example of this sort of questioning can be found on page 96 of the Transcript, when Chairman Tauzin asks, "[y]ou didn't see the approval sheets that were sent to you by Mr. Mintz on these deals? He sent them to you in May, according to his testimony." In fact, Chairman Tauzin's assertions are again totally inaccurate. Mr. Mintz testified before the Subcommittee on February 7, just prior to Mr. Skilling's testimony. He did not testify that he ever sent the deal approval sheets to Mr. Skilling. Indeed, in the May 22, 2001 memo, on which the referenced testimony centered, Mr. Mintz makes it clear that he had not, in fact, sent those sheets to Mr. Skilling. The memo, which is posted on the Subcommittee's website, does not indicate that there are any attachments. (*See* Tab A). Rather, Mr. Mintz concluded the memo stating "I will arrange to get on your schedule to assist you in this regard; alternatively, I can send such approval sheets to you as a package and you can sign them at your convenience." Mr. Mintz would not be offering to send the sheets to Mr. Skilling if he already had done so.

Such unfair, rapid-fire questioning, in paragraph form, containing obvious mischaracterizations of the record, causes confusion, and misleads the public into accepting an inaccurate perception of the so-called facts. This questioning also demonstrates that the inquiry is designed to be both accusatorial and prosecutorial. What is equally disconcerting is the fact that each time the Subcommittee releases a letter to the press making these allegations against our client, much of the press immediately and compliantly accepts and writes *your* story.

Mr. Skilling spent almost four hours before your Subcommittee, and during that time gave his best recollection to the questions posed. Your questions, however, were not designed to exhaust his recollection on any topic, nor did Mr. Skilling have an obligation to anticipate any unasked questions. Indeed, as evidenced by the seventy-three (73) or more interruptions during his testimony, your own Subcommittee thwarted Mr. Skilling's attempts to provide additional information and even to provide any answer to some of the questions that were put forth. On at least one occasion he asked to refer to other documents to explain an answer, and was denied that opportunity. (Transcript, p. 99). Under these circumstances, it is difficult to comprehend the rationale for your attack on Mr. Skilling's credibility. Nevertheless, we have come to the unfortunate conclusion that it is necessary to explain why your criticism of Mr. Skilling's recollection is unfounded.

Your letter suggests that Mr. Skilling has given inaccurate testimony through his inability to remember certain alleged events, as well as details of others. This assertion is seemingly based upon memoranda of interviews of three individuals – none of whom have been placed under oath, or have been subject to cross-examination.[1] Your criticism of Mr. Skilling's testimony apparently is based on your conclusion that those individuals allegedly had a more complete or different recollection than Mr. Skilling on the Raptor restructuring.[2]

Not one of the three interview memoranda on which you rely (interviews of Messrs. Causey, Faldyn, Siurek) contains any first-hand account of even a single conversation with Mr. Skilling concerning the March 2001 Raptor restructuring, during the restructuring process. Although one of the interview memoranda drafted by an attorney present during Mr. Causey's interview, states that Mr. Causey said he was certain that he told Mr. Skilling about the reset, and contains the drafting attorney's assertion that Causey obtained Mr. Skilling's "approval," that attorney's interview memorandum does not set out any specific recollection by Mr. Causey of any specific conversation or statements. Mr. Siurek's only recollection of a communication with Mr. Skilling is of a congratulatory phone call (or voice message) after the fact. Other than that, Mr. Siurek's and Mr. Faldyn's recollections as to Mr. Skilling's involvement are based solely upon what they reportedly recall Mr. Causey or Mr. Glisan tell them. And even that information is sketchy and minimal. None of this reasonably can be seen as calling into question Mr. Skilling's recollection, let alone his veracity. He does not deny knowing about the reset, and he simply does not recall a specific approval. Thus, any attempt to paint these interview memoranda as providing some sort of evidence that Mr. Skilling's recollection is inaccurate, let

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1 As a preliminary matter, we do not accept the interview memoranda as necessarily reflecting an accurate representation of the witnesses' memories. The memoranda themselves reflect the fact that they were compiled from attorney's handwritten notes from interviews that occurred days prior to the drafting of the memoranda. Moreover, they reflect, at best, the attorney's representation of the recollection of a witness who was neither under oath nor subject to cross-examination.

This explanation further serves to respond to the supplemental questions, those numbered 1-4 in your letter, inquiring into whether Mr. Skilling has "any reason or basis upon which to dispute" someone's statements or recollections. Mr. Skilling has not seen these individual statements or heard these recollections and therefore cannot respond.

2 Interestingly, no one seems to be questioning Ms. Watkins' "testimony." Yet, before your Subcommittee, she testified to her belief that Mr. Lay was "duped" by others, including Mr. Skilling. Before the Senate, as Senator Dorgan pointed out "I think her discussion about Mr. Lay was substantially different from what she had said in the House." Fox News Network, "*Your World with Neil Cavuto,*" Feb. 26, 2002. Presumably, she either changed her opinion or had some different recollection. Although, since her "recollections" all seem to be opinions, neither her thoughts before the House nor the Senate contain anything of evidentiary value.

alone that he testified falsely, is a waste of time and resources. In sum, the effort to use these memoranda to question Mr. Skilling's veracity, though unfortunately successful as a short-term media strategy, is without evidentiary support and consequently is an abuse of Mr. Skilling's rights.

MR. SKILLING'S TESTIMONY; THE POWERS COMMITTEE INTERVIEW MEMORANDA

Before your Subcommittee, Mr. Skilling testified that he did not recall being involved in approving the restructuring. He did not deny the possibility that he had specific conversations with Mr. Causey concerning the restructuring or even giving what Mr. Causey might see as an "approval." He simply could not recall, as to the specific questions asked. Moreover, Mr. Skilling testified that he did not recall being aware of the $500 million figure referred to in the relevant questioning, and had no basis for knowing if that number was, or is, accurate. Mr. Skilling further testified that he did not recall indicating that the restructuring was a top priority for the company, nor was that, in his mind, the case. He also testified that he had no specific recollection of congratulating an accountant for his work on the restructuring, but did not rule out such a call because it was not unusual for senior executives to request that he make such calls to employees. Finally, Mr. Skilling testified that he was unaware whether the Raptor hedges were ever bankrupt. (Transcript, pp. 114 and 140-141).

Subsequent to his testimony before your Subcommittee, Mr. Skilling appeared before the Senate Commerce Committee on February 26, 2002. Responding to questions from Senator McCain regarding the Raptor restructuring, Mr. Skilling reiterated his awareness of the Raptor transaction, both the initial transaction and the restructuring. (*Transcript of Senate Commerce Committee*, February 26, 2002 ("Senate Transcript"), pages 20-21). As Mr. Skilling also told the Senate, in response to a specific question, he was aware that the Raptor hedges were capitalized, in part, with Enron equity. Mr. Skilling did inquire about the status of the Raptor hedges, was told they were being restructured, and was assured that the accountants had approved it. We are authorized to inform you that this is what Mr. Skilling meant when he referred to the hedges being "correct," and that he believes that this communication was with Mr. Causey. Mr. Skilling simply did not recall more specifics.

The memoranda upon which you rely in your letter do not support the assertions that they raise serious questions about Mr. Skilling's testimony. On the contrary, the very memoranda that you use to question Mr. Skilling's veracity, actually support Mr. Skilling's recollection and testimony. Moreover, to the extent that there are minor differences between his recollection and the purported recollections reflected in these third-party summary memos, they provide no basis for criticism of Mr. Skilling.

According to the interview memoranda which you have embraced, prior to the restructuring only Mr. Causey claims to have had direct contact with Mr. Skilling regarding the restructuring of the Raptor hedges. Even then, the memorandum of the interview of Mr. Causey does not recount any specific recollection by Mr. Causey of any specific conversation with Mr.

Skilling.[3] Rather, the attorney writing the memorandum chose to summarize what Mr. Causey told the Powers Committee attorneys by saying, "Causey was certain that he told Skilling about the shortfall in the Raptor vehicle and made Skilling aware that Causey was working towards finding a solution." The author of the memorandum claims that Mr. Causey sought and obtained Mr. Skilling's approval and updated Mr. Skilling before executing the Raptor restructuring plan. No specific conversations are described.

During Mr. Skilling's testimony before your Subcommittee, Rep. Markey cited the Powers Report as concluding that Mr. Skilling was "intensely" involved with the restructuring. This conclusion, however, is belied even by what is reflected in the three memoranda. All that is reported in the memoranda is as follows: the Faldyn interview memorandum reports that Mr. Faldyn stated to the Powers Committee attorneys that Mr. Causey said that Mr. Skilling said the restructuring was a top priority. However, it is not stated in the Causey interview memorandum whether Mr. Causey recalls Mr. Skilling saying that the restructuring was a top priority. In addition, Mr. Causey could not even recall the amount of the restructuring. Mr. Faldyn reportedly stated that the brainstorming sessions to come up with alternatives for a restructuring went on for several weeks and that Mr. Skilling was not involved in the brainstorming. Mr. Faldyn reportedly knew that Messrs. Causey and Fastow were involved in the restructuring but did not know if Mr. Skilling was involved.

According to the Causey memoranda, although Mr. Causey reportedly first noticed a shortfall in the Raptors in mid February 2001, it was the second week of March before there was pressure on Enron stock. Mr. Causey was out of town during the second week of March on vacation and apparently did not think that the issue was important enough to contact Mr. Skilling to inform him. The whole issue was resolved by the end of the quarter.

Thus, the only indication in these three memoranda of any sense of importance attached to the restructuring by those involved is that, reportedly, Mr. Causey said to Mr. Faldyn that Mr. Skilling said it was a top priority and that Mr. Causey and his team should be focused on the restructuring. As noted above, this statement does not appear in the interview of Mr. Causey, and Mr. Causey himself chose not to tell Mr. Skilling about the issue until mid-March. Based on these memoranda, with the relevant time frame being two weeks, and with no one, including Mr. Causey, clearly recalling a specific conversation with Mr. Skilling, it is hard to imagine how anyone could conclude that Mr. Skilling was intensely involved in this process.

In addition, Mr. Skilling told your Subcommittee that he could not recall being told the amount of the restructuring. So too, Mr. Causey apparently could not recall the amount, in his interview by the Powers Committee. Although the Powers Report talks about a $500 million shortfall, according to the January 14, 2002 memorandum of the interview of Mr. Faldyn, he reportedly indicated that considering all four Raptor vehicles together, they were under water much less than $350 million, and if nothing had been done, a loan impairment loss of

3 It is reported in the interview memorandum relating to the interview of Mr. Siurek that Mr. Glisan told him that he had spoken with Mr. Skilling about the Raptors' credit capacity problems during the first quarter of 2001.

approximately $350 million would have been taken at the end of the first quarter, not $500 million.

Finally, according to the three Powers Committee memoranda, Mr. Siurek's recollection is of a solitary contact with Mr. Skilling, in the form of a generic, congratulatory call (or voice message), received after the restructuring had been completed. The fact that Mr. Skilling might have called Mr. Siurek to thank him for his hard work is not proof that Mr. Skilling knew any of the details of the Raptor restructuring. Indeed the interview memoranda suggest just the opposite. Mr. Siurek reportedly told the Powers Committee that Mr. Skilling called to congratulate him on the restructuring and thanked him for his hard work. Mr. Siurek admitted that he does not recall exactly what Mr. Skilling said. Mr. Siurek's recollection of the call was either (i) that the transaction was good for Enron; or (ii) that the transactions would save Enron a lot of money. According to the Powers Committee attorney, this gave Siurek the impression that Mr. Skilling knew "the financial aspects" of the transaction. This conclusion is wholly unsupported. Even if it were an accurate surmise, it still would not contradict Mr. Skilling, because there is nothing to contradict.

Mr. Skilling does not deny that he called Mr. Siurek; he simply does not specifically recall it. As he stated to Rep. Markey, "it [was] very possible" that he made this call. He testified that he "called accountants any time a senior executive in the company thought that someone had gone to extraordinary efforts." This is consistent with Mr. Causey's reported recollection that he asked Mr. Skilling to thank Mr. Siurek for his work.

Indicative of the not uncommon occurrence of differing recollections by different witnesses, and the limitations or questionable reliability of the Powers Committee interview memoranda, we point out that Mr. Causey was reported to have told the Special Committee attorneys that he "learned from Siurek that Skilling had left a voice message on Siurek's telephone . . . ." In the Powers Committee's memorandum relating to the Siurek interview, written by a different attorney from the one writing the Causey interview memorandum, the call is reported as thought it may have been a person-to-person call. Mr. Skilling cannot recall the conversation, and we are unable to tell from the memoranda whether there was an actual telephone conversation or simply a voice message.

The bottom line with respect to the restructuring of the Raptors is that, even in the potentially questionable memoranda on which you rely, no one says anything materially different or anything indicating significant involvement by Mr. Skilling. The Causey memoranda do not say that he remembers any specific conversation or how many conversations he may have had with Mr. Skilling, just that he is certain that he would have told him of the restructuring and would have sought his approval. Mr. Skilling only remembers that he was informed about the restructuring and inquired into the accountants' position.

THERE WAS NO REASON TO QUESTION THE RESTRUCTURING

What makes your questioning of Mr. Skilling's testimony even more remarkable, is that these memoranda, and others previously made available by your Subcommittee, support the conclusion that Mr. Skilling had no reason to believe that anything about the Raptor deals was inappropriate. Even if these other Enron employees told Mr. Skilling details of the transactions, and even if Mr. Skilling knew ***every detail*** that Messrs. Siurek, Faldyn and Causey reportedly knew, there would be no basis for him to question the transactions.

As communicated in their interviews with both Powers Committee attorneys and Vinson & Elkins attorneys, those most closely involved in the subject transactions have consistently maintained that Arthur Andersen had a preeminent role in stewarding Enron's involvement with LJM I and II and the Raptor hedges. According to these sources, Arthur Andersen vetted the initial Raptor structures as well as the restructuring of the Raptor hedges.

Mr. Faldyn's interview with Powers Committee attorneys, the memorandum of which you attached to your February 28th letter, sets forth a litany of examples exposing the depth to which Arthur Andersen was involved with the Raptor transactions. Although we do not accept the subject memoranda as definitive on the issues, we are indeed heartened by your apparent acceptance of Mr. Faldyn's exhaustive description of Arthur Andersen's all-encompassing role as expert advisor regarding SPE's, related party transactions and the Raptor hedges.

Information in the memorandum of Mr. Faldyn's interview with the Powers Committee supports the following:

- Arthur Andersen was regularly consulted about the formation and accounting of special purpose entities, and Arthur Andersen was well qualified to give erudite guidance on the subject.

- Arthur Andersen was aware of the Raptor transactions – setting up their initial structure and advising Enron regarding alterations in the manner in which the hedges were managed, as well as in the eventual restructuring of the vehicles.

Your Subcommittee has previously released memoranda detailing interviews Mr. Causey and Arthur Andersen Partner, David Duncan, gave to Vinson & Elkins in connection with the inquiry into Sherron Watkins' concerns. Although these memoranda are subject to the same limitations as those of the Powers Committee, information in the memorandum of Mr. Causey's interview with Vinson & Elkins supports the following:

- Arthur Andersen was ubiquitous in their oversight of Enron's financial dealings and accounting; and Mr. Causey and Enron relied upon their advice.

- Arthur Andersen's most proficient accountants, consultants and auditors scrutinized the LJM and Raptor transactions, and gave Enron specific advice regarding the structuring, management and disclosure of the transactions, without reservations, which Enron followed.

Likewise, the memorandum of the interview of Mr. Duncan by Vinson & Elkins supports the following:

- Arthur Andersen knew that Enron stock capitalized the Raptor hedges, and defended the transaction as absolutely legitimate.

- Enron followed Arthur Andersen's advice.

ADDITIONAL QUESTIONS

We believe that the foregoing answers all but two of your questions. As to whether Mr. Skilling spoke to Mr. Glisan about Raptor – a question that was not posed at the hearing – Mr. Skilling has authorized us to inform you that he does not recall.

Your last question squarely accuses Mr. Skilling of dodging a direct answer to the question of whether there was any agreement that would protect LJM from "losses." Quite the contrary, as your own questioning reveals.

> REP. TAUZIN: Thank you, Mr. Chairman. Mr. Skilling, I want you to look at tab 17 please. It's the Sherron Watkins letter to Ken Lay. In that letter, on page two, the very bottom, and I quote, she states, "employees quote our CFO as saying that he has a handshake deal with Skilling that LJM will never lose money." Unquote. The CFO she is talking about is Fastow.
>
> And also, if you'll look at the committee's, the special committee's report on page 12, the special committee says, "We have identified some evidence that in three of the transactions where Enron ultimately bought back LJM's interests, Enron had agreed in advance to protect LJM partnerships against loss." That's on page 12. Very specifically: Is the allegation by Ms. Watkins' letter and the conclusions of the special committee report true? Did you in fact have an agreement, a handshake deal with Mr. Fastow to make LJM whole for any losses whatsoever?
>
> MR. SKILLING: **Absolutely not.**

We believe that each of the issues raised in your February 28, 2002 letter has been addressed. We believe that the public perception of the record available to you has been distorted at the public expense of Mr. Skilling's reputation. We urge you to return to the process in which Chairman Greenwood assured us we would be participating.

Very truly yours,

Bruce Hiler/mm

Bruce A. Hiler
of O'MELVENY & MYERS LLP

cc: Alan Slobodin, Majority Staff (via hand delivery w/ enclosure)
David Nelson, Minority Staff (via hand delivery w/o enclosure)

Interoffice Memorandum

Confidential Communications

To: Jeff Skilling

From: Jordan Mintz Jordan

Department: Enron Global Finance - Legal

Subject: **Company Approvals for Transactions with LJM**

Date: May 22, 2001

One of the internal procedures we have in place for monitoring Enron's transactions with LJM for arm's-length dealings and "fairness" is an internal approval sheet (similar to the DASH). Such approval sheet, which summarizes (1) the nature of the transactions and its terms, (2) other options considered by Enron, and (3) disclosure obligations, if any, by the Company, is signed by Global Finance Legal, Accounting, and RAC. Accounting and RAC, particularly, require the signatures of Rick Causey and Rick Buy. Such approval sheet also provides for your signature.

All required sign-offs for the 2000 transactions have been recently completed. In discussing our arranging for your signature with Rick Causey and Rick Buy, it was decided to provide you with all finalized approvals in aggregate--rather than in a piecemeal fashion—and we are now ready to do so.

To that end, I will arrange to get on your schedule to assist you in this regard; alternatively, I can send such approval sheets to you as a package and you can then sign at your convenience. In the interim, please let me know if you have any questions or comments. I may be reached at x37897.

Thanks for your time.

Cc: Rick Buy
Rick Causey

Rec'd from Special Litigation Committee 11/26/01

ONE HUNDRED SEVENTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515–6115

W.J. "BILLY" TAUZIN, LOUISIANA,
CHAIRMAN

March 1, 2002

Mr. Jeffrey Skilling
c/o Bruce A. Hiler, Esq.
O'Melveny & Myers, LLP
555 13th Street, N.W.
Suite 500 West
Washington, D.C. 20004-1109

Dear Mr. Skilling:

I am writing to thank you for appearing before the Subcommittee on Oversight and Investigations on February 7, 2002, to present testimony on the financial collapse of the Enron Corporation.

Pursuant to the Chair's order of February 7, 2002, the record of the Subcommittee's hearing remains open to permit Members to submit questions to witnesses in writing. Attached you will find questions submitted by Members of the Subcommittee. I would appreciate it if you could respond to these questions in writing no later than the close of business on March 15, 2002, in order to facilitate the printing of the hearing record.

Thank you again for your time and effort in preparing and delivering testimony before the Subcommittee.

Sincerely,

James C. Greenwood
James C. Greenwood
Chairman
Subcommittee on Oversight and Investigations

Attachment

1. Subsequent to your resignation, you consulted for Enron. In September, October and November 2001, did you contact anyone in the Company with an offer to help or to help try to stop the collapse, based on your expertise?

2. The Company hit rock bottom December 2, 2001, when it filed for bankruptcy, less than four months after your resignation. Are you telling us that you, with your expertise, had no suspicion of anything going wrong with Enron—none whatsoever?

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March 8, 2002

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Hon. James C. Greenwood, Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515-6115

Re: ***Jeffrey K. Skilling***

Dear Mr. Chairman:

We are in receipt of your letter dated March 1, 2002 submitting two additional questions to our client Jeffrey K. Skilling. We are providing the answers to your questions by reference to Mr. Skilling's prior testimony. Because he has already answered these questions and provided this information, we are not having Mr. Skilling repeat those answers herein. Question No. 1 simply calls for a yes or no answer, but our reference is designed to direct you to additional substantive information. As to your second question, we will endeavor to reply as well as possible, although it is difficult to interpret what you are asking. We are directing you to Mr. Skilling's previous answers to that question, as we can best and reasonably interpret it.

Question 1:

Subsequent to your resignation, you consulted for Enron. In September, October and November 2001, did you contact anyone in the Company with an offer to help or to help try to stop the collapse, based on your expertise?

The clear and simple answer to this question is, yes. Mr. Skilling testified in the Senate about his offer to Ken Lay to rejoin Enron without compensation. (Senate transcript, p. 42). He has also testified before the SEC concerning conversations with Ken Lay and with Greg Whaley concerning his offer(s) to come back and try to help. We assume you have access to that transcript.

Question 2:

The Company hit rock bottom December 2, 2001, when it filed for bankruptcy, less than four months after your resignation. Are you telling us that you, with your expertise, had no suspicion of anything going wrong with Enron – none whatsoever?

We are unclear as to what you mean by "anything going wrong with Enron," in Question 2, but will try to provide you with information that may be helpful.

If your question is whether or not Mr. Skilling was aware that the Company was in imminent financial peril, or if he knew of any improprieties or illegal activity prior to his resignation on August 14, 2001, Mr. Skilling already has testified to this at, among others, pages 86, 92, 113 and 142 of his testimony before your Subcommittee, and page 14 before the Senate Commerce Committee. To the extent that your question seems to extend beyond the time Mr. Skilling worked at Enron to December 2, 2001 – the relevance of which escapes us – we can confirm that Mr. Skilling read the press and statements by the company after he left like everyone else. That after-acquired information gave him "suspicion(s)" both about the events in question and the accuracy of the reports.

Similarly we are unclear as to what you are alluding in your reference to Mr. Skilling's "expertise." If you are implying that he should have known about accounting irregularities, if any occurred, you should be reminded that Mr. Skilling is not an accountant or a CPA and, as is typical for a CEO, relied upon the advice of Arthur Andersen, the CAO, and Enron's internal accountants, from whose actions and counsel he gained assurance that the public filings reflected the financial state of the Company and that the accounting was sound. Although members of Congress have ridiculed Mr. Skilling's reliance on accountants and other experts, it is clear that this is not only well recognized as reasonable (*see In Re Phillips*, 1994 SEC LEXIS 2657 (Aug. 26, 1994)), but as absolutely necessary. *See* article by Matthew Miller, Tribune Media Services. (Tab A).

If, by your question you are referring to Mr. Skilling's business expertise, he discussed certain areas in which the Company, in his view, had made progress during 2001, stating:

> All I can say is on October -- or August 14th, the date that I left the company, I believed that the company's financial statements were an accurate reflection of its financial condition. Beyond that, there were a number of areas that we had made significant progress in the last six months. As you remember, there was a terrible issue related to the California energy crisis. By that point, the crisis had dropped. It looked as if the California energy problem had been contained and resolved.
>
> Second of all, the broadband business -- as we all know, in the first quarter of 2001, the stock and equity prices for broadband companies were under enormous pressure. We had restructured that business, two separate restructuring activities -- the first in late March of 2001, the second in late June of 2001 -- and we believed that we had significantly reduced any exposure, further exposure from the broadband business to the rest of Enron's activities.
>
> And third, and probably most important in my mind, we had completed the best quarter we had ever had, the second quarter of 2001, in our wholesale merchant business. The growth rates had remained at levels that, quite frankly, were extremely high, and the profitability from the business was extremely good.

So, on August 14th, again, I believed the financial statements were an accurate reflection of the state of the company, and I believed that we had made progress on a number of different dimensions that put the company in a good position for the future.

As is obvious from the foregoing, Mr. Skilling was aware of and testified to challenges facing the company in 2001. Indeed, every company faces business and financial challenges. We include this information to the extent it may be responsive to what you may be including in your reference to anything "going wrong."

We hope that you find these answers helpful to your inquiry.

Very truly yours,

Bruce A. Hiler

Bruce A. Hiler
of O'MELVENY & MYERS LLP

Posted March 2, 2002 The Philadelphia Inquirer

By Matthew Miller

Politicians' ignorance about business is on display at the Enron hearings

I know I'm supposed to hate Jeffrey Skilling every time he testifies, but the more you watch the kabuki theater in the Senate - and the more you marinate in the business ignorance on display from our politicians - the more you have to marvel at how democratic capitalism has gotten this far.

Let me put in neon the obligatory caveat: Skilling may well turn out to be a crook and deserve everything that's coming to him.

But now let's go the videotape.

Start with Skilling's repeated invocation of the fact that Enron's outside accountant, Arthur Andersen, blessed the structure of the complex hedging deals whose demise triggered the crisis that brought the firm down.

"Oh, please!" a dozen senators effectively sniffed, "so you expect us to believe that you relied on the advice of your accountants?" When senators' tax returns get audited, whom do you suppose they say they relied on?

Ron Wyden of Oregon took Skilling to task for seeking to create an "asset-light" business, noting that suffering shareholders now wished they'd had "hard" assets and profits.

But maximizing the return on invested capital is the proper goal of corporate managers. If you can generate the same amount of profit with less investment (i.e. create an "asset-light" business), that's the very definition of success.

The Senate professed itself equally baffled at how Skilling spent his time, since he obviously didn't see his primary job as reviewing the judgment of his accountants on a handful of hedging transactions. When Skilling explained that most of his days were spent on the road reviewing the strategies and challenges facing Enron's 50 far-flung business units, as well as making key personnel decisions, they seemed appalled at the man's priorities!

Max Cleland of Georgia was the only one with the decency to ask Skilling the key question: "In your opinion, what happened to cause this collapse?"

Skilling replied that Enron faced a classic "run on the bank" sparked by the market's loss of confidence when its accounting practices were questioned and its earnings restated. This triggered (among other things) now-standard contract clauses that permitted virtually everyone doing business with Enron - from suppliers to creditors - to demand instant payment. Few firms have the cash to meet such demands.

And here's the kicker: Sherron Watkins, Skillings' chief accuser, agreed with this analysis entirely.

Which brings us to a stunning scenario that Skilling doubtless believes. Watkins was a lowly VP who lacked a big-picture understanding of the role of complex hedging devices in one segment of a large, aggressive business. Issuing new Enron stock to backstop any potential losses this hedging entity faced - Watkins' major beef - had been blessed by Arthur Andersen.

On this view, it is Watkins' own crusade for accounting purity (inspired by understandable outrage at her discovery of CFO Andy Fastow's corrupt self-dealing) that triggered the PR and liquidity crisis that led to Enron's meltdown. Indeed, Enron may have been quite able to weather the storm surrounding its troubled subsidiary, purge wrongdoers like Fastow, and continue to build its core businesses - but only if the situation was worked through discreetly so as not to cause public panic among all who dealt with the firm.

No, I'm not expecting a flurry of "Sherron Watkins: Hero - Or Misguided Snitch?" headlines anytime soon, but on the facts we know thus far, it's not an impossible case to make. And if this scenario turns out to be right, thousands of jobs and 401(k)s might have been saved.

Unfortunately, between our self-dealing business elites and our self-serving political elites, it's unclear if we'll ever get all the facts.

"Behold with how little wisdom the world is governed!" an ancient king said famously to his son. As the Enron affair keeps reminding us, you can read this proverb two ways: as a call to despair, or as a call for gratitude - because most things function pretty darned well given how little wisdom is put to work to make it all go.

MAR-08-2002 18:07 O'MELVENY & MYERS LLP DC1 202 383 5414 P.02/04

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March 8, 2002

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The Honorable James C. Greenwood
Chairman
Subcommittee on Oversight & Investigations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Our client, Jeffrey Skilling, has reviewed the transcript of his testimony at the hearing held by your Subcommittee on February 7, 2002. There are three specific clarifications that we wish to make at this time.

At the outset, I should note that we will not attempt to correct all of the errors that may exist in this transcript. This would require us to undertake to make sense of the often confusing questions, including compound questions and questions containing inaccurate premises or characterizations. Additionally, there are numerous examples in this hearing record where a clear appreciation of Mr. Skilling's role in these events is lost because the Subcommittee members were either unfamiliar with all the documents at their disposal pertinent to their questions, or chose not to refer to them. We have counted 73 interruptions of Mr. Skilling and several occasions where a member simply indicated that they, in fact, did not want his answer. Thus, he often was not allowed to finish his responses, and he certainly cannot be expected to anticipate unasked questions.

Nevertheless, there are three points that Mr. Skilling wishes to amplify, set forth in the attached Statement by Jeffrey Skilling.

Very truly yours,

Bruce A. Hiler
Of O'MELVENY & MYERS LLP

Enclosure

Amplification on Record of Testimony
Before the House Subcommittee on Oversight And Investigations
February 7, 2002
By
Jeffrey K. Skilling

As a result of the sometimes hostile and confusing questions posed by the Committee and the frequent failure to allow me to complete my answers, there are a few aspects of the record that I would like to amplify.

First, in response to a question from Congresswoman Degette regarding whether the Enron Board of Directors ever discussed the possibility that Mr. Fastow's role in the LJM partnerships might "potentially create a conflict of interest," the record reflects that I stated "[t]here was no question in anyone's mind, on the board of directors or in management, that there was not a conflict of interest created." (Page 104). A literal reading of my use of too many negatives in the sentence is not what I meant to say. I meant to say that I believed there was no question in anyone's mind (on the Board of Directors or in management), that a potential conflict of interest had been created." This is clear from other questions and answers regarding this subject. Given my repeated testimony during the hearing that the Board was aware of a potential conflict of interest and implemented a variety of control procedures to manage that conflict, my testimony on February 7, 2002 should be clear that I believe management and the Board of Directors were aware of a potential conflict of interest involving Mr. Fastow. Indeed, later in her questioning of me, Congresswoman Degette asked directly if I believed "there was a potential conflict of interest," and the record reflects that I answered as follows: "Absolutely. That's why we -- That is why we put the procedures in place to eliminate the conflict." (Page 103).

Second, in response to questioning from Congressman Stearns regarding Jeffrey McMahon's concerns about his relationship with Mr. Fastow, the transcript indicates that I stated: "What his concern was, as far as compensation was concerned, is Jeff felt that he was being put in an awkward position in having to negotiate with Andy and that that might -- this is my recollection -- that it might impact his compensation package." This exchange could be read to suggest that I understood Mr. Fastow to be engaged in the actual negotiations with Enron employees over transactions with the LJM partnerships. I do not recall that to be the case. In the answer to Congressman Stearns' question, I was referring generally to the negotiating process between employees of Enron and the LJM partnerships, with the understanding that Mr. Fastow had a Board-approved interest in the LJM partnerships.

Third, the following colloquy occurred between Chairman Tauzin and me about Michael Kopper's involvement with Chewco and LJM. (Page 124).

Q: The code of conduct allows the senior officer to participate in a transaction in which he has a conflict of interest with Enron --

A: Right.

Q: if the Office of the Chairman determines this would not adversely affect the interests of the company. My question is knowing that Mr. Kopper was involved with Chewco, knowing he was involved with LJM, did you make such a determination as a member of the Office of the Chairman?

A: I don't recall that any determination was made, because I don't recall that there was ever an issue that there was a conflict of interests involved.

Q: Did you inform Mr. Lay that Mr. Kopper was involved with Chewco and LJM?

A: I don't recall.

As I testified on February 7, 2002, I was not aware that Mr. Kopper was an investor or manager of the LJM partnerships. When I was asked, at page 124, whether I knew that Mr. Kopper was involved with LJM, I replied I did, and although I mistakenly believed the question related to Chewco, the answer is correct in that I was aware that Mr. Kopper was one of the Enron employees who was loaned or transferred to LJM2, on an anticipated temporary basis, to assist LJM2 in its activities while it hired other staff. I did know that Mr. Kopper was involved in the management activities of Chewco but, to my best recollection, I did not know that he had an investment interest in Chewco.

Earlier in his questioning, Chairman Tauzin asked, "But you knew that Mr. Kopper was involved in those partnerships?" (Page 123). I answered as follows: "I know that Mr. Kopper was involved in the management of some of the partnerships. I did not know if Mr. Kopper had –" Unfortunately, at that point, Chairman Tauzin interrupted my answer and proceeded to a different question.

Also, at page 141, the transcript reflects that I discussed $30 million of risk management assets. I recall saying "$30 billion."

* * * * *

MINUTES
MEETING OF THE EXECUTIVE COMMITTEE
OF THE BOARD OF DIRECTORS
ENRON CORP.
November 5, 1997

DRAFT

Minutes of a meeting of the Executive Committee ("Committee") of the Board of Directors of Enron Corp. ("Company"), held pursuant to due notice at 5:00 p.m., C.S.T., on November 5, 1997, at the Enron Building in Houston, Texas.

All of the Committee members were present by telephone conference connection where each could hear the comments of the other meeting participants and join in the discussions, as follows:

John H. Duncan, Chairman
Robert A. Belfer
Joe H. Foy
Kenneth L. Lay
Charles A. LeMaistre
Jeffrey K. Skilling
Herbert S. Winokur, Jr.

Director Lay joined the meeting in progress, as noted below. Messrs. Michael Copper, James V. Derrick, Jr., Andrew S. Fastow, William D. Gathmann, Steven J. Kean, Mark E. Koenig, Richard S. Shapiro, and Thomas E. White and Ms. Peggy B. Menchaca also attended the meeting.

The Chairman, Mr. Duncan, presided at the meeting, and the Secretary, Ms. Menchaca, recorded the proceedings.

Mr. Duncan called the meeting to order, and Committee member Winokur noted that he was traveling and that his flight was boarding, but he was familiar with the topics to be covered at the meeting. He informed the Committee of his position on the three items listed on the agenda, indicating his support of management's recommendations, and noted that he would meet further with Messrs. Fastow and/or Gathmann the following morning. He indicated that he had not received the supplemental material sent late in the morning on the date of the meeting. Mr. Winokur then excused himself from the meeting.

Mr. Duncan amended the order of the agenda to consider an item related to its affiliate EOTT Energy Partners, L.P. ("EOTT"). Mr. White reminded the Committee that the Company had been providing EOTT common unit cash distribution support, up to $29 million, which support was to expire March 31, 1998. Mr. White stated that of that amount, $16.2 million remained, after payment of the third quarter distribution. He recommended that the Company grant an extension of the expiration date for common unit cash distribution support for EOTT to March 31, 1999. He explained the rationale for the request. Upon motion duly made by Mr. Belfer, seconded by Dr. LeMaistre, and carried, the extension of the EOTT common unit cash distribution support to March 31, 1999, was approved.

Mr. Duncan returned to the order of the agenda, and Mr. Skilling explained the background of the joint venture by an affiliate of the Company and the California Public Employees' Retirement System ("CalPERS") in Joint Energy Development Investments Limited Partnership ("JEDI"). He called upon Mr. Fastow to discuss the recommended action. Mr. Fastow referred the Committee members to the material for the meeting, a copy of which is filed with the records of the meeting. He explained that Chewco Investments, L.L.C. ("Chewco"), a special purpose vehicle not affiliated with the Company or CalPERS, would acquire the 50% interest owned by CalPERS in JEDI for $383 million. He stated that a corporate guaranty of a $383 million bridge loan and a corporate guaranty of a $250 million loan to Chewco would be required. He reviewed the economics of the project, the financing arrangements, and the corporate structure of the acquiring company. He recommended that the Committee approve the corporate guaranties associated with the transaction. A discussion ensued, following which, upon motion duly made by Dr. LeMaistre, seconded by Mr. Foy, and carried, the following resolutions were approved:

> RESOLVED, that the Chairman of the Board, the Vice Chairman of the Board, the President, and any Vice President be, and each of them hereby is, authorized, empowered, and directed (any one of them acting alone), for and in the name and on behalf of the Company, to negotiate, execute, and deliver one or more guaranty agreements (collectively, the "Guaranty"), to authorize the undertaking of such indemnities by the Company as are required, together with all such instruments, certificates, agreements, or other documents as are required, all in connection with the transactions related to the redemption of CalPERS' fifty percent (50%) limited partnership interest in JEDI, an affiliate of the Company, and the simultaneous issuance by JEDI of a fifty percent (50%) limited partnership interest to Chewco Investments, L.L.C. ("CHEWCO") and the financing of the purchase of such interest by CHEWCO and any subsequent refinancings thereof;

RESOLVED FURTHER, that all actions heretofore taken by an officer of the Company, related to or in connection with the transactions contemplated by these resolutions, including without limitation the execution and delivery of any instruments or other documents as any such officer shall have deemed necessary, proper, or advisable, are hereby adopted, ratified, confirmed, and approved in all respects; and

RESOLVED FURTHER, that the proper officers of the Company and its counsel be, and each of them hereby is, authorized, empowered, and directed (any one of them acting alone) to take any and all such further action, to amend, execute, and deliver all such further instruments and documents, for and in the name and on behalf of the Company, under its corporate seal or otherwise, and to pay all such expenses as in their discretion appear to be necessary, proper, or advisable to carry into effect the purposes and intentions of this and each of the foregoing resolutions.

Mr. Fastow stated that, as an information item, another "JEDI-like" joint venture was currently under negotiation with CalPERS.

Mr. Lay joined the meeting during Mr. Fastow's presentation.

Mr. Kean updated the Committee on the changes to be made in Enron Energy Services Power, Inc.'s ("EESPI") "Choice Plan" currently before the Pennsylvania Public Utility Commission. He outlined proposed changes which would address three concerns: (i) legal challenges to securitization; (ii) the manner of collecting stranded costs; and (iii) some ambiguity in the Choice Plan as to its effect on contracts already in existence. He stated that such changes reflected EESPI's efforts to put a more attractive proposal before the Commission than what had been submitted by PECO. Mr. Lay joined in the discussion and reported that he had been involved in positive meetings with the chief executive officer of Pennsylvania Power & Light regarding potential future business dealings between the two companies.

Mr. Skilling referred the Committee to the meeting material distributed to them earlier in the day regarding valuations of the stocks of Enron Oil & Gas Company ("EOG") and the Company, a copy of which is filed with the records of the Company. He stated that the valuations had been requested as a guideline for the Company's stock repurchases and any Company purchases of EOG Common Stock. He discussed EOG's primary valuation factors, cash flow, and net asset value. He reviewed Enron Capital Management's ("ECM") recommended valuation parameters for EOG Common Stock. He next discussed the primary valuation factors for the Company's Common Stock and reviewed ECM's recommended valuation parameters. In response to a question from Mr. Belfer, Mr. Skilling noted that the Company had suspended its share repurchases until after the merger of Enron Global Power & Pipelines, L.L.C. had been completed. Messrs. Lay and Koenig joined in the discussion and updated the Board on the status of the stock repurchases. Mr. Lay noted that at the appropriate time, the Company proposed to begin purchasing EOG Common Stock if its stock price fell within the valuation parameters which would support a purchase, such purchases to be consistent and in compliance with Federal Securities laws and other applicable state and federal rules and regulations. Following discussion, upon motion duly made by Mr. Belfer, seconded by Dr. LeMaistre, and carried, the proposed purchases of EOG Common Stock at prices within the valuation parameters presented to and discussed at the meeting were approved; provided, however, that an aggregate expenditure cap of $300 million was adopted for purchases of the common stock of EOG and repurchases of the Company's Common Stock.

There being no further business to come before the Committee, the meeting was adjourned at 1:45 p.m., C.S.T.

Secretary

APPROVED:

Chairman

pbm\minutes\11597EX

Interoffice Memorandum

Confidential Communications
Attorney-Client Privilege

To: Andy Fastow

From: Jordan Mintz

Department: Enron Global Finance-Legal

Subject: **LJM Proxy Disclosures (2002)**

Date: June 4, 2001

What follows below is a summary of the key steps to be taken so as to minimize any related-party and proxy disclosure Enron would be required to make in 2002 with respect to transactions executed ~~with~~ LJM 1 and 2 (collectively, the "LJM Entities") during 2001. Such steps are being taken in order to be responsive to certain commercial changes occurring at Enron. In that regard, it is intended that such approach would (i) cause the LJM Entities to cease to be related persons whose transactions with Enron are required to be disclosed for financial statement footnote purposes, and (ii) liquidate your interest in the LJM Entities in a fashion that minimizes the extent to which such interest must be described (except to note its disposition) in the proxy statement for next year's annual meeting.

Proposal

As you may recall, this year Enron and LJM2 have executed two transactions--one relating to the restructuring of Raptor and the other with respect to the repurchase of the Merlin CLO equity. The steps listed below are premised on all other pending transactions between Enron affiliates and the LJM Entities being frozen prior to such steps being implemented. (Raptor will continue to be disclosed in the 10-Q and year-end 10-K, and it is also likely the CLO equity repurchase will need to be disclosed in the second quarter 10-Q and year-end 10-K). However, if your interest in the LJM Entities is eliminated without recognizing value attributable to 2001 transactions, we do not anticipate that any material disclosure would be required in the 2002 proxy statement for the annual meeting, other than noting the unwind of your interest in LJM, assuming all of the following steps are taken:

(1) No "value", i.e. distributions, has been taken out of LJM by you this year and the purchase price paid by Michael Kopper does not reflect any amount attributable to 2001 transactions between Enron and the LJM Entities;

(2) The purchase of your entire interest in the LJM Entities by Michael Kopper will not be financed by you (or any person whose interest would be attributable to you for reporting purposes, such as family members) or Enron; and

(3) Michael will no longer be an employee of Enron or retain any material contractual relationship with the Company going forward.

In this manner, any proxy disclosure in 2002 is, again, likely to be limited to a notification of your termination of your interest in LJM, while -- with respect to the 10-Q/10-K -- earlier transactions will continue to be disclosed until they settle.

After you have had a chance to review this summary, please contact me with any questions/comments you may have. We should also discuss coordination and implementation matters

Cc: Rick Buy
Jim Derrick
Rob Walls
Rick Causey
Rex Rogers
Ron Astin (Vinson & Elkins)

EC 000024322

Jordan Mintz
01/04/2001 02:13 PM

To: Nicole Alvino/HOU/ECT, Barry Schnapper/Corp/Enron, ryan siurek
cc:
Subject: LJM Approval Sheets for Avici, Catalytica (Confidential Attorney/Client Communications)

Before the week gets away from us (and in lieu of having a formal meeting), I thought it may be helpful if I summarized the points I wanted to pass-onto you regarding the LJM Approval Sheet process. These points are applicable across the board regarding preparation of such Approval Sheets, but Avici/Catalytica are referenced by way of example.

Nicole has advised that if there is a general "theme" or guideline to follow in the preparation process, it is to be as innocuous as possible in terms of description, detail, etc. I understand the sensitivities that such approach is responding to. On the other hand, looking through my legal blinders, I'm inclined to want to see as much detail as possible -- under the assumption that such information will further substantiate the arm's-length nature of the transaction. This, in turn, provides evidence of Senior Management and the Board's carrying out their fiduciary duties, absence of a "sweetheart" deal, and the "legitimacy" of the financial treatment resulting from the transaction. In addition, by holding originators, etc accountable for negotiating the best deal available in a responsible manner, ie. starting the process early and thoroughly before turning to alternative resources, helps ensure proactive, in-the-best-interests-of the Company/shareholders behavior and further legitimizes those instances where LJM does become our counterparty. (In fact, if we were able to satisfy that level of substantiation, there is a reasonable argument that the underlying transaction would not have to be disclosed for Proxy purposes, although it is likely that it still would have to be disclosed in the financial statement footnotes). To that end, by way of example, our justification for turning to LJM because "no other transaction could be closed in a timely manner...." is self-serving, as is the check-off (without explanation) that the "transaction [is] the most beneficial to Enron" and (also without explanation) that the "transaction [was] done strictly on an arm's-length basis."

I appreciate that the issues I am raising go beyond the responsibilities of the "poor associate" charged with preparing the LJM Approval Sheet; nevertheless, the process, as I have outlined above, needs to be materially improved if we are called to task to demonstrate the arm's-length nature/fairness of any transaction entered into between Enron and LJM. There needs to be a rigorous adherence to the "spirit" of the processes to be undertaken as reflected in the Approval Sheet. These points are going to be further developed in a memo I am currently preparing for the benefit of Rick Causey and Rick Buy.

Please let me know your thoughts, suggestions.
Thanks.
Jordan

MINUTES
MEETING OF THE FINANCE COMMITTEE
OF THE BOARD OF DIRECTORS
ENRON CORP.
MAY 1, 2000

Minutes of a meeting of the Finance Committee ("Committee") of the Board of Directors of Enron Corp. ("Company"), noticed to begin at 4:00 p.m., C.D.T., but actually begun at 4:10 p.m., C.D.T., on May 1, 2000 at the Enron Building in Houston, Texas.

The following Committee members were present:

Mr. Herbert S. Winokur, Jr., Chairman
Mr. Robert A. Belfer
Mr. Norman P. Blake, Jr.
Mr. Frank Savage

Committee members Ronnie C. Chan, Jerome J. Meyer, Paulo V. Ferraz Pereira, and John A. Urquhart were absent from the meeting. Directors John H. Duncan, Ken L. Harrison, Kenneth L. Lay, and Jeffrey K. Skilling, Messrs. Richard B. Buy, Richard A. Causey, Andrew S. Fastow, Ben F. Glisan, Jr., David B. Gorte, Mark E. Koenig, Jeffrey McMahon, Theodore R. Murphy, and Joseph W. Sutton, and Ms. Rebecca C. Carter, all of the Company or affiliates thereof, also attended the meeting.

The Chairman, Mr. Winokur, presided at the meeting, and the Secretary, Ms. Carter, recorded the proceedings.

Mr. Winokur called the meeting to order and called for a revised agenda to begin with the Treasurer's report. He called upon Mr. McMahon to begin the presentation, a copy of which is filed with the records of the meeting. Mr. McMahon reviewed the liquidity report as of March 31, 2000 and noted that the Company's total liquidity was over $8 billion. He reviewed year-to-date investments and proceeds on sales of assets and stated that the Company still planned to monetize over $1 billion in investments before the end of the year. He discussed the status of capital commitments by business unit and active letters of credit. He reviewed the guarantee portfolio and commented that the portfolio was expected to increase with the growth in certain businesses. He reviewed the Company's rating by each rating agency and noted that Moody's Investor Services had recently upgraded the Company to Baa1 and, therefore, the Company no longer had a split rating between the two largest rating agencies. He also noted that Standard & Poors Corporation was currently performing its annual analysis of the Company and that Duff & Phelps Credit Rating Co. had recently acquired Fitch IBCA.

Mr. McMahon then discussed the Company's need for additional borrowing flexibility and a proposed authorization for additional debt securities to include the issuance and sale of incremental, unsecured senior debt securities in an amount not to exceed $1 billion. Upon motion duly made by Mr. Blake, seconded by Mr. Savage, and carried, the proposed issuance and sale of incremental, unsecured senior debt securities in an amount not to exceed $1 billion was approved for recommendation to the Board.

Mr. Winokur then noted that a draft of minutes of the meeting of the Committee held on February 7, 2000 had been distributed to the Committee members and called for any corrections or additions. There being none, upon motion duly made by Mr. Blake, seconded by Mr. Belfer, and carried, the minutes of the meeting of the Committee held on February 7, 2000 were approved as distributed.

Mr. Winokur called upon Mr. Fastow to present the Chief Financial Officer's report, a copy of which is filed with the records of the meeting. Mr. Fastow began his presentation by introducing Mr. Glisan and stating that the Company was proposing that Mr. Glisan replace Mr. McMahon as the Company's Treasurer. He discussed Mr. Glisan's background along with backgrounds of Barry J. Schnapper and Timothy A. DeSpain, two individuals that the Company was proposing be elected Deputy Treasurers of the Company. Upon motion duly made by Mr. Blake, seconded by Mr. Belfer, and carried, the proposed officer elections were approved for recommendation to the Board.

Mr. Fastow then discussed the Company's current and projected key financial ratios and stated the ratios were based on the assumption that the proceeds from the sale of Portland General Electric Company were reinvested in the Company's other businesses. He reviewed the stock trading portfolio and the Company's cost of capital, stating that all of the transactions in the portfolio were accomplished utilizing swaps and that the increase in the cost of capital was due to the increase in the Company's stock price. He commented on the Company's increased borrowing spreads, noted that other companies have also experienced increased borrowing spreads, and stated that the offsetting decline in the yield curve has led to borrowing costs comparable to year end costs. He compared the Company's five-year borrowing spread to the BBB and A indices and stated that the Company's borrowing spread was more favorable than its rating would suggest.

Mr. Fastow then gave the Committee an update on LJM2 transactions with the Company including the level of capital commitments, number of investors, number and dollar value of investments already completed, and the Company's business units that had transacted with LJM2. He commented on the direct and indirect impact of LJM1 and LJM2 ("the investment vehicles") on the Company's earnings and funds flow. He stated that he had hired individuals to manage the investment vehicles and that he personally was devoting approximately three hours a week to the investment vehicles. He then called upon Mr. Glisan to discuss Project Raptor.

Mr. Glisan stated that Project Raptor involved establishing a risk management program to enable the Company to hedge the profit and loss volatility of the Company's investments. He discussed the highlights of Project Raptor including the establishment of a non-affiliated vehicle ("Talon") as a hedge counterparty to selected investments, the mechanism for funding Talon, and the level of hedging protection Talon could initially provide the Company. He reviewed the structure of Talon and the amount of capital that would be contributed by LJM2. Mr. Causey joined the discussion and stated that Arthur Andersen LLP had spent considerable time analyzing the Talon structure and the governance structure of LJM2 and was comfortable with the proposed transaction. Mr. Glisan then discussed Project Raptor's risk and potential mitigants to those risks. Following a discussion, upon motion duly made by Mr. Blake, seconded by Mr. Savage, and carried, Project Raptor was approved for recommendation to the Board.

Mr. Winokur called upon Mr. Buy to present the Chief Risk Officer's report, a copy of which is filed with the records of the meeting. Mr. Buy reviewed the current Transaction Approval Process ("TAP") and noted that certain revisions were proposed to reflect recent organizational changes at the Company. The Committee then discussed the TAP for divestitures, currently requiring Board approval for divestitures exceeding $500 million. Following a discussion, the Committee recommended that the TAP be modified such that divestitures be classified as either strategic assets or merchant assets and that the threshold for requiring Board approval would be $200 million for strategic assets and would remain at $500 million for merchant assets. Mr. Buy then answered questions from the Committee regarding the Risk Assessment and Control Group's ("RAC's") analysis of proposed transactions that require additional investments in the future and that involve obtaining toehold positions in publicly traded companies. Following a discussion, the Committee agreed that toehold positions in publicly traded companies should be considered non-conforming transactions per the TAP. Upon motion duly made by Mr. Blake, seconded by Mr. Belfer, and carried, the proposed revisions to the Enron Corp. Transaction Approval Process presented and discussed at the meeting were approved for recommendation to the Board.

Mr. Buy then discussed proposed changes to the Enron Corp. Risk Management Policy ("the Policy"). He stated that the Company was recommending that the Policy be amended to include Japanese Electricity as a new commodity group and noted that the individuals currently analyzing the business opportunities in Japan were the same individuals that had set up the Company's operations in Australia. He then discussed certain proposed limit increases to existing commodity groups within the Policy, including Australian Electricity, Pulp & Paper, and Equity Trading, and certain permanent limit structures and limit increases for commodity groups currently covered under the Interim Policy, including Southern Cone Electricity and Gas. He also noted that there was a proposal to change the wording of the Policy to clarify the difference between position limit violations and loss notification requirements. Upon motion duly made by Mr. Blake, seconded by Mr. Belfer, and carried, the proposed revisions to the Policy were approved for recommendation to the Board.

Mr. Buy then discussed the composition of the Company's merchant portfolio as of December 31, 1999 and any significant changes since the December Board meeting. He commented on the Company's credit exposure to TXU Europe Energy Trading Ltd. ("TXU"), formerly known as Eastern Energy & Power Trading Ltd., noted that the exposure was associated with long term transactions with TXU, and stated that the Company was actively pursuing credit risk mitigation opportunities. He reviewed a detail of non-performing assets, the overall credit reserve, and the Company's equity investments.

Mr. Buy then presented RAC's review of certain Enron Energy Services, LLC ("EES") transactions to ascertain the reasons why RAC and EES have calculated different expected values for proposed transactions. He noted that RAC models the EES base case and does not incorporate certain potential upsides, such as the potential for additional services, into its valuation. He stated that RAC would be incorporating methodologies to enable it to perform a consistent appraisal of the potential upside in EES transactions. He then presented a summary of EES's total commodity portfolio and discussed the two components, wholesale and regulated. He noted that the wholesale portion was incorporated into the North American limits of the Policy and that the regulated portion related to expectations regarding the timing of deregulation and the extent of declines in tariff prices. He then discussed the credit quality of EES's counterparties and noted that 80% were investment grade and that the overall credit quality was very strong. Messrs. Skilling and Sutton joined Mr. Buy in answering questions from the Committee on the EES portfolio and RAC's review of EES.

Mr. Buy then updated the Committee on RAC's Foreign Exchange Project ("the FX Project) that was previously discussed with the Board at the February Committee meeting. He stated that the objective of the project was to identify, measure, and report on foreign currency economic exposure for the Company's worldwide merchant and strategic asset activities. He discussed the FX Project timeline for the Company's overseas regions and the targeted completion dates. He presented an overview of the methodology used in the FX Project including how the exposure would be identified, the data collection tool and the foreign exchange reporting model that RAC had developed, and the overall reporting. He stated that RAC had completed the analysis of Enron South America and he discussed the net notional position by asset and by position type, noting that the majority of the Company's exposure was related to Elektro and was considered a currency translation adjustment exposure. He reviewed the market data on the Brazilian currency, the reais, and noted when the Company had made its major investments in the country and its sensitivity to devaluation of the currency.

Mr. Buy then presented the Market Risk Update and discussed the returns each commodity group had earned compared to the Value-at-Risk ("VAR") it had taken. He gave an overview of the VAR backtesting, stress testing, and the Company's exposure under a "worst case" scenario of 5%-25% shifts in commodity prices. He reviewed limit violations during the first quarter of 2000, noted that the majority of the violations had occurred in the equity portfolio, and discussed the reasons for the violations. He presented two charts displaying VAR as a percentage of market capitalization and of net income for the Company, financial institutions, and other energy companies and commented on how the Company's risk profile impacted the comparisons.

There being no further business to come before the Committee, the meeting was adjourned at 5:40 p.m., C.D.T.

Rebecca C. Carter
Secretary

APPROVED:

Chairman

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CONFIDENTIAL

Endless possibilities.™

Finance Committee Meetin

May 1, 200

Committee Members

Mr. Herbert S. Winokur, Jr., Chairm
Mr. Robert A. Belfer
Mr. Norman P. Blake, Jr.
Mr. Ronnie C. Chan
Mr. Jerome J. Meyer
Mr. Paulo V. Ferraz Pereira
Mr. Frank Savage
Mr. John A. Urquhart

LJM2 Update

- $386 million of capital commitments
- 33 investors including pension funds, insurance companies, banks, private funds, individuals
- 7 investments to date 5 different business units
  - $139 million
  - All purchased from Enron
  - Projected IRR of investments = 17.95% - not leveraged
  - 5 different business units

Provide capital very quickly b/c of prior knowledge of the transactions

Direct and indirect LJM impact (including LJM1)

- Earnings = $229.5 million
- Funds flow = $2,077.4 million
- Fee savings = $2.3 million
- LJM2 provided marketing "backstop" on 3 occasions
- Q4 1999: 8 days/6 deals/$125 million

Andy discussed his time commitment Approx. 3 hrs a week spent

Agenda Item 2a

Project Raptor

Hedging Program for Enron Assets

ENRON®
Finance Committee Meeting
04/00
Glisan

EC 000025081

Purpose

Establish a risk management program in order to hedge the Profit & Loss volatility of Enron investments

Original transaction last year LJM to hedge an investment the company did

(2) coming to a new transaction [illegible] pricing

Finance Committee Meeting
04/00

EC 000025082

Structural Highlights

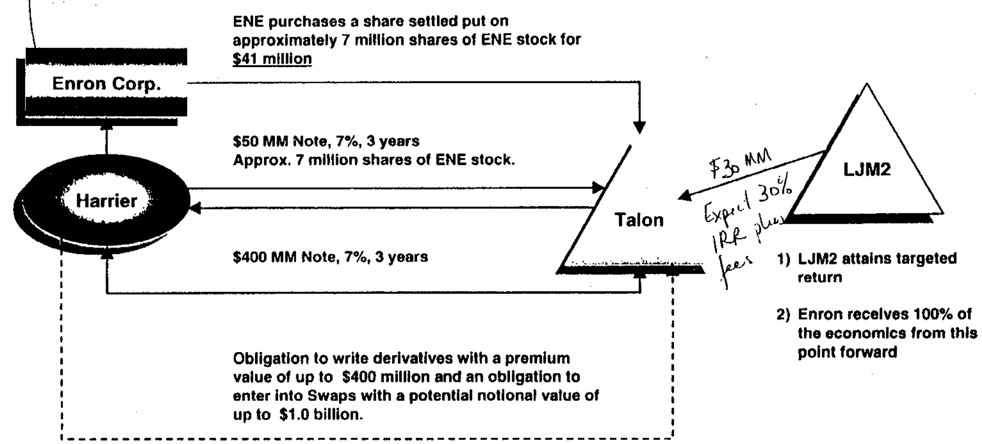
- ENE will help establish a non-affiliated vehicle ("Talon") as a hedge counterparty to selected investments.
- Excess stock from existing structured finance vehicles will be utilized to seed approximately $400 million of capital to Talon. (ie UBS forward position)
  As our stock increases ... (currently held in SPV)
- Initially, vehicle can provide approximately $200 million of P & L protection to ENE. As ENE stock price increases, the vehicle's P & L protection capacity increases as well.
- LJM2 will provide non-ENE equity and will be entitled to a 30% annualized return plus fees.
- ENE will be entitled to 100% of the upside beyond LJM2's return hurdle.

Does not transfer economic risk but transfers P&L volatility

ENRON®
Finance Committee Meeting
04/00

EC 000025083

Vehicle Structure



Enron owns a member interest in Talon

- Talon also owns approx. $400 million of ENE stock which is subject to a 3 year stock restriction agreement - Talon cannot sell or hedge the stock.

Causey - AA has spent considerable time analyzing structure. Also looking at LJM2's governance structure.

Finance Committee Meeting 04/00

EC 000025084

Project Raptor

Risks

- Accounting scrutiny
- Substantial decline in the price of ENE stock
  - Program terminates early
  - Increases credit risk
- Counterparty credit

Mitigants

- Transaction reviewed by CAO and Arthur Anderson
- Negotiation of early termination with LJM2
- Assets of vehicle subject to a master netting agreement

Finance Committee Meeting
04/00

EC 000025085

RESOLUTIONS OF THE BOARD OF DIRECTORS OF ENRON CORP.

May 2, 2000

WHEREAS, Enron Corp. (the "Company") desires to consummate a series of risk management transactions involving (1) the issuance by a newly organized subsidiary entity of the Company to be named Harrier or a similar name ("Harrier") of a debt security (the "Harrier Note") in consideration of (a) the execution and delivery of the Master Agreement described below and the Security Agreement described below, and (b) the contemporaneous issuance to Harrier by a newly formed entity ("Talon") to be owned indirectly by LJM2 Co-Investment, L. P. (together with its subsidiaries and affiliates, "LJM2") and Harrier of (i) an equity interest in Talon, and (ii) a debt security having a like tenor to the Harrier Note (the "Talon Note") to Talon, (2) the guarantee by the Company of the indebtedness of Harrier under the Harrier Note and the performance of the obligations of Harrier under the Talon Derivatives described below and of any affiliate of the Company under the Securities Agreement described below, (3) the entry by the Company or such subsidiary of a series of agreements with Talon providing for the risk management by the Company against (a) fluctuations in value of, or returns receivable in respect of, equity securities (and derivatives with respect thereto) designated by the Company or its subsidiaries and affiliates, including, without limitation, equity securities acquired or to be acquired by the Company in connection with its broadband activities and merchant assets generated in the Company's wholesale business, and (b) fluctuations in value of a number of shares of Common Stock of the Company to be agreed between the Company and LJM2 from a price to be established by agreement between the Company and LJM2 (the "ENE Derivative"), through the execution of a master agreement and related derivative securities and risk management transactions under the terms agreed in the documents to be executed in connection with the transaction, (4) as partial consideration for the issuance of the Talon Note and equity interest in Talon, the entry by an affiliate of the Company and Talon of an agreement (the "Securities Agreement") granting Talon the right to acquire an agreed number of shares of Common Stock of the Company in which such subsidiary presently owns an indirect beneficial interest, and (v) as partial consideration for the issuance of the Talon Note and equity interest in Talon, the assignment by the Company or an affiliate to Talon of rights to acquire shares of Common Stock of the Company (or equivalent value) (the "UBS Transaction") arising from amendment of certain existing agreements between the Company and an international banking institution (collectively referred to herein as the "Transactions");

NOW, THEREFORE, IT IS RESOLVED, that the Transactions, including without limitation, the execution and delivery by Harrier to Talon of the ENE Derivative and the acquisition by Talon of shares of Company Common Stock, if any, issued in settlement of the ENE Derivative and the Securities Agreement, are hereby authorized and approved, that any actions taken by officers and officials of the Company prior to the date hereof with respect to the Transactions are hereby ratified, and that the Company shall proceed with the consummation of the Transactions in accordance with the resolutions hereby adopted;

RESOLVED FURTHER, that the Transactions shall be subject to the following terms and conditions (the "Board Conditions"):

(i) the definitive contracts and agreements relating to the Transactions shall have such terms and conditions as are negotiated and approved by an officer of the Company or other person authorized and empowered to act pursuant to these resolutions, the execution of which by any such officer or person, in the name and on behalf of the Company, to be conclusive evidence of the approval by such officers or person of the contents thereof;

(ii) the maximum aggregate principal amount of the Harrier Note to be issued by Harrier to Talon in connection with the Transactions shall not exceed $50 Million and the interest rate payable thereon shall not exceed 7%; and

(iii) the maximum number of shares of Company Common Stock (i) subject to the ENE Derivative shall not exceed 7.5 million shares, and the ENE Derivative shall provide that any payment required to be made by Harrier or the Company thereunder may be made in either cash or shares of the Company's Common Stock, at the Company's sole option, and (ii) issuable under the Securities Agreement shall not exceed 4.2 million shares.

RESOLVED FURTHER, that each of the Chairman and Chief Executive Officer, the President and Chief Operating Officer, any Vice Chairman or any Vice President is hereby authorized, empowered and directed, with the power and authority of the full Board of Directors to the fullest extent permitted by law, to authorize and approve (or ratify if already executed or taken) all agreements, instruments, and documents, and the taking of all actions, as any such officer may deem necessary, advisable, convenient or proper to consummate the Transactions (subject, however, in all respects, to the Board Conditions), including, without limitation:

(i) all matters insofar as they affect the Company or any of its subsidiaries or affiliates associated with the formation of Talon and the acquisition by Harrier of an equity interest therein, including, without limitation, the execution and delivery of constituent agreements establishing Talon and the terms thereof and the establishment of the amount and form of any capital contribution to be made to Talon in respect of Harrier's equity interest therein);

(ii) the authorization, execution and delivery of a guarantee agreement whereby the Company guarantees the indebtedness under the Harrier Note and the performance of the obligations of Harrier under the Talon Derivatives and of any affiliate of the Company under the Securities Agreement;

(iii) the authorization, execution and delivery of a master agreement (the "Master Agreement") providing for the general terms and conditions upon which the risk management activities contemplated by the Transactions will take place, the related form of the 1992 ISDA Master Agreement (Multicurrency-Cross Border), as modified by agreements of the parties and individual confirmations relating to particular transactions (collectively, the "Talon Derivatives"), and the security agreement granting the Company a security agreement in amounts received by Talon in order to secure Talon's obligations under the Talon Note, the Talon Derivatives and the ENE Swap (the "Security Agreement"), in each case having such terms and conditions (including pricing terms) as such officer shall approve;

(iv) the authorization, execution and delivery of the Harrier Note with such terms and conditions (including pricing terms) as such officer shall approve;

(v) the approval insofar as they affect the Company or any of its subsidiaries or affiliates of a form of note representing the Talon Note and the issuance by Talon of such Talon Note;

(vi) the authorization, execution and delivery of a registration rights agreement among the Company and Talon providing for, among other things, the registration of any shares of Common Stock of the Company that may be delivered by the Company or its affiliates in performance of the ENE Derivative and the Securities Agreement, with such terms and conditions as such officer shall approve; and

(vii) the negotiation, authorization, execution, and delivery of such other agreements, instruments and documents relating to the Transactions, including, but not limited to, agreements affecting the UBS Transaction and agreements, instruments, and documents that provide, among other things, for the indemnification of third parties, and the payment of fees and expenses of third parties as such officer may deem necessary, advisable, convenient or proper in connection with the Transactions or any other matters addressed by these resolutions; 28

RESOLVED FURTHER, that in addition to the officers appointed above, Ben F. Glisan is hereby appointed as agent and attorney-in-fact of the Company and is authorized, empowered and directed, with the power of the full Board of Directors, subject to control and direction by the Company, to the fullest extent permitted by law, to authorize and approve (or ratify if already executed or taken) all agreements, instruments, and documents, and the taking of all actions as such agent and attorney-in-fact may deem necessary or desirable and shall have all the powers of an officer of the Company with respect to these resolutions (subject, however, in all respects, to the Board Conditions) solely for the purpose of consummating the Transactions; it is the intent of the Board of Directors that Mr. Glisan, in his capacity as agent and attorney-in-fact of the Company, shall have all the duties, obligations and responsibilities of an officer of the Company for purposes of the Transactions, as if he were an officer of the Company;

RESOLVED FURTHER, that an aggregate of 7.5 million shares of Common Stock are hereby reserved for issuance in settlement of the ENE Derivative referred to above in the event the Company elects to make settlement thereunder in shares of Company Common Stock;

RESOLVED FURTHER, that the Company is authorized to issue such shares of Common Stock of the Company in settlement of the ENE Derivative, and to offer and sell any such shares delivered in settlement of the Securities Agreement and that upon any such issuance in accordance with the terms of the ENE Derivative and Securities Agreement, such shares of Common Stock shall be validly issued, fully paid and non-assessable;

RESOLVED FURTHER, that if it is deemed necessary or advisable by the officers of the Company that the Common Stock issuable upon settlement of the ENE Derivative or the Securities Agreement be qualified or registered for sale under the applicable Blue Sky Laws or securities acts of any jurisdiction, or that a filing be made in any jurisdiction to secure or obtain an exemption from qualification or registration, the officers of the Company are each authorized to perform on behalf of the Company any and all such acts as any one or more of them may deem necessary or advisable in order to comply with such laws of such jurisdiction, and in connection therewith, to execute and file all requisite papers and instruments and to make any and all payments of filing, registration or other fees, costs and expenses, and to take any and all further action in connection with the foregoing which any one or more of them shall deem necessary or advisable;

RESOLVED FURTHER, that if the officers of the Company determine that it is desirable for the Company to do so, the Company may make application to the New York Stock Exchange, Inc. and one or more other national securities exchanges for listing of the Enron Common Stock to be issued in the Transactions; that the Chairman of the Board, any Vice Chairman of the Board, the President, any Executive or Senior Vice President, or any Vice President of the Company be, and they hereby are, authorized and directed to execute and deliver any applications, documents, or agreements, to take any and all actions, to appear before such exchanges if necessary, to appoint any banking or other institution as an agent of the Company for any purpose, and to do so or cause to be done any and all things as may appear to them to be necessary or desirable in order to effect such listing;

RESOLVED FURTHER, that the execution by any officer of the Company of any papers and instruments or the performance by any one or more of them of any act in connection with the foregoing resolutions shall conclusively establish their authority therefor from the Company and the approval and ratification by the Company of the papers and instruments so executed and the actions so taken;

RESOLVED FURTHER, that the actions of the officers and employees of the Company acting under the supervision of the officers heretofore taken on behalf of the Company in connection with the above resolutions and the actions contemplated thereby, are, in all respects, confirmed and ratified, and the officers of the Company, together or individually, may take any and all action and do any and all things, or direct the taking of such action or the doing of such things by employees of the Company acting under the supervision of the officer(s) as may be deemed by any of them to be necessary or advisable to effectuate the Transactions, and the taking of any and all such actions and the performance of any and all such things in connection with the foregoing shall conclusively establish their authority from the Company and the approval and ratification by the Company.

MINUTES
MEETING OF THE AUDIT AND COMPLIANCE COMMITTEE
OF THE BOARD OF DIRECTORS
ENRON CORP.
FEBRUARY 12, 2001

Minutes of a meeting of the Audit and Compliance Committee ("Committee") of the Board of Directors of Enron Corp. ("Company"), noticed to begin at 1:30 p.m., C.S.T., but actually begun at 1:40 p.m., C.S.T., on February 12, 2001 at the Enron Building, Houston, Texas.

All of the Committee members were present as follows:

Dr. Robert K. Jaedicke, Chairman
Mr. Ronnie C. Chan
Dr. Wendy L. Gramm
Dr. John Mendelsohn
Mr. Paulo V. Ferraz Pereira
Lord John Wakeham

Directors Kenneth L. Lay and Jeffrey K. Skilling, Messrs. Robert H. Butts, Richard B. Buy, Richard A. Causey, James V. Derrick, Jr., Shawn Kilchrist, Mark E. Koenig, Tod A. Lindholm, and Jordan H. Mintz and Ms. Rebecca C. Carter, all of the Company or affiliates thereof, Messrs. Thomas H. Bauer and David B. Duncan, of Arthur Andersen LLP ("AA"), and Mr. Richard N. Foster of McKinsey & Company, Inc. also attended the meeting.

The Chairman, Dr. Jaedicke, presided at the meeting, and the Secretary, Ms. Carter, recorded the proceedings.

Dr. Jaedicke called the meeting to order, noted that a draft of the minutes of the meeting of the Committee held on December 11, 2000 had been distributed to members of the Committee, and called for comments, additions, or corrections. There being none, upon motion duly made by Lord Wakeham, seconded by Dr. Mendelsohn, and carried, the minutes of the meeting of the Committee held on December 11, 2000 were approved as distributed.

Dr. Jaedicke called upon Mr. Duncan to begin AA's presentation, a copy of which is filed with the records of the meeting. Mr. Duncan began by providing an update of the status of AA's audit and the communications required by AA under the Statement on Auditing Standards 61, "Communication with Audit Committees". He noted that AA's financial statement opinion was expected to be unqualified and that there were no significant audit adjustments, new accounting policies, changes not previously communicated to the Committee, modifications to interim financial information, disagreements with management, significant difficulties encountered during the audit, major issues discussed with management affecting retention, or consultation with other accountants on the application of Generally Accepted Accounting Principles ("GAAP").

Mr. Duncan then discussed AA's opinion on the Company's internal controls and stated that the opinion would be unqualified, the audit was complete, and no material weaknesses had been identified. He stated that Mr. Kilchrist would discuss certain areas where improvement opportunities had been identified. He noted that AA had made its annual determination that, in its professional judgement, it remained independent. He then discussed the status of any adjustments proposed by AA that were not made and noted that management had determined that the items were not material to the Company's financial statements taken as a whole and that AA had concurred.

Mr. Duncan then provided selected observations regarding the Company's accounting procedures and financial reporting. He stated that the Company continued to utilize highly structured transactions, such as securitizations and syndications, in which there was significant judgement required in the application of GAAP. He commented on the use of mark-to-market and fair value model accounting in the areas of trading and derivative contracts and stated that these also required significant judgement regarding the applicability of certain models to specific products or transactions. He then reviewed related party transactions, classification issues that had arisen during the year, and certain other areas requiring material judgments to be made.

Dr. Jaedicke then called upon Mr. Causey to review the significant reserves included in Enron's 2000 financial statements. Mr. Causey distributed a handout, a copy of which is filed with the records of the meeting, listing the reserves in the 1998, 1999, and 2000 financial statements. He commented on reserves relating to Portland General Electric's Trojan facility and Sullivan plant. He then discussed an Enron North America reserve relating to a potential contract settlement, prudency and credit reserves, and certain tax reserves related to years under audit.

Mr. Causey then began a discussion of transactions with LJM during 2000. He stated that the Company had established internal policies and procedures to deal with related party transactions such as LJM. He reviewed the Board established guidelines for transacting with LJM and then began a discussion of the Company's compliance with the guidelines. He stated that, in response to the Board's direction, the Company had adopted the following procedures and controls: 1) an LJM Deal Approval Sheet ("DASH") was prepared for every transaction between the Company and LJM with approval required by a variety of senior-level Company professionals in the commercial, technical, and commercial support areas and 2) the DASH was supplemented by an LJM Approval Process Checklist that tested for compliance with the Board's directive for transacting with LJM. He then stated that the Company had implemented supplemental efforts regarding transactions with LJM including the following: 1) LJM senior professionals do not ever negotiate on behalf of the Company, 2) Company professionals negotiating with LJM report to senior Company professionals separate from Mr. Andrew S. Fastow, 3) numerous groups monitor compliance with procedures and controls and regularly update him and Mr. Buy, and 4) the Company regularly consults with internal and outside counsel regarding disclosure obligations. He then presented all of the transactions between the Company and LJM during 2000, gave a brief description of each transaction, and noted the notional amount. He noted that the majority of the transactions were non-earnings related and were primarily related to deconsolidations, securitizations, or monetizations.

Dr. Jaedicke then called upon Mr. Derrick to begin the report of legal matters disclosed in Enron's financial statements. Mr. Derrick reviewed the footnote in the Company's financial statements regarding litigation and other contingencies and answered questions from the Committee relating to the disclosure items.

Dr. Jaedicke called upon Mr. Causey to discuss the Company's 2000 financial statements. Mr. Causey stated that the 2000 financial statements would include a new segment, Broadband Services, reflecting the Company's increased activities in this area. He then reviewed certain areas of disclosure relating to the Wholesale Services business segment and discussed the segment's dependence on the origination and completion of transactions, some of which are individually significant and impacted by market conditions, the regulatory environment, and customer relationships. He then distributed updated pages to the financial statements on credit risk and recently issued accounting pronouncements, copies of which are filed with the records of the meeting, and commented on changes in the Company's credit risk from the prior year. He then reviewed the disclosure regarding the impact of changes in accounting principles. Following a discussion, upon motion duly made by Dr. Gramm, seconded by Mr. Chan, and carried, the Committee approved for recommendation to the Board the proposed 2000 financial statements to be included in Enron's annual report and Form 10-K.

Dr. Jaedicke called upon Mr. Causey to discuss the Audit and Compliance Committee Report. Mr. Causey stated that the Securities and Exchange

Commission ("SEC") was now requiring a report from the Committee to be included in the Company's proxy statement. He reviewed the report and, following a discussion, upon motion duly made by Mr. Ferraz Pereira, seconded by Dr. Mendelsohn, and carried, the proposed Audit and Compliance Committee Report was approved

Dr. Jaedicke then called upon Mr. Causey to discuss the revised Audit and Compliance Committee Charter ("Charter"). Mr. Causey stated that the Charter was required to be put in the proxy every three years. He stated that the only change to the Charter related to the area concerning the Committee's review of the Company's financial statements and included the addition of the following responsibility: "review with management the Company's policies and practices for communications with analysts". Following a discussion, upon motion duly made by Mr. Ferraz Pereira, seconded by Dr. Gramm, and carried, the proposed Charter was approved for recommendation to the Board.

Dr. Jaedicke called upon Mr. Causey to begin the annual report on executive and director use of corporate aircraft. Mr. Causey reviewed the taxable value, flight hours, and direct cost for each officer who had utilized the Company's aircraft during the year.

Dr. Jaedicke then called upon Mr. Causey to discuss the 2001 Internal Control Audit Plan. Mr. Causey began with a review of the key business trends impacting the Company, including the significant growth in volumes and transactions, a rapid extension of the network model to new markets and locations, an aggressive movement to e-commerce platforms, a growth in Enron Energy Services and Enron Broadband Services, increasing investment in information systems development, the continued use of sophisticated portfolio and capital management practices, and the planned divestiture of various capital intensive assets. He then presented an overview of the Company's business risk assessment and commented that there were no significant changes from the prior year. He displayed a chart of the key business risks, which included the major target activities, and noted that the Company and AA continued to expand their activities into the growth areas at the Company. He commented on the key changes from the prior year in all of the key business risk areas.

He then reviewed the planned control work effort by business area and business unit for the year 2001, compared them to the years 1998 through 2000, and stated that the current year's plan was fairly consistent with that of 2000. He then called upon Mr. Kilchrist to discuss certain areas that would be emphasized in 2001. Mr. Kilchrist stated that one of the primary areas of emphasis in 2001 would be the Company's systems. He noted that the core gas and power trading systems were being redesigned and there were new or expanded systems being developed for some of the Company's newer businesses. He then commented on other basic controls that would be emphasized during 2001 and began a discussion of the shared assurance services. He noted that the Company would be working with AA on shared assurance services, stated that his group would be overseeing the internal audit process, and outlined the work that would be performed by AA and the Company. He noted that the Company had formed internal control committees in each of the business units to assist in the implementation of control and process assessment and improvement.

Dr. Jaedicke then called upon Mr. Koenig to review the Company's policies and practices for management's communications with analysts. Mr. Koenig distributed a handout, a copy of which is filed with the records of the meeting, and began with a discussion of the Company's Investor Relations group ("IR group"). He stated that the IR group had a high level of interaction and coordination with the Company's business units, corporate accounting, public relations, finance, and legal to ensure that a consistent message was being delivered. He then reviewed the Company's primary means of communicating with investors and stated that the SEC had recently implemented Regulation FD, which dealt with fair disclosure issues. He noted that this was the first attempt by the SEC to directly regulate communications between public companies and investors and that the regulation required that material developments or expectations must be communicated to all investors simultaneously and transparently. He stated that the SEC's single biggest area of concern regarded selective earnings guidance, and he reviewed the individuals that were and were not subject to Regulation FD. He noted that Regulation FD does not define materiality in regards to what is non-public material information, and he stated that common guidelines under case law precedents would likely apply. He then discussed items that would likely be considered material information, such as events including earnings information, merger and acquisition activity, new products or discoveries, changes in management, and changes in financial condition. He stated that there were no specific Regulation FD mandates but that the Regulation would be satisfied if "the method of public disclosure is reasonably designed to provide broad non-exclusionary distribution of the information to the public". He then reviewed the potential impact of the Regulation on the IR group and their meetings and discussions with analysts and investors.

Dr. Jaedicke then stated that the Credit and Market Risk Update, included on the agenda, would be discussed in the Finance Committee meeting.

Dr. Jaedicke recessed the meeting at 3:15 p.m., C.S.T., on February 12, 2001 and reconvened the meeting, in executive session, at 7:50 a.m., C.S.T., February 13, 2001 at the Enron Building in Houston, Texas.

During the executive session the Committee unanimously approved recommending to the Board that AA be appointed the Company's independent public accountants for 2001.

There being no further business to come before the Committee, the meeting was adjourned at 8:00 a.m., C.S.T.

Secretary

APPROVED:

Chairman

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Andersen Recasting Its Image

Volcker to Lead Reform Effort

By David S. Hilzenrath and Jackie Spinner
Washington Post Staff Writers
Monday, February 4, 2002; Page A01

Facing new accusations that it helped Enron Corp. deceive the public about the energy company's financial condition, accounting firm Arthur Andersen said yesterday that former Federal Reserve Board chairman Paul A. Volcker will lead an effort to reform its practices.

Andersen also said it will no longer offer certain consulting services to its audit clients, bowing to criticism that such work can undercut an auditor's independence.

The announcement came one day after a report commissioned by Enron directors alleged that Andersen helped design a web of complicated transactions whose purpose was to get around accounting rules and hide large debts and losses. Andersen, "including the local engagement team and, apparently, Andersen's national office experts in Chicago -- had to surmount numerous obstacles presented by pertinent accounting rules," the report said.

Andersen declined to discuss its Enron work at a news conference yesterday, but it issued a statement saying the Enron report was an effort "to shift blame to others." Andersen said Enron's demise resulted from its own bad business decisions.

"[W]e firmly believe our audit of Enron was conducted with rigor and in full accord with the standards of our profession," Andersen said in the statement.

Andersen chief executive Joseph F. Berardino is scheduled to testify tomorrow before one of several congressional committees investigating Enron's collapse. The new report adds fuel to the investigations, which already included Andersen's shredding of Enron-related records.

"Were they brain dead? Incompetent? What on earth has happened?" Sen. Byron L. Dorgan (D-N.D.) said yesterday on NBC's "Meet The Press."

The report is so critical of Andersen that it seems to obligate Enron's board of directors to sue Andersen "on the grounds that it was not simply negligent, but it was designing these transactions with an interest in hiding the economic results," said John C. Coffee Jr., a law professor at Columbia University.

Andersen, already facing investor lawsuits and probes by the Justice Department and the Securities and Exchange Commission, as well as congressional panels, sought yesterday to restore confidence in the firm.

Berardino said that when Andersen serves as outside auditor of a publicly traded company, it will no longer perform information technology or internal audit services for that client. He also promised to follow whatever recommendations Volcker and other members of a soon-to-be-created internal oversight board produce.

Volcker, 74, who is chairman of the International Accounting Standards Committee, said he would not be paid for the Andersen assignment. "My interest is well beyond Arthur Andersen," he said. "I think accounting and auditing in this country is in a state of crisis."

The report portrayed Enron as addicted to accounting ruses and Andersen as its enabler.

The report noted that investigators were unable to get Andersen's version of events. Investigators had limited access to Andersen's records, and Andersen did not allow them to interview key personnel, the report said. Andersen disagreed, saying it offered to make its people available but that the special panel overseeing the investigation wouldn't cooperate.

For much of its recent history, Enron owed its appearance of success in large part to dealings with related partnerships that bought assets Enron no longer wanted and took on debts that Enron did not want investors to see, the report said.

The assets, often risky or deteriorating, included power plants in Turkey and Spain, investments in an Internet business and other start-up companies, and oil and gas properties.

"Many of the most significant transactions apparently were designed to accomplish favorable financial statement results, not to achieve *bona fide* economic objectives," the report said.

By last fall, Enron and Andersen could no longer justify some of the elaborate accounting contortions, and Enron was forced to correct its books going back to 1997. The sudden disclosure of previously invisible debts and losses shattered investors' trust and helped send Enron spiraling into bankruptcy.

Andersen was supposed to serve as a watchdog, assuring the public that Enron's financial statements presented a fair picture of the Houston energy trader's finances.

In "virtually all" of the transactions that led to Enron's devastating correction, "Enron's accounting treatment was determined with extensive participation and structuring advice from Andersen," the report said.

A group of off-the-books partnerships known as the Raptors were seen by many within Enron "as a triumph of accounting ingenuity by a group of innovative accountants," but they were "little more than a highly complex accounting construct that was destined to collapse," the report said.

"There is no question that Andersen accountants were in a position to understand all the critical features of the Raptors and offer advice on the appropriate accounting treatment," the report said. "Indeed, there is abundant evidence that Andersen in fact offered Enron advice at every step."

If not for the improper Raptor deals, Enron would have reported pre-tax earnings of $429 million, instead of the $1.5 billion the company claimed during the five fiscal quarters that preceded Enron's bankruptcy filing.

The report said Andersen charged more than $1 million for its work on the Raptors, "yet it apparently failed to provide the objective accounting judgment that should have prevented these transactions from going forward."

Andersen spokesman Charlie Leonard disagreed. "We were the plumbing inspector. We were not the architect; we were not the general contractor," he said.

The report indicated that Andersen knew Enron had for a time booked income that accounting principles generally prohibit.

Accounting rules generally prohibit a company from counting an increase in the value of its own stock as income, the report said. However, a partnership called Jedi held 12 million shares of Enron stock, and Enron recorded income resulting from appreciation in the value of those shares, the report said.

Enron and Andersen apparently developed a formula in 1996 for computing how much income Enron could record from the appreciation of that stock, the report said. Andersen records from the first quarter of 2000 indicate that Enron recorded $126 million in Enron stock appreciation during that period, the report said. By the third quarter of 2000, the report said, Andersen records showed that someone -- Andersen, Enron, or both -- had decided that growth in the stock's value could no longer be counted on Enron's income statement, the report said.

Later, when Enron stock held by Jedi declined in value, Enron did not record its $90 million share of the loss. Enron accountants said they were told by Andersen that Enron was not recording gains from the stock and therefore should not record losses, the report said.

The report said Andersen billed Enron $5.7 million from 1997 to 2001 -- above and beyond its regular audit fees -- for advice on transactions involving partnerships known as LJM and Chewco.

Andersen chief executive Berardino has testified on Capitol Hill that Andersen was not given crucial information that would have shown that Chewco, which accounted for much of Enron's November correction, should have been included in Enron's financial statements since 1997. The Enron report said the investigation was unable to confirm or disprove Andersen's account.

A Nov. 2, 2001, memo by one of the Andersen auditors, which was obtained by The Washington Post, said Andersen asked an Enron executive for Chewco documents at the time of the transaction, "but [we] were advised that the documents were those of a third party and Enron does not have access to such documents."

An Andersen spokesman said yesterday that Andersen relied on representations from Enron's management when it passed judgment on Chewco in 1997.

Auditing standards say that management's representations "do not constitute sufficient audit evidence."

"Obtaining such representations complements but does not replace other auditing procedures that the auditor should perform," says an auditing standards text by the American Institute of Certified Public Accountants. That means that auditors need to look for documentation, not just take the word of company managers.

When auditors are unable to obtain all the information they need, they should note in their audit report that their opinion was subject to limitations, said former SEC chief accountant Lynn Turner, now director of the Center for Quality Financial Reporting at Colorado State University.

The report said also there was no evidence Andersen communicated to the Enron board certain concerns that Andersen partners discussed among themselves.

Enron's disclosures about the partnerships were generally relegated to footnotes in financial statements that Andersen approved. The report said the footnotes "glossed over" important details. For example, one omitted fact, which "likely would have been relevant to investors," the report said, was that Enron had placed a trade in effect betting against its own stock.

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MINUTES
MEETING OF THE BOARD OF DIRECTORS
ENRON CORP.
October 11-12, 1999

Minutes of a meeting of the Board of Directors of Enron Corp. ("Company") noticed to begin at 7:00 p.m., C.D.T., but actually begun at 7:20 p.m., C.D.T., on October 11, 1999 at the Four Seasons Hotel, Whitney Room, in Houston, Texas.

The following Directors were present, constituting a quorum:

Mr. Kenneth L. Lay, Chairman
Mr. Robert A. Belfer
Mr. Norman P. Blake, Jr.
Mr. John H. Duncan
Mr. Joe H. Foy
Dr. Wendy L. Gramm
Mr. Ken L. Harrison
Dr. Robert K. Jaedicke
Dr. Charles A. LeMaistre
Ms. Rebecca P. Mark
Dr. John Mendelsohn
Mr. Jerome J. Meyer
Mr. Jeffrey K. Skilling
Mr. John A. Urquhart
Lord John Wakeham
Mr. Herbert S. Winokur, Jr.

Director Ronnie C. Chan was absent from the meeting. The meeting was begun in executive session, during which Messrs. Richard A. Causey, Andrew S. Eastow, Mark E. Koenig, Jeffrey McMahon, and Joseph W. Sutton and Ms. Rebecca C. Carter, all of the Company or affiliates thereof, and Messrs. Paulo V. Ferraz Pereira and Frank Savage, candidates for election to the Company's Board of Directors, were also in attendance.

The Chairman, Mr. Lay, presided at the meeting, and the Secretary, Ms. Carter, recorded the proceedings.

Mr. Lay called the meeting to order and called for a revised agenda to discuss the election of two new directors to the Company's Board of Directors. He called upon Lord Wakeham to present the candidates. Lord Wakeham noted that the Nominating Committee of the Board was recommending that Messrs. Paulo Ferraz Pereira and Frank Savage be elected to the Company's Board. He proposed that Mr. Pereira be asked to join the Finance and Audit and Compliance Committees of the Board and Mr. Savage be asked to join the Finance and Compensation and Management Development Committees of the Board. Lord Wakeham moved approval of the recommendation. his motion was duly seconded by Dr. Gramm. and carried. and the following resolutions were approved:

RESOLVED. that Paulo V. Ferraz Pereira and Frank Savage be, and each of them hereby is. elected a director of the Company. effective October 12. 1999. to serve during the ensuing year until the next Annual Meeting of Shareholders and until their successors shall have been duly elected and qualified;

RESOLVED FURTHER. that Paulo V. Ferraz Pereira be. and hereby is. elected a member of the Finance Committee and the Audit and Compliance Committee of the Board of Directors of the Company. to serve for the ensuing year and until his successor is duly elected and qualified: and

RESOLVED FURTHER. that Frank Savage be. and hereby is. elected a member of the Finance Committee and the Compensation and Management Development Committee of the Board of Directors of the Company. to serve for the ensuing year and until his successor is duly elected and qualified.

Mr. Lay called upon Mr. Causey for the financial and earnings and the Year 2000 ("Y2K") Oversight Committee reports. and copies of Mr. Causey's presentations are filed with the records of the meeting. Mr. Causey discussed diluted earnings per share ("EPS") for the third quarter and first nine months of 1999 and compared them to the 1999 Operating Plan. He discussed the impact on third quarter earnings of the Company's sale of its ownership interest in Enron Oil & Gas Company ("EOG") and write-down of its MTBE facility. He noted that certain recent events led the Company to the decision that the MTBE asset value was impaired. He discussed the growth in EPS from 1998 to 1999. results for the third quarter and first nine months by operating unit. and certain items that had impacted the operating units' performance. He presented a roll-forward. from the end of 1998. of balance sheet debt and noted that the Company was in a strong position from a debt level and cash flow perspective.

Mr. Causey then updated the Board on the Company's Y2K readiness program. He gave a general overview of the status of the Y2K project. noting that work on mission-critical applications. embedded systems. and third-party evaluations was essentially complete and that residual risk analyses were complete. He noted that there was one remaining Y2K compliance review to be performed in India. the legal review of documentation was underway. and detailed contingency planning continued. He discussed the status of mission-critical items and stated that all business units except some international regions had achieved 99% or 100% completion on mission critical items. He discussed what the potential consequences of inaction in making systems Y2K compliant would have been and noted that the majority of power plant control systems had not previously been Y2K compliant. He commented on the benefits of the Y2K efforts, which included risk mitigation, standardization, investment in performance enhancing solutions, and a thorough review of the business processes throughout the Company. He reviewed the contingency planning milestones and noted that risks had been prioritized by site, task level contingencies were under development, alternative communications were in place, and a crisis management center was under construction. He commented on the contingency planning tasks remaining and noted that the biggest concerns regarded any acquisitions made prior to year-end and the Y2K readiness of external entities, particularly internationally.

Mr. Lay called upon Mr. Koenig for an investor relations update, a copy of which is filed with the records of the meeting. Mr. Koenig reviewed the Company's total return to shareholders for the first nine months of 1999, of 45.2%, and noted that it substantially exceeded the total return achieved by the S&P 500, of 5.4%, and the Company's peer group, of 15.6%. He reported on the Company's price-to-earnings ("p/e") valuation for 2000 compared to that of the S&P 500 and the Company's peer group and discussed the p/e ratios of the Company's industry peers. He presented the Company's largest shareholders and reviewed holdings by mutual funds. He discussed the top twenty holdings of the largest mutual funds owning the Company's stock ("investment peers") and displayed charts showing the investment peers' market capitalizations, expected five year earning-per-share growth rates, p/e ratios, and dividend yields. He commented on the investment analysts' current consensus valuations and the valuation methodology for each business unit commonly used.

Mr. Lay stated that minutes of a meeting of the Board held on August 10, 1999 had been distributed to the Directors and were included in the meeting material. He called for additions, corrections, or comments. There being none, upon motion duly made by Mr. Foy, seconded by Lord Wakeham, and carried, the minutes of the meeting held August 10, 1999 were approved as distributed. He called upon Mr. Duncan to discuss Executive Committee meetings.

Mr. Duncan reported on meetings of the Executive Committee of the Board of Directors held on September 3, 14, and 24, 1999. He stated that at the September 3, 1999 meeting the Executive Committee considered a transaction by Enron Energy Services, LLC ("EES") regarding the acquisition of a publicly traded equipment breakdown insurance company. He noted that the Company was only seeking an indication from the Committee as to whether or not the potential acquisition warranted additional attention and stated that the potential acquisition was still being reviewed. He stated that at its September 14, 1999 meeting the Executive Committee considered a transaction proposed by Enron Communications, Inc. ("ECI") regarding the acquisition of a publicly traded company that is a leading provider of global network services. He stated that there were some concerns from the Executive Committee regarding the structure of the transaction and that the Committee asked for additional information before making a decision. He stated that at the September 24, 1999 meeting the Executive Committee approved the signing of financing documents related to the Cuiaba energy project in Brazil. He noted that minutes of the July 16, 1999 Executive Committee meeting, discussed at the August Board meeting, were included in the meeting material and moved the acceptance of the report and approval of the minutes of the July 16, 1999 meeting. Mr. Duncan's motion was duly seconded by Dr. LeMaistre and carried, and the reports of the Executive Committee were accepted and the minutes of the July 16, 1999 meeting were approved. Consideration of the approval of the minutes of the September 3, 14, and 24, 1999 meetings was deferred to a subsequent meeting.

Dr. LeMaistre reported on the meeting of the Compensation and Management Development Committee held on October 11, 1999. He stated that at the meeting, the Committee approved for recommendation to the Board: (i) proposed amendments to the Enron Corp. 1991 and 1994 Stock Plans to provide delegation of authority to an Administrative Committee, composed of at least two members of the Office of the Chairman, in granting awards to employees other than Section 16 officers subject to the terms and provisions of the Plans; (ii) proposed amendments to the Enron Corp. 1991 and 1994 Stock Plans to change the definition of retirement to avoid constructive receipt and defer taxation relating to grants of restricted stock; (iii) a proposed amendment to the Enron Corp. 1994 Stock Plan to address certain grants of stock options that were priced and communicated to recipients on Friday, June 25, 1999 but not approved by the Committee until Monday, June 28, 1999; and (iv) the proposed adoption of the Enron Corp. 1999 Stock Plan ("1999 Plan"). He stated that the purpose of the 1999 Plan was to provide a funding source for the issuance of common stock of the Company in connection with special situations, including, but not limited to, divestitures, outsourcing, remuneration payable under compensatory programs sponsored by the Company, and any other circumstance deemed a special situation by the Committee. Dr. LeMaistre moved approval of the amendments and adoption of the 1999 Plan, his motion was duly seconded by Mr. Blake, and carried, and the following resolutions were approved:

Approval of Amendments to the 1991 Stock Plan

WHEREAS. ENRON CORP.. (the "Company") and the stockholders of the Company have heretofore approved and adopted the Enron Corp. 1991 Stock Plan (As Amended and Restated Effective May 4. 1999)(the "Plan"): and

WHEREAS. the Company desires to amend the Plan:

NOW. THEREFORE. the Plan is amended as follows:

1. Section 2.2 is deleted and the following is inserted in its place:

"2.2 Subject to the terms of the Plan and applicable law. the Committee shall have sole power. authority. and discretion to: (i) designate Participants: (ii) determine the types of Awards to be granted to a Participant under the Plan: (iii) determine the number of Shares to be covered by or with respect to which payments. rights. or other matters are to be calculated in connection with Awards: (iv) determine the terms and conditions of any Award: (v) determine whether. to what extent. under what circumstances. and how Awards may be settled or exercised in cash. Shares. other securities. other Awards. or other property. or may be canceled. forfeited. or suspended: (vi) determine whether. to what extent. and under what circumstances cash. Shares. other securities. other Awards. other property. and other amounts payable with respect to an Award under the Plan shall be deferred either automatically or at the election of the holder thereof or of the Committee: (vii) interpret. construe. and administer the Plan and any instrument or agreement relating to an Award made under the Plan: (viii) establish. amend. suspend. or waive such rules and regulations and appoint such agents as it shall deem appropriate for the proper administration of the Plan: (ix) make a determination as to the right of any person to receive payment of an Award or other benefit: (x) except for awards made to persons subject to Section 16 of the Securities Exchange Act of 1934. as amended. or New York Stock Exchange listing requirements. delegate to individuals in specified officer positions of the Company the authority to make and issue awards for a specified number of Shares subject to the terms and provisions of the Plan. and (xi) make any other determination and take any other action that the Committee deems necessary or desirable for the administration of the Plan.

2. Paragraph (u) under Section 11 regarding definitions is deleted and the following definition of "Retirement" is inserted in its place:

(u) "Retirement" shall mean (i) (a) with respect to an Employee of the Company or one of its Affiliates, with the consent of the Committee, after age 55 with at least five years of service, the Employee's termination of employment, or (b) upon or after age 71 the employee's termination of employment and commencement of receipt of benefits accrued under the Enron Corp. Cash Balance Plan, and (ii) with respect to a Director of the Company, with the consent of a majority of the Board of Directors of the Company, termination of service as a Director or Honorary Director after at least five (5) years of continuous service, or upon or after the date the Director attains age 72."

Approval of Amendments to the 1994 Stock Plan

WHEREAS, ENRON CORP. (the "Company") has heretofore adopted and maintains the Enron Corp. 1994 Stock Plan (the "Plan"); and

WHEREAS, the Company desires to amend the Plan;

NOW, THEREFORE, the Plan is amended effective October 11, 1999, as follows:

1. Section 2.2 is deleted and the following is inserted in its place:

"2.2 Subject to the terms of the Plan and applicable law, the Committee shall have sole power, authority, and discretion to: (i) designate Participants; (ii) determine the types of Awards to be granted to a Participant under the Plan; (iii) determine the number of Shares to be covered by or with respect to which payments, rights, or other matters are to be calculated in connection with Awards; (iv) determine the terms and conditions of any Award; (v) determine whether, to what extent, under what circumstances, and how Awards may be settled or exercised in cash, Shares, other securities, other Awards, or other property, or may be canceled, forfeited, or suspended; (vi) determine whether, to what extent, and under what circumstances cash, Shares, other securities, other Awards, other property, and other amounts payable with respect to an Award under the Plan shall be deferred either automatically or at the election of the holder thereof or of the Committee; (vii) interpret, construe, and administer the Plan and any instrument or agreement relating to an Award made under the Plan; (viii) establish, amend, suspend, or waive such rules and regulations and appoint such agents as it shall deem appropriate for the proper administration of the Plan: (ix) make a determination as to the right of any person to receive payment of an Award or other benefit: (x) except for awards made to persons subject to Section 16 of the Securities Exchange Act of 1934, as amended, or New York Stock Exchange listing requirements, delegate to individuals in specified officer positions of the Company the authority to make and issue awards for a specified number of Shares subject to the terms and provisions of the Plan, and (xi) make any other determination and take any other action that the Committee deems necessary or desirable for the administration of the Plan.

2. Paragraph (u) under Section 9 regarding definitions is deleted and the following definition of "Retirement" is inserted in its place:

(u) "Retirement" shall mean (i) with respect to an Employee of the Company or one of its Affiliates, with the consent of the Committee, after age 55 with at least five years of service, the Employee's termination of employment, and (ii) upon or after age 71 the employee's termination of employment and commencement of receipt of benefits accrued under the Enron Corp. Cash Balance Plan."

Approval of Amendment to the 1994 Stock Plan

WHEREAS, the Compensation Committee of the Company's Board of Directors, on June 28, 1999, authorized and approved grants of stock options to certain eligible employees under the 1994 Stock Plan (the "Plan") to purchase shares of Company common stock (the "Authorized Grants");

WHEREAS, the Company, pursuant to such authorization, issued written grants of stock options under the Plan dated June 25, 1999, having as the exercise price the Fair Market Value, as defined in the Plan, of shares of Company common stock on June 25, 1999 (the "Issued Grants");

WHEREAS, the Plan provides that the per share purchase price of an Option shall not be less than the Fair Market Value of a share on the date of grant of such Option; and

WHEREAS, the Board has determined that the date of grant of such Authorized Grants was June 28, 1999:

NOW, THEREFORE, IT IS RESOLVED, that the Issued Grants are hereby ratified and approved, and that the Plan, with respect to the Authorized Grants and such related Issued Grants only, is amended to provide that the per share purchase price of the Authorized Grants shall be the Fair Market Value of shares of Company common stock on June 25, 1999; and

RESOLVED FURTHER, that the Chairman of the Compensation Committee and proper officers of the Company and its counsel are hereby authorized, empowered, and directed to take all such further action, to amend, execute, and deliver all such instruments and documents, for and in the name and on behalf of the Company, under its corporate seal or otherwise, and to pay all such expenses, as in their judgment may be necessary, appropriate, or advisable in order to fully carry into effect the purposes and intentions of this and the foregoing resolution.

Approval of Adoption of the 1999 Stock Plan

WHEREAS, it is the desire of the Company to adopt an Enron Corp. 1999 Stock Plan (the "Plan");

NOW, THEREFORE, IT IS RESOLVED, that the proper officers of the Company be, and they are, authorized and directed to prepare and execute a Plan document substantially in the form as outlined at this meeting, providing, among other things, for the issuance of stock options and shares of restricted stock, not exceeding an aggregate of 3,000,000 shares of Common Stock of the Company, to be granted only to persons who are not subject to Section 16 of the Securities Exchange Act of 1934, and for the administration of the Plan by the Compensation Committee of the Board of Directors of the Company;

RESOLVED FURTHER, that upon execution of such Plan document prepared according to the above provisions, the Plan shall be deemed adopted by this Board and is hereby ratified and approved;

RESOLVED FURTHER, that the officers of the Company be, and they hereby are, authorized to take all actions necessary to finalize and put the Plan into effect, including the authority and power to execute, in the name and on behalf of the Company and under its corporate seal, as registrant, a Registration Statement on Form S-8 for the registration under the Securities Act of 1933 of 3,000,000 shares of Common Stock of the Company for the Plan, said Registration

Statement to be in such form as shall be approved by the officers of the Company. and by at least a majority of the Directors of the Company. whose approval shall be conclusively evidenced by their signatures thereon. in person or by power of attorney: and the officers of the Company be. and they hereby are. further authorized to cause said Registration Statement. when executed. to be filed with the Securities and Exchange Commission. and thereafter to execute and file with said Commission. in the name and on behalf of the Company from time to time. any amendments to said Registration Statement. which in the judgment of said officers. may be necessary or advisable for the registration of said Common Stock under said Act:

RESOLVED FURTHER. that the officers of the Company be. and each of them hereby is. authorized. in the name and on behalf of the Company. to make application to such securities exchange(s) as the officers acting shall deem necessary or appropriate for the listing thereon of any issue of the Securities subject to the Plan and that each such officer. or such other person as such officer may designate in writing. is authorized to appear before any official or officials or before any body of any such exchange. and to execute and deliver any and all papers and agreements. specifically including. without limitation. indemnity agreements for the benefit of any such exchange relating to the use of facsimile signatures. and to do any and all things which may be necessary to effect such listing:

RESOLVED FURTHER. that the officers of the Company be. and they hereby are. authorized and empowered to execute. in the name and on behalf of the Company. any application. amendments. or other documents. including powers of attorney. for the receipt or acceptance of service of process. necessary or proper for the qualification or the registration by the Company of the Securities subject to the Plan. in any state of the United States under any State Securities Act. Blue Sky Law. or similar statutes. and to do any and all things, and to take any and all action. necessary or desirable in connection therewith: and

RESOLVED FURTHER. that the proper officers of the Company and its counsel are hereby authorized. empowered. and directed to take all such further action. to amend. execute. and deliver all such instruments and documents. for and in the name and on behalf of the Company. under its corporate seal or otherwise. and to pay all such expenses. as in their judgment may be necessary. appropriate. or advisable in order to fully carry into effect the purposes and intentions of this and the foregoing resolutions. including the execution of any further amendments, forms, or documents recommended by counsel or required by any governmental agency, and to do anything necessary to effect compliance with applicable law or regulation.

Mr. Winokur reported on the Finance Committee meeting that was held on October 11, 1999. He stated that the Finance Committee had approved certain items for recommendation to the Board. He stated that the first item related to a proposed "shelf" registration statement to be filed with the Securities and Exchange Commission. He noted that the proposed resolution was necessary to increase the number of shares that could be offered and sold from time to time pursuant to the registration statement to reflect the impact of the Company's recent stock split. He then discussed a proposed resolution to allow a Special Committee of the Board to approve the issuance and sale of shares of the Company's common stock in connection with acquisitions. He stated that this would enable the Company to use small amounts of stock to make relatively small acquisitions without having to bring the matter before the full Board. Mr. Winokur moved approval of the proposals, his motion was duly seconded by Mr. Blake, and carried, and the following resolutions were approved:

Approval of Equity Shelf Registration

WHEREAS, the Company desires to file with the Securities and Exchange Commission (the "Commission") a registration statement and post-effective amendments (collectively, the "shelf registration statement") for the registration and sale from time to time of shares of Common Stock; and

WHEREAS, this Board desires to provide for the issuance and sale from time to time of Common Stock by the Company;

RESOLVED, that the Board of Directors hereby deems it advisable and in the best interests of the Company for the Company to issue and sell from time to time up to 15 million (Fifteen Million) shares of its Common Stock, no par value (the "Common Stock") (of which amount 7.5 million shares have been previously registered pursuant to the Securities Act of 1933), at prices to be agreed upon and established by the Special Common Stock Committee referred to below, and to be sold from time to time in public or private offerings;

RESOLVED FURTHER, that the Company enter into one or more purchase agreements, underwriting agreements, sales agency agreements, or other agreements, however designated, together with all necessary agreement wires, confirmation letters, or term agreements (collectively the "Common Stock Agreements"), with such underwriting firm or firms or with such institutions or dealers or purchasers as may, in the judgment of the Chairman of the Board, any Vice Chairman of the Board, the President, any Executive or Senior Vice President, or any Vice President of the Company be necessary to effect the sale of the Common Stock; that the Chairman of the Board, any Vice Chairman of the Board, the President, any Executive or Senior Vice President, or any Vice President of the Company, be and each of them hereby is, authorized and directed to execute and deliver the Agreements, for and in the name and on behalf of the Company, in such forms as the officer executing such Common Stock Agreements shall approve, such approval to be conclusively evidenced by such execution; and that the Company be, and it hereby is, authorized and directed to perform in full all of its obligations under the Common Stock Agreements;

RESOLVED FURTHER, that the officers of the Company be, and they hereby are, authorized, empowered, and directed to cause to be prepared, executed, and filed with the Commission (i) one or more Registration Statements, including exhibits thereto (collectively, the "Registration Statement"), and (ii) such amendments and post-effective amendments to the Registration Statement or supplements to the Prospectuses constituting a part thereof, and to take all such further action, including the filing of final forms of the Prospectuses, as may, in the judgment of such officers, be necessary, desirable, or appropriate to secure and thereafter to maintain the effectiveness of the Registration Statement;

RESOLVED FURTHER, that the Board of Directors of the Company, in accordance with Section 60.354 of the Oregon Business Corporation Act and Article IV of the Bylaws of the Company, as amended, does hereby create a special Common Stock pricing committee (the "Special Common Stock Committee") and designate Kenneth L. Lay and Jeffrey K. Skilling as the members of the Special Common Stock Committee, and that the Special Common Stock Committee is hereby authorized and empowered to determine, for and in the name and on behalf of the Company, the price per share of Common Stock to be received by the Company in the offerings, and any other term of any Common Stock Agreement and all such other matters as may be determined by such Special Common Stock Committee consistent with Oregon law and these resolutions, such Special Common Stock Committee's approval of such terms and conditions to be conclusively determined by their inclusion in the executed copies of any Common Stock Agreements: and that the Special Common Stock Committee is hereby authorized to take any and all action and to do or cause to be done any or all things which may appear to the Special Common Stock Committee to be necessary or advisable in order to offer, issue, and sell the Common Stock, to the full extent and with the same effect as the Board of Directors of the Company could take such action or do or cause such things to be done: and that a majority of the members of the Special Common Stock Committee shall constitute a quorum for the transaction of business: and that the Special Common Stock Committee shall keep a written record of its meetings, shall present such record to the meetings of the Special Common Stock Committee, and shall file a copy of such record in the corporate minutes of the Company:

RESOLVED FURTHER, that the Chairman of the Board, any Vice Chairman of the Board, the President of the Company, any Vice President of the Company, the Corporate Secretary, any Deputy Corporate Secretary, or any Assistant Secretary of the Company be, and each of them hereby is, authorized and directed, for and in the name and on behalf of the Company, to sign, under the corporate seal of the Company (if required), any or all of the certificates of Common Stock and that the signatures of the aforesaid authorized officers and the corporate seal of the Company (if required) may be facsimile, and that the Company hereby adopts and approves any such facsimile signatures and seal:

RESOLVED FURTHER, that the facsimile signatures which appear upon any of the certificates of Common Stock shall be valid regardless of whether such officer ceases to hold such office prior to the issuance of the Common Stock:

RESOLVED FURTHER, that the Chairman of the Board, any Vice Chairman of the Board, the President, any Executive or Senior Vice President, or any Vice President, and the Senior Vice President and Secretary, any Deputy Corporate Secretary, or any Assistant Secretary of the Company be, and each of them hereby is, authorized and directed, for and in the name and on behalf of the Company, to take any and all action which they may deem necessary or advisable in order to obtain a permit, to register or to qualify part or all of the Common Stock for issuance and sale or to request an exemption from registration of part or all of the Common Stock or to register or obtain a license for the Company as a dealer or broker under the securities laws of such of the states of the United States of America and of such foreign jurisdictions as such officers may deem advisable, and in connection with such registrations, permits, licenses, qualifications, and exemptions, to execute, acknowledge, verify, deliver, file, and publish all such applications, reports, resolutions, irrevocable consents to service of process, powers of attorney, and other papers and instruments as may be required under such laws, and to take any and all further action which they may deem necessary or advisable in order to maintain such registration in effect for as long as they may deem to be in the best interests of the Company;

RESOLVED FURTHER, that if the officers of the Company determine that it is necessary for the Company to do so, the Company make application to the New York Stock Exchange, Inc. and one or more other national securities exchanges for listing of the Common Stock in the number of shares issued or reserved for issuance; that the Chairman of the Board, any Vice Chairman of the Board, the President, any Executive or Senior Vice President, or any Vice President of the Company be, and each of them hereby is, authorized and directed to execute and deliver on behalf of the Company to the New York Stock Exchange, Inc. or other such securities exchanges such indemnity agreements in such form as may be necessary to effect the aforesaid listing; and that the officers of the Company be, and they hereby are, authorized and directed to execute and deliver any applications, documents, or agreements, to take any and all actions, to appear before such exchanges if necessary, to appoint any banking or other institution as an agent of the Company for any purpose, and to do or cause to be done any and all things as may appear to them to be necessary or desirable in order to effect such listing; and

RESOLVED FURTHER, that the proper officers of the Company and its counsel be, and each of them hereby is, authorized, empowered, and directed (any one of them acting alone) to take any and all such further action, to amend, execute, and deliver all such further instruments and documents, for and in the name and on behalf of the Company, under its corporate seal or otherwise, and to pay all such expenses as in their discretion appear to be necessary, proper, or advisable to carry into effect the purposes and intentions of this and each of the foregoing resolutions.

Approval of Granting Authority to a Special Committee of the Board in connection with certain acquisitions

WHEREAS, the Company desires to issue and sell from time to time shares of Company Common Stock in connection with the Company's acquisition of assets and securities of other parties; and

WHEREAS, this Board desires to provide for the issuance and sale from time to time of Common Stock by the Company for such purpose;

RESOLVED, that the Board of Directors hereby deems it advisable and in the best interests of the Company for the Company to issue and sell from time to time up to 500,000 (Five Hundred Thousand) shares of its Common Stock, no par value (the "Common Stock"), at prices to be agreed upon and established by the Special Common Stock Committee referred to below, and to be sold from time to time in public or private offerings, solely and specifically for the purpose of utilizing such shares as consideration currency in connection with the Company's acquisition of assets or securities of other companies or entities;

RESOLVED FURTHER, that the Company enter into one or more purchase agreements, underwriting agreements, sales agency agreements, or other agreements, however designated, together with all necessary agreement wires, confirmation letters, or terms agreements (collectively the "Common Stock Agreements"), with such underwriting firm or firms or with such institutions or dealers or other counter-parties as may, in the judgment of the Chairman of the Board, any Vice Chairman of the Board, the President, any Executive or Senior Vice President, or any Vice President of the Company be necessary to effect the sale of the Common Stock; that the Chairman of the Board, any Vice Chairman of the Board, the President, any Executive or Senior Vice President, or any Vice President of the Company be, and each of them hereby is, authorized and directed to execute and deliver the Common Stock Agreements, for and in the name and on behalf of the Company, in such forms as the officer executing such Common Stock Agreements shall approve, such approval to be conclusively evidenced by such execution; and that the Company be, and it hereby is, authorized and directed to perform in full all of its obligations under the Common Stock Agreements;

RESOLVED FURTHER, in connection with the sale of Common Stock pursuant to the Common Stock Agreements, that the officers of the Company be, and they hereby are, authorized, empowered, and directed to cause to be prepared, executed, and filed with the Commission (i) one or more Registration Statements, including exhibits thereto (collectively, the "Registration Statement"), and (ii) such amendments and post-effective amendments to the Registration Statement or supplements to the Prospectuses constituting a part thereof, and to take all such further action, including the filing of final forms of the Prospectuses, as may, in the judgment of such officers, be necessary, desirable, or appropriate to secure and thereafter to maintain the effectiveness of the Registration Statement;

RESOLVED FURTHER, that the Board of Directors of the Company, in accordance with Section 60.354 of the Oregon Business Corporation Act and Article IV of the Bylaws of the Company, as amended, does hereby create a special Common Stock pricing committee (the "Special Common Stock Committee") and designate Kenneth L. Lay and Jeffrey K. Skilling as the members of the Special Common Stock Committee, and that the Special Common Stock Committee is hereby authorized and empowered to determine, for and in the name and on behalf of the Company, the price per share of Common Stock to be received by the Company in the offerings, and any other term of any Common Stock Agreement and all such other matters as may be determined by such Special Common Stock Committee consistent with Oregon law and these resolutions, such Special Common Stock Committee's approval of such terms and conditions to be conclusively determined by their inclusion in the executed copies of any Common Stock Agreements; and that the Special Common Stock Committee is hereby authorized to take any and all action and to do or cause to be done any or all things which may appear to the Special Common Stock Committee to be necessary or advisable in order to offer, issue and sell the Common Stock, to the full extent and with the same effect as the Board of Directors of the Company could take such action or do or cause such things to be done; and that a majority of the members of the Special Common Stock Committee shall constitute a quorum for the transaction of business; and that the Special Common Stock Committee shall keep a written record of its meetings, shall present such record to the meetings of the Special Common Stock Committee, and shall file a copy of such record in the corporate minutes of the Company;

RESOLVED FURTHER, that the Chairman of the Board, any Vice Chairman of the Board, the President of the Company, any Vice President of the Company, the Corporate Secretary, any Deputy Corporate Secretary, or any Assistant Secretary of the Company be, and each of them hereby is, authorized and directed, for and in the name and on behalf of the Company, to sign, under the corporate seal of the Company (if required), any or all of the certificates of Common Stock and that the signatures of the aforesaid authorized officers and the corporate seal of the Company (if required) may be facsimile, and that the Company hereby adopts and approves any such facsimile signatures and seal;

RESOLVED FURTHER, that the facsimile signatures which appear upon any of the certificates of Common Stock shall be valid regardless of whether such officer ceases to hold such office prior to the issuance of the Common Stock;

RESOLVED FURTHER, that the Chairman of the Board, any Vice Chairman of the Board, the President, any Executive or Senior Vice-President, or any Vice President, and the Senior Vice President and Secretary, any Deputy Corporate Secretary, or any Assistant Secretary of the Company be, and each of them hereby is, authorized and directed, for and in the name and on behalf of the Company, to take any and all action which they may deem necessary or advisable in order to obtain a permit, to register or to qualify part or all of the Common Stock for issuance and sale or to request an exemption from registration of part or all of the Common Stock or to register or obtain a license for the Company as a dealer or broker under the securities laws of such of the states of the United States of America and of such foreign jurisdictions as such officers may deem advisable, and in connection with such registrations, permits, licenses, qualifications, and exemptions, to execute, acknowledge, verify, deliver, file, and publish all such applications, reports, resolutions, irrevocable consents to service of process, powers of attorney, and other papers and instruments as may be required under such laws, and to take any and all further action which they may deem necessary or advisable in order to maintain such registration in effect for as long as they may deem to be in the best interests of the Company;

RESOLVED FURTHER, that if the officers of the Company determine that it is necessary for the Company to do so, the Company make application to the New York Stock Exchange, Inc. and one or more other national securities exchanges for listing of the

> Common Stock in the number of shares issued or reserved for issuance; that the Chairman of the Board, any Vice Chairman of the Board, the President, any Executive or Senior Vice President, or any Vice President of the Company be, and each of them hereby is, authorized and directed to execute and deliver on behalf of the Company to the New York Stock Exchange, Inc. or other such securities exchanges such indemnity agreements in such form as may be necessary to effect the aforesaid listing; and that the officers of the Company be, and they hereby are, authorized and directed to execute and deliver any applications, documents, or agreements, to take any and all actions, to appear before such exchanges if necessary, to appoint any banking or other institution as an agent of the Company for any purpose, and to do or cause to be done any and all things as may appear to them to be necessary or desirable in order to effect such listing; and
>
> RESOLVED FURTHER, that the proper officers of the Company and its counsel be, and each of them hereby is, authorized, empowered, and directed (any one of them acting alone) to take any and all such further action, to amend, execute, and deliver all such further instruments and documents, for and in the name and on behalf of the Company, under its corporate seal or otherwise, and to pay all such expenses as in their discretion appear to be necessary, proper, or advisable to carry into effect the purposes and intentions of this and each of the foregoing resolutions.

Mr. Winokur then discussed information concerning an unaffiliated investment partnership, LJM 2, and stated that the partnership could possibly provide the Company with an alternative, optional source of private equity to manage its investment portfolio risk, funds flow, and financial flexibility. He noted that Mr. Andrew S. Fastow would be acting as the managing partner of LJM 2 and discussed Mr. Fastow's role in the LJM 2 partnership. He commented on the controls that would be put in place to manage any transactions between the Company and LJM 2 and noted that the Company and LJM 2 were not obligated to one another in any way. He noted that the controls include review and approval of all transactions by the Chief Accounting Officer and the Chief Risk Officer of the Company. He stated that the Audit and Compliance Committee would, on an annual basis, review all transactions completed within the past year and make any recommendations they deemed appropriate. He stated that the Company's Conduct of Business Affairs Policies (relating to investments and outside business interests of officers and employees) would prohibit Mr. Fastow from participating in LJM 2 as managing partner due to his position as Executive Vice President and Chief Financial Officer of the Company, absent appropriate reviews and waivers from the Board and a finding that such participation does not adversely affect the best interests of the Company. He recommended that such review and findings be made in this instance. his motion was duly seconded by Mr. Urquhart. and carried. and the following resolutions were approved:

WHEREAS. Andrew S. Fastow serves as the Executive Vice President and Chief Financial Officer of the Company:

WHEREAS. Mr. Fastow has the opportunity to participate in the formation of an investment partnership (the "Partnership") that would not be affiliated with the Company:

WHEREAS. it is anticipated that Mr. Fastow will serve as the managing partner/manager of the Partnership:

WHEREAS. it is anticipated that the Partnership will invest in energy and communications-related businesses and assets. including businesses and assets of the Company:

WHEREAS. the Partnership. as a potential ready purchaser of the Company's businesses and assets or as a potential contract counterparty. could provide liquidity. risk management. and other financial benefits to the Company:

WHEREAS. the Office of the Chairman of the Company has determined. for the foregoing reasons. that Mr. Fastow's participation as the managing partner/manager of the Partnership will not adversely affect the interests of the Company:

NOW. THEREFORE IT IS RESOLVED. that the Board hereby adopts and ratifies the determination by the Office of the Chairman pursuant to the Company's Conduct of Business Affairs/Investments and Outside Business Interests of Officers and Employees that participation of Mr. Fastow as the managing partner/manager of the Partnership will not adversely affect the interests of the Company: and

RESOLVED FURTHER. that the proper officers of the Company and its counsel be. and each of them hereby is. authorized. empowered. and directed (any one of them acting alone) to take any and all such further action. to amend. execute. and deliver all such further instruments and documents. for and in the name and on behalf of the Company. under its corporate seal or otherwise. and to pay all such expenses as in their discretion appear to be necessary.

proper, or advisable to carry into effect the purposes and intentions of this and each of the foregoing resolutions.

Mr. Winokur stated that the Finance Committee had discussed the Company's dividend level taking into consideration the Company's increasing capital needs and investment opportunities. He recommended that the Board keep the dividend level constant and approve the declaration of dividends payable in the fourth quarter of 1999 for the common and preferred issues of stock; his motion was duly seconded by Mr. Blake, and carried, and the following resolutions were adopted:

RESOLVED, that a dividend of $3.413 per share on the Cumulative Second Preferred Convertible Stock of the Company, covering the quarter ending December 31, 1999, be, and it hereby is, declared payable on January 3, 2000, to shareholders of record of said stock at the close of business on December 10, 1999; and

RESOLVED FURTHER, that a dividend of $0.125 per share on the Common Stock of the Company be, and it hereby is, declared payable on December 20, 1999, to shareholders of record of said stock at the close of business on December 1, 1999, out of the net profits or surplus of the Company available for the payment of dividends.

Mr. Winokur stated that the Committee had also discussed the Company's liquidity and noted that the Company had significantly increased its available capacity and lowered its cost by utilizing surety bonds, issued by insurance companies, in lieu of letters of credit. He stated that Messrs. Fastow, McMahon, and Skilling had met recently with Moody's Investor Services and formally requested an upgrade to the Company's credit rating.

Mr. Lay called upon Dr. Jaedicke to report on the Audit and Compliance Committee's meeting held on October 11, 1999. Dr. Jaedicke stated that Mr. Causey and Mr. David B. Duncan, of Arthur Andersen, LLP ("AA"), had given a status report on the Company's internal controls. He noted that Mr. Richard B. Buy had given credit and market risk reports and Mr. Causey had discussed the progress made on the SAP implementation. He stated that the Committee also heard a report from Ms. Sharon A. Butcher, of the Company, regarding the Company's compliance with its Conduct of Business Affairs Policies. He stated that the Committee held an executive session with AA to discuss the adequacy of the Company's financial disclosure and he noted that AA was very comfortable with the Company's level of disclosure.

Mr. Lay call upon Mr. Sutton to discuss a proposed Human Rights Policy, a copy of which is filed with the records of the meeting. Mr. Sutton stated that the Company was working on launching a program for Social and Environmental Responsibility which would include clear policies on expected behavior, training mechanisms for staff and contractors, and better interface with nongovernmental organizations in the human rights and environmental fields. He stated that, as a first step in its program for Social and Environmental Responsibility, the Company was proposing the adoption of a Human Rights Policy. He outlined the basic framework of the Policy and following a discussion, upon motion duly made by Mr. Duncan, seconded by Mr. Blake, and carried, the Enron Human Rights Policy discussed at the meeting, including any minor revisions authorized by Mr. Lay, was approved.

Mr. Lay called on Mr. Skilling to present other general corporate matters for consideration by the Board. Mr. Skilling stated that the Company had recently hired three new corporate officers, Messrs. J. Mark Metts and Wesley H. Colwell and Ms. Charlene R. Jackson, and discussed each individual's role within the Company. He also noted that there had also been some individuals promoted to Vice President within the Company and recommended that the Board approve the election of Company officers. Upon motion duly made by Mr. Blake, seconded by Dr. LeMaistre, and carried, the following resolutions were approved:

> RESOLVED, that the following persons be, and each hereby is, elected to the position set forth opposite their names, to serve for the ensuing year and until their successors are duly elected and qualified:

Kenneth L. Lay	Chairman and Chief Executive Officer
Jeffrey K. Skilling	President and Chief Operating Officer
Joseph W. Sutton	Vice Chairman
Richard B. Buy	Executive Vice President and Chief Risk Officer
Richard A. Causey	Executive Vice President and Chief Accounting Officer
James V. Derrick, Jr.	Executive Vice President and General Counsel
Andrew S. Fastow	Executive Vice President and Chief Financial Officer
Steven J. Kean	Executive Vice President and Chief of Staff
Mark E. Koenig	Executive Vice President, Investor Relations
Michael S. McConnell	Executive Vice President, Technology
Jeffrey McMahon	Executive Vice President, Finance and Treasurer

J. Mark Metts	Executive Vice President. Corporate Development
Cindy K. Olson	Executive Vice President. Human Resources and Community Relations
Rebecca C. Carter	Senior Vice President. Board Communications and Secretary
Joseph M. Hirko	Senior Vice President
Terence H. Thorn	Senior Vice President and Chief Environmental Officer
Robert H. Walls. Jr.	Senior Vice President and Deputy General Counsel
Wesley H. Colwell	Managing Director. Accounting Transaction
Charlene R. Jackson	Managing Director. Intellectual Capital
Mitchell S. Taylor	Managing Director. Corporate Development
Joe H. Allen	Vice President. External Affairs
Melissa A. Becker	Vice President. Strategic Initiatives
Philippe A. Bibi	Vice President. Technology
Robert H. Butts	Vice President and Controller
Edward R. Coats	Vice President. Tax. Audits
Angus H. Davis	Vice President and Deputy Corporate Secretary
William R. Donovan	Vice President. Corporate Administrative Services
James A. Ginty	Vice President. Tax. International
Alberto Gude. Jr.	Vice President. IT Compliance
Robert J. Hermann	Vice President and General Tax Counsel
E. Joseph Hillings	Vice President and General Manager. Federal Government Affairs
Mary K. Joyce	Vice President. Human Resources
Drew C. Lynch	Vice President. Employee Relations
R. Davis Maxey	Vice President. Tax. Planning
Peggy B. Menchaca	Vice President and Assistant Secretary
Mark A. Palmer	Vice President. Communications
Christie A. Patrick	Vice President. North American Indian Affairs
Louis E. Potempa	Vice President. Corporate Development
Greek L. Rice	Vice President. Tax. GPG
Paula H. Rieker	Vice President. Investor Relations
Rex R. Rogers	Vice President. Associate General Counsel and Assistant Secretary
Richard S. Shapiro	Vice President. State Government Affairs and Federal Regulatory Affairs
William W. Brown	Deputy Treasurer

Michael F. Jakubik	Deputy Treasurer
Elaine V. Overturf	Deputy Corporate Secretary
Kate B. Cole	Assistant Secretary
Denise A. Ernest	Assistant Secretary
Gary L. Foster	Assistant Secretary
Geneva K. Holland	Assistant Secretary
Linda F. Jenkins	Assistant Secretary
Timothy A. Despain	Assistant Treasurer
Mary A. Perkins	Assistant Treasurer

RESOLVED FURTHER, that the effective date of following persons' election be, and hereby is, May 1, 1999.

Edward R. Coats	Vice President,Tax, Audits
James A. Ginty	Vice President,Tax, International
R. Davis Maxey	Vice President,Tax, Planning
Greek L. Rice	Vice President,Tax, GPG

RESOLVED FURTHER, that the effective date of J. Mark Metts' election be, and hereby is, August 23, 1999.

Mr. Lay recessed the executive session at 9:02 p.m., C.D.T. on October 11, 1999 and reconvened the meeting at 8:00 a.m., C.D.T., on October 12, 1999 in open session at the Enron Building in Houston, Texas. All of the Directors noted in attendance on the previous evening returned to the meeting and Messrs. James P. Badum, Robert B. Butts, Joseph E. Earle, John B. Echols, Joseph M. Hirko, Gene E. Humphrey, Daniel P. Leff, Michael S. McConnell, Mark S. Muller, Lou L. Pai, Kenneth D. Rice, Martin Sunde, Joseph W. Sutton, Greg L. Whalley, and Thomas E. White and Mesdames Rebecca C. Carter, Louise J. Kitchen, Rebecca A. McDonald, and Victoria T. Sharp, all of the Company or affiliates thereof, joined the meeting. Messrs. James A. Bannantine, Donald W. Black, Richard A. Causey, Orlando R. Gonzalez, and Ricky L. Waddell, all of the Company or affiliates thereof, joined the meeting in progress as noted below.

Mr. Lay called upon Mr. Whalley to discuss the Company's Global Risk Management function. Mr. Whalley stated that as the Chief Executive Officer of Risk Management he had three groups, Insurance, EnronOnline, and Research, reporting directly to him. He discussed each of the group's roles within the Company and the number of employees. He noted that in addition to his direct reports, he had indirect supervisory authority over all trading operations, in all commodities, throughout the Company. He discussed the reports related to the Company's trading operations, including volumes traded, profit and loss, and net open positions that were produced daily for his review. He stated that his groups' primary responsibilities included reviewing major commodity risks taken by the business units, facilitating the transfer of information and skill sets across the business units, assisting in staffing and training for the trading organizations, and consulting with local traders on general market conditions and global information relevant to the Company's operations. He gave an overview of the current market conditions, focusing on gas and power markets liquidity and the growth in the power markets on the Continent.

Mr. Skilling then gave a brief overview of EnronOnline, the Company's new online trading system, and called upon Ms. Kitchen to present the matter. Ms. Kitchen noted that EnronOnline was a free, internet-based transaction system that will allow the Company's counterparties to view real time prices from the Company's traders and transact online. She stated that the system was multi-currency, multi-commodity, and would eventually be offered globally. She presented a demonstration how the system will operate and discussed the information that would be available to users. She commented on the support work that had gone into the development, the different systems built to support EnronOnline, and the timeline for when the system would be available in different areas of the world. She discussed the projected number of transactions that would be done online over the next two years and noted that by the end of 2001 the Company estimated that over two-thirds of all transactions would be done online. Ms. Kitchen answered questions from the Board regarding the security built into the system, potential credit issues, applicable laws and regulations that could impact the ability to transact online, and the counterparties ability to customize their EnronOnline screens. A copy of Ms. Kitchen's presentation is filed with the records of the meeting.

Messrs. McConnell, Skilling, and Whalley and Ms. Kitchen left the meeting following the presentation.

Mr. Lay called upon Mr. White to update the Board on EES. Mr. White stated that EES' presentation would be focused on the details of execution related to contracts that had previously been signed and the progress to date on previously stated goals. He discussed the strong market response to total energy outsourcing that EES has experienced and stated that both third and fourth quarter results would be very strong. He noted that EES had put in place an organization to successfully execute the deals already signed and stated that financial goals for the year would be met. He introduced the other employees from EES in attendance and called upon Mr. Sunde to discuss the sales function.

Mr. Sunde stated that the biggest issues EES faced in executing transactions included the counterparties' concerns regarding the length of the contract obligation, typically ten years, and EES' concern regarding change of control risk. He noted that the biggest obstacle EES faced was a "business as usual" philosophy. He discussed the deals in progress for the third and fourth quarters and noted whether they were outsourcing, commodity, upsell, or other types of contracts. He commented on the stages of deal development, the time frame involved, and the percentage of initiated transactions that typically closed. Mr. Sunde answered questions from the Board concerning the average contractual savings offered to customers and change of control unwind provisions in contracts. Mr. Sunde stated that in addition to spending considerable time negotiating the unwind provisions EES also took reserves when the contract was recorded related to the potential for a change of control at the counterparty company. Mr. White called upon Mr. Echols to discuss EES's risk management function.

Mr. Echols discussed EES' near-term and long-term value levers, or the manner in which the Company makes money on a transaction. He stated that near-term value came from optimizing the operations at companies that had outsourced operations to EES and included establishing best practices/processes, making capital investments in more energy efficient equipment, and better management of the commodity price aspect of the business. He stated that long-term value related to scale procurement, improved technology, and more efficient use of labor.

Mr. Echols introduced Mr. Leff to discuss EES execution account management division. Mr. Leff discussed EES' existing portfolio of contracts, including the total contract value ("TCV"), a measure of the value of the contract over the entire life of the deal, and the potential additional value that could come from selling incremental services to the customer. He discussed the five divisions within his organization and the roles and responsibilities of each division. He commented on how the effectiveness of his organization was measured and noted that customer satisfaction was considered the most important measurement. He showed the results of customer satisfaction surveys from earlier in the year, differentiated by type of customer, and stated that his organization had established a "referral threshold" that they felt was necessary to achieve in order to get business referrals.

Mr. Leff called upon Mr. Earle to discuss EES' facility services division. Mr. Earle stated that the group's goal was to be the premier nationwide provider of comprehensive services for energy systems. He noted that facility services included facilities management, mechanical and electrical construction, heating, ventilation, and air conditioning ("HVAC") service and HVAC franchising. He commented on the strategy of the group going forward and the anticipated financial performance for 1999.

Mr. Earle called upon Mr. Muller to discuss EES' international operations. Mr. Muller discussed the status of commercial development, including the deals currently in place, the status of the market, and EES' evaluation of opportunities in Europe, the Southern Cone, the Pacific Rim, and other markets. He discussed completed deals in Europe and noted the TCV of the transactions, countries where delivery of services would occur, and the projected timeline for closing the transactions. He discussed a proposed acquisition of a publicly traded equipment breakdown insurance company that EES had discussed with the Executive Committee of the Board but noted that due to changes in market conditions EES was now considering an outsourcing contract as opposed to an acquisition.

Mr. Muller called upon Mr. Pai to update the Board on EES' residential business ("ResCo"). Mr. Pai stated that opportunities in the residential market were improving and that EES had recently executed a letter of intent with America OnLine that would give ResCo a six-year exclusive. He stated that the initial funding for ResCo was coming from external sources and discussed the amounts each of the external sources had committed to. He noted that EES was still anticipating an initial public offering of common stock in ResCo in early 2000 and discussed the estimated valuation and the anticipated percentage of ResCo that the Company would retain.

Mr. Pai then discussed the financial performance of EES during 1999 and that projected for 2000. He commented on the TCV of deals closed during 1999 and the margins that had been created, noting whether the contracts were bundled/outsource, facility services, or commercial gas. He discussed the projected gross margin, operating expenses, and earnings for each quarter of 2000.

Messrs. Earle, Echols, Leff, Muller, Pai, Sunde and White left the meeting and Messrs. Bannantine, Black, and Waddel joined the meeting following the presentation.

Mr. Lay called upon Mr. Humphrey to discuss Enron Economic Development Corp. ("EEDC"). Mr. Humphrey showed a short video that focused on EEDC's current customers and purpose, to create a profit-oriented "social investing" business that focused on historically underserved and economically disadvantaged communities. He then discussed the number of deals that had been closed, evaluated, or rejected during the third quarter and the third-party investor commitments that had been received thus far to help fund EEDC's initiatives. He gave a brief summary of each company that had received funding from EEDC and the amount and closing date of the funding. He discussed the expected return on the capital funded to the companies and the range of ownership that EEDC would hold in the companies. He noted that EEDC was working to establish a national economic opportunity fund and discussed how it would be structured and the targeted cities.

Mr. Humphrey left the meeting and Mr. Causey joined the meeting following the presentation.

Mr. Lay then called upon Ms. McDonald to discuss the Company's operations in the Asia/Pacific region, Africa, and China ("APACHI"). Ms. McDonald displayed a map outlining the facilities that the APACHI group currently has under development or in operation. She stated that there was significant disparity within the regions as to the availability of natural resources and noted that some countries have existing networks that the APACHI group could leverage off of while in other countries there was the opportunity for the APACHI group to develop a network. She discussed the forecasted versus plan 1999 net income by region and discussed reasons for a shortfall in the China region. She outlined the group's rationale for concentrating on certain regions and noted that two factors, strategic importance to the Company and execution lead-time, were important in determining which regions to focus on. She discussed Japan's liberalizing power market, high industrial power prices, and desirable market characteristics. She discussed in detail APACHI's two-pronged approach to Japan, (i) focusing on generation aggregation and (ii) offering a full array of the Company's products and services to the country. She updated the Board on the Company's current investment in Korea and outlined the factors necessary to establish a viable origination and trading business. She discussed the Company's electricity trading and projected revenues in Australia and gave a brief overview of regions where APACHI is not currently focusing its efforts. A copy of Ms. McDonald's presentation is filed with the records of the meeting.

Mr. Skilling rejoined the meeting during Ms. McDonald's presentation.

Mr. Lay called upon Mr. Rice to discuss ECI. Mr. Rice discussed the outlook for the internet and e-commerce markets over the next three years and stated that ECI's vision was to be the world's first global eBusiness network. He displayed charts showing ECI's five year projections for different aspects of the internet and e-commerce businesses, including access speed, content revenue rates, broadband and bandwidth market size and potential, and revenue potential. He gave an update on ECI's domestic and international strategy and noted it focused on two areas, (i) network reach, including a global, flexible backbone with a broad distribution network and (ii) network commerce, which includes the Enron Intelligent Network, bandwidth commerce, financing, trading, streaming video, data storage and archiving, and distributed computing. He updated the Board on the domestic and international network reach currently in place and that anticpated by the end of 2000. He commented on video streaming that ECI had recently performed for the Country Music Awards and discussed the number of viewers who had participated. He discussed the competitive landscape and noted where competitors fell within the internet value chain, from content providers to internet service providers. He concluded by stating that business will increasingly move toward electronic, internet-based commerce, there is a need for a global eBusiness network provider, and that the Company is capable of creating the global eBusiness platform. Mr. Hirko joined Mr. Rice in answering questions from the Board.

Messrs. Causey, Hirko, and Rice and Ms. McDonald left following the presentation.

Mr. Lay called upon Mr. Bannantine to begin the presentation on Enron South America ("ESA"). Mr. Bannantine displayed a map showing ESA's existing assets and operations and projects/businesses under construction and discussed the rapid expansion of the Company's activities in South America over the last three years. He explained how ESA was organized and the number of personnel employed. He commented on ESA's successes in 1999 including a consolidation of the Company's position in Elektro, beginning commercial operations at the Cuiaba power facility, and flowing gas on the Bolivia to Brazil pipeline. He discussed how capital was employed in South America and commented on whether the capital was invested in strategic assets, completed expansion/exploitation opportunities, or expansion/exploitation opportunities in progress. He commented on ESA's South American market outlook over the next five years and noted that the Company was a dominant player in a large and fast growing energy market. He called upon Mr. Gonzalez to discuss Elektro.

Mr. Gonzalez discussed ESA's Elektro concession, which gave ESA the right to generate and distribute electricity from two hydroelectric facilities, and commented on the area served, number of customers, area population, revenues, and number of employees. He discussed the 1999 major accomplishments which included achieving a tariff increase, reducing operating costs, completing a successful reorganization, and being chosen the best electric distribution company in Brazil. He discussed Elektro's targets for 2000 of continued improvement in profitability, environmental, health and safety performance, and successfully pursuing joint development opportunities with the Company's other business units. He then called upon Mr. Waddell to discuss ESA's gas business unit.

Mr. Waddell discussed the locations of ESA's Brazilian gas local distribution companies, Gaspart and CEG/RIOGAS, and commented on the Brazilian states where they operated and the population of the regions. He then discussed the gas business unit's 1999 accomplishments and the action plan for 2000. He called upon Mr. Christodoulou to discuss ESA's overall strategy.

Mr. Christodoulou stated that ESA's strategy was to fully transition its asset holdings and merchant functions into an integrated Southern Cone business. He noted that the Company's selective asset positions gave it an opportunity to deliver unique merchant services. He stated that there were three phases to the strategy, (i) build a strategic asset position whereby the Company would receive regulated returns, (ii) expansion/exploitation of the strategic assets for an enhanced return on equity. and (iii) establish a network integration of gas and power trading. communications functions. an EES type business. and asset monetizations which would lead to an increasing return on intellectual capital. He discussed the key areas of focus for the merchant business and the potential need for additional strategic assets and commented on the potential expansion/exploitation opportunities they could bring to the Company.

There being no further business to come before the Board. the meeting was adjourned at 12:30 p.m.. C.D.T.

Rebecca C. Carter
Secretary

APPROVED:

Kenneth L. Lay
Chairman

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MINUTES
MEETING OF THE FINANCE COMMITTEE
OF THE BOARD OF DIRECTORS
ENRON CORP.
OCTOBER 6, 2000

Minutes of a meeting of the Finance Committee ("Committee") of the Board of Directors of Enron Corp. ("Company"), noticed to begin at 10:00 a.m., E.D.T, but actually begun at 10:35 a.m., E.D.T., at The Breakers, Ponce de Leon III Ballroom, Palm Beach, Florida.

All of the Committee members were present, either in person or by telephone conference connection, where each member could hear the comments of the other participants and join in the discussion, as follows:

Mr. Herbert S. Winokur, Jr., Chairman
Mr. Robert A. Belfer
Mr. Norman P. Blake, Jr.
Mr. Ronnie C. Chan
Mr. Jerome J. Meyer
Mr. Paulo V. Ferraz Pereira
Mr. Frank Savage
Mr. John A. Urquhart

Directors Duncan, Gramm, Lay, LeMaistre, Mendelsohn, and Skilling, Messrs. Richard B. Buy, Richard A. Causey, Andrew S. Fastow, Ben F. Glisan, Jr., David B. Gorte, Mark E. Koenig, Theodore R. Murphy, and Joseph W. Sutton, and Ms. Rebecca C. Carter, all of the Company or affiliates thereof, and Mr. Richard N. Foster, of McKinsey & Company, Inc., also attended the meeting.

The Chairman, Mr. Winokur, presided at the meeting, and the Secretary, Ms. Carter, recorded the proceedings.

Mr. Winokur called the meeting to order, noted that a draft of the minutes of the meeting of the Committee held on August 7, 2000 had been distributed to the Committee members, and called for any corrections or additions. There being none, upon motion duly made by Mr. Meyer, seconded by Mr. Ferraz, and carried, the minutes of the meeting of the Committee held on August 7, 2000 were approved as distributed.

Mr. Winokur called upon Mr. Fastow to present the Chief Financial Officer's report, a copy of which is filed with the records of the meeting.

Mr. Fastow discussed the Company's current and projected key financial ratios and stated that the ratios were based on the current plan. He reviewed the stock trading portfolio and noted that there were currently no open positions. He presented a chart depicting the Company's interest rate sensitive items and noted the dollar amounts at fixed and at floating interest rates. He stated that the Company had recently recalculated its cost of capital utilizing the current estimate of the equity cost component rather than the previous method, which utilized a historical calculation for the equity component. He noted that the new cost of capital calculation would impact the pricing used by the Risk Assessment and Control ("RAC") group when determining the required rate of return on potential projects. He stated that if a project's expected returns where lower than the Company's weighted average cost of capital of 17.17%, then additional syndication or leverage would be necessary.

Mr. Fastow then discussed the Company's private equity strategy and noted that there would be continued significant capital investments by the Company, some of which would not generate cash flow or earnings for a number of years. He stated that this would necessitate syndication of capital investments if the Company were to continue to grow. He discussed the Company's current total assets and the total assets when unconsolidated affiliates were included. He then noted that management was proposing transacting with a new private equity fund, LJM3, and discussed the Company's rationale for transacting with the fund. He reviewed LJM1 and LJM2, equity funds previously approved by the Board that the Company was already transacting with, and noted the dates of formation, the amount of equity in the funds, and the projects that the funds had invested in. He then discussed how his role in the LJM funds could potentially create a conflict of interest in that he negotiates for the LJM funds when they are making investments in the Company's transactions/business, he receives value from the LJM funds if they perform well, and he must allocate a certain amount of his time to the funds. He then discussed the mechanisms that had been put in place to mitigate any potential conflicts including: 1) his fiduciary responsibilities to the Company, 2) the Office of the Chairman or the Board could ask him to resign from the LJM funds at any time, 3) Messrs. Buy, Causey, and Skilling approve all transactions between the Company and the LJM funds, 4) there is an annual Audit and Compliance Committee review of the Company's transactions with the LJM funds, 5) a review of his economic interest in the Company and the LJM funds is presented to Mr. Skilling, and 6) there is no obligation for the Company to transact with the LJM funds.

Messrs. Causey and Skilling then discussed the benefits to the Company of having the ability to transact with the LJM funds and Mr. Fastow discussed the other investors in the LJM funds. Mr. Blake proposed that the Finance Committee also review transactions between the Company and the LJM funds on a quarterly basis and Mr. Winokur proposed that the Compensation and Management Development Committee review the compensation received by Mr. Fastow from the LJM funds and the Company. The Committee unanimously agreed to the two proposals.

Mr. Fastow noted that in order to allow him to participate as the General Partner of the LJM funds it would be appropriate for the Committee to recommend to the Board the ratification of a decision by the Office of the Chairman that Mr. Fastow's participation in the LJM funds, with the noted conflict mitigation mechanisms in place, would not adversely affect the best interests of the Company. Following a discussion, upon motion duly made by Mr. Blake, seconded by Mr. Meyer, and carried the proposal was approved for recommendation to the Board.

Mr. Fastow then called upon Mr. Glisan for the Treasurer's report, a copy of which is filed with the records of the meeting.

Mr. Glisan reviewed the liquidity report as of September 20, 2000, noted that the Company's total liquidity was currently over $7 billion, and stated that a transaction recently completed would bring the total to approximately $8 billion. He reviewed year-to-date investments and proceeds on sales of assets and noted that during the year there had been fewer assets sales and more capital invested than originally planned. He commented on the financing activity that had occurred since June of 2000 and the financings still to be completed before year end. He noted that certain turbine purchases, previously approved by the Board, were requiring a significant amount of capital investment during the year. He then reviewed the Company's outstanding letters of credit and noted that there was no significant change since the last Committee meeting. He discussed the Company's guarantee portfolio and stated that the significant increase in the volumes transacted by the Company had led to related increases in required guarantees. He then stated that there had not been any change in the Company's ratings by the rating agencies.

Mr. Lay left the meeting following Mr. Glisan's presentation and Mr. Winokur called upon Mr. Buy to present the Chief Risk Officer's report, a copy of which is filed with the records of the meeting.

Mr. Buy discussed the Company's Top 25 credit exposures and commented on the exposure to Owens Corning, which had recently declared Chapter 11 bankruptcy. He also discussed a transaction that was underway to reduce the Company's credit exposure to TXU Europe Energy Trading Ltd. He reviewed the current credit reserve and compared it to the required reserve. He then gave the

Committee a brief update on the RAC group's foreign exchange project currently underway and noted that it was scheduled to be completed in December.

Mr. Buy then gave a status report on the RAC group's review of Enron Energy Services, LLC ("EES"). He discussed EES's business and the different ways it earned money and he presented a summary of EES's net open commodity positions, the associated Value-at-Risk ("VAR"), and the mark-to-market credit exposure. He then reviewed EES's outsourcing transactions and noted that there were two components, demand side management and commodity price risk, associated with the transactions. He presented a chart depicting the capital expenditures made or projected to be made by EES and stated that improvements have been made in developing projects but that actual project implementation was lagging behind the original projections. Mr. Skilling joined him in answering questions from the Committee regarding EES's capital expenditures and the potential implication of the slowdown in project implementation on future earnings.

Mr. Buy then presented the Market Risk Update and discussed the returns each commodity group had earned compared to the VAR it had taken. He then presented the same information by business unit and specific commodity. He gave an overview of the VAR backtesting and stress testing of the Company's exposure under "worst case" scenarios of 5% and 25% shifts in commodity prices. He reviewed limit violations during July and August of 2000, noted that the RAC group was working with the business units to reduce the number of violations, and discussed the reasons for the violations. He discussed the loss notifications during July and August of 2000 and noted that there was a daily loss in the portfolio that had required that Mr. Winokur be notified. Mr. Skilling joined him in a discussion of the reason for the loss and commented that the loss was preceded by a number of days of significant earnings.

Ms. Carter then distributed a supplement to the Chief Risk Officer's report, a copy of which is filed with the records of the meeting. Mr. Buy presented a summary of the Transaction Approval Process ("TAP") including the number of transactions that had been approved by the various levels of management and the Board. He then reviewed the Company's annualized VAR versus trading profits over the last six years and discussed the annualized VAR as a percent of trading profits. He commented on the average daily VAR and the VAR limit as a percent of market capitalization over the last six years and noted that during 2000 the average daily VAR had more than doubled. He stated that management was proposing an increase in the overall VAR and also recommending that a certain amount of the overall VAR limit be deemed discretionary, to be allocated by himself and Mr. Skilling to the business units/commodity groups.

Mr. Savage left the meeting and Mr. Lay returned to the meeting following the presentation.

Mr. Buy then discussed proposed changes to the Enron Corp. Risk Management Policy to incorporate the increased VAR. Following a discussion, upon motion duly made by Mr. Ferraz, seconded by Mr. Chan, and carried, the proposed changes to the Enron Corp. Risk Management Policy presented at the meeting were approved for recommendation to the Board.

Mr. Buy then discussed the proposed changes to the TAP, including the addition of a category of approval for the Office of the Chairman of the Wholesale Energy Operations business unit, the ability of Messrs. Lay and Skilling to give Mr. Buy verbal authority to sign on their behalf on transactions up to $25 million, and an updated region/business unit head listing to reflect recent reorganizations or promotions. Following a discussion, upon motion duly made by Mr. Urquhart, seconded by Mr. Belfer, and carried, the proposed changes to the TAP, as filed with the records of the meeting, were approved for recommendation to the Board.

Mr. Winokur then called upon Mr. Glisan to discuss a proposed equity derivatives authorization. Mr. Glisan noted that the Company periodically enters into equity derivative transactions, including swap transactions, forward sales and purchases, and options. He stated that to clarify the equity derivative resolution currently in place management was proposing some minor modifications. He reviewed the modifications and, following a discussion, upon motion duly made by Mr. Meyer, seconded by Mr. Belfer, and carried, the proposed equity derivatives authorization was approved for recommendation to the Board.

There being no further business to come before the Committee, the meeting was adjourned at 12:20 p.m., E.D.T.

Secretary

APPROVED:

Chairman

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ATTACHMENT 1

Conflicts of Interest

- **LJM creates a conflict of interest for EVP/CFO of Enron**
  - Negotiates investments in Enron transactions/business for LJM.
  - Receives value from LJM if fund performs well.
  - Allocates time to LJM matters.
- **Conflict largely mitigated**
  - Board resolution does not relieve A.Fastow of fiduciary responsibility to Enron.
  - OOC or Board can ask A. Fastow to resign from LJM at any time.
  - R. Causey/R. Buy/J. Skilling approve all Enron-LJM transactions.
  - Annual audit committee review of LJM (February).
  - Legal department responsible for maintaining audit trails/files on all transactions.
  - Review of A. Fastow economic interest in Enron and LJM presented to J. Skilling.
  - No obligation for Enron to transact with LJM.

ATTACHMENT 2

2000 Audit Update
Status and Required Communications

Internal Control

• Opinion regarding internal control	• Will be unqualified.
• Actual results vs. plan	• 100% of plan completed.
• Material weaknesses identified	• None
• Improvement Opportunities	• See certain "Areas of Emphasis" discussed in December meeting and at pages X-6 and X-7.

Independence

• Annual Determination	• In our professional judgement, we remain independent.

2000 Audit Update

Selected Observations - Financial Reporting

All comments on the Company's accounting practices

Category	Examples	Comment
Highly structured transactions	• Securitizations • Syndication and off-balance sheet vehicles • Other complex sales structures • Complex contract structures	• High dependency on transactions to meet objectives • Application of GAAP often requires significant judgement • Continued interpretive guidance likely • Extent of necessary disclosures can be judgemental

Use of mark-to-market and fair value model	• Trading contracts
	• Derivative contracts
	• Investment company holdings of public and non-public securities
		• Significant inherent judgemental issues regarding:
		  • Applicability of model to specific products or transactions;
		  • Valuation (curves, reserves)
		  • Multi-element arrangements
		• Consistency of application among business units continues to be refined
		• Incorporating new products continues to present challenges
		• Continued interpretive guidance likely
		• Extent of necessary disclosures can be judgemental

There are a number of areas where accounting rules have not kept up w/ the Company's practices & some interpretation is necessary.

2000 Audit Update

Selected Observations - Financial Reporting

Category	Examples	Comment

Related party transactions	• LJM related activity
	• Syndication vehicles where company has an ownership interest
		• Relationship issues add scrutiny risk to:
		  • Judgemental structuring and valuation issues
		  • Understanding of transaction completeness
		• Required disclosures reviewed for adequacy

Other Material Judgemental Areas	• Azurix impairment • Impact of high volatility on mark-to-market valuations • Credit (California) • India Contingencies	• Company positions reviewed for reasonableness • Certain disclosures made as warranted
Classification issues	• Financial statements classification • Other public disclosures	• Categorization of activities between certain segments, operating vs. non-operating or recurring vs. non-recurring can be highly judgemental • Certain intersegment allocation practices need refinement

RELATED PARTY TRANSACTIONS – LJM 2000
INTERNAL POLICIES AND PROCEDURES
(February, 2001)

- <u>Background</u>: Board-established guidelines for transacting with LJM.
  - No obligations vis-à-vis one another;
  - Chief Accounting and Risk Officers review and (where appropriate) approval;
  - Annual review by Board's Audit and Compliance Committee of completed transactions; recommendations, as appropriate; and
  - Annual Board review as to application of Company's Code of Ethics, i.e. such transactions "do not adversely affect the best interests of the Company".

- <u>Compliance</u>: The Company has adopted the following procedures and controls in response to the Board's direction.
  - LJM Deal Approval Sheet ("DASH") prepared for every Enron/LJM transaction generally describing the nature of the Commercial transaction and relevant economics; approval required by a variety of senior-level Commercial, Technical, and Commercial Support professionals.
  - DASH is supplemented by an "LJM Approval Process Checklist" testing for compliance with Board's directive for transacting with LJM, including questions addressing the following:
    - -- Alternative sales options and counterparties;
    - -- Determination that transaction was conducted at arm's-length; any evidence that it was not,
    - -- Disclosure obligations; and
    - -- Review of transaction by Enron's OTC, Chief Accounting and Risk Officers.

- <u>Supplemental Efforts</u>: Checklist review complemented by the adoption of additional controls
  - LJM senior professionals do not ever negotiate on behalf of Enron;
  - Enron professionals negotiating with LJM report to senior Enron professionals apart from Andrew Fastow;
  - Global Finance Commercial, Legal, and Accounting monitor compliance with procedures and controls; regularly update Chief Accounting and Risk Officers; and
  - Internal and outside counsel regularly consulted regarding disclosure obligations and review any such disclosures

LJM INVESTMENT 2000 ACTIVITY WITH ENRON

Investment	Description	Notional Amount ($Millions)
A. Balance Sheet		
Resco The New Power Company	Purchase of equity investment in EES' residential energy services.	.67 (private) 38 (public)
Yosemite	Purchase of an interest in certain Trust Investments supported by Enron credit; such interest subsequently sold to Whitewing, an Enron nonconsolidated affiliate.	33.75
EE&CC Turbines	Acquired rights from Enron to purchase two turbines from GE with option to sell such turbines to EE&CC.	38
Margaux	Purchase of equity certificates in a monetization structure for three European power plants.	10
Rawhide	Purchase of equity certificates in a monetization structure for certain domestic and international assets.	12.5
Avici	Purchase of equity certificates in a monetization structure for Enron's interest in Avici shares.	1
Catalytica	Purchase of equity certificates in a monetization structure for Enron's interest in Catalytica shares.	.8'
Pulp and Paper	Serves as general partner in a limited partnership interest that purchased an interest in Enron's Pulp and Paper trading business.	8

Investment	Description	Notional Amount ($Millions)
B. Hedges		
RhythmsNet Stock options	Termination of hedge of RhythmsNet investment.	26.8
Raptors I, II, III, IV	Purchase of equity interests in four structured-finance hedging vehicles. Derivatives, hedging weakened [illegible]	127.1
C. Income Statement		
Dark Fiber	Purchase of Dark Fiber.	30
D. Other		
Osprey Add-On	Purchase of additional Trust Certificates in Osprey - an unaffiliated equity and debtholder of Whitewing, an Enron nonconsolidated affiliate, which invests in both domestic and foreign merchant and other assets.	32.5

ATTACHMENT 3

MINUTES
MEETING OF THE FINANCE COMMITTEE
OF THE BOARD OF DIRECTORS
ENRON CORP.
October 11, 1999

Minutes of a meeting of the Finance Committee ("Committee") of the Board of Directors of Enron Corp. ("Company"), held pursuant to due notice at 4:30 p.m., C.D.T. on October 11, 1999 at the Enron Building in Houston, Texas

The following Committee members were present constituting a quorum.

Mr. Herbert S. Winokur, Jr., Chairman
Mr. Robert A. Belfer
Mr. Norman P. Blake, Jr.
Mr. Jerome J. Meyer
Mr. John A. Urquhart

Committee member Ronnie C. Chan was absent from the meeting. Directors Ken L. Harrison, Kenneth L. Lay, Charles A. LeMaistre, and Jeffrey K. Skilling, Messrs. Richard B. Buy, Richard A. Causey, Andrew S. Fastow, David B. Gorte, Mark E. Koenig, Jeffrey McMahon, Theodore R. Murphy, and Joseph W. Sutton, and Ms. Rebecca C. Carter, all of the Company or affiliates thereof, also attended the meeting.

The Chairman, Mr. Winokur, presided at the meeting, and the Secretary, Ms. Carter, recorded the proceedings.

Mr. Winokur called the meeting to order and noted that a draft of minutes of the meeting of the Committee held on August 9, 1999 had been distributed to the Committee members. He called for any corrections or additions. There being none, upon motion duly made by Mr. Meyer, seconded by Mr. Urquhart, and carried, the minutes of the meeting of the Committee held on August 9, 1999 were approved as distributed.

Mr. Winokur called upon Mr. Fastow to present the Chief Financial Officer's report. Mr. Fastow reviewed the Company's key financial ratios and long-term liability analysis, noting the mix between fixed and floating rate liabilities and on-balance and off-balance sheet debt. He discussed the Company's stock trading portfolio and noted changes since the beginning of the year. He reviewed the investments made year-to-date by each business unit and compared them to the plan amount. He discussed the status of capital commitments year-to-date and commented on the transactions the Company had taken or would be taking to fund the cash outflows and noted the importance of funds flow to the Credit Rating Agencies. He distributed a handout on funds flow, a copy of which is filed with the records of the meeting. He discussed issues impacting funds flow and how the Company was managing funds flow, including vehicles currently in place and the strategy for the future. A copy of Mr. Fastow's report is filed with the records of the meeting.

Mr. Fastow then updated the Committee on a financing structure approved earlier in the year, LJM 1, and discussed the benefits that the Company had incurred since the transaction closed on June 30, 1999. He recommended that the Company continue to syndicate capital investments to address the funds flow issue. He presented information concerning an unaffiliated investment partnership, LJM 2, and discussed the rationale and benefits of the proposed partnership. He stated that the partnership could possibly provide the Company with an alternative, optional source of private equity to manage its investment portfolio risk, funds flow, and financial flexibility. He noted that he would be acting as managing partner of LJM 2 and discussed his role in the LJM 2 partnership and how it would benefit the Company. He commented on the differences between LJM 1 and LJM 2, the controls that would be put in place to manage any transactions between the Company and LJM 2, the fund fees and promote, and any required disclosure. He noted that the controls include review and approval of all transactions by the Chief Accounting Officer and the Chief Risk Officer of the Company. He stated that the Audit and Compliance Committee would, on an annual basis, review all transactions completed within the past year and make any recommendations they deemed appropriate. He noted that the Company's Conduct of Business Affairs Policies (relating to investments and outside business interests of officers and employees) would prohibit him from participating in LJM 2 as managing partner due to his position as Executive Vice President and Chief Financial Officer of the Company, absent appropriate reviews and waivers from the Board and a finding that such participation does not adversely affect the best interests of the Company. He asked that the Committee recommend to the Board that such review and findings be made in this instance to allow his participation. Messrs. Causey, Fastow, and Skilling answered questions from the Committee concerning the role of other partners, the review by Arthur Andersen LLP, and the benefits to the Company, which included having another potential buyer of assets and provider of capital, of having Mr. Fastow act as managing partner. Following a discussion, upon motion duly made by Mr. Meyer, seconded by Mr. Blake, and carried, the proposed waiver of the aforementioned policy, including findings of no adverse effects to the best interests of the Company related to Mr. Fastow's involvement in LJM 2, was approved for recommendation to the Board. A copy of Mr. Fastow's report is filed with the records of the meeting.

Mr. Winokur called upon Mr. McMahon to present the Treasurer's report. Mr. McMahon reviewed the liquidity report and discussed financings that had occurred since the August Committee meeting. He commented on the current market liquidity and the potential for disruption related to year-end. He reviewed the active letters of credit and noted that the Company had significantly increased its available capacity and lowered its cost by utilizing surety bonds, issued by insurance companies, in lieu of letters of credit. He discussed the guaranty portfolio and commented that Enron Energy Service, LLC was currently the largest user of trade guarantees issued by the Company. He noted that there was no change in the Company's debt ratings, as determined by the Credit Rating

Agencies. and added that he and Messrs. Fastow and Skilling had met with Moody's Investor Services recently and formally requested an upgrade. He updated the Committee on the level and type of financial support that the Company had provided to Azurix Corp. A copy of Mr. McMahon's report is filed with the records of the meeting.

Mr. McMahon then discussed the proposed "shelf" registration statement to be filed with the Securities and Exchange Commission ("SEC"). He noted that, per the SEC regulations, the number of shares of common stock registered for sale from time to time pursuant to the current effective shelf registration statement did not automatically double when the Company's two-for-one stock split was effected during the third quarter. He stated that the proposed resolution was necessary to increase the number of shares that could be offered and sold from time to time pursuant to the registration statements. Following a discussion, upon motion duly made by Mr. Belfer, seconded by Mr. Urquhart, and carried, the resolution was approved for recommendation to the Board.

Mr. McMahon then discussed a proposed resolution to allow a Special Committee of the Board, consisting of Messrs. Lay and Skilling, to approve the issuance and sale of up to 500,000 shares of the Company's common stock in connection with acquisitions. He noted that Oregon law allows the full Board of Directors to authorize a committee to approve the issuance or sale of shares if the full Board (1) approves a specific maximum number of shares to be issued and (2) designates the specific purpose for which such shares would be issued. He stated that this would enable the Company to use small amounts of stock to make relatively small acquisitions without having to bring the matter before the full Board. Following a discussion, upon motion duly made by Mr. Belfer, seconded by Mr. Urquhart, and carried, the resolution was approved for recommendation to the Board.

Mr. Sutton left the meeting following Mr. McMahon's report.

Mr. Winokur called upon Mr. Buy to present the Chief Risk Officer's report, a copy of which is filed with the records of the meeting. Mr. Buy discussed the Company's top 25 credit exposures, with specific emphasis on companies that did not appear on the list at the August 9, 1999 Committee meeting. He reviewed the Company's current credit reserve and compared it to the historical and required reserve, as calculated. He gave an overview of the Company's Restructuring Group and discussed the deals currently in the group's portfolio, the criteria for transferring assets into the group, and completed restructurings. He reviewed the top and bottom ten performing investments and discussed investments new to the lists since the last Committee meeting. He ended his presentation with an overview of the initiatives currently being undertaken by the Company's Risk Assessment & Control Group ("RAC Group"). He called upon Mr. Murphy to give a market risk update.

Mr. Murphy presented the Committee with an update on market risk, a copy of which is filed with the records of the meeting. He reviewed the third quarter and year-to-date profit and loss and value-at-risk ("VAR") of the Company by commodity group. He discussed the returns each commodity group had earned compared to the VAR it had taken. He gave an overview of the VAR backtesting performed by the RAC Group to test the accuracy of the VAR calculation. He discussed exposures under a "worst case" scenario of 5%-25% shifts in commodity prices. He reviewed limit violations during the third quarter of 1999 and noted that violations had significantly decreased from earlier in the year. Mr. Winokur called upon Mr. Koenig to discuss the common stock dividend.

Mr. Koenig gave the Board an overview of the Company's current dividend yield and level and the historical annual increase. He commented on the impact an increase in the dividend had on cash flow and discussed the Company's increasing capital needs and investment opportunities. He compared the dividend yield to the Company's energy peer group and investment peer group. Following a discussion, the Committee agreed by consensus that it would recommend to the Board that the dividend level be held constant.

There being no further business to come before the Committee, the meeting was adjourned at 6:00 p.m., C.D.T

Secretary

APPROVED:

Chairman

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LJM 2 Summary

LP will be traditional pension funds

- o Follow-on private equity fund to LJM1 Bring quick, flexible equity
- o Purpose: Alternative, optional source of private equity for Enron to manage its investment portfolio risk, funds flow, and financial flexibility
- o Major differences from LJM1:
  - No forward contracts / value from Enron contributed
  - No business relationships between Enron and LJM2 at close
  - Size: target $200+ million institutional private equity
  - GP investment: 1% of committed capital
- o Controls
  - R. Causey to approve all transactions between Enron and LJM1/LJM2
- o Compensation / Disclosure
  - No compensation from Enron to A. Fastow
  - LJM2 has typical private equity fund fees and promote
  - No related party disclosure expected at close. Related party disclosures specific to asset sales probably required.
- o Finance Committee / Board of Directors action requested
  - Ratify decision of Office of the Chairman to waive Code of Conduct in order to allow A. Fastow participation in LJM2 as General Partner

Blake: Has AA reviewed? Causey: yes, they're fine w/ it.
Blake - Still concerned about conflict of interest. Causey: Gave LP enough authority to keep Andy from having too much power. LP can remove GP w/out cause

ENRON

Finance Committee Meeting

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Discussion Points

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1/ Untenable Situation

- LJM situation where AF wears 2 hats and upside comp is so great creates a conflict ~~that puts me in~~ I am right in the middle of.
- I find myself negotiating with Andy on Enron matters and am pressured to do a deal that I do not believe is in the best interests of the shareholders

[Did not ask to be put in this position]

2/ Request/Options

(A) [illegible] my integrity forces me to continue to negotiate the way I believe is correct - ~~[illegible]~~ [However, AF is my boss).

- In order to continue to do this, I MUST KNOW I have support from you and there won't be any ramifications [Believe it already has affected my comp]

OR

(B) Need to let me out of situation and go do something else in company. Will not compromise my integrity

Conflict Matters

1/ Terms and Pricing
- Follow thru on deals - who audits?
2/ Bank impressions as to debts owed

3/ Other Personnel Matters -
- ENE reporting to LJM
- Same floor
- Staff Meeting Attendance
- Bonuses do get affected - MK, JM

4/ General Conflict Matter Resolution -
* Want to be able to speak freely and not do it behind the scenes via Joe S or Jeff S *

(1)

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March 2000 - April 2000

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
March 6 10:00am Tim DeSpain, Bill 12:00pm Arena Finance 2:00pm Ken Rice, Kevin 3:00pm Thomas Sloop - 3:45pm Mike Jakubik - 4:00pm Harry Aurora & Tim 6:30pm Avanti to pick you	7 8:00am Utendahl Capital Mtg w/ Dana Reed, John 11:00am Barry Schnapper - Contracts 11:30am Flight to New York 7:30pm Dinner in NY - John	8 8:00am Moody's mtg - Stephen Moore, 9:00am Sue Dentist 10:30am Tom Blair - Bear 1:00pm Bank of New York , 3:00pm Leave New York for 4:50pm CO51 from Newark	9 8:30am Andy Melnelli 9:00am McKinsey - Suzanne 10:00am DG Bank mtg- Mark 11:30am Lunch w/Mike 2:00pm KBC - Mike Sawicki, 3:00pm Joe Kishkill - Update 3:30pm Kevin Howard	10 8:00am MOVE DAY TO 50TH................. 11:00am Lunch, Grill Room at the Houston Country Club for 12:15 p.m.Tee time is for 1	11 10:00am Sue & Amy in office to unpack. 12
13 9:40am Urgent Call Mike Jakubik 713 899 10:00am Bill & Shirley - your 12:00pm Lunch w/ Bill - 2:00pm Mark Schroeder 3:00pm Mary Perkins - 4:00pm Harry Arora.	14 10:30am Jedi & Orca Mtg - Andy & Shirley Hu 11:00am Greg Whalley - 12:00pm 12:30 table booked 2:00pm Credit Conference 3:00pm Charlene Jackson & 4:00pm JP Morgan- John	15 8:30am Rick Walker & Peter Gleysteen. Quick hel 9:30am Mees Pierson Mtg - Michael Davis, Head 1:00pm Terry Darby - 1:30pm Andy 3:00pm Dave Duncan -	16 8:30am Ray Bowen - Ray's 10:30am Conf Call w/John 11:30am Jeff Skilling, his office 1:00pm Hal Burtram - Project 1:30pm Jim Hunt SBC 2:00pm Jim Reilly - Update. 3:00pm Conf Call Roger	17 8:30am Scotia Bank - Barry 10:00am Barry Schnapper, 10:30am Turbine 11:30am Sue & Amy (lunch 12:00pm Lunch will be 2:00pm Tim DeSpain, Bill 3:00pm Doug McDowell &	18 19
20 10:00am Jim McGinnies - Morgan Stanley (212 1:00pm John Sherriff - 2:30pm Joe Cunningham - Dain Raushel Wes 3:45pm Joe Sutton Re: 4:30pm Paul Cambridge	21 9:00am Jay Helkums - Update 10:00am Conf Call re: Teesside/EEPG loan 10:30am Louie Fischer, Mike 11:30am Lunch w/Leo Paige & 1:00pm Greg Hall Re: 4:00pm Rick Causey - Couple	22 8:30am Ben Glisan 9:00am Jeff Thibault - Chase - Personal w/Margar 10:30am Mark Koenig & Mark Muller re: Resco IPO. 1:30pm Dentist Appointment - Dr Turner (713 771	23 8:00am Take kids to school 9:15am Sue Dentist 9:30am Kevin Howard - HR 10:00am Kevin Howard and 11:30am Lunch w/ Larry 1:00pm Keith Marlow EECC 3:00pm Mike McConnell my	24 9:00am Harry Arora - Update. 10:30am Mike McConnell & David Pope. 11:30am Lunch - Bob Schorr meet in lobby. 11:30am Sue & Amy - Bridget taking us for welcom	25 10 26
27 10:00am Larry Derrett - Deal structure 12:00pm Lunch in my off with Tim DeSpain Sue to 3:00pm Greg Cardenas - (C 503-539 7633) Opp 7:00pm Dinner with Mark	28 6:00am Avanti to pick up at 6:45am. All day trip to Chicago with Causey Flight info CO1714 7:45am will	29 10:00am Tier Two Outing -Barton Creek	30 10:00am Tier Two Outing -Barton Creek 10:00am Flight from Austin to Houston CO1955 departs at 12.29pm arrives Houston 1:26pm Avanti to tak	31 7:00am Sue will be out today. 7:30am Meeting with Andy 9:30am Conf Call - Kimberly 11:00am Interview for 11:30am Meeting with Jeff 12:00pm Lunch - Mary Joyce 7:05pm Astros v Yankees	April 1 2
3 12:00pm Lunch w/ Tim DeSpain 2:00pm Interview with Bill Nordlund, (Dan Castagnola's group) 4:00pm Cheryl Upshutz Re: Instutional Investor	4 9:00am Thomas Sloop 10:00am Scott Gelselman, 11:30am Cheryl Upshutz 12:30pm Lunch W/ Eric Herbst 2:00pm Louie Fischer & Mike 3:00pm John Miller JP Morgan 4:00pm Ray Bowen - Update	5 11:00am Mike Jakubik 11:30am Bill Brown 12:00pm Jeff's Staff mtg - Bill, 1:30pm Barry Schnapper 2:15pm Brian Manonies he 3:00pm Paul Chivers - he will 3:30pm Andy - Capital	6 9:00am EGF - Operating Committee Mtg - 11:00am Conf Call - Jill Sakol and Terran Miller - 1:00pm Enron Net Works - Staff Mtg EB3321 3:30pm 4pm Haircut - Cindy	7 8:00am Sue will be out today 9:00am Marlos 9:30am Bill Brown 10:00am Barry Schnapper 11:00am Floor Move Meeting EB3320 Liz, Lori Bel 1:30pm 2 - 3pm - Parent/	8 9

March 2000						
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April 2000						
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30						

CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM

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LJM2 CO-INVESTMENT, L.P.

Merrill Lynch & Co.

PRIVATE PLACEMENT MEMORANDUM **CONFIDENTIAL**

LJM2 CO-INVESTMENT, L.P.
$200,000,000
Limited Partnership Interests

This Private Placement Memorandum ("Memorandum") is being furnished to prospective investors on a confidential basis in order that such prospective investors may consider an investment in limited partner interests (the "Interests") in LJM2 Co-Investment, L.P., a Delaware limited partnership ("LJM2" or the "Partnership"), and may not be used for any other purpose. Each potential investor, by accepting delivery of this Memorandum, agrees not to make a photocopy or other copy or to divulge the contents hereof to any other person other than a legal, business, investment, or tax advisor in connection with obtaining the advice of such person with respect to this offering.

The Interests are being offered in a private placement to a limited number of accredited investors and will not be registered under the Securities Act of 1933, as amended (the "Securities Act"), or any state securities laws. Accordingly, unless a disposition is exempt from the registration requirements of such laws, the Interests must be held until the Partnership is liquidated. In addition, the transferability of the Interests will be restricted by the Amended and Restated Limited Partnership Agreement of the Partnership (the "Partnership Agreement").

This Memorandum is intended to present, among other things, a general outline of the objectives and structure of the Partnership. The Partnership Agreement, which specifies the rights and obligations of the partners, should be reviewed thoroughly by each prospective investor. The summary of certain provisions of the Partnership Agreement contained herein is necessarily incomplete and is qualified by reference to such Partnership Agreement. Copies of the Partnership Agreement and other relevant material will be made available to prospective investors upon request.

In making an investment decision, investors must rely on their own examination of the Partnership and the terms of the offering, including the merits and risks involved. Each prospective investor or its representative may request copies of such documents, ask questions, and obtain additional information reasonably necessary to verify the accuracy of the information contained in this Memorandum. Except as provided herein, no person has been authorized in connection with this offering to give any information or to make any representations other than as contained in this Memorandum.

The Interests have not been approved or disapproved by the Securities and Exchange Commission ("SEC") or any state securities commission, and neither the SEC nor any state securities commission has passed upon the accuracy or adequacy of this Memorandum. Any representation to the contrary is a criminal offense.

Merrill Lynch & Co.

Investment in the Interests described herein will involve significant risks, including those described in the section titled "Risk Factors" below. Investors should have the financial ability and willingness to accept the risks and lack of liquidity which are characteristic of the investment described herein.

Prospective investors are not to construe the contents of this Memorandum as legal, investment, business, or tax advice. Each investor should consult its own counsel, accountant, and other advisors as to legal, investment, business, tax, and related aspects of a purchase of the Interests offered hereby. The Partnership is not making any representations to any offeree or purchaser of the Interests regarding the legality of an investment therein by such offeree or purchaser under appropriate legal investment or similar laws.

The Partnership reserves the right to withdraw this offering of the Interests at any time and the Partnership and LJM2 Capital Partners, LLC, a Delaware limited liability company that is the general partner of the Partnership (the "General Partner"), reserve the right to reject any commitment to subscribe for the Interests in whole or in part and to allot to any prospective investor less than the full amount of the Interests sought by such investor. The General Partner and certain related persons may acquire for their own account a portion of the Interests.

This Memorandum does not constitute an offer to sell, or a solicitation of an offer to buy, any Interests in any jurisdiction where, or to or from any person to or from whom, such offer or solicitation is unlawful or not authorized.

None of Enron Corp., an Oregon corporation ("Enron"), and its subsidiaries has issued, or guaranteed any payments with respect to, the Interests, and none of Enron and its subsidiaries is responsible for the financial or other performance of the Partnership.

This Memorandum includes or incorporates by reference forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Securities Exchange Act of 1934, as amended. All statements other than statements of historical facts included in this Memorandum, including, without limitation, statements regarding the Partnership's future financial position, business strategy, and plans and objectives, including the ability of the Partnership to participate in investment opportunities generated by Enron and its subsidiaries, are forward-looking statements. Important factors that could cause actual results to differ materially from those anticipated by the Partnership include the willingness of Enron to permit the Partnership to participate in investment opportunities generated by Enron and its subsidiaries, the success of the Partnership in identifying other investment opportunities, the ability of the Partnership to participate in such investments on terms acceptable to the Partnership, and the actual performance of the investments in which the Partnership participates. Although the Partnership believes its expectations are reasonable, it can give no assurance that its investment objectives will be achieved.

No person has been authorized to give any information or to make any representation concerning the Partnership or the offer of the Interests other than the information contained in this Memorandum, and, if given or made, such information or representation must not be relied upon as having been authorized by the Partnership, the General Partner, or Merrill Lynch & Co. The information contained in this Memorandum has been compiled as of October 13, 1999 (except as otherwise stated herein). Certain information presented herein about Enron has been compiled from publicly available sources. Enron has not prepared this Memorandum and Enron has not approved or endorsed the contents of this Memorandum. Neither the delivery of this Memorandum at any time, nor any sale hereunder, shall under any circumstances create an implication that the information contained herein is correct as of any time subsequent to such date, and none of the Partnership, the General Partner, and Merrill Lynch & Co. undertakes an obligation to update or revise the information contained in this Memorandum, whether as a result of new information, future events or otherwise. The information is from sources believed to be reliable, but none of the Partnership, Merrill Lynch & Co., and any other person has independently verified the information contained herein.

Merrill Lynch, Pierce, Fenner & Smith Incorporated has been engaged as placement agent in connection with the formation of the Partnership and may use its affiliates to assist in its placing activities. Reference in this Memorandum to "Merrill Lynch & Co." shall be deemed to include Merrill Lynch, Pierce, Fenner & Smith Incorporated and, where the context so permits, its affiliates that assist in its placing activities.

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I. EXECUTIVE SUMMARY

Introduction

LJM2 Co-Investment, L.P., a Delaware limited partnership ("LJM2" or the "Partnership"), is being organized by Andrew S. Fastow, Executive Vice President and Chief Financial Officer of Enron Corp., an Oregon corporation ("Enron"), to make privately negotiated equity and equity-related investments in energy- and communications-related businesses and assets. The Partnership expects that Enron will be the Partnership's primary source of investment opportunities and that the Partnership will (i) co-invest with Enron or its subsidiaries in new investments in, or acquisitions of, businesses and assets, and (ii) make investments in, or acquire an investment interest from Enron or its subsidiaries relating to, existing assets or businesses owned by Enron or its subsidiaries. It is expected that in connection with the foregoing investments, Enron will retain a significant economic or operating interest in the businesses or assets in which the Partnership invests. The Partnership may also from time to time make investments in businesses or assets where Enron has no involvement. This is the second such fund formed by Mr. Fastow targeted at investing primarily in companies owned or controlled by Enron. The Partnership's objective is to generate an annualized internal rate of return ("IRR") in excess of 30% to investors in the Partnership after payment of all Partnership fees and expenses and payment of the carried interest to the General Partner.

Enron, headquartered in Houston, Texas, is one of the largest sellers of natural gas and electricity in deregulated and privatized markets on three continents. Additionally, Enron is the largest provider of energy risk management services in the world and owns the largest natural gas pipeline system in the U.S. Enron is also constructing a 10,000 mile nationwide fiber-optic telecommunications network. Enron is frequently characterized as the agent of change in the rapidly deregulating and privatizing energy markets and has been named the "Most Innovative Company in the World" for four consecutive years by *Fortune*. Enron currently ranks among the Fortune 100 companies with annual revenues of over $30 billion. Importantly, Enron has made investments of over $7 billion in each of the last two years in a variety of energy-related businesses and currently owns merchant investments of over $10 billion. *See* – "Overview of Enron." Under Mr. Fastow's management, the Partnership expects to have the opportunity to co-invest with Enron in many of Enron's new investment activities and the opportunity to acquire existing Enron assets on a highly selective basis. This access to deal flow should provide the Partnership with unusually attractive investment opportunities.

The target size of the Partnership is $200 million. The General Partner reserves the right to accept additional commitments in excess of $200 million. The Partnership is expected to generate significant co-investment opportunities for investors in the Partnership because the Partnership will be limited to investing no more than 10% of its committed capital in any one company, and the General Partner expects many of the opportunities the Partnership pursues to require capital in excess of the amount the Partnership is able to provide under this diversification limitation. Co-investment amounts will not be subject to a carried interest.

The General Partner of the Partnership will be LJM2 Capital Partners, LLC, a Delaware limited liability company (the "General Partner"), an entity owned and controlled by one or more of the Principals (as defined below). The Partnership will be managed on a day-to-day basis by a team of three investment professionals who all currently have senior level finance positions with Enron: Andrew S. Fastow, Michael J. Kopper, and Ben Glisan, Jr. (collectively, the "Principals"). The Principals will continue their current responsibilities with Enron while managing the day-to-day operations of the Partnership. *See* – "Risk Factors – Dependence on Key Personnel" and "Conflicts of Interest – Dual Role of Principals."

Investment Opportunity

The Principals believe that LJM2 provides investors with an unusually attractive investment opportunity for the following reasons:

Access to Significant Proprietary Deal Flow. Enron has extensive deal origination capability that is derived from approximately 2,000 fully dedicated Enron-employed origination and monitoring professionals located around the world. The deal flow emanating from this origination infrastructure has resulted in Enron making over $7 billion of energy-related investments in each of the last two years and holding merchant investments of over $10 billion. As a result of Enron's in-house deal sourcing capability as well as its leading market position in most businesses in which it operates, Enron frequently has access to investment opportunities that are not available to other investors. The Partnership expects to benefit from having the opportunity to invest in Enron-generated investment opportunities that would not be available otherwise to outside investors.

Enron's Investment Record. Enron's record as a successful investor is reflected in returns it has generated for its shareholders as measured by the appreciation in its common stock, which, from January 1, 1990, through September 30, 1999, has increased 641% (price increase plus assumed re-investment of dividends), as compared to returns of 363% for the S&P 500 and 141% for the S&P Energy Index for the same period. Furthermore, Enron has successfully managed two institutionally funded private equity partnerships, Joint Energy Development Investments Limited Partnership ("JEDI I") and Joint Energy Development Investments II Limited Partnership ("JEDI II"), which have generated (or are estimated to generate, as the case may be) an IRR after payment of fees and expenses of the partnership and payment of a carried interest, if any, to the partnerships' general partners (each, a "Net IRR") of 23% and 194%, respectively, compared to targeted IRRs for the partnerships on invested capital before fees, expenses, and carried interest (a "Gross IRR") of 15% and 20%, respectively. The General Partner believes that a significant portion of this superior performance can be attributed to the quality of investment opportunities sourced by Enron. *See* – "Summary of Investment Experience."

Enron's Capabilities to Analyze and Structure Investments and Operate Assets. Over the years, Enron has developed a rigorous process of investment analysis, which employs approximately 130 professionals in varying disciplines such as engineering, research, credit, tax, legal, accounting, insurance, and risk analysis. As LJM2 expects that it primarily will be investing in assets in which Enron has an interest, it should benefit from Enron's expertise in all areas relating to the investment in and management of energy and communications assets, including the physical and financial risk management of energy assets and extensive operating capabilities in all aspects of the energy industry and certain aspects of the communications industry.

The Ability to Evaluate Investments with Full Knowledge of the Assets. Due to their active involvement in the investment activities of Enron, the Principals will be in an advantageous position to analyze potential investments for LJM2. The Principals, as senior financial officers of Enron, will typically be familiar with the investment opportunities LJM2 considers. The Principals believe that their access to Enron's information pertaining to potential investments will contribute to superior returns.

Speed and Knowledge Advantage of LJM2. LJM2 will be positioned to capitalize on Enron's need to rapidly access outside capital due to the Principals' familiarity with Enron's assets and their understanding of Enron's objectives, which should facilitate LJM2's ability to quickly execute transactions. This ability to act quickly is invaluable to Enron and should enhance the flow of opportunities for LJM2.

Investment and Financial Expertise of Principals. The Principals are a group of highly talented financial professionals with extensive experience originating and structuring complex transactions. This experience has given the Principals the ability to create innovative financial structures around investments, which should enhance returns to investors in LJM2. The Principals have been involved in managing JEDI I and JEDI II.

The Principals

The day-to-day activities of the Partnership will be managed by Messrs. Fastow, Kopper, and Glisan. Each of the Principals has spent a significant portion of his professional career in energy and communications investing, structured finance, and risk management (including substantial involvement in the organization, operation, and investment management of each of JEDI I and JEDI II), and, as a team, the Principals possess specific expertise necessary to maximize the Partnership's performance.

Andrew S. Fastow, Executive Vice President and Chief Financial Officer of Enron, has been the Chief Financial Officer of Enron since 1997; prior to that, he was a Managing Director and principal financial officer for Enron Capital & Trade Resources Corp. ("ECT"), Enron's principal merchant and investing subsidiary. In these capacities, he has been involved in structuring and managing many of Enron's investments. Mr. Fastow has been with Enron for nine years. Michael J. Kopper, Managing Director in Enron's Global Equity Markets Group, is responsible for Enron's Global Equity and Structured Finance businesses. He has been with Enron for five years. Ben Glisan, Jr., Vice President in Enron's Global Equity Markets Group, is primarily responsible for Enron's structured finance activity. Mr. Glisan has been with Enron for three years. Summary biographies of the Principals are included elsewhere in this Memorandum. *See* – "Management of the Partnership – Biographies of the Principals."

The Principals will remain employees of Enron and will devote such of their business time and attention as they deem reasonably necessary to manage the affairs of the Partnership, subject to their obligation to devote their business time and attention primarily to the discharge of their responsibilities as senior financial officers of Enron. The Partnership should also benefit indirectly from time spent by the Principals in evaluating and structuring investments for Enron, as many of these investments may become candidates for investment by the Partnership.

II. INVESTMENT STRATEGY

Investment Strategy

LJM2 believes that it will be uniquely positioned to capitalize on Enron's need for outside capital due to the Principals' familiarity with Enron's assets and their understanding of Enron's objectives and LJM2's ability to quickly execute transactions. This ability to act quickly is valuable to Enron and should result in a steady flow of opportunities for the Partnership to make investments at attractive prices. In order to fully capitalize on its advantages, LJM2 will seek to implement the following investment strategy:

> *Invest with Enron.* LJM2 expects that Enron will be LJM2's primary source of investment opportunities and that LJM2 will (i) co-invest with Enron or its subsidiaries in new investments in, or acquisitions of, businesses and assets, and (ii) make investments in, or acquire an investment interest from Enron or its subsidiaries relating to, existing assets or businesses owned by Enron or its subsidiaries. LJM2 may, however, make investments in businesses or assets where Enron has no involvement.
>
> *Invest in Assets and Businesses Where the Seller Retains an Ongoing Economic Interest.* LJM2 will typically require that the seller (expected to be Enron in most cases) retain a significant ongoing economic or operating interest in the assets. By requiring Enron to retain a significant economic or operating interest in its deals, LJM2 should ensure that it will have access to the significant resources of Enron in order to manage assets on an ongoing basis.
>
> *Capitalize on Financial Expertise.* Once a target investment has been identified, the Principals will seek to enhance the risk/return profile of such investment through the use of innovative transaction structures and will implement rigorous risk management techniques in order to seek to protect investments from downside risk.

LJM2 will typically seek to exit transactions either by negotiating co-sale rights or by securitizing and placing investments into the capital markets. LJM2 will typically have no hold restrictions and may also individually re-market an investment to industry and financial investors.

Rationale for Enron Providing Investment Opportunities to LJM2

Enron has been active in making investments over the past seven years. It is notable that, as of June 30, 1999, Enron had $34 billion of assets on its balance sheet, but was owner or manager of assets in excess of $51 billion (the difference between these numbers represents the amount of assets financed off-balance sheet, often through co-investment partnerships or joint ventures). When Enron acquires an investment, it may decide to reduce its operating and financial risk by selling a portion of its investment to co-investors; in many cases, it seeks to maintain an active or controlling role in the underlying investment.

The pace of sales of investments by Enron to co-investors has increased recently for three reasons. First, Enron's investment opportunities continue to accelerate. The global energy markets in which Enron is a leading participant exceed $1 trillion per year in revenues. The natural gas and electricity industries are among the most capital-intensive industries in the world. Enron, as one of the leaders in these industries on three continents, must invest significant amounts of capital in order to retain and enhance its leadership position. Enron has also recently entered the communications business, which has significant investment opportunities as well.

Second, Enron's growth capital is derived from the sale or partial sale of investments. To capitalize on its unique growth (as evidenced by its more than $10 billion in merchant investments and its ability to invest $7 billion a year for the past two years), Enron must have significant capital resources. Although investments in the natural gas, electricity, and communications industries may have very attractive rates of return, such investments often do not generate cash flow or earnings in the first several years. Lack of cash flow may restrict a company's ability to finance the investment with debt, and lack of current earnings may restrict a company's ability to issue public equity. By bringing in co-investors or by disposing of portions of investments, Enron can finance substantial growth and make investments while maintaining its investment grade credit rating, meeting current earnings expectations, and retaining desired financial and operating involvement in its investments.

Third, in addition to the equity return earned on its investments, a significant portion of Enron's earnings is derived from fees garnered from the physical marketing of commodities, price risk management (related to those commodities), and asset development and management. Notwithstanding that the initial investment is still generating significant returns, in order to invest in new, additional fee-generating assets, Enron may sell down investments.

As a result of Enron's substantial investment opportunities and because of its need to optimize its financial flexibility, the Principals expect that Enron will continue to seek co-investors or to dispose of portions of investments. The Partnership's strategy will be to capitalize on Enron's needs by being a value-added investor for Enron through the Partnership's ability to invest quickly and its ability to structure deals that match Enron's objectives.

Profiles of Selected Example Investments

Described below are three transactions that Enron either has completed or is in the process of completing and that are representative of the types of investments in which LJM2 might participate:

East Coast Power LLC – Co-investment with Enron. In February 1999, JEDI II (whose partners are Enron (or a subsidiary thereof) and California Public Employee Retirement System ("CalPERS")) formed East Coast Power LLC ("East Coast Power") in order to acquire assets from Cogen Technologies Group for a total of $1.5 billion. East Coast Power indirectly owns equity interests in three combined-cycle natural gas co-generation power plants in New Jersey. Each plant sells electricity to investor-owned utilities in New York or New Jersey pursuant to long-term power purchase agreements. The facilities have a combined nameplate capacity of 1,037 megawatts of electrical power production. By securitizing the power purchase agreements, Enron was able to reduce the equity capital required to finance the acquisition from 30% to 9% of total capitalization. This generated base case equity returns in excess of 20% compared to similar projects that typically generate returns in the low teens. In July 1999, JEDI II sold approximately 50% of its ownership interest in East Coast Power to a third party, generating a Gross IRR of 5048% for the portion of the investment sold. Messrs. Fastow and Kopper were involved in the structuring of this transaction.

Project Margaux - Investment in Existing Enron Assets. Enron is currently working on Project Margaux, a new structured finance transaction that monetizes the dividend streams of five European assets developed or acquired by Enron over the past 10 years. In this transaction, Margaux Holdings, a newly formed entity, is expected to acquire indirect equity interests in the five European assets from Enron. Project Margaux would be capitalized with approximately $525 million of high yield debt or bank debt and approximately $50 million of equity. Repayments of the high yield issuance or bank facility and a return to the equity investors will come from the distributions made by the individual projects to their equity owners.

Enron Energy Services - Investment in an Existing Enron Business. In 1997, Enron created a new business unit named Enron Energy Services ("EES"). Unlike Enron's existing businesses, which were selling energy products and services at the wholesale level, EES was developing a business model to sell products "around" the utility and directly to various end-users. While this market had been open previously on a limited basis, new legislation at the state levels was pending that would open much of the $300 billion market to competition. Mr. Fastow helped Enron obtain investments in EES by two pension funds totaling $165 million in exchange for 8.7% of the equity of EES. Based on these investments, the implied market value of EES at the time of the investment was $1.9 billion. Equity research analysts currently estimate the value of EES to be between $4 billion and $10 billion, which would generate an estimated Gross IRR of between 77% and 229% if the investors were to liquidate the investment at year-end 1999.

Dual Role Advantages

Mr. Fastow will continue to hold the titles and responsibilities of Executive Vice President and Chief Financial Officer of Enron, and Messrs. Kopper and Glisan will continue to serve as senior financial officers of Enron, while acting as the owners and managers of the General Partner. As a result, investors in the Partnership should benefit from Mr. Fastow's and the other Principals' dual roles which will facilitate the Partnership's access to Enron deal flow. The Principals' dual roles in managing the Partnership while remaining employed as senior financial officers of Enron, however, raise certain conflicts of interest that could affect the Partnership. *See* – "Conflicts of Interest."

III. INVESTMENT HIGHLIGHTS

The Principals believe that the Partnership represents an attractive investment opportunity for the following reasons:

Access to Significant Proprietary Deal Flow

Enron has extensive deal origination capability that is derived from approximately 2,000 fully dedicated Enron-employed origination and monitoring professionals located around the world. The deal flow emanating from this origination infrastructure has resulted in Enron making over $7 billion of energy-related investments in each of the last two years and holding merchant investments of over $10 billion.

Enron's leadership position in the markets in which it competes also creates proprietary investment opportunities for Enron. The global energy markets in which Enron is a leading participant exceed $1 trillion per year in revenues. The forces of deregulation and privatization are driving the restructuring of this enormous industry. As gas and electricity markets have opened up in the U.S. and internationally, Enron has consistently been or has become a market leader. In most deregulated markets in which it operates, Enron sells more gas and electricity than any of its competitors, including the incumbent utilities. This market leader position has led to unique and proprietary investment opportunities for Enron. Enron has recently entered the communications business, which has significant investment opportunities as well.

As a result of Enron's in-house deal sourcing capability as well as its leading market position in most businesses in which it operates, Enron frequently has access to investment opportunities that are not available to other investors. The Partnership expects to benefit from having the opportunity to invest in Enron-generated investment opportunities that would not be available otherwise to outside investors.

Enron's Investment Record

Enron's record as a successful investor is reflected in returns it has generated for its shareholders as measured by the appreciation in its common stock, which, from January 1, 1990, through September 30, 1999, has increased 641% (price increase plus assumed re-investment of dividends), as compared to returns of 363% for the S&P 500 and 141% for the S&P Energy Index for the same period. Furthermore, Enron has successfully managed two institutionally funded private equity partnerships, JEDI I and JEDI II, which have generated (or are estimated to generate, as the case may be) Net IRRs to outside investors of 23% and 194%, respectively, compared to targeted Gross IRRs of 15% and 20%, respectively. *See* – "Summary of Investment Experience."

Enron's Capabilities to Analyze and Structure Investments and Operate Assets

A key element of Enron's ability to create value has been its ability to structure and implement complex transactions. Over the years, Enron has developed a rigorous process of investment analysis, which employs approximately 130 professionals in varying disciplines such as engineering, research, credit, tax, legal, accounting, insurance, and risk analysis. This creative approach to structuring many of its investments has enabled Enron to mitigate downside risk, provide opportunities for early return of capital, enhance its returns, and provide additional upside opportunity. The Principals have been the key architects of many of these innovative structures and will employ such structures, where appropriate, for the benefit of investments made by LJM2. Since LJM2 expects that it primarily will be investing in assets in which Enron has an interest, it should benefit from Enron's expertise in all areas relating to the investment in and management of energy and communications assets, including the physical and financial risk management of energy assets and extensive operating capabilities in all aspects of the energy industry and certain aspects of the communications industry.

The Ability to Evaluate Investments with Full Knowledge of the Assets

Due to their active involvement in the investment activities of Enron, the Principals will be in an advantageous position to analyze potential investments for LJM2. The Principals, as senior financial officers of Enron, will typically be familiar with the investment opportunities the Partnership considers. The Principals believe that their access to Enron's information pertaining to potential investments will contribute to superior returns.

Speed and Knowledge Advantage of LJM2

LJM2 will be positioned to capitalize on Enron's need to rapidly access outside capital due to the Principals' familiarity with Enron's assets and their understanding of Enron's objectives. The Principals' positions at Enron should enable them to recognize investment opportunities early, to make decisions quickly, and to structure investments to meet LJM2's and Enron's objectives. This ability to act quickly is invaluable to Enron and should enhance the flow of opportunities for the Partnership.

Investment and Financial Expertise of Principals

The Principals are a group of highly talented financial professionals with extensive experience in originating and structuring complex transactions. This experience has given the Principals the ability to create innovative financial structures around investments, which should enhance returns to investors in LJM2. The Principals have been involved in managing both JEDI I and JEDI II.

IV. SUMMARY OF INVESTMENT EXPERIENCE

The Principals have extensive experience in originating, structuring, and executing complex transactions, and each has had extensive involvement in the organization, investment activity, and operations of JEDI I and JEDI II. The Principals believe that the performance information regarding JEDI I and JEDI II presented below will be useful to investors considering an investment in LJM2 because of the Principals' involvement in JEDI I's and JEDI II's investment activity, and because the investments made by those partnerships are indicative of some of the types of investment opportunities that will be available to LJM2. Prospective investors should note that past performance is not necessarily indicative of future results, and there can be no assurance that LJM2 will achieve comparable results. Prospective investors should also note that there are material differences between LJM2 and each of JEDI I and JEDI II, including overlapping but different investment mandates (JEDI I and JEDI II target co-investment with Enron in new energy investments, but cannot purchase existing investments from Enron) and different profit-sharing arrangements among the partners, which should be considered when evaluating the investment performance information presented below.

JEDI I was formed in 1993 with $500 million of capital commitments. Enron and CalPERS each contributed $250 million to JEDI I. Enron Capital Management, L.P., an affiliate of Enron, is the general partner of JEDI I. The investment guidelines for JEDI I were to achieve a Gross IRR of 15% by investing in new investments (primarily natural gas-related) made by Enron in the debt, equity-linked, and equity securities of energy companies located in the U.S. Using a combination of contributed capital, debt financing, and reinvestment of investment proceeds, JEDI I invested $2.1 billion in 63 separate transactions. Upon a sale of its interest in JEDI I in 1997, CalPERS realized $383 million on its $250 million of contributed capital, generating a Net IRR to CalPERS of 23%.

JEDI II was formed in 1997 with $1 billion of capital commitments. Enron and CalPERS each committed $500 million to JEDI II. Enron Capital Management II Limited Partnership, an affiliate of Enron, is the general partner of JEDI II. The investment guidelines for JEDI II are to achieve a Gross IRR of 20% by investing in new investments (energy-related) made by Enron in debt, equity-linked, and equity securities of energy companies located in the U.S. and internationally. Using a combination of contributed capital, debt financing, and reinvestment of investment proceeds, JEDI II has invested $810 million in 31 separate transactions to date. As of June 30, 1999, the partners of JEDI II had made capital contributions to JEDI II of $237.5 million. The Principals estimate that, if JEDI II's unrealized investments had been liquidated for their then fair value and JEDI II had been liquidated as of June 30, 1999, the unrealized value of CalPERS' $118.8 million of contributed capital would have been $214.7 million, generating a Net IRR to CalPERS of 194%.

The estimated value of JEDI II's investments is determined in accordance with the fair value accounting methodology. Generally, an investment's "fair value" is an estimate, based on a variety of factors, of the amount that may be realized currently upon an orderly disposition of such investment; under the fair value accounting methodology, the carrying value of investments is periodically increased or decreased to reflect changes in their fair value, even where no realization event has occurred. For publicly traded securities, fair value is based upon quoted market prices; for securities that are not publicly traded, fair value is determined based on other relevant factors, including dealer price quotations, price activity for comparable instruments, and valuation pricing models. "Fair value" is only an estimate of current value for an unrealized investment. The actual realized return on all unrealized investments will depend on the value of the investments at the time of disposition, any related transaction costs, and the manner of disposition. Accordingly, the actual realized returns on all unrealized investments may differ materially for the values indicated herein.

Summary of Investment Experience[a]
($ in millions, as of June 30, 1999)

			Value			
Partnership	Year Established	Contributed Capital	Realized	Estimated Unrealized[b]	Total	Net IRR[c]
JEDI I	1993	$250.0	$383.0	$0.0	$383.0	23%
JEDI II	1997	118.8	0.0	214.7	214.7	194%

[a]This table presents investment performance information for the outside investor in each of JEDI I and JEDI II. The amounts shown under the headings "Contributed Capital," "Realized," "Estimated Unrealized," "Total," and "Net IRR" represent the performance investment for such outside investor.

[b]Unrealized values are accounted for under the fair value accounting methodology. Generally, an investment's "fair value" is an estimate, based on a variety of factors, of the amount that may be realized currently upon an orderly disposition of such investment; under the fair value accounting methodology, the carrying value of investments is periodically increased or decreased to reflect changes in their fair value, even where no realization event has occurred. For publicly traded securities, fair value is based upon quoted market prices. For securities that are not publicly traded, fair value is determined based on other relevant factors, including dealer price quotations, price activity for comparable instruments, and valuation pricing models.

[c]The fees, expenses, and carried interests of JEDI I and JEDI II are different from the proposed terms of the Partnership.

V. MANAGEMENT OF THE PARTNERSHIP

Overview

The General Partner of the Partnership is LJM2 Capital Partners, LLC, a Delaware limited liability company owned by one or more of the Principals. The manager of the Partnership is LJM2 Capital Management, L.P., a Delaware limited partnership ("Manager"), and as such will manage the day-to-day affairs of the Partnership. The Manager is owned, directly and indirectly, by the Principals. Each of the Principals is and will remain an employee of Enron. Enron's Office of the Chairman has waived certain provisions of Enron's employee code of conduct to permit the Principals to form and operate the Partnership, and Enron's Board of Directors has ratified that waiver as it applies to Mr. Fastow. The Principals will devote such of their business time and attention as they deem reasonably necessary to manage the affairs of the Partnership, subject to their obligation to devote their business time and attention primarily to the discharge of their responsibilities as senior financial officers of Enron. The Partnership should also benefit indirectly from time spent by the Principals in evaluating and structuring investments for Enron, as many of these investments may become candidates for investment by the Partnership. The Principals also have plans to hire additional personnel to provide support services to the Partnership. Furthermore, the Manager will enter into a support services agreement with Enron, pursuant to which the Manager will receive and pay for certain support services from Enron. *See* – "Risk Factors – Dependence on Key Personnel."

Conflict of Interest

One of the most challenging due diligence issues for the Partnership is the potential for a conflict as a result of the Principals' dual positions as Enron employees and Principals of the Partnership. *See* – "Risk Factors – Dependence on Key Personnel" and "Conflicts of Interest – Dual Role of Principals." Several steps have been taken to assure that the conflict-of-interest issue is fully vetted and appropriate procedures are put in place to allow for operation of the Partnership in situations where conflicts arise. The Partnership will establish an Advisory Committee (as defined below) to provide for an independent review of decisions made by the General Partner in a situation where the General Partner believes a conflict of interest exists. In addition, Richard Causey, Executive Vice President and Chief Accounting Officer of Enron, will, in behalf of Enron, monitor and mediate conflict-of-interest issues between Enron and the Partnership.

Biographies of the Principals

The following are professional biographies of the Principals. Each of the Principals has spent a significant portion of his professional career in energy and communications investing, structured finance, and risk management, and, as a team, the Principals possess the specific expertise necessary to maximize the Partnership's performance.

Andrew S. Fastow

Andrew S. (Andy) Fastow, 37, is Executive Vice President and Chief Financial Officer of Enron, and, as such, is responsible for Enron's finance and treasury activity. Previously, Mr. Fastow was a Managing Director with ECT. He joined ECT in 1990 to develop the company's funding business and to obtain and manage the debt and equity capital required for ECT's third-party finance business as well as for ECT's physical and financial acquisitions and investments. During 1996, Mr. Fastow led the development of Enron's retail energy business. Mr. Fastow was named CFO of Enron in 1997 and Executive Vice President of Enron in 1999.

Mr. Fastow has been responsible for the formation and operation of three private equity partnerships while at Enron. Currently, Mr. Fastow owns the general partner of LJM Cayman, L.P., a Cayman Islands excepted limited partnership ("LJM1"), an investment partnership with total capital commitments of $16 million. LJM1 was formed in 1999 with objectives that are substantially similar to those of LJM2.

Prior to joining ECT, Mr. Fastow served as senior director in Continental Bank's Asset Securitization Group in Chicago, where he structured short- and medium-term asset backed securities for commercial banks, leasing companies, and corporate clients.

Mr. Fastow received a B.A. in Economics and Chinese from Tufts University and an M.B.A. in Finance from Kellogg Graduate School of Management at Northwestern University.

Michael J. Kopper

Michael J. Kopper, 34, is a Managing Director in Enron's Global Equity Markets Group. He also manages the general partner of Chewco, an investment fund with approximately $400 million in capital commitments'that was established in 1997 to purchase from Enron an interest in a defined pool of Enron assets. Prior to his current position, Mr. Kopper was a Managing Director in Enron Capital Management (in its Structured Finance Group) arranging financing for electric power projects, oil and gas producers, other supply-side customers, and end-users such as local distribution companies and co-generation facilities.

Before joining Enron, Mr. Kopper was employed by Toronto Dominion Bank from 1991 to 1994. There he specialized in negotiating and structuring project financings. His client focus was primarily non-regulated subsidiaries of electric utility companies, independent power producers, and natural gas pipeline companies. Mr. Kopper specialized in off-balance sheet project and structured financings relying on the interrelationship of cash flows as an economic basis for investment. These investments included natural gas pipelines, natural gas storage fields, and electric co-generation facilities.

From 1988 to 1991, Mr. Kopper was at Chemical Bank where he assisted marketing officers and transaction officers in documenting and closing a variety of financings across a broad spectrum of clients. At Chemical Bank, he focused on non-recourse facilities and project financings in the energy and utility sectors.

Mr. Kopper received his B.A. in economics from Duke University and completed his graduate work in accounting and finance at the London School of Economics.

Ben Glisan, Jr.

Ben Glisan, Jr., 33, is a Vice President in Enron's Global Equity Markets Group. Prior to his current position, Mr. Glisan worked at Enron Capital Management in its Structured Finance Group. Mr. Glisan has worked at Enron, or an affiliate thereof, for the past three years. Mr. Glisan's responsibilities include leading transaction teams that execute highly complex non-recourse or limited recourse joint venture and asset-based financings.

Before joining Enron, Mr. Glisan worked at Coopers & Lybrand and Arthur Andersen. His responsibilities included providing accounting and finance services principally to financial institutions as well as helping to develop financing transaction structures.

Mr. Glisan received his B.B.A. and his M.B.A. from the University of Texas at Austin.

Commodity Sales and Services. Enron's commodity sales and services operations include the purchase, sale, marketing, and delivery of natural gas, electricity, liquids, and other commodities; the restructuring of existing long-term contracts; and the management of Enron's commodity portfolios.

In addition, Enron provides risk management products and services to energy customers that hedge movements in price and location-based price differentials. Enron's risk management products and services are designed to provide stability to customers in markets impacted by commodity price volatility. Also included in this business is the management of certain operating assets that directly relate to this business, including domestic intrastate pipeline and storage facilities.

Energy Assets and Investments. In the energy assets and investments business, Enron manages and operates assets related to natural gas, electricity, and communications and offers financing alternatives to customers. Activities include developing, constructing, operating, and managing energy assets, including power plants and natural gas pipelines. Enron also provides capital to energy and communication customers seeking debt or equity financing.

Retail Energy Services

EES is a nationwide provider of energy outsource products to U.S. business customers. These services include sales of natural gas and electricity and energy management services directly to commercial and industrial customers as well as investments in related businesses. EES provides end-users with a broad range of energy products and services at competitive prices. These products and services include energy tariff and information management, demand-side services, and financial services.

Communications

Enron is building a long-haul fiber-optic network on strategic routes throughout the United States to create the nation's first Pure IPSM (Internet Protocol) backbone known as the Enron Intelligent Network (the "EIN"). The EIN, which is enabled with intelligent messaging software, enhances Enron's existing national fiber-optic network to bring to market a reliable, bandwidth-on-demand platform for delivering data and applications and streaming rich media to the desktop. Enron's strategy is based on a business model that offers immediate national reach while minimizing capital deployed through strategic alliances with industry technology leaders whose presence, customer access, market share, and content enable Enron to efficiently enter this new, emerging marketplace.

Available Information

Enron is subject to the informational requirements of the Securities and Exchange Act of 1934, as amended, and in accordance therewith files reports, proxy statements, and other information with the Securities and Exchange Commission ("SEC"). Such reports, proxy statements, and other information may be inspected and copied at the public reference facilities maintained by the SEC at 450 Fifth Street, NW, Room 1024, Washington, DC 20549, and at the following regional offices of the SEC: Midwest Regional Office, Citicorp Center, Suite 1400, 500 West Madison Street, Chicago, IL 60661-2511; and Northeast Regional Office, 7 World Trade Center, New York, NY 10048. Copies of such materials may also be obtained from the Public Reference Section of the SEC

VI. OVERVIEW OF ENRON

Enron is one of the world's leading international integrated natural gas and electricity companies. Enron's activities are conducted through its subsidiaries and affiliates, which are principally engaged in the transportation of natural gas through pipelines to markets throughout the U.S.; the generation and transmission of electricity to markets in the northwestern U.S.; the marketing of natural gas, electricity and other commodities, and related risk management and finance services worldwide; the development, construction, and operation of power plants, pipelines, and other energy-related assets worldwide; and the delivery of high bandwidth communication applications throughout the U.S. Enron has a proven track record of creating value in markets that are deregulating and privatizing in North America, Europe, and other areas worldwide.

Transportation and Distribution

Enron's transportation and distribution business is comprised of its North American interstate natural gas transportation systems and its electricity transmission and distribution operations in Oregon.

Interstate Transmission of Natural Gas. Included in Enron's domestic interstate natural gas pipeline operations are Northern Natural Gas Company ("Northern"), Transwestern Pipeline Company ("Transwestern"), and Florida Gas Transmission Company ("Florida Gas") (indirectly 50% owned by Enron). Northern, Transwestern, and Florida Gas are interstate pipelines and are subject to the regulatory jurisdiction of the Federal Energy Regulatory Commission. Each pipeline serves customers in a specific geographical area: Northern serves the upper Midwest, Transwestern serves principally the California market and pipeline interconnects on the east end of the Transwestern system, and Florida Gas serves the State of Florida. In addition, Enron holds an interest in Northern Border Partners, L.P., which owns a 70% interest in the Northern Border Pipeline system. One of Enron's subsidiaries operates the Northern Border Pipeline system, which transports gas from western Canada to delivery points in the midwestern United States.

Electricity Transmission and Distribution Operations. Enron conducts its electric utility operations through its wholly owned subsidiary, Portland General Electric Company ("Portland General"). Portland General is engaged in the generation, purchase, transmission, distribution, and sale of electricity in the State of Oregon. Portland General also sells energy to wholesale customers throughout the western U.S. Portland General's Oregon service area is approximately 3,170 square miles. At June 30, 1999, Portland General served approximately 711,000 customers.

Wholesale Energy Operations and Services

Enron's wholesale energy operations and services businesses operate in North America, Europe, and evolving energy markets in developing countries. These businesses provide integrated energy-related products and services to wholesale customers worldwide. Wholesale energy operations and services can be categorized into two business lines: (a) Commodity Sales and Services, and (b) Energy Assets and Investments.

at 450 Fifth Street, NW, Room 1024, Washington, DC 20549, at prescribed rates or from the site maintained by the SEC on the World Wide Web at http://www.sec.gov. Enron's common stock is listed on the New York, Chicago, and Pacific Stock Exchanges. Reports, proxy statements, and other information concerning Enron may be inspected and copied at the respective offices of these exchanges at 20 Broad Street, New York, NY 10005; 120 South LaSalle Street, Chicago, IL 60603; and 301 Pine Street, San Francisco, CA 94014.

Certain of the information herein relating to Enron has been taken from reports filed by Enron with the SEC. The information regarding Enron herein is qualified by the other information in such reports, including information regarding forward-looking statements.

VII. SUMMARY OF PRINCIPAL TERMS

This Summary of Principal Terms is qualified by reference to the Partnership Agreement of the Partnership and the Subscription Agreement relating thereto (collectively, the "Agreements"). This Memorandum and forms of the Agreements should be reviewed carefully.

The Partnership:	LJM2 Co-Investment, L.P., a Delaware limited partnership (the "Partnership").
Investment Objective and Focus:	The objective of the Partnership is to achieve significant long-term capital appreciation through privately negotiated equity and equity-related investments ("Investments") in companies principally engaged in energy- or communications-related businesses. The Partnership expects that Enron will be the Partnership's primary source of investment opportunities and that the Partnership will (i) co-invest with Enron or its subsidiaries in new investments in, or acquisitions of, businesses and assets, and (ii) make investments in, or acquire an investment from Enron or its subsidiaries relating to, existing assets or businesses owned by Enron or its subsidiaries. It is expected that in connection with the foregoing Investments, Enron will retain a significant economic or operating interest in the business or assets in which the Partnership invests. The Partnership may also from time to time make Investments in businesses or assets where Enron has no involvement.
The General Partner:	LJM2 Capital Partners, LLC, a Delaware limited liability company (the "General Partner") owned by one or more of the Principals.
The Manager:	LJM2 Capital Management, L.P., a Delaware limited partnership (the "Manager") owned by the Principals.
The Principals:	Andrew S. Fastow, Michael J. Kopper, Ben Glisan, Jr.
Committed Capital:	The Partnership is targeting an aggregate of $200 million in capital commitments from prospective investors ("Limited Partners"), although the General Partner reserves the right to accept capital commitments in an aggregate amount less than or greater than $200 million. The minimum capital commitment for a Limited Partner in the Partnership will be $5 million; provided that the General Partner reserves the right to reduce the minimum capital commitment for selected investors.

Sponsor Commitment:

The General Partner will commit to invest, or cause the Manager or other affiliates to invest, a minimum of one percent (1%) of the Partnership's aggregate capital commitments in or alongside the Partnership (the "Sponsor Commitment"). The Sponsor Commitment may be increased (but not decreased) by up to $1 million annually.

Management of the Partnership:

The General Partner will manage the Partnership and will have sole discretionary authority with respect to Investments. The Manager will manage the day-to-day affairs of the Partnership in behalf of the General Partner.

Commitment Period:

All partners of the Partnership ("Partners") will be obligated to fund their capital commitments during the period (the "Commitment Period") commencing on the initial closing date and ending on the third anniversary of the final closing date, and thereafter, to the extent necessary, to: (i) cover expenses, liabilities, and obligations of the Partnership, including Management Fees; (ii) complete Investments by the Partnership in transactions which were in process as of (or contemplated by the terms of securities held by the Partnership prior to) the end of the Commitment Period; and (iii) effect additional Investments in companies in which the Partnership had an Investment as of the end of the Commitment Period (in an aggregate amount not to exceed 10% of the Partnership's capital commitments).

Term:

The Partnership will have a term of ten years from the date of the final closing of the Partnership, but may be extended at the discretion of the General Partner for up to a maximum of two additional one-year periods to facilitate an orderly liquidation of the Partnership's assets.

Initial and Subsequent Closings:

An initial closing of the Partnership will be held once the General Partner determines that a sufficient minimum amount of capital commitments has been obtained.

The General Partner has the right to accept additional capital commitments and to permit existing Limited Partners to increase their capital commitments to the Partnership in subsequent closings ("Subsequent Closings"). Such newly admitted Limited Partners (or Limited Partners increasing their capital commitments to the Partnership) will make contributions to the Partnership such that each Limited Partner (regardless of when such Limited Partner's capital commitment is made) will participate pro rata in all Investments and expenses of the Partnership in the manner provided below.

Subsequent Closings may occur up to 270 days after the initial closing of the Partnership. In the event that Limited Partners fund any portion of their capital commitments to the Partnership prior to the expiration of such 270-day period, each Limited Partner that makes capital commitments on closing dates subsequent to any such funding will pay (i) the amount of its capital commitment that would have been funded if such Limited Partner (and all other Limited Partners) had funded its capital commitment at the time of such funding, and (ii) interest on the amount set forth in clause (i) above from the date of each such funding at the prime rate plus 2%. Any amounts paid under clauses (i) and (ii) above shall be distributed as follows: (x) to the Manager in an amount equal to all Management Fees (as defined below) payable in respect of such Limited Partner's commitment retroactive to the initial closing date (together with any interest thereon at the prime rate plus 2% from the initial closing date), and (y) the remaining amount to the Partners that participated in prior closings ratably based on the amount and timing of their previous capital contributions to the Partnership.

Drawdowns; Reinvestment:

Each Partner's capital commitment will be payable when called by the General Partner to make Investments and to meet anticipated Partnership expenses and liabilities (including Management Fees). Any amounts returned to the Partners (i) as a distribution of Investment Proceeds (as defined below) prior to the second anniversary of the final closing date, (ii) in connection with the subsequent admission of additional Limited Partners (less any interest received with respect thereto), or (iii) as a return of capital contributions made in respect of an unconsummated Partnership Investment, may, in each case, be recalled and will be available for future investments.

If 25% or more of the Limited Partner commitments are from employee benefit plans or other funds subject to the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), each Limited Partner will pay its pro rata share of each quarterly Management Fee and other Partnership expenses directly to the General Partner or the Manager, as appropriate, until the Partnership has qualified for the "venture capital operating company" exception to the Department of Labor plan asset regulations (i.e., until the Partnership has made its first qualifying investment), but for purposes of calculating when each Limited Partner has fulfilled its commitment and for purposes of calculating gains, losses, distributions, and sharing ratios, all amounts so paid, as well as any corresponding amounts payable by the General Partner to fulfill its commitment, will be treated as having been paid into the Partnership as a capital contribution by each Partner.

Co-Investment Opportunities: Where possible and appropriate, the General Partner intends, but will be under no obligation, to provide an opportunity to the Limited Partners to co-invest alongside the Partnership.

Diversification: Without the approval of a majority in interest of the Limited Partners, no more than 10% of the total capital commitments of the Partners may be invested in a single portfolio company.

Distributions: Distributions of the net proceeds from disposition of Investments, as well as distributions of securities in kind, together with any dividends, interest, or other investment income (other than certain short-term investment income) received with respect to Investments (collectively, "Investment Proceeds"), generally will be made in the following order of priority:

(a) first, 100% to the Partners in proportion to funded commitments until the cumulative amount distributed equals (i) the aggregate funded capital commitments of the Partners, *and* (ii) a preferred return on amounts included in clause (i) at a rate of 8% per annum, compounded annually (the "Preferred Return");

(b) second, 100% to the General Partner until such time as the General Partner has received, pursuant to this paragraph (b), 20% of the sum of the distributed Preferred Return and distributions made pursuant to this paragraph (b); and

(c) third, (i) 80% to all Partners in proportion to funded commitments, and (ii) 20% to the General Partner in respect of its carried interest.

Prior to the second anniversary of the final closing date, the General Partner will have the right to elect to distribute, hold, or re-invest Investment Proceeds (and for purposes of clause (c) of the distribution provisions above, the General Partner's funded commitment will be deemed to include 20% of the realized gains upon Investments, the Investment Proceeds from which were re-invested in accordance with this sentence). After the second anniversary of the final closing date, the General Partner will distribute (i) the net proceeds from the sale or other disposition of Investments within 180 days of receipt by the Partnership, and (ii) dividends, interest, and other short-term investment income at least annually, each subject to the availability of cash after paying Partnership expenses and setting aside appropriate reserves by the General Partner for reasonably anticipated liabilities and obligations of the Partnership.

Prior to the termination of the Partnership, distributions will be in cash or marketable securities. Upon termination of the Partnership, distributions may also include restricted securities or other assets of the Partnership.

Notwithstanding the foregoing, the General Partner may cause the Partnership to make distributions from time to time to the General Partner in amounts sufficient to permit the payment of the tax obligations of the General Partner and its members in respect of allocations of income related to the carried interest. The General Partner will endeavor to make annual aggregate distributions to the Limited Partners in an amount sufficient to permit payment of the Limited Partners' tax obligations in respect of their interests in the Partnership. Cash held by the Partnership prior to expenditure or distribution will be invested in short-term, high-grade instruments.

The amount of any taxes paid by or withheld from receipts of the Partnership allocable to a Partner from an Investment will be deemed to have been distributed to such Partner.

Allocation of Income, Expenses, Gains, and Losses:

Income, expenses, gains, and losses of the Partnership will generally be allocated among the Partners in a manner consistent with the distribution of proceeds described in "Distributions" above.

Management Fee:

During the Commitment Period, the Partnership will pay the Manager an annual management fee (the "Management Fee"), payable semi-annually in advance, equal to 2.0% of the aggregate commitments of Limited Partners. After the expiration of the Commitment Period, the Management Fee will equal 2.0% of an amount ("Capital Under Management") equal to the lesser of (i) the aggregate commitments of the Limited Partners and (ii) the aggregate amount invested by the Partnership in Investments. Capital Under Management will be calculated as of the beginning of each semi-annual period to which the Management Fee applies.

Operating Expenses:

The Manager will pay all ordinary operating expenses of the Partnership for salaries, rent, and similar expenses in connection with the investigation of investment and disposition opportunities for the Partnership and monitoring of the Partnership's Investments (to the extent not reimbursed by a portfolio company), except as set forth below under "Partnership Expenses."

Partnership Expenses:

The Partnership will pay or reimburse the General Partner, the Manager, and their respective affiliates for: (i) out-of-pocket expenses of the General Partner and Manager (including third-party fees and expenses) incurred in connection with unconsummated Investments; (ii) out-of-pocket expenses, including, but not limited to, all expenses incurred in connection with the origination, making, holding, monitoring, sale, or proposed sale of Investments (not otherwise paid in connection with the closing of the proposed origination or disposition), litigation or other extraordinary expenses, insurance, and indemnity expenses and expenses of liquidating the Partnership; and (iii) any other direct expenses incurred in connection with the Investments. The Partnership will also be responsible for all routine administrative expenses of the Partnership, including, but not limited to, the cost of the preparation of the annual audit, financial statements, and tax returns, expenses of the Advisory Committee, cash management expenses, and legal expenses.

Offering and Organizational Expenses:

The Partnership will bear all legal, accounting, and other offering and organizational expenses, including out-of-pocket expenses of the General Partner or the Manager incurred in connection with the formation of the Partnership. The Manager will bear the cost of placement agent fees charged in connection with the formation of the Partnership.

Transaction, Break-up, and Advisory Fees:	The General Partner and the Manager will not charge any transaction fees, break-up fees, advisory, monitoring, or similar fees in connection with actual or prospective Investments.
Other Investment Activities:	Without the approval of a majority in interest of Limited Partners, none of the General Partner, the Manager, and the Principals will commence investment activities for a Competing Fund (as defined below) in which such entity or person acts as sponsor or general partner until the earlier of (i) the termination of the Commitment Period or (ii) the date on which at least 70% of the total aggregate capital commitments of the Partnership have been taken down or committed. However, there will be no restrictions on the activities of the Principals in their capacities as employees of Enron, and these restrictions will not bind or otherwise obligate Enron. A "Competing Fund" means a pooled equity investment vehicle other than the Existing Funds (as defined below), the Partnership, and any Parallel Investment Vehicle (as defined below) which has investment objectives and strategies that are substantially similar to those of the Partnership and does not include any pooled equity investment vehicle managed, sponsored, or controlled by Enron or its subsidiaries or affiliates or any Parallel Investment Vehicle.
Allocation of Investment Opportunities:	The Principals currently are involved in the management of investment limited partnerships, including LJM1 and Chewco (the "Existing Funds"), that have investment objectives and strategies that are substantially similar to those of the Partnership. The General Partner expects that to the extent that both the Partnership and the Existing Funds would have capital available for investment in an opportunity, the Principals would cause the investment opportunity to be allocated to the Partnership and the Existing Funds in a manner determined to be fair and reasonable to both (taking into account the amount of available capital for each Partnership) consistent with prudent portfolio management and fiduciary concerns. Neither Enron nor any Existing Fund in which Enron has an interest has any obligation to offer investment opportunities to the Partnership, and the ability of Enron or any such Existing Fund to offer certain investments may be restricted by contractual obligations to third parties.

Advisory Committee:	An Advisory Committee, whose members will be selected representatives of the Limited Partners, will be established. The Advisory Committee will advise the General Partner and resolve issues involving conflicts of interest presented by the General Partner.
Parallel Investment Vehicles:	The General Partner may establish one or more additional entities or other similar arrangements (a "Parallel Investment Vehicle") prior to the expiration of the 270-day period following the initial closing to facilitate the ability of certain types of investors to invest in parallel with the Partnership. If formed, any Parallel Investment Vehicle will invest in each Investment on a pro rata basis (based on available capital) and on substantially the same terms and conditions as the Partnership.
Alternative Investment Structure:	If the General Partner determines in good faith that for legal, tax, regulatory, or other reasons it is in the best interests of the Partners that an Investment be made through an alternative investment structure, the General Partner may structure the making of all or any portion of such Investment outside of the Partnership by requiring the Partners to make such Investment through a limited partnership or other entity (other than the Partnership) that will invest on a parallel basis with or in lieu of the Partnership, as the case may be.
Exculpation and Indemnification:	None of the Principals, the General Partner, the Manager, their respective affiliates, and each of their respective officers, directors, members, managers, partners, employees, agents, and representatives (each, an "Indemnified Person") will be liable to the Partnership or to any Limited Partner for any act or omission by such Indemnified Person in connection with the conduct of the business of the Partnership, unless such act or omission constitutes such Indemnified Person's bad faith, gross negligence, or willful misconduct. The Partnership will indemnify each Indemnified Person from and against any losses, claims, liabilities, damages, and expenses (including legal fees and expenses, judgments, and amounts paid in settlement) incurred by such Indemnified Person in connection with the Partnership's activities, unless such losses, claims, liabilities, damages, or expenses result from such Indemnified Person's bad faith, gross negligence, or willful misconduct. The General Partner may require the Partners to return distributions made to each such Partner for the purpose of meeting such

Partner's pro rata share of the Partnership's indemnification obligations referred to above or to satisfy any other Partnership obligations (subject to certain limitations).

Limited Partner Withdrawal and Transfer:

Limited Partners generally may not withdraw from the Partnership. In addition, no Limited Partner may transfer or assign any of its interests, rights, or obligations with respect to its interest, except with the written consent of the General Partner, which written consent may be given or withheld in the General Partner's sole and absolute discretion. No such assignee, purchaser, or transferee of an interest may be admitted as a substitute Limited Partner without the written consent of the General Partner, which written consent may be given or withheld in its sole and absolute discretion. The General Partner may require a Limited Partner to withdraw from the Partnership under certain limited circumstances. Subject to certain conditions, the General Partner may (or may be required to) permit a Limited Partner to withdraw from the Partnership under certain limited circumstances.

ERISA Considerations:

The General Partner intends to cause the Partnership to qualify as a "venture capital operating company" under the Department of Labor plan asset regulations.

Tax Considerations:

An investment in the Partnership will have particular consequences for certain kinds of investors under the U.S. Federal income tax laws. The Partnership may engage in transactions that will cause tax-exempt Limited Partners to recognize "unrelated business taxable income" ("UBTI") within the meaning of Section 512 of the Internal Revenue Code of 1986, as amended (the "Code"), as a result of their investment in the Partnership, and the Partnership may engage in transactions that will cause foreign Limited Partners to recognize income treated as effectively connected with the conduct of a trade or business within the United States within the meaning of Section 864 of the Code as a result of their investment in the Partnership. Prospective investors should consult with their own tax advisors as to the consequences of making an investment in the Partnership. The General Partner intends to work with prospective investors to address their individual tax concerns.

Reporting:

The General Partner will send the Limited Partners withi 120 days after the end of each fiscal year of the Partnershi (or as soon thereafter as practicable in the event of delays in receiving information from portfolio companies) an audited annual financial report and tax information necessary for completion of each Limited Partner's U.S. Federal income tax return. The Partnership will also send its Limited Partners unaudited financial statements and other information within 60 days after the end of each quarter.

Auditors:	PricewaterhouseCoopers.
Legal Counsel:	Kirkland & Ellis.
Placement Agent:	Merrill Lynch & Co.

VIII. RISK FACTORS

Potential investors should be aware that an investment in the Partnership involves a high degree of risk. There can be no assurance that the Partnership's investment objectives will be achieved or that a Limited Partner will receive a return of its capital. The following considerations, among others, should be evaluated carefully before making an investment in the Partnership.

Dependence on Access to Enron Investment Opportunities

The Partnership's investment strategy is dependent upon the Partnership's access to investment opportunities from Enron. The Principals expect that Enron will continue for the foreseeable future to generate sufficient attractive investment opportunities to enable the Partnership to execute its investment strategy. Enron has no obligation to present investment opportunities to the Partnership, and no assurances can be given that Enron will continue to generate suitable investment opportunities or make such investment opportunities available to the Partnership. Changes in law, regulation, accounting principles, credit, capital or commodities markets, general or sector-specific economic conditions, or other changes may cause Enron to cease, or slow the rate of, its investment activities or to decrease its reliance on capital provided by co-investors or purchasers of investments from Enron. Enron may determine not to make investment opportunities available to the Partnership for any reason, including that the Principals, or certain of them, have ceased to be employees of Enron. The Principals may not be involved in all investments that Enron makes, and their involvement in some of Enron's investments may be limited. Enron will have no obligation to offer investment opportunities to the Partnership, and the ability of Enron to make investments available to the Partnership may be restricted by contractual obligations to third parties.

Highly Competitive Market for External Investment Opportunities

The activity of identifying, completing, and realizing private equity investments is highly competitive and involves a high degree of uncertainty. Although the Partnership expects to invest principally in companies and assets owned or controlled by Enron, the Partnership also may seek to invest in other external investment opportunities. In these situations, the Partnership will be competing with other private equity investment vehicles, as well as individuals, financial institutions, and other institutional investors.

Dependence on Key Personnel

The Limited Partners will be relying entirely upon the General Partner and the Manager to conduct and manage the affairs of the Partnership. The General Partner and the Manager depend upon the efforts and expertise of the Principals to enable them to render investment management services to the Partnership. The Principals are obligated to dedicate their business time and attention primarily to the discharge of their responsibilities as management employees of Enron. In addition, the Principals also dedicate a portion of their business time and attention to managing existing investment limited partnerships. Subject to the demands of these other responsibilities, the Principals will devote as much of their business time and attention as they deem to be reasonably necessary to manage the affairs of the Partnership. There can be no assurance that the Principals will continue to be employed by Enron throughout the life of the Partnership. As noted above, if the Partnership were to lose the services of the Principals, the Partnership could be adversely affected.

Limited Operating History

The Partnership, the General Partner, and the Manager will be newly formed entities, and none of the Partnership, the General Partner, and the Manager has an operating history of making private equity investments upon which prospective investors may base an evaluation of the likely performance of the Partnership.

Limited Sector Focus

The Partnership intends to concentrate on investments in energy- and communications-related businesses, and will be less diversified for industry risk than other, more broadly focused investment vehicles. As a result of the Partnership's sector focus, the effect on the Partnership of industry or general economic factors that have a greater impact upon the energy or communications sector than other industry sectors may be more pronounced than in more broadly focused investment vehicles.

Non-Control Investments

The Partnership expects to make Investments in portfolio companies over which Enron will acquire or retain ownership or control. The Partnership may not have the power, acting alone, to control a portfolio company's board of directors, management, or operations. In addition, the Partnership may not have the ability, acting alone, to cause a portfolio company to take, or refrain from taking, certain actions, or to cause a portfolio company to engage, or refrain from engaging, in material transactions, which conceivably could have an adverse effect on the Partnership's Investment, and the Partnership may not have the ability, acting alone, to control the timing of the liquidation of its Investment. In such Investments, the Partnership may be forced to rely on the fact that Enron will possess some or all of the foregoing control rights and that the interests of the Partnership and Enron will be sufficiently aligned such that Enron will exercise those rights in a manner that will protect the Partnership's Investment. Enron will have no obligation to align its interests with those of the Partnership.

Illiquid and Long-Term Investments

Although Investments may generate some current income, the return of capital and the realization of gains, if any, from an Investment generally will occur only upon the partial or complete disposition of such Investment. While an Investment may be sold at any time, frequently this will not occur for a number of years after the Investment is made. As noted above, in certain cases, the Partnership may be dependent upon Enron to create liquidity through a sale of, or other "exit" transaction involving, the portfolio company in which the Partnership holds an Investment. It is unlikely that there will be a public market for the securities held by the Partnership at the time of their acquisition. The Partnership generally will not be able to sell its securities publicly unless such sale is registered under applicable securities laws or unless an exemption from such registration requirements is available. In addition, in some cases, the Partnership may be prohibited by contract from selling certain securities for a period of time.

Non-U.S. Investments

The Partnership may invest in portfolio companies organized and operating outside of the U.S. Foreign securities involve certain risks not typically associated with investing in U.S. securities, including risks relating to: (i) currency exchange matters and costs associated with conversion of investment capital and income from one currency into another; (ii) differences between the U.S. and foreign securities markets, including potential price volatility in and relative illiquidity of some foreign securities markets and the absence of uniform accounting and financial reporting standards and disclosure requirements; (iii) certain economic and political risks, including potential restrictions on foreign investment and repatriation of capital and the risks of political, economic, or social instability; and (iv) the possible imposition of foreign taxes on income and gains recognized with respect to such securities.

Passive Investment in Interests

Limited Partners will be relying entirely on the General Partner and the Manager to conduct and manage the affairs of the Partnership. The Agreement will not permit the Limited Partners to engage in the active management and affairs of the Partnership. Because specific Investments of the Partnership have not yet been identified, the Limited Partners must rely on the ability of the General Partner to make appropriate Investments for the Partnership and to dispose of such Investments and of the Manager to manage such Investments.

No Market for Partnership Interests

The Interests have not been registered under the Securities Act, the securities laws of any state, or the securities laws of any other jurisdiction and, therefore, cannot be resold unless they are subsequently registered under the Securities Act and other applicable securities laws or exemptions from registration are available. It is not contemplated that registration of the Interests under the Securities Act or other securities laws will ever be effected. There is no public market for the Interests, and one is not expected to develop. A Limited Partner will not be permitted to assign its Interests, except by operation of law, without the prior written consent of the General Partner, which may be given or withheld in the General Partner's sole and absolute discretion. Except in extremely limited circumstances, voluntary withdrawals from the Partnership will not be permitted. Limited Partners must be prepared to bear the risks of owning Interests for an extended period of time.

Tax-Exempt Investors

The Partnership may engage in transactions that would generate UBTI. *See* – "Summary of Principal Terms – Tax Considerations" and "Certain Tax and Regulatory Considerations – Federal Income Tax Matters – *General*."

Foreign Investors

The Partnership may engage in transactions that will cause foreign Limited Partners to recognize income effectively connected with the conduct of a trade or business within the U.S. *See* – "Summary of Principal Terms – Tax Considerations" and "Certain Tax and Regulatory

Considerations - Federal Income Tax Matters - *Certain U.S. Tax Considerations for Foreign Investors."*

IX. CONFLICTS OF INTEREST

Investors should be aware that there will be occasions where the General Partner and its affiliates may encounter potential conflicts of interest in connection with the Partnership's activities. The following discussion enumerates certain potential conflicts of interest which should be carefully evaluated before making an investment in the Partnership.

Dual Role of Principals

The Principals are employees of Enron and owe fiduciary duties to Enron and its subsidiaries; such fiduciary duties may from time to time conflict with fiduciary duties owed to the Partnership and its partners. Accordingly, the Principals, and entities controlled by the Principals, may take (or refrain from taking) such actions in behalf of the Partnership as the Principals in good faith determine to be necessary or appropriate in view of such conflicting duties. The Principals intend to consult regularly with the Advisory Committee regarding potential conflicts of interest regarding transactions with or involving Enron and its affiliates.

Transactions Involving Enron

To execute the Partnership's investment strategy (to capture investment opportunities generated by Enron), the Partnership will regularly evaluate, structure, negotiate, consummate, hold, manage, and liquidate Investments in companies in which Enron or its affiliates have an existing investment or which Enron or its affiliates control (including investments acquired directly from Enron or its affiliates). The evaluation (and valuation) of Investment opportunities and the negotiation of the price, terms, and conditions of an Investment will be conducted in behalf of the Partnership by the Principals acting in behalf of the General Partner.

Portfolio companies in which the Partnership invests may also engage in transactions with Enron or its affiliates, and profits derived by Enron or its affiliates from such transactions will not be shared with the Partnership.

In many cases, the Partnership will have a non-control Investment in a portfolio company controlled by Enron or its affiliates. The Partnership may invest in securities that are different from those held by Enron or may hold securities with a cost basis different from those held by Enron. Factors that influence Enron's or its affiliates' decision to exercise their rights in respect of their investment in such company (such as a decision to sell the company) may be more or less significant from the Partnership's perspective.

Carried Interest

The existence of the General Partner's carried interest could be viewed as an incentive for the General Partner to make riskier or more speculative investments in behalf of the Partnership than would be the case in the absence of this arrangement.

Diverse Limited Partner Group

The Limited Partners may have conflicting investment, tax, and other interests with respect to their investments in the Partnership. The conflicting interests of individual Limited Partners may relate to or arise from, among other things, the nature of Investments made by the Partnership, the structuring or the acquisition of Investments, and the timing of disposition of Investments. As a consequence, conflicts of interest may arise in connection with decisions made by the General Partner, including with respect to the nature or structuring of Investments, that may be more beneficial for one investor than for another investor, especially with respect to investors' individual tax situations. In selecting and structuring investments appropriate for the Partnership, the General Partner will consider the investment and tax objectives of the Partnership and its Partners as a whole, not the investment, tax, or other objectives of any Limited Partner of the Partnership individually.

X. CERTAIN TAX AND REGULATORY CONSIDERATIONS

Federal Income Tax Matters

General

The following discussion summarizes certain U.S. Federal income tax considerations generally applicable to a person considering the acquisition of an Interest. The discussion does not deal with all tax considerations that may be relevant to specific investors or classes of investors in light of their particular circumstances. In particular, the discussion does not address any considerations applicable to persons who acquire Interests in connection with the performance of services. Furthermore, no state, local, or foreign tax considerations are addressed. ALL PERSONS CONSIDERING AN INVESTMENT IN THE PARTNERSHIP ARE URGED TO CONSULT WITH THEIR OWN TAX ADVISORS AS TO THE SPECIFIC U.S. FEDERAL, STATE, LOCAL, AND FOREIGN TAX CONSEQUENCES TO THEM OF SUCH INVESTMENT.

The Partnership will receive an opinion from Kirkland & Ellis, counsel for the Partnership, that the Partnership will be classified for federal income tax purposes as a partnership rather than as an association taxable as a corporation under currently applicable tax laws. Opinions of counsel, however, are not binding on the Internal Revenue Service ("IRS") or the courts, and no ruling has been or will be requested from the IRS. No assurance can be given that the IRS will concur with such opinion or the tax consequences set forth below.

The Partnership will not pay federal income taxes, but each Partner will be required to report its distributive share (whether or not distributed) of the income, gains, losses, deductions, and credits of the Partnership (which may include the income and other tax items of any partnerships in which the Partnership invests). It is possible that the Partners could incur income tax liabilities without receiving from the Partnership sufficient distributions to defray such tax liabilities. For example, the Partners will be allocated Partnership income and gains for U.S. Federal income tax purposes even if funds from such Partnership income and gains are used by the Partnership to make Investments or to pay Partnership expenses and liabilities and are not distributed to such Partners (or are distributed but are then recalled by the Partnership for future Investments). The Partnership Agreement will provide that the General Partner may elect to re-invest rather than distribute (or distribute and recall for investment) Investment Proceeds prior to the second anniversary of the Partnership's final closing date. The Partnership's taxable year will be the calendar year, or such other year as required by the Code. Tax information will be distributed to each Partner annually.

The following discussion summarizes certain significant U.S. Federal income tax consequences to a prospective investor who (i) owns, directly or indirectly through another partnership, an Interest as a Limited Partner, (ii) is, with respect to the U.S., a citizen or resident individual, a domestic corporation or partnership, an estate the income of which is subject to U.S. Federal income taxation regardless of its source, or a trust for which a court in the U.S. is able to exercise primary supervision over its administration and one or more U.S. persons have the authority to control all substantial decisions, as such terms are defined for U.S. Federal income tax purposes (a "U.S. Investor"), and (iii) is not tax-exempt.

Interest on any amount borrowed by a Limited Partner (other than a corporation) to purchase an Interest in the Partnership will generally be "investment interest," subject to a limitation on deductibility. In general, investment interest will be deductible only to the extent of the taxpayer's "net investment income." For this purpose "net investment income" will generally include net income from the Partnership and other income from property held for investment (other than property which generates passive activity income). However, long-term capital gain is excluded from the definition of net investment income unless the taxpayer makes a special election to treat such gain as ordinary income rather than long-term capital gain. Interest that is not deductible in the year incurred because of the investment interest limitation may be carried forward and deducted in a future year in which there is sufficient investment income.

The Agreement will contain provisions intended to comply substantially with IRS regulations describing partnership allocations that will be treated as having "substantial economic effect," and hence, the Partnership's allocation will be respected for tax purposes. However, those regulations are extremely complex, and there can be no assurance that the allocations of income, deduction, loss, and gain for tax purposes made pursuant to the Partnership Agreement will be respected by the IRS, if reviewed. Even if the IRS were to review the Partnership allocations and determine that they do not technically comply with such regulations, such allocations would be determined "in accordance with each partner's interest in the partnership (determined by taking into account all facts and circumstances)." The allocations under the Partnership Agreement should, in most cases, be substantially identical to each "partner's interest in the partnership."

Under Section 67 of the Code, a non-corporate taxpayer (including a shareholder of an S corporation) may deduct certain miscellaneous deductions (e.g., investment advisory fees, tax preparation fees, unreimbursed employee expenses, and subscriptions to professional journals) only to the extent such deductions exceed, in the aggregate, 2% of the taxpayer's adjusted gross income. Each Limited Partner's share of the Management Fee and other Partnership expenses probably will be treated as miscellaneous itemized deductions. Accordingly, a Limited Partner who is an individual generally will be permitted to deduct such expenses only to the extent that the sum of such expenses plus the individual's other miscellaneous itemized deductions exceed 2% of the individual's adjusted gross income. However, corporate Limited Partners (other than S corporations) and tax-exempt organizations are not affected by the 2% floor (unless, in the case of a tax-exempt organization, it is not a corporation and has unrelated business taxable income from the Partnership). Section 68 of the Code separately imposes limitations on the deductibility of itemized deductions by an individual whose adjusted gross income exceeds a specified amount (e.g., $126,600 for unmarried individuals, or married individuals filing jointly, for 1999, adjusted annually for inflation), which may also affect the ability of any Partner who is an individual to deduct his or her share of the Management Fee and other Partnership expenses. A Limited Partner who is an individual also generally will not be permitted to deduct his or her share of the Management Fee and other Partnership expenses for purposes of calculating such individual's alternative minimum tax liability.

Non-corporate investors (and certain closely held, personal service, and S corporations) are subject to the limitations on using losses from passive business activities to offset business income, salary income, and portfolio income (i.e., interest, dividends, capital gains from portfolio investments, royalties, etc.). The Partnership's distributive share of income or losses from a portfolio company which is a partnership or limited liability company engaged in business generally will be treated as passive activity income or losses. Accordingly, an investor will be subject to the passive activity loss limitations on the use of any such portfolio company losses, but any such portfolio company income may be offset by other passive losses (such as losses from limited partnership interests in tax shelters). Other partnership income generally will be treated as portfolio income. Therefore, an investor generally will not be able to use passive activity losses to offset such portfolio income from the Partnership.

Except as described in the following paragraph, a tax-exempt Limited Partner's distributive share of the Partnership's income should consist principally of income from dividends, interest, and capital gain from corporate stock and corporate securities – types of income which (subject to the discussion of debt-financing below) are expressly excluded UBTI.

However, the Partnership may invest in securities (including equity interests in partnerships and limited liability companies) that will generate UBTI ("UBTI Investments"). Each tax-exempt Limited Partner generally would be subject to U.S. Federal income tax on its share of any UBTI earned by the Partnership (and the receipt of UBTI could give rise to additional tax liability for certain limited categories of tax-exempt investors).

If a tax-exempt Limited Partner borrows any amount to fund its capital commitment, some or all of its distributive share of income from the Partnership could be UBTI, which could be taxable to such tax-exempt Limited Partner (and which could give rise to additional tax liability for certain limited categories of tax-exempt Limited Partners). Moreover, debt incurred either by the Partnership directly or in connection with a UBTI Investment could give rise to UBTI to a tax-exempt Limited Partner.

Certain U.S. Tax Considerations for Foreign Investors

Limited Partners that are not U.S. Investors and are not tax-exempt ("Foreign Investors") generally should not be subject to U.S. Federal income tax on gains from the sale of Investments. Notwithstanding the foregoing, a Foreign Investor's share of the net gain recognized upon disposition by the Partnership of a United States real property interest would be treated for Federal income tax purposes as if it were effectively connected with a U.S. trade or business. In general, the Partnership would be required to withhold tax from allocations to Foreign Investors of such net gain and each Foreign Investor would be required to report its share of such gain on a U.S. Federal income tax return. For this purpose, the term "United States real property interest" generally would include: (i) shares of stock in a U.S. corporation that does not have a publicly traded class of stock outstanding if 50% or more of the value of the corporation's assets at any point during the preceding five years consisted of interests in U.S. real property, and (ii) shares of stock in a U.S. corporation that does have a publicly traded class of stock outstanding where (A) the corporation satisfies the real property ownership test described in clause (i) above, and (B) the Partnership held (directly or pursuant to certain attribution rules) more than 5% of the outstanding stock of any publicly traded class of shares or held shares of non-publicly traded stock with a fair market value greater than that of 5% of the publicly traded class of the corporation's stock with the lowest fair market value. In addition, if the Partnership invests in partnerships or other persons that generate income that is treated as effectively connected with a U.S. trade or business (including gain recognized upon disposition of an United States real property interest), Limited Partners will be subject to U.S. Federal income tax, including withholding tax (and possibly the branch profits tax), on their share of such income and on their share of gain realized on the Partnership's disposition of its interest in such other partnership's (or other person's) assets attributable to such U.S. trade or business, and they will be required to file appropriate returns. Dividends paid by portfolio companies generally will, and interest paid by portfolio companies and capital gains upon realization of certain Investments may, in certain circumstances, be subject to withholding taxes, including U.S. withholding taxes, but such taxes may be reduced or eliminated by treaty.

THIS MEMORANDUM DOES NOT ADDRESS ALL UNITED STATES FEDERAL TAX CONSEQUENCES OF AN INVESTMENT IN THE PARTNERSHIP THAT MAY APPLY TO AN INVESTOR, AND IT DOES NOT ADDRESS ANY STATE, LOCAL, OR FOREIGN TAX CONSEQUENCES OF SUCH AN INVESTMENT. IN ADDITION, THE ABOVE DISCUSSION IS BASED ON CURRENT PROVISIONS OF THE CODE, TREASURY REGULATIONS, ADMINISTRATIVE RULINGS, AND JUDICIAL DECISIONS, AND NO ASSURANCE CAN BE GIVEN THAT FUTURE LEGISLATIVE, JUDICIAL, OR ADMINISTRATIVE ACTION WILL NOT AFFECT THE ACCURACY OF ANY STATEMENT IN THIS DISCUSSION, POSSIBLY WITH RETROACTIVE EFFECT. THE TAX CONSEQUENCES OF AN INVESTMENT IN THE PARTNERSHIP MAY VARY DEPENDING ON AN INVESTOR'S PARTICULAR CIRCUMSTANCES. FOR THE FOREGOING REASONS, EACH PROSPECTIVE INVESTOR IS ADVISED TO CONSULT ITS OWN TAX COUNSEL AS TO THE FEDERAL, STATE, LOCAL, AND FOREIGN TAX CONSEQUENCES OF AN INVESTMENT IN THE PARTNERSHIP.

Certain ERISA Considerations

The U.S. Department of Labor ("DOL") has issued regulations under ERISA, which generally provide that when an employee benefit plan invests in an entity such as the Partnership, the plan's assets include both the limited partnership interest and an undivided interest in each of the underlying assets of the Partnership, unless (i) the equity participation in the Partnership by benefit plan investors is not "significant" (defined as 25% of any class of the Partnership equity interests), (ii) the Partnership complies with the "venture capital operating company" ("VCOC") exception, or (iii) the Partnership qualifies for another exception under the DOL plan asset regulations. If the underlying assets of the Partnership were to be considered plan assets of the ERISA plan investor, the General Partner of the Partnership would be an ERISA fiduciary and the Partnership would be subject to undesirable ERISA requirements with which the Partnership generally cannot comply.

The Partnership will not limit investment by benefit plan investors, and it is therefore possible that investment by benefit investors will be "significant." However, the Partnership has been designed and is intended to be managed to comply with the VCOC exception. If it qualifies for the VCOC exception, the Partnership will not be subject to the ERISA fiduciary rules and the underlying assets of the Partnership will not be deemed "plan assets" of any ERISA plan investor. The Partnership will qualify if it (i) has direct contractual rights to substantially participate in or substantially influence the management of operating companies comprising at least 50% of its portfolio (measured by cost), and (ii) in the ordinary course of its business, actively exercises such management rights with respect to at least one of the operating companies in which it invests. An "operating company" is an entity engaged in the production or sale of a product or service, as distinguished from a re-investing entity.

The determination as to whether the fund qualifies as a VCOC is made when the Partnership makes its first long-term investment and thereafter on an ongoing basis. The Partnership must meet the 50% test at the time it makes its first long-term investment and on at least one day during each 90-day annual valuation period (generally beginning on the anniversary of the Partnership's first long-term investment) thereafter. The Partnership also would cease to qualify if it did not in the ordinary course of its business actually exercise its management rights with respect to at least one portfolio company each year. Special rules will apply to any wind-up of the Partnership when it enters into it "distribution period" as defined in the DOL regulations.

Prospective Limited Partners who are subject to the provisions of ERISA (such as pension funds or certain insurance company accounts) should consult with their counsel and advisors as to the provisions of ERISA applicable to an investment in the Partnership.

Certain Regulatory Matters

Investment Company Act of 1940, as amended (the "1940 Act")

The Partnership has not registered and does not plan to register under the 1940 Act in reliance on the exception provided in Section 3(c)(7) of the 1940 Act. As a condition to its admittance to the Partnership, each prospective Limited Partner will be required to represent to the Partnership and its General Partner that such prospective Limited Partner is a "qualified purchaser" within the meaning of Sections 2(a)(51) and 3(c)(7) of the 1940 Act and the regulations promulgated thereunder.

Securities Act

The offer and sale of the Interests will not be registered under the Securities Act in reliance upon the exemption from registration provided by Section 4(2) thereof and Regulation D promulgated thereunder. Each purchaser must be an "accredited investor" (as defined in Regulation D under the Securities Act) and will be required to represent, among other customary private placement representations, that it is acquiring its Interest in the Partnership for its own account for investment purposes only and not with a view to resale or distribution.

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LJM LEGAL REVIEW
(Confidential)

Participants: Jim Derrick
Rex Rogers
Jordan Mintz
Ron Astin

A. Overview

LJM1
LJM2

1. A "Who, What, Where" of LJM
2. 1999 Activity
3. 2000 Activity

B. Enron Board Involvement

1. Directives
2. Review Process
3. February 2001 Audit and Finance Committee Reviews

C. Legal Consideration

1. Financial Statement Disclosures
2. Proxy Disclosures
3. Memo regarding Suggestions for Improvement to Policies/Controls for Transacting with LJM in 2001

3/7/01

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LJM UPDATE
(May 7, 2001)

1. Closed Transactions (2001)

   - Raptor Restructuring

2. Pending Transactions

   - Cuiaba Repurchase (End of May)
   - Merlin CLO (By May 15)

3. Due Diligence

   - Enron Wind
   - Generation (CA executed)

4. Other Items

   - Disclosure
   - Approval Sheet
   - Skilling's Signature
   - Board's/OTC Determination Regarding "No Adverse Effect"
   - Mike Miller

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LJM LEGAL REVIEW
(May 22, 2001)

Participants: Jim Derrick
Rob Walls
Rex Rogers
Jordan Mintz

A. Developments since March 7th Legal Review Meeting

1. Proxy/10-K Disclosures
2. Enron Wind
3. Overlapping Employee Duties/Services Agreements Review
4. Deal Approval Changes
5. Investor Relations Feedback
6. Meetings with Causey/Buy

B. Meetings with ASF; Current Proposals

1. Restructure of LJM ownership to avoid disclosure
2. "Fresh look" at Enron/LJM relationship

Meeting
(1) Why is Andy staying in? Bring value to p'ship?
(2) Legally. Disclosures being made -- [illegible]
3) Corporate Governance issue regarding

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Confidential
Attorney-Client
Communication

ENRON

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To: Rick Buy
Rick Causey

From: Jordan Mintz Jordan

Department: Enron Global Finance–Legal

Subject: LJM Approval Process -- Transaction Substantiation

Date: March 8, 2001

With the year-end and recent Board meetings behind us, and our now being in the midst of proxy season, I thought it might be timely to memorialize my observations and summarize my recommendations for refining our compliance with the procedures approved by Enron's Board of Directors (the "Board") with respect to the Company's transacting with LJM. Briefly stated, it is my view that the Company needs to improve both the *process* it follows in executing such transactions and implement improved procedures regarding *written substantiation* supporting and memorializing the Enron/LJM transactions; at the same time, it is also my view worthwhile improvements can be accomplished without significant disruption to commercial efforts.

More specifically, my recommendations focus on two areas: the first is the need for the Company to implement a more active and systematic effort in pursuing non-LJM sales alternatives before approaching LJM, and then to create more extensive written documentation substantiating such efforts; the second is to modify the LJM Approval Checklist so as to impose a more rigorous testing of the fairness and benefits realized by Enron in transacting with LJM -- and balancing such benefits against perception and shareholder relations issues such transactions may present.

To that end, what follows below is: relevant background regarding the Board's approval for transacting with LJM; my "due diligence" findings relating to the Company's compliance with such approval; and recommendations for improvement to be effective for the 2001 year.

Overview

As you know, the sensitivities surrounding Enron's transacting with LJM primarily stem from three areas: whether such transactions are being conducted at arms-length in such a clear and convincing fashion that they will be respected from a GAAP earnings perspective; whether the benefits realized by Enron from such transactions are sufficiently "compelling" from an investor's perspective to negate perceptions, however unwarranted, of an "interested" dealing; and whether such transactions are in the best interests of the Company and, thus far, consistent with the Board's carrying out its fiduciary duties and in compliance with the Company's Code of Ethics. In order to address these three critical and often-overlapping concerns, the Board has previously approved the following procedures and controls:

(1) Enron and LJM are not obligated to one another to transact;

(2) Enron's Chief Accounting and Risk Officers are to review and approve the terms all transactions Enron or an affiliate enters into with LJM;

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(3) The Board's Audit and Compliance Committee shall annually review all transactions completed that year and make any recommendations they deemed appropriate; and

(4) The Board is to determine, also annually, that Andrew Fastow's controlling position at LJM and his involvement as a counterparty to Enron does not adversely effect the best interests of the Company.

Additionally, although not explicitly provided for by the Board, the Finance Committee also annually reviews all Enron/LJM transactions, but may review on an *ad hoc* basis, as needed.

To supplement the Board's mandated procedures, Enron and LJM also agreed to an additional control precluding Mr. Fastow (and Michael Kopper, also a senior level professional at both Enron and LJM) from negotiating on behalf of Enron in transactions with LJM.

The Company subsequently adopted a written "LJM Approval Sheet" to generally describe the business nature of any Enron/LJM transaction, including the deal terms and anticipated economics to Enron. This Approval Sheet is supplemented with an "Issues Checklist", which captures the procedures to be followed in executing transactions with LJM; in this manner, Enron can test whether it is complying with the Board's directions. (Such Approvals are to be reviewed and executed by certain members of Enron's Senior Management, including Jeff Skilling.) For example, the Checklist provides for the following determinations to be made:

(1) In addition to LJM, identifying other sales options that were considered and rejected, including sales to Condor, JEDI II, and third parties; identifying other banks/offers that were received with respect to the transaction;

(2) Whether the transaction with LJM will be the most beneficial alternative to Enron; identifying the related benefits – cash flow, earnings;

(3) Determining whether the transaction involves a "Qualified Investment" so that it was required to be offered to JEDI II;

(4) Whether the transaction was negotiated at arm's-length; did any advisors conclude that the transaction was *not* fair to Enron;

(5) Whether the transaction had to be disclosed in the Proxy and whether it yielded any monetary benefit to an Enron employee; and

(6) Whether LJM's participation in the transaction has been reviewed by Enron Office of the Chairman ("OTC")? Has it been reviewed and approved by Enron's Chief Accounting and Risk Officers?

And finally, the Checklist asks whether Enron's Board's Audit Committee reviewed all Enron/LJM transactions within the past 12 months.

Findings

The procedures followed by Enron in transacting with LJM, including the manner in which they have been substantiated, should be improved and can be, I believe, with minimum disruption to commercial efforts. I also believe that the adoption of certain of these recommendations will yield material benefits with respect to accounting substantiation and further documentation of the Board's carrying out of its fiduciary duties and business judgment.

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The more significant areas for improvement are as follows: CONFIDENTIAL

(1) Enron does not consistently seek to negotiate with third parties before it transacts with LJM. No policy exists specifically requiring evaluation and pursuit of third party alternatives before transacting with LJM. Because no existing policy requires the prior evaluation of third party alternatives and, given the fluid nature of the Company's commercial activities, too often Enron finds itself facing a time deadline that makes it difficult (*in fact* often impossible, as a practical matter) to transact with a third party, thus potentially: (a) reducing the benefits Enron realizes from the LJM transaction by eroding Enron's bargaining position; (b) clouding the objective evidence of such benefits (due to a lack of comparable alternatives) and, perhaps; (c) undermining the arm's-length nature of the transaction (due to a lack of both comparable and practical alternatives);

(2) Enron does not always adequately substantiate in writing the procedures it follows with respect to transacting with LJM. For example, some of the questions in the Checklist do not capture the "full picture" of information that would be instructive in demonstrating compliance with Enron's Board. For example:

(a) The Checklist does not require an explanation as to *why* the particular transaction would be the most beneficial alternative for Enron -- only that it is. Requiring an answer to the question of *why* the transaction is beneficial would have the added advantage of requiring that the question be directly addressed by the commercial personnel charged with its execution;

(b) The Checklist does not provide for a detailed explanation/substantiation of sales efforts prior to transacting with LJM (thereby negating a contemporaneous record that could be useful in fashioning appropriate disclosures regarding those transactions required to be disclosed);

(c) The Checklist does not require an explanation as to *how* Enron determined that the transaction was conducted at arm's-length -- only if it was not (which presents the same difficulties as (b));

(d) The Checklist provides for pre-determined, rather than a more "realtime" OTC determination that transacting with LJM does not adversely affect Enron; and

(e) The Checklist does not provide any level of detail regarding the Chief Accounting and Risk's Officer's review and approval; I believe, for the Board's Audit and Finance Committee's benefit, this additional information -- when coupled with formal Board presentations -- would provide additional enhancement to the Board's decision-making as to having all relevant facts before it.

(3) Inherent employee conflicts exist that can contribute to a perception that Enron and LJM *cannot* transact at arm's-length; and

(4) Enron's transactions with LJM create potential conflicts with CalPERS, and perhaps other future "investment parties" with whom Enron may have a relationship.

Particular suggestions for improvements follow. These recommendations for a more "formal" approach for transacting with LJM, however, should not replace or supercede any "commonsense" alternatives that may better allow for flexibility in any commercial/financial transaction and, perhaps, a better balancing of competing interests.

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Recommendations

Adoption of the suggestions that follow should enhance those procedures already in place and being followed for purposes of substantiating Enron's compliance with the Board's directives and, in particular, "completing the Company's files" with respect to responding to audit reviews and preparation of proxy and footnote disclosures. In particular:

(1) Additional education of business units regarding the role to be played by LJM as an alternative counterparty after efforts with "traditional", third party counterparties are exhausted and the Company's expectation that such third parties will be explored before resort to LJM. Further written *substantiation* of such efforts;

(2) Amendments to the Checklist to ensure further written substantiation of *why* this particular transaction with LJM was the *most beneficial* vis-à-vis alternatives, *how* such determination is *substantiated*, and substantiation that the transaction was conducted at arm's-length;

(3) Better contemporaneous involvement by the OTC regarding review and approval of Enron's transacting with LJM, *i.e.* sign-off by Jeff Skilling on a more regular basis;

(4) Mitigation of personnel conflicts by physical separation of all fulltime LJM employees from Global Finance representatives; and

(5) Coordination of LJM Approvals, review, and substantiation documents through an internal group made up of representatives of EGF Commercial, Legal (custodian of the documents), Accounting, and Commercial Support.

Items (2) (4) and (5) above are already being addressed. We can work through the individual business unit CFOs to progress item (1) and, with your concurrence, I can discuss item (3) with Jeff.

Please let me know your thoughts about these recommendations and whether you take exception to my working towards their implementation. Of course, feel free to contact me with any questions you may have.

Thank you for your time.

Cc: Jim Derrick
Rex Rogers
Rob Walls
Ron Astin (Vinson & Elkins)

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Jordan H. Mintz
Vice President and
General Counsel
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May 10, 2001

PRIVILEGED AND CONFIDENTIAL
COMMUNICATIONS

VIA Federal Express

Mr. Richard A. Steinwurtzel
Fried, Frank, Harris, Shriver & Jacobson
1001 Pennsylvania Ave. NW
Suite 800
Washington, DC 20004-2505

Re: Related Party Transactions

Dear Richard:

I want to thank you for taking time out from your hectic schedule to visit with me over the telephone yesterday in connection with the above-referenced item. As promised, I have reviewed my files and have enclosed those documents which should be instructive in providing you with additional information to assist you in your evaluation and recommendations regarding those issues I have previously described to you.

Some of these documents attached may be drafts or, in certain instances, have handwritten notes on them. I am confident that everything I am providing you with, even if in the form of a draft, fairly reflects their final form. Supplemental information related to these documents are noted in parentheticals, where appropriate.

To that end, I offer for your review and consideration the following items:

1. Enron 2000 Annual Report
   - *See*, in particular, footnote 16

2. Enron's March 27, 2001 Proxy
   - *See*, in particular, pages 26 and 27--"Certain Transactions"

3. Enron's March 28, 2000 Proxy
   - *See*, in particular, pages 26 and 27--"Certain Transactions"

4. Enron's Form 8-K, dated February 26, 2001
   - *See*, in particular, footnote 16--"Related Party Transactions", pages 56 and 57

Mr. Richard A. Steinwurzel
Re: Related Party Transaction
Page 2

5. Enron Corp.'s Form 10-Q, dated May ___, 2001 (draft)
   - *See*, in particular, footnote 8, pages 14 and 15, "Related Party Transactions"

6. Audit Committee Presentation of the LJM Investment Activity for 1999, dated February 7, 2000 (Presented by Enron's Chief Accounting Officer, Rick Causey)
   - Note, Scott Sefton was my predecessor

7. Audit and Finance Committee Presentation for LJM Investment Activity for 2000, dated February 12, 2001 (Presented by Enron's Chief Accounting Officer, Rick Causey, and Chief Financial Officer, Andy Fastow (just Finance Committee))

8. Short Form Questionnaire for Andrew S. Fastow for Fiscal Year Ended December 31, 1999
   - *See*, in particular, question (g) and response (last page addendum)

9. Addendum to Questionnaire for Andrew S. Fastow for Fiscal Year Ended December 31, 2000 (Copy enclosed unexecuted; however, I have been advised that an executed copy has been provided to Enron's Corporate Secretary)

10. Finance Committee Presentation Regarding LJM 1, dated October 11, 1999

11. Enron Board of Directors' Minutes, dated June 28, 1999; October 11, 1999

12. Q&A's relating to LJM (draft); Correspondence from Counsel Bob Baird, Vinson & Elkins, dated October 4, 1999, regarding LJM 2

13. Memorandum from Kirkland & Ellis, Counsel to LJM 2, dated October 11, 1999

14. Services Agreements Between Enron and LJM 1 and LJM 2

15. LJM 2 Co-Investment L.P. Presentation Related to Private Placement Memorandum (draft)

16. Memoranda from Jordan Mintz Relating to LJM, as follows:
   - Summary of Proposed Private Placement Memorandum for LJM 3, dated December 7, 2000 (Such equity fund never closed);
   - LJM Approval Process—Transaction Substantiation, dated March 8, 2001—including Enron's current version of the LJM Approval Sheet (Provides instructive background);
   - Memorandum to Andy Fastow, regarding Related Party Proxy Disclosures, dated April 6, 2001;

Mr. Richard A. Steinwurtzel
Re: Related Party Transaction
Page 3

- Memorandum to Messrs. Baxter, Metts, and Causey, regarding Disclosure Issues With Respect to Proposed Sale of Enron Wind to LJM, dated April 12, 2001;
- Draft of Proposed Proxy Disclosure for Sale of Enron Wind to LJM 2

17. Copy of the "Conflicts" Section of Enron's Code of Ethics (2000)

18. Two Articles Regarding Enron
    - Article in Worth Magazine of the 50 Best CEO's in the Country
    - Article in Bloomberg Markets, "Inside Enron"

I will continue to review my files to determine whether there are any additional documents that may be helpful.

Based on our conversation yesterday--and now with your having the opportunity to review these documents, I believe you should have a fairly complete picture of the issues we are wrestling with. Obviously, as you pursue your "due diligence", you should not hesitate to call me with any additional questions that you may have or request, if available, any additional documentation that you think may be helpful; in turn, I am hopeful that you will be able to complete your review in the next two weeks (and, of course, we can continue our dialogue during that time). It may then be appropriate for me to visit with you in your offices sometime in late May/early June to discuss "where we are" and "where we are headed".

In closing, I very much appreciate your guidance, Richard, on this very significant matter. I will do what ever you need in terms of insuring that you have all relevant information and resources to conclude your work. I take great comfort in being able to call upon your counsel in this instance.

As usual, I may be reached at 713-853-7897. My email address is jordan.mintz@enron.com. Please do not hesitate to contact me.

Very truly yours,

Enclosures

Cc (w/o encl.): Alan S. Kaden
Fried, Frank, Harris, Shriver & Jacobson

MIN 000240

Jordan H. Mintz
Vice President and
General Counsel
Enron Global Finance

Enron Corp.
1400 Smith Street
Houston, TX 77002-7361
713-853-7857
Fax 713-646-3229
jordan.mintz@enron.com

May 21, 2001

PERSONAL AND CONFIDENTIAL

VIA FEDERAL EXPRESS

Mr Richard A. Steinwurtzel
Mr. James H. Schropp
Fried, Frank, Harris, Shriver & Jacobson
1001 Pennsylvania Avenue N.W., Suite 800
Washington, DC 20004-2505

RE: **Restructuring of the LJM Private Equity Fund**

Dear Richard and Jim:

As we discussed last Wednesday, May 16th, we are proceeding with the proposal to restructure the LJM partnership(s) so as to fit within the safe-harbor (from disclosure) under Regulation S-K, Item 404 – Instructions 8.B (the "less than 10%, limited partner interest Safe-Harbor"). In that regard, we are working with our counsel, Vinson & Elkins, and that of LJM's, Kirkland & Ellis, to get comfortable with our interpretation of the Safe-Harbor and that the restructuring is accomplished in a fashion that satisfies such safe-harbor. We are targeting this Friday, May 25th, as the date to reach these conclusions. As we discussed, I would appreciate your involvement as a "second pair of eyes" in this effort.

To that end, I have enclosed copies of the limited partnership agreement of LJM2 Capital Management, L.P., the general partner of the investment partnership – LJM2 Co-Investment, L.P., and the limited partnership agreement of LJM2 Co-Investment L.P. I would appreciate your review of the application of the Safe-Harbor to our proposal to restructure these partnerships. In particular, the general partner interest of Enron's Senior Officer would be converted to a less than 10% limited partnership interest -- probably at the investment partnership level, and the current general partner interest would be assumed by a current Enron executive (but <u>not</u> a Section 16 officer) who, likely, would leave the employ of Enron. We can discuss in greater detail these specifics during our call set for this Wednesday.

In the interim, should you have questions or comments, please do not hesitate to contact me at 713-853-7897. I appreciate your continued assistance.

Very truly yours,

Enclosures (two sets)

Cc w/o enclosures: Alan Kaden

Endless possibilities.™

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Fried, Frank, Harris, Shriver & Jacobson
1001 Pennsylvania Avenue, NW, Suite 800
Washington, DC 20004-2505
Tel: 202.639.7000
Fax: 202.639.7003 (4); (8)
www.ffhsj.com

Direct Phone: 202.639.7073
Direct Email: Alan.Kaden@ffhsj.com

CONFIDENTIAL & PRIVILEGED
FROM COUNSEL

May 22, 2001

FRIEI
FRANI
HARR
SHRIV
JACOE

Enron Global Finance
c/o Enron Corporation
1400 Smith Street
Houston, Texas 77002-7361

Attn: Jordan H. Mintz, Vice President
& General Counsel

Re: Enron Global Finance

Dear Jordan:

In accordance with the District of Columbia's Code of Professional Responsibility, we are obligated to set forth the terms and scope of the recent retention of our firm's services by Enron Global Finance and/or Enron Corporation (collectively, "Enron Global"). Although this letter will, therefore, seem a bit formalistic, please be assured that we are delighted to be of assistance.

Based on our discussions to date, we understand that we will act as Enron Global's special counsel in a matter involving disclosure and other securities related advice. This matter, and the services that you have asked us to provide in connection with it, are discrete and limited, and you and we agree that we should not, in the course of such representation, need to obtain or use confidential information about Enron Global or render advice to Enron Global

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Corporations

New York
Washington
Los Angeles
London
Paris

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except in connection with this matter, unless we are specifically requested and agree to do so.

Our fees are based on the actual time spent on the matter involved by the attorneys in the firm. Each attorney, whether an associate or a partner, has a fixed rate at which his or her time is charged. That rate is fixed by the firm, taking into consideration the individual's professional expertise and other relevant factors.

Our hourly rates currently range from $245 to $420 for an associate attorney. Richard Steinwurtzel, the partner who will be primarily responsible for this matter, has a billing rate of $620. (The foregoing information is, of course, provided to you on a confidential basis.) These rates are revised from time to time; additionally, associates "graduate" to the next seniority class effective September 1, and their rates are adjusted accordingly at that time. Richard will have primary responsibility for your matter, with assistance from senior and junior associates and in consultation with other partners, as he deems appropriate.

Ancillary services and expenses, such as photocopying, telecommunications, messenger and delivery services, computer legal research and database searches, outside experts or consultants, word processing, secretarial and other support staff overtime, travel and other expenses incurred for the benefit of the client, are billed separately from time charges, based on actual use, at our cost. Travel expenses include, as applicable, mileage, airfare, lodging, meal expenses, local travel and similar expenses. Our policy regarding time spent traveling on behalf of a client is to charge the time expense to the client on whose behalf we are traveling, unless the attorney uses the travel time to work on another billable matter, in which case the time is billed to that matter. Billing for ancillary services and expenses may lag the rendering or use of those services by several months because of delays in the receipt of third-party bills and the posting of accounts.

The time charges set forth above are not absolutes to which we adhere without analysis of the time that has been spent. They serve as "benchmarks" which ordinarily are followed. Each month, however, before bills are submitted, a review is performed to assess the nature and quality of the services performed for the client.

Enron Global Finance
May 22, 2001
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It is our practice to try to discuss statements with our clients, and to explain the services covered to the client's satisfaction. In our view, good legal service requires that our clients not only receive outstanding legal work, but also that they feel comfortable in discussing our fees. We will bill on a monthly basis and will expect payment within 30 days of the date of the invoice.

There is always the possibility that we may be called upon by other clients, present or future, to act in an adverse position to Enron Global. As a matter of good professional and business relations, the firm may decline such representations. Nonetheless, because we cannot predict what situations may arise, or involving whom, you agree that our law firm will remain free, notwithstanding our representation of you in the matter described above or in other matters and whether or not during the course of our representation of you, to represent any present or future client of our law firm with interests adverse to you in any matter (except in litigation in which you and such other client may be adverse parties), so long as such matter is not specifically related to the matters in which we are representing you, and does not require us to utilize confidential information that we have learned from you while working on your behalf.

I hope you find the discussion above to be comprehensive and helpful, and that you will let me know if you have any questions.

Enron Global Finance
May 22, 2001
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Please sign the original and enclosed copy of this letter. After you have done so, please retain the original for your files, and return the signed copy to me.

Sincerely,

FRIED, FRANK, HARRIS, SHRIVER
& JACOBSON

By: Al Kel

ACCEPTED AND AGREED:

By: [signature] 6/6/01
Name:

[Title:]

Date:____________]

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PRELIMINARY DRAFT

M E M O R A N D U M

May 23, 2001

TO: James H. Schropp

FROM: James P. Baetzhold

RE: Enron Related Party Transactions

FRIED FRANK HARRIS SHRIVER

You have asked that I review various documents received from Enron Corp., an Oregon corporation ("Enron"), relating to transactions between Enron and certain parties related to Enron, in particular LJM Cayman, L.P. ("LJM1") and LJM2 Co-Investment, L.P. ("LJM2," and together with LJM1, the "Partnerships"). This memorandum sets forth a brief overview of (i) the structure, ownership and purposes of the Partnerships, (ii) Enron's policies and procedures regarding transactions with the Partnerships, (iii) Oregon law with respect corporate directors and officers, and (iv) transactions between Enron and the Partnerships disclosed in Enron's filings with the SEC.

I. Structure, Ownership and Purposes of the Partnerships

- LJM1 and LJM2 are private equity funds formed as alternative, optional sources of private equity for Enron to manage its investment portfolio risk, funds flow, and financial flexibility.

- The Partnerships engage in acquiring or investing in energy and communications-related investments, primarily involving either assets Enron has decided to sell or risk management activities intended to limit Enron's exposure to price and value fluctuations with respect to various assets.

- Certain internal Enron documents describe the Partnerships as assisting Enron in its equity portfolio syndication activity.

- Andrew Fastow, an Executive Vice President and Chief Financial Officer of Enron, is the managing member of the general partner of LJM1 and the general partner of LJM2.

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- Other Enron officers with interests in the Partnerships are Michael Kopper, a Managing Director of Enron, and Ben Glisan, Jr., a Vice President of Enron.
    - Michael Kopper negotiates on behalf of the Partnerships when entering into transactions with Enron. The Partnerships pay a portion of his compensation to reflect time spent on Partnership matters.
- Limited partners in the Partnerships can remove the General Partner with or without cause.
- Under Services Agreements, the Partnerships reimburse Enron for administrative and support services provided by Enron.
- Summary Chart

	LJM1	LJM2
Formal Name	LJM Cayman, L.P.	LJM2 Co-Investment, L.P.
Date Formed	June 30, 1999	October 20, 1999
Size	$16 million	$200+ million
General Partner ("GP")	LJM Partners, L.P.	LJM2 Capital Management, L.P.
General Partner of GP ("GP2")		LJM2 Capital Management, LLC
Managing Member of GP2		Andrew Fastow
Manager	LJM Management, L.P.	LJM2 Capital Management, L.P.
Limited Partners	Qualified investors – public and corporate pension funds, insurance companies, commercial banks and investment companies or funds	Qualified investors – public and corporate pension funds, insurance companies, commercial banks and investment companies or funds
GP Contribution		1% of total capital contributions
Carried Interest		20%
Management Fee		2% of Limited Partners' capital commitments during commitment period, 2% of invested capital thereafter
Commitment Period		Three years
Partnership Advisory Committee		Comprised of Limited Partner representatives; provides independent review of decisions made by General Partner in situations where the General Partner believes a conflict of interest exists

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- See Exhibit A for additional information prepared by Enron regarding the structure, ownership and purposes of the Partnerships.

II. Enron's Policies and Procedures Regarding Transactions with the Partnerships

- Enron's Board of Directors has specified the following basic policies and procedures for transactions between Enron and the Partnerships:
    - Enron and the Partnerships are not obligated to one another to transact;
    - Enron's Chief Accounting Officer (Rick Causey) and Chief Risk Officer (Rick Buy) review and approve the terms of all transactions;
    - The Board's Audit and Compliance Committee annually reviews all transactions completed during the past year and makes any recommendations they deem appropriate; and
    - The Board annually determines that Andrew Fastow's controlling position at the Partnerships and his involvement as a counterparty to Enron do not adversely affect the best interests of Enron.
- For a description of all procedures and controls, see Exhibit B, Related Party Transactions – LJM 2000, Internal Policies and Procedures (February 2001).
- See also Exhibit C, Memorandum dated March 8, 2001 from Jordan Mintz to Rick Buy and Rick Causey re "LJM Approval Process – Transaction Substantiation."
    - The March 8, 2001 memorandum refers to the "LJM Approval Sheet" and "Issues Checklist," which are attached hereto as Exhibit D.
    - The March 8, 2001 memorandum also refers to Enron's Code of Ethics; the section of the Code of Ethics addressing conflicts of interest is attached hereto as Exhibit E.

III. Oregon Law Regarding Corporate Directors and Officers

- The general standard of conduct for directors and officers of Oregon corporations requires that directors and officers discharge their duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances and in a manner the director or officer reasonably believes to be in the best interests of the corporation. *See* Or. Rev. Stat. §§ 60.357, 60.377 (1999).

- Oregon's Private Corporations law defines a "conflict of interest transaction" as a transaction with the corporation in which a *director* of the corporation has a direct or indirect interest. *See* Or. Rev. Stat. § 60.361 (1999).

- The law provides that a conflict of interest transaction is not voidable by the corporation solely because of the director's interest in the transaction if any one of the following is true:

  (a) the material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board of directors and the board of directors or committee authorized, approved or ratified the transaction;

  (b) the material facts of the transaction and the director's interest were disclosed or known to the shareholders entitled to vote and they authorized, approved or ratified the transaction; or

  (c) the transaction was fair to the corporation.

  Or. Rev. Stat. § 60.361 (1999).

- Transactions with a corporation in which an *officer* of the corporation has an interest are not considered conflict of interest transactions and do not require approval or ratification by the board of directors or any committee thereof.

- See Exhibit F, Or. Rev. Stat. §§ 60.357 - 60.384 (1999).

IV. Transactions Between Enron and the Partnerships

- The chart at Exhibit G summarizes transactions between Enron and the Partnerships, as disclosed in Enron's filings with the SEC. The information in the chart is based primarily on disclosures made in Enron's proxy statements for 2000 and 2001, which disclosures are summary in nature. To detail each transaction individually, we would need to review the "LJM Approval Sheet" and "Issues Checklist" for each.

- Additional summary charts prepared by Enron are included as Exhibit H.

- The following recent disclosures made by Enron are included as Exhibit I:
  - 2000 Proxy Statement, March 28, 2000, pp. 26-27
  - Form 8-K, February 26, 2001, FN 16, pp. 56-57, 33-37
  - 2001 Proxy Statement, March 27, 2001, p. 27
  - Form 10-K, April 2, 2001, FN 16, pp. 48-49, 38-40
  - Form 10-Q, May 14, 2001, FN 8, pp. 14-15

List of Exhibits

Exhibit A	Information prepared by Enron regarding the structure, ownership and purposes of LJM1 and LJM2 – presented at October 11, 1999 Finance Committee Meeting
Exhibit B	Related Party Transactions – LJM 2000, Internal Policies and Procedures (February 2001)
Exhibit C	Memorandum dated March 8, 2001 from Jordan Mintz to Rick Buy and Rick Causey re LJM Approval Process – Transaction Substantiation
Exhibit D	LJM Approval Sheet and Issues Checklist
Exhibit E	Enron Code of Ethics, "Conflicts of Interests, Investments, and Outside Business Interests of Officers and Directors"
Exhibit F	Or. Rev. Stat. §§ 60.357 - 60.384 (1999)
Exhibit G	Transactions Between Enron and LJM1 or LJM2 (prepared by FFHSJ)
Exhibit H	LJM Investment Activity 1999; LJM Investment 2000 Activity with Enron (prepared by Enron)
Exhibit I	Recent Enron SEC Disclosure • 2000 Proxy Statement, March 28, 2000, pp. 26-27 • Form 8-K, February 26, 2001, FN 16, pp. 56-57, 33-37 • 2001 Proxy Statement, March 27, 2001, p. 27 • Form 10-K, April 2, 2001, FN 16, pp. 48-49, 38-40 • Form 10-Q, May 14, 2001, FN 8, pp. 14-15

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M E M O R A N D U M

Privileged and Confidential

June 4, 2001

TO: Richard A. Steinwurtzel
James H. Schropp
Lanae Holbrook

FROM: James P. Baetzhold

FILE: 94485-0002

RE: Enron Proxy Disclosure

FRIED FRANK HARRIS SHRIVER & JACOBSON

This memorandum identifies issues relating to whether Enron Corp. ("Enron") must disclose in its 2002 proxy statement one or more transactions that it entered into in 2001 with related parties (the "LJM Partnerships") controlled by Enron's chief financial officer. (Enron's 10-Q for the first quarter of 2001 states that Enron entered into "transactions" with the LJM Partnerships during the first quarter.) We understand that by June 2001, an individual (other than the CFO) who has worked on LJM Partnership matters will leave Enron's employ and establish a private equity fund that will merge with the LJM Partnerships. In connection with these transactions, the CFO will sell his interest in and otherwise end his involvement with the LJM Partnerships. We assume that Enron will disclose this restructuring and the termination of the CFO's relationship with the LJM Partnerships.

I. Disclosure Requirement

A. Item 7 of Schedule 14A requires that registrants disclose in their proxy statements certain information regarding directors and executive officers, including the information required by Item 404(a) of Regulation S-K.

B. Item 404(a) of Regulation S-K provides as follows:

> Describe briefly any transaction, or series of similar transactions, since the beginning of the registrant's last fiscal year, or any currently proposed transaction, or series of similar transactions, to which the registrant or any of its subsidiaries was or is to be a party, in which the amount involved exceeds $60,000 and in which any [director or executive officer of the registrant] had, or will have, a direct or indirect material interest, naming such person and indicating the person's relationship to the registrant,

A Partnership Including Professional Corporations

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the nature of such person's interest in the transaction(s), the amount of such transaction(s) and, where practicable, the amount of such person's interest in the transaction(s).

II. Analysis

A. Timing. The CFO's planned sale of his interest in the LJM Partnerships does not appear of itself to free Enron from the obligation to disclose transactions entered into with the LJM Partnerships prior to such sale, if the CFO's interest in those transactions was material.

1. Item 404(a) refers to transactions to which the registrant "*was* or is to be a party" and in which any director or officer "*had*, or will have, a direct or indirect material interest" (emphasis added).

2. Even if the CFO sells his interest in the LJM Partnerships as presently planned, he will have had, as managing member of the general partner of the LJM Partnerships, an interest in the transactions in question at the time they were entered into. If that interest was material, the plain language of Item 404(a) appears to require disclosure of such transactions.

(a) Item 404 as initially adopted in December 1982 included the phrase "had, or will have, a direct or indirect material interest." Neither the proposing release (Release No. 33-6416) nor the adopting release (Release No. 33-6441) indicates whether disclosure is required in the event that the relationship giving rise to the disclosure obligation (here, the CFO's interest in the LJM Partnerships) is terminated after the transactions are entered into.

(b) The SEC's Telephone Interpretations do not provide any guidance directly on point, although two interpretations address similar timing issues.

(i) In Telephone Interpretation 41 regarding Regulation S-K, the staff was asked whether disclosure was required of a transaction that occurred since the beginning of the fiscal year but prior to the date a particular person became a five percent shareholder. The staff advised that disclosure was required if the transaction (a) was continuing (such as through the on-going receipt of payments) on and/or after the date the person became a five percent shareholder or (b) resulted in the person becoming a five percent shareholder. The staff also noted that disclosure would not be required if the transaction concluded be... person became a five percent shareholder.

(ii) In Telephone Interpretation 42 regarding Regulation S-K, a retiring director provided consulting services to an issuer through an entity of which the director was sole shareholder. The transaction was excludable under Item 404(b) pursuant to Instruction 4 to that paragraph, which states that no information need be provided in a proxy for any director whose term of office will not extend beyond the meeting to which the statement relates. Because the transaction exceeded $60,000, counsel asked whether Item 404(a) disclosure, which does not contain a similar instruction, would be required. The staff stated that such disclosure would be required because the relationship between the issuer and the consulting entity was not "solely a business relationship that did not afford the director any special benefits." The staff noted that the relationship could be viewed as doing business with the director personally through the director's company, rather than doing business with a company where the director happened to be an officer or shareholder.

B. Materiality. If the CFO's interest in the transactions was not material, and assuming that Enron fully discloses the unwinding of the CFO's interest in the LJM Partnerships, disclosure in the 2002 proxy statement would not be required.

1. Instruction 1 to Item 404(a) provides that the materiality of any interest is to be determined on the basis of the significance of the information to investors in light of all the circumstances of the particular case. Among the factors to be considered in determining the significance of the information to investors are:

   (a) the importance of the interest to the person having the interest;

   (b) the relationship of the parties to the transaction with each other; and

   (c) the amount involved in the transaction.

2. Instruction 4 to Item 404(a) provides that the amount of the interest of any person specified in paragraphs (a) (1) through (4)

of Item 404 shall be computed without regard to the amount of the profit or loss involved in the transaction.

3. Issues

(a) Can the CFO be said to have had no material interest in the transactions if he has received no distributions related to the transactions?

(i) Because the central concern of Item 404(a) is ensuring that corporations do not enter into related party transactions that favor insiders at the expense of shareholders, an argument can be made that the parties' interests at the time of the transaction should be taken into account. An insider's determination after a transaction has been effected to forego distributions related to that transaction does not ensure that the transaction was entered into at arms length.

(ii) Note that Instruction 4 to Item 404(a) provides that the amount of the interest of the CFO shall be computed without regard to the amount of the profit or loss involved in the transaction. Pursuant to this instruction, any return of capital or distribution of profits received by the CFO in connection with the transactions would not factor into the determination of his interest in the transactions. The CFO's willingness to forego distributions, therefore (or the LJM Partnerships' "clawback" of such distributions), would not appear to be relevant to the determination of the CFO's interest in the transactions.

(iii) In the past has Enron decided not to disclose in its proxy statement certain transactions on the basis that the CFO had not received distributions relating to those transactions?

(b) If significance is placed upon the fact that the CFO receives no distributions, would the CFO nevertheless be "compensated" for the transactions through the sale of his interest in the LJM Partnerships? Would such compensation be material to the CFO? If yes, Item 404(a) would appear to require disclosure in the proxy statement.

(c) If the absence of distributions relating to the transactions does not determine the question of the importance of the transactions to the CFO, how should that question be answered?

(i) A review of SEC releases and no-action letters yielded no specific guidance as to how to measure "the importance of the interest to the person having the interest" in the context of Item 404(a).

(ii) In the auditor independence context, the SEC in the past has determined the materiality of a financial interest by reference to the net worth of the interest holder. If Enron were to adopt this approach, it might look at the CFO's ownership interest in the partnerships, the amount of each transaction and the CFO's net worth to determine materiality.

(1) For example, if the CFO's ownership interest in the LJM Partnerships is 50% and the amount of a particular transaction is $5 million, the CFO's interest would be deemed to be $2.5 million. If that amount constitutes more than five or ten percent of the CFO's net worth, the CFO's interest in the transaction would be material.

(2) Because the transactions with the LJM Partnerships may involve notional amounts that do not represent the amounts exchanged by the parties, determination of the amounts involved in the transactions might be difficult.

(d) In connection with Enron's 10-Q for the first quarter of 2001, was a specific determination made that the transactions referred to therein were material to the CFO?

(e) Do the relationships among Enron, the CFO and the LJM Partnerships render disclosure generally advisable except where the importance of the transactions to the CFO and the amounts involved in the transactions are minimal?

Forsyth, Darlene C.

From:	"Schropp, James H." <SchroJa@ffhsj.com>@ENRON [IMCEANOTES-+22Schropp+2C+20James+20H+2E+22+20+3CSchroJa+40ffhsj+2Ecom+3E+40ENRON@ENRON.com]
Sent:	Monday, July 02, 2001 11:32 AM
To:	Mintz, Jordan
Subject:	RE: Related Party Issues

Hope the silence does not signify the receipt of bad news from the Banks.
Give me a call (202 639-7110) if there's any desire or need for follow up on this. Jim

-----Original Message-----
From: Jordan.Mintz@enron.com [mailto:Jordan.Mintz@enron.com]
Sent: Friday, June 08, 2001 4:56 PM
To: SchroJa@ffhsj.com
Subject: RE: Related Party Issues

Thanks, Jim. I am headed to London this weekend and will think further about your points. After I return (probably by midweek--unless our Banks kick us before then!!), I will contact you to set-up a time to discuss in greater detail. In the interim, I very much appreciate your responsiveness.

Jordan

-----Original Message-----
From: "Schropp, James H." <SchroJa@ffhsj.com>@ENRON

[mailto:IMCEANOTES-+22Schropp+2C+20James+20H+2E+22+20+3CSchroJa+40ffhsj+2Ecom+3E+40ENRON@ENRON.com]

Sent: Friday, June 08, 2001 3:21 PM
To: Mintz, Jordan
Subject: Related Party Issues

> PRIVILEGED AND CONFIDENTIAL
> COMMUNICATION FROM COUNSEL
>
> From the standpoint of your objectives, which we understand to be the
> prompt termination of "related party" involvement in future LJM or similar
> transactions with the least onerous disclosure obligations

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for the
2002
> proxy statement. we believe the approach outlined in your
June 5, 2001
> memorandum offers a very reasonable approach. There are
several
things we
> would recommend in order to ensure achievement of the goals:
>
> 1. As your memorandum points out, LJM transactions
prior to
> termination will continue to be reported in the Company's 10-
Q
filings,
> and the termination of the transactions will also be publicly
disclosed.
> Prior 10-Q disclosure appeared to leave some informational
gaps,
which
> were noted by those who commented on the Company's filings.
We want
to
> emphasize that we are not in a position to evaluate whether
material
> information was omitted from the prior statements, and have
not done
so.
> However, from the standpoint of closing the discussion of
these
matters
> once and for all, we would consider supplementing the prior
disclosures,
> where it is possible to do so, especially on such points as
the
purpose of
> the specific transactions entered into and the "bottom-line"
financial
> impact on the Company and the LJM partners. There are
several
possible
> approaches that can be taken to such disclosure, which we
will not
explore
> at this time. An appropriate place and time for such
disclosure
would
> appear to be within the statements made by the Company at the
time of
> termination, at which time the information could be put
forward as
part of
> a final summation. If termination occurs, as you anticipate,
in the
> second quarter, the disclosure vehicle could be the 10-Q for
that
quarter.
> The description of the termination could then be summarized
or
repeated,

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> as necessary or appropriate, in the 2002 proxy statement.
>
> 2. Prior disclosure has been to the effect that
"management" has
> found the terms of the LJM transactions "reasonable" and the
Board
> annually reviews the transactions. The description of these
procedures
> appears to leave certain questions unanswered, including what
members
of
> management reviewed the transactions and what did they do in
connection
> with that review (and, equally important, what does the
documentary
record
> of that review reflect), what did the Board do or find when
it
reviewed
> the transactions, and why was the approval not obtained at
the Board
> level. It appears to us advisable to close off the avenues
of
potential
> attack these issues represent. We would recommend that you
consider
> addressing these issues through the Audit Committee of the
Board;
> alternatively, a special committee of the Board could be
appointed,
but we
> believe the subject matter fits comfortably within the
traditional
> jurisdiction of an audit committee. We recommend that the
Committee,
as
> part of its review, include a review of the fairness of the
terms of
the
> transactions to the Company, as well as a review of the
substance of
the
> final, "wrap-up" disclosures to be made by the Company. The
Committee's
> findings should be based on a full documentary record, which
can be
> prepared by the Company's management or outside disclosure
counsel, as
> appropriate. A short report can be provided by the Committee
to the
full
> Board.
>
> 3. There may be certain collateral issues that should
also be
raised
> before and considered by the Committee. One issue that
suggests
itself to

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> us is whether there has been, or is likely to be, any adverse
impact
on
> the Company's commercial banking relationships by reason of
the fact
that
> a lender is the principal (and perhaps only) limited partner
in the
LJM
> partnerships. In other words, the Committee should be able
to receive
> assurances, or otherwise assure itself; that the lending
relationship
> remains independent of the investment activity, and that a
potential
> adverse result in the latter arena will not have any adverse
fallout
on
> the former. Our premise is that there will or may be future
involvement
> in investment activity by the lending bank(s), in which case
ongoing
or
> periodic review by the Committee, such as on an annual basis,
may be
> appropriate. If future involvement by lenders is not
anticipated, the
> review may be confined to assuring the absence of any impact
as a
result
> of the past transactions.
>
> We would be pleased to discuss these ideas, and any
others you
may
> wish to raise, at your convenience. As we mentioned in our
prior
> conversation, the familiarity we have gained with the matter
and
issues,
> while still incomplete, would make it feasible for us to
serve as an
> independent counsel to the Audit Committee (or other
reviewing body).
We
> would anticipate that the Company's management and outside
counsel
would
> carry the burden of presenting these matters to the
Committee, but it
> would, we believe, also be advisable to provide the Committee
asked to
> approve and conclude these matters with a source of
independent
counsel
> and advice.

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the sender and permanently delete the e-mail and any attachments
immediately. You should not retain, copy or use this e-mail or any
attachment for any purpose, nor disclose all or any part of the contents
to any other person. Thank you.

Memorandum

Confidential Communications

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ENRON

To: Jeff Skilling

From: Jordan Mintz Jordan

Department: Enron Global Finance - Legal

Subject: **Company Approvals for Transactions with LJM**

Date: May 22, 2001

One of the internal procedures we have in place for monitoring Enron's transactions with LJM for arm's-length dealings and "fairness" is an internal approval sheet (similar to the DASH). Such approval sheet, which summarizes (1) the nature of the transactions and its terms, (2) other options considered by Enron, and (3) disclosure obligations, if any, by the Company, is signed by Global Finance Legal, Accounting, and RAC. Accounting and RAC, particularly, require the signatures of Rick Causey and Rick Buy. Such approval sheet also provides for your signature.

All required sign-offs for the 2000 transactions have been recently completed. In discussing our arranging for your signature with Rick Causey and Rick Buy, it was decided to provide you with all finalized approvals in aggregate--rather than in a piecemeal fashion—and we are now ready to do so.

To that end, I will arrange to get on your schedule to assist you in this regard; alternatively, I can send such approval sheets to you as a package and you can then sign at your convenience. In the interim, please let me know if you have any questions or comments. I may be reached at x37897.

Thanks for your time.

Cc: Rick Buy
Rick Causey

VEL 00534

Interoffice Memorandum 16

To: Cynthia Mangels – Corporate Vault

From: Teresa Wright Teresa

Department: Executive Compensation

Subject: Separation Agreement and Release

Date: July 23, 2001

Attached is a fully executed original Separation Agreement and Release for Michael Kopper for the corporate vault:

cc: Pam Butler
Mary Joyce
Kristi Sullivan
Sheila Walton

EXPIRES IN 14 DAYS
IF NOT EXECUTED

SEPARATION AGREEMENT AND RELEASE

This Separation Agreement and Release ("Agreement"), made and entered into July 23, 2001 is between **Enron Corp.** and its affiliates ("Company"), having its offices at 1400 Smith Street, Houston, Texas 77002, and **Michael J. Kopper** ("Employee"), an individual residing at 2138 Bolsover Street, Houston, Texas 77005. Company and Employee agree as follows:

1. Employment. Employee's termination of employment with the Company shall be effective on August 1, 2001 ("Termination Date").

2. Consideration. Company shall provide Employee Nine Hundred Five Thousand Dollars ($905,000.00) as consideration for signing this Agreement, to be paid in a lump sum within 10 days of Employee's Termination Date.

3. Severance Pay. Employee waives and the Company shall not be required to pay any additional severance pay or severance benefits that otherwise might be payable under the Company's Severance Pay Plan, except as provided for in this Agreement, in connection with the termination of Employee's employment. The consideration and remuneration provided for under this Agreement are greater than and thus are in lieu of any severance pay or severance benefit that otherwise would be payable under the Company's Severance Pay Plan, which Employee forfeits.

4. Employee Benefits. Except as otherwise provided in Section 3, Employee shall be entitled to receive vested or accrued benefits due and payable to Employee under all employee benefit plans and compensation plans. Employee shall retain the cellular phone that was provided to him by the Company, however, Employee agrees to assume all financial obligations associated with its use. Additionally, Employee shall retain the home facsimile machine and all future expenses related thereto. For the purpose of all Company stock plans, Employee's termination of employment shall be considered an involuntary termination.

5. Confidential Information, Return of Company Property, and Cooperation.

5.1 This Agreement. The terms of this Agreement and content of the discussions pertaining to this Agreement shall be considered and treated as confidential and Employee shall not discuss or otherwise disclose, in any manner, the fact of this Agreement, the amount paid under this Agreement, and/or the substance or content of discussions involved in reaching this Agreement to any person other than Employee's attorney and tax/financial advisors and as required by appropriate taxing or other legal authorities, or unless disclosure is otherwise necessary to enforce the obligations herein.

5.2 Company Property. All written materials, records, data, and other documents prepared or possessed by Employee during Employee's employment by Company which relate to Company's business, products, or services, is Company property. All information, ideas, concepts, improvements, discoveries, and inventions that are conceived, made, developed, or acquired by Employee individually or in conjunction with others during Employee's employment (whether during business hours and whether on Company's premises or otherwise) which relate to Company's business, products, or services, is Company's sole and exclusive property. All memoranda, notes, records, files, correspondence, drawings, manuals, models, specifications, computer programs, maps, and all other documents, data, or materials of any type embodying such information, ideas, concepts, improvements, discoveries, and inventions are Company's property. At the termination of Employee's employment with Company, Employee shall return all of Company's documents, data, or other Company property to Company. Employee shall not retain copies of any such Company property. The above confidentiality obligation does not apply to documents or Company property related to Employee's services to any private equity fund or its affiliates.

5.3. Cooperation. Employee agrees that Employee will devote reasonable time necessary to assist in Company's litigation matters, including, but not limited to, meeting with counsel, providing testimony at depositions or trial, and related activities except to the extent that Employee's participation in Company litigation matters creates a conflict of interest to Employee. Company agrees to pay reasonable out of pocket expenses related to Employee's participation in litigation matters.

5.4 Confidential Information; Non-Disclosure. "Confidential Information" means and includes Company's confidential and/or proprietary information and/or trade secrets that have been developed or used and/or will be developed and that cannot be obtained readily by third parties from outside sources. Confidential Information includes, by way of example and without limitation, the following: information regarding customers, employees, contractors, and the industry not generally known to the public; strategies, methods, books, records, and documents; technical information concerning products, equipment, services, and processes; procurement procedures and pricing techniques; the names of and other information concerning customers, investors, and business affiliates (such as contact name, service provided, pricing for that customer, type and amount of services used, credit and financial data, and/or other information relating to Company's relationship with that customer); pricing strategies and price curves; positions; plans and strategies for expansion or acquisitions; budgets; customer lists; research; weather data; financial and sales data; trading methodologies and terms; evaluations, opinions, and interpretations of information and data; marketing and merchandising techniques; prospective customers' names and marks; grids and maps; electronic databases; models; specifications; computer programs; internal business records; contracts benefiting or obligating Company; bids or proposals submitted to any third party; technologies and methods; training methods and training processes; organizational structure; personnel information, including organization charts and salaries of personnel; payment amounts or rates paid to consultants or other service providers; and other such confidential or proprietary information. Employee acknowledges that this Confidential Information constitutes a valuable, special, and unique asset of Company, and that protection of such Confidential Information against unauthorized disclosure and use is of critical importance to Company. Confidential Information also includes Confidential Information of third parties, such as actual and potential customers, suppliers, partners, joint venturers, investors, financing sources, and the like of Company.

Employee also has access to, or knowledge of, Confidential Information of third parties, such as actual and potential customers, suppliers, partners, joint venturers, investors, financing sources and the like, of the Company.

EXPIRES IN 14 DAYS
IF NOT EXECUTED

Employee agrees that Employee will not, at any time after Employee's employment with Company, make any unauthorized disclosure of any Confidential Information, or make any use thereof. Employee also agrees to preserve and protect the confidentiality of third party Confidential Information to the same extent, and on the same basis, as Company's Confidential Information. The confidentiality obligations above do not apply to Employee's services related to any private equity fund or its affiliates.

5.5 Non-Solicitation of Customers. For a period of six (6) months following the termination of employment, Employee will not, either directly or indirectly, call on, service, or solicit competing business from customers of Company whom that Employee, within the previous twelve (12) months, (i) had or made contact with, or (ii) had access to information and files about, and will not assist any other person or entity in such a solicitation. The above non-solicitation obligations do not apply with respect to Employee's services related to any private equity fund or its affiliates.

5.6 Non-Competition Obligations. Company has provided Employee with access to Confidential Information and specialized training, and in order to protect the Confidential Information described above, and as part of the consideration to be paid hereunder, and as an additional incentive for Company to enter into this Agreement, Company and Employee agree to the following non-competition provisions. Employee agrees that for six (6) months following Employee's Termination Date, Employee will not, directly or indirectly, for Employee or for others, in North America:

a. engage in the business of buying, selling, trading, structuring, or executing transactions in commodities, assets, or products in which Company is doing business, has plans to engage in business, or has engaged in business in the preceding 12-month period, including, but not limited to, gas, electricity, coal, chilled water, clean fuel, liquids, emissions, petrochemicals, energy assets, transmission capacity, lumber, agriculture, paper, pulp, packaging, communications, metals, weather products, electronic commerce, including business-to-business electronic commerce, "click trading," bandwidth communications, interest rates, credit, currencies, securities, or other commodities (including, without limitation, other energy commodities), or any futures, derivatives, or equities related to any of the foregoing, whether at wholesale or retail, or the development of systems, information technology (including, but not limited to, platforms, hardware, software, or other systems or electronic technology), accounting, or risk management with respect to any of the foregoing;

b. engage in other types of business performed by Company, including the acquiring or disposing of assets or equity investments or providing or raising capital, through loans, equity, joint ventures, partnerships, working interests, production payments, credit, or similar arrangements into products, commodities, futures, derivatives, or other items in which Company currently is

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engaging in business, has plans to engage in business, or has engaged in business in the preceding 12-month period;

c. engage in activities relating to Company's business not described in parts a and b of this Article 3.4, to the extent that Employee has knowledge or information about such activities; or

d. render advice or services to, or otherwise assist, any other person, association or entity in the business of a, b, or c above.

Employee understands that the foregoing restrictions may limit Employee's ability to engage in certain businesses in the geographic region and during the period provided for above, but acknowledges that these restrictions are necessary to protect the Confidential Information Company has provided to Employee. The above non-competition obligations do not apply to Services provided or work performed in any way related to any private equity fund or its affiliates.

5.7 Statements About Company. Employee shall refrain after Employee's employment from publishing any oral or written statements about Company, that are disparaging, slanderous, libelous, or defamatory; or that disclose private or confidential information about their business affairs; or that constitute an intrusion into their seclusion or private lives; or that give rise to unreasonable publicity about their private lives; or that place them in a false light before the public; or that constitute a misappropriation of their name or likeness.

6. Release and Acknowledgement.

a. **Employee releases, acquits, and forever discharges Company from any and all actions, causes of action, claims, demands, damages, costs, expenses, attorney's fees, and compensation whatsoever, in contract or in tort, which have accrued in whole or in part, or ever may accrue, against Company that are based upon facts occurring prior to the date Employee signs this Agreement, including but not limited to, any claims under Title VII of the Civil Rights Act, the Civil Rights Act, the Americans with Disabilities Act, the Age Discrimination in Employment Act (ADEA), the National Labor Relations Act, the Employee Retirement Income Security Act, the Texas Labor Code, and any matter and/or any action under federal, state, or local laws or the common law which might arise out of Employee's association with, employment with, and/or termination from Company (except for claims by Employee necessary to enforce Employee's vested or accrued benefits on the Termination Date under any Company benefit or compensation plans.)**

b. This release does not apply or include the consideration or benefits described above or other promises and representations contained in this Agreement. This release also does not apply to claims which may arise after the date this release is signed. Employee understands that Employee may challenge the knowing and voluntary nature of this release under the Older Worker Benefit Protection Act (OWBPA) and the ADEA before a court, the Equal Employment Opportunity Commission (EEOC), or any state or local agency charged with the enforcement of any discrimination laws despite the release language stated above. Employee also understands that nothing in this release prevents Employee from filing a charge or complaint with or from participating in an investigation or proceeding conducted by the EEOC or any state or local agency charged with the enforcement of any discrimination laws. Employee understands, however, that if Employee pursues a claim against the Company under the OWBPA and/or the ADEA, the Company may seek to set off the amount paid to Employee for signing this release against any award Employee may obtain in such legal proceeding, and the Company may be entitled to recover costs and attorneys fees incurred by the Company as specifically authorized under applicable federal or state law.

c. Employee acknowledges that Company is paying the consideration described above in compromise and settlement only. Further, it is agreed and understood that this Agreement is not an admission by Company of any liability or any violation of any law or regulation. Moreover, payment by Company shall not be construed as an admission to any claim whatsoever or in any proceeding that exists or may arise in the future.

d. **Employee acknowledges, agrees, and represents to Company that:**

(i) **Employee has carefully read and fully understands the effect of the provisions of this Agreement, which Employee is entering knowingly and voluntarily; and**

(ii) **Employee has had a reasonable time of not less than 21 days in which to consider the effect of the provisions of this Agreement;**

(iii) **Employee was advised and encouraged to consult an attorney prior to executing this Agreement with respect to the effect of the provisions of this paragraph and Employee's execution of this Agreement.**

Employee may revoke this Agreement during the seven-day period following the date Employee signs this Agreement, whereupon this Agreement shall be rescinded in its entirety and become null and void.

7. Miscellaneous.

7.1 Definition of "Company". "Company" shall include Company, Enron Corp., all of their subsidiaries and affiliated companies, and their officers, directors, employees, representatives, and attorneys.

7.2 Definition of "Employee." "Employee" shall include Employee and Employee's legal and other representatives, claimants, heirs, and beneficiaries.

7.3 Notices. Notices and all other communications shall be in writing and mailed by United States certified mail, addressed as follows: (a) If to Company: Enron Corp., 1400 Smith Street, Houston, Texas 77002, Attention: Corporate Secretary; (b) If to Michael J. Kopper: to 2138 Bolsover, Houston, Texas 77005. Any such notice shall be effective when delivered.

7.4 Applicable Law. This contract is entered into under, and shall be governed for all purposes by, the laws of the State of Texas, excluding applicable conflict-of-law rule(s) or principle(s).

7.5 No Waiver. No failure by either party hereto at any time to give notice of any breach by the other party of, or to require compliance with, any condition or provision of this Agreement shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time.

7.6 Severability. It is a desire and intent of the parties that the terms contained in this Agreement shall be enforceable to the fullest extent permitted by law. If any such term or the application thereof to any person or circumstances shall, to any extent, be construed to be invalid or unenforceable in whole or in part, then such term shall be construed in a manner so as to permit its enforceability to the fullest extent permitted by law. In any case, the remaining provisions of this Agreement or the application thereof to any person or circumstances other than those to which they have been held invalid or unenforceable shall remain in full force and effect. It is further the desire and intent of the parties that in the event of any breach of any portion of this Agreement, the remainder of this Agreement shall remain in effect as written and enforceable to the fullest extent permitted by law.

7.7 Counterparts. This Agreement will be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together will constitute one and the same Agreement.

7.8 Withholding of Taxes. Company will withhold from the payment described in Section 2 of this Agreement all federal, state, city, or other taxes as may be required pursuant to any law, governmental regulation, or ruling.

7.9 Entire Agreement: Modification. This Agreement constitutes the entire agreement of the parties with regard to the termination of employment of Employee, supersedes any and all prior written agreements between the parties, and contains all of the covenants, promises, representations, and agreements between the parties with respect to the termination of employment of Employee with Company. Each party to this Agreement acknowledges that no representation, inducement, promise, or agreement, oral or written, has been made by either party, which is not embodied herein or referred to hereby and that no agreement, statement, or promise relating to the employment or termination of employment of Employee with Company, which is not contained in this Agreement, shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing and signed by both parties.

7.10 Repayment Upon Rehire. If Employee should be rehired by Company or by any entity which controls, is controlled by, or is under common control with Company, within twelve

EXPIRES IN 14 DAYS
IF NOT EXECUTED

(12) months of the date of termination, Employee shall repay that portion of the payment under paragraph 2 that is in excess of the amount Employee would have earned during the time he was not employed by Company.

This Agreement will expire and become null and void if not executed and returned to the Company before the expiration of thirty (30) calendar days from Employee's receipt of this Agreement from the Company.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

MICHAEL J. KOPPER	**ENRON CORP.**
Michael J. Kopper	By: Mary K. Joyce
	Name: Mary K. Joyce
	Title: Vice President, Executive Compensation
This 23 day of July, 2001	This 23 day of July, 2001

E 13758

17

Dear Mr. Lay:

Has Enron become a risky place to work? For those of us who didn't get rich over the last few years, can we afford to stay?

Skilling's abrupt departure will raise suspicions of accounting improprieties and valuation issues. Enron has been very aggressive in its accounting – most notably the Raptor transactions and the Condor vehicle. We do have valuation issues with our international assets and possibly some of our EES MTM positions.

The spotlight will be on us, the market just can't accept that Skilling is leaving his dream job. I think that the valuation issues can be fixed and reported with other goodwill write-downs to occur in 2002. How do we fix the Raptor and Condor deals? They unwind in 2002 and 2003, we will have to pony up Enron stock and that won't go unnoticed.

To the layman on the street, it will look like we recognized funds flow of $800 mm from merchant asset sales in 1999 by selling to a vehicle (Condor) that we capitalized with a promise of Enron stock in later years. Is that really funds flow or is it cash from equity issuance?

We have recognized over $550 million of fair value gains on stocks via our swaps with Raptor, much of that stock has declined significantly – Avici by 98%, from $178 mm to $5 mm. The New Power Co by 70%, from $20/share to $6/share. The value in the swaps won't be there for Raptor, so once again Enron will issue stock to offset these losses. Raptor is an LJM entity. It sure looks to the layman on the street that we are hiding losses in a related company and will compensate that company with Enron stock in the future.

I am incredibly nervous that we will implode in a wave of accounting scandals. My 8 years of Enron work history will be worth nothing on my resume, the business world will consider the past successes as nothing but an elaborate accounting hoax. Skilling is resigning now for 'personal reasons' but I think he wasn't having fun, looked down the road and knew this stuff was unfixable and would rather abandon ship now than resign in shame in 2 years.

Is there a way our accounting guru's can unwind these deals now? I have thought and thought about how to do this, but I keep bumping into one big problem – we booked the Condor and Raptor deals in 1999 and 2000, we enjoyed a wonderfully high stock price, many executives sold stock, we then try and reverse or fix the deals in 2001 and it's a bit like robbing the bank in one year and trying to pay back it back 2 years later. Nice try, but investors were hurt, they bought at $70 and $80/share looking for $120/share and now they're at $38 or worse. We are under too much scrutiny and there are probably one or two disgruntled 'redeployed' employees who know enough about the 'funny' accounting to get us in trouble.

What do we do? I know this question cannot be addressed in the all employee meeting, but can you give some assurances that you and Causey will sit down and take a good hard objective look at what is going to happen to Condor and Raptor in 2002 and 2003?

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Summary of alleged issues:

Raptor

Entity was capitalized with LJM equity. That equity is at risk; however, the investment was completely offset by a cash fee paid to LJM. If the Raptor entities go bankrupt LJM is not affected, there is no commitment to contribute more equity.

The majority of the capitalization of the Raptor entities is some form of Enron N/P, restricted stock and stock rights.

Enron entered into several equity derivative transactions with the Raptor entities locking in our values for various equity investments we hold.

As disclosed, in 2000, we recognized $500 million of revenue from the equity derivatives offset by market value changes in the underlying securities.

This year, with the value of our stock declining, the underlying capitalization of the Raptor entities is declining and Credit is pushing for reserves against our MTM positions.

To avoid such a write-down or reserve in Q1 2001, we 'enhanced' the capital structure of the Raptor vehicles, committing more ENE shares.

My understanding of the Q3 problem is that we must 'enhance' the vehicles by $250 million.

I realize that we have had a lot of smart people looking at this and a lot of accountants including AA&Co. have blessed the accounting treatment. None of that will protect Enron if these transactions are ever disclosed in the bright light of day. (Please review the late 90's problems of Waste Management – where AA paid $130+ mm in litigation re. questionable accounting practices).

The overriding basic principle of accounting is that if you explain the 'accounting treatment' to a man on the street, would you influence his investing decisions? Would he sell or buy the stock based on a thorough understanding of the facts? If so, you best present it correctly and/or change the accounting.

My concern is that the footnotes don't adequately explain the transactions. If adequately explained, the investor would know that the "Entities" described in our related party footnote are thinly capitalized, the equity holders have no skin in the game, and all the value in the entities comes from the underlying value of the derivatives (unfortunately in this case, a big loss) AND Enron stock and N/P. Looking at the stock we swapped, I also don't believe any other company would have entered into the equity derivative transactions with us at the same prices or without substantial premiums from Enron. In other words, the $500 million in revenue in 2000 would have been much lower. How much lower?

Raptor looks to be a big bet, if the underlying stocks did well then no one would be the wiser. If Enron stock did well, the stock issuance to these entities would decline and the transactions would be less noticeable. All has gone against us. The stocks, most notably Hanover, The New Power Co., and Avici are underwater to great or lesser degrees

I firmly believe that executive management of the company must have a clear and precise knowledge of these transactions and they must have the transactions reviewed by objective experts in the fields of securities law and accounting. I believe Ken Lay deserves the right to judge for himself what he believes the probabilities of discovery to be and the estimated damages to the company from those discoveries and decide one of two courses of action

1. The probability of discovery is low enough and the estimated damage too great, therefore we find a way to quietly and quickly reverse, unwind, write down these positions/transactions.
2. The probability of discovery is too great, the estimated damage to the company too great, therefore, we must quantify, develop damage containment plans and disclose

I firmly believe that the probability of discovery significantly increased with Skilling's shocking departure. Too many people are looking for a smoking gun

Summary of Raptor oddities:

1. The accounting treatment looks questionable

    a. Enron booked a $500 mm gain from equity derivatives from a related party
    b. That related party is thinly capitalized, with no party at risk except Enron
    c. It appears Enron has supported an income statement gain by a contribution of its own shares.

    One basic question: The related party entity has lost $500 mm in its equity derivative transactions with Enron. Who bears that loss? I can't find an equity or debt holder that bears that loss. Find out who will lose this money. Who will pay for this loss at the related party entity?

    If it's Enron, from our shares, then I think we do not have a fact pattern that would look good to the SEC or investors.

2. The equity derivative transactions do not appear to be at arms length

    a. Enron hedged New Power, Hanover, and Avici with the related party at what now appears to be the peak of the market. New Power and Avici have fallen away significantly since. The related party was unable to lay off this risk. This fact pattern is once again very negative for Enron.
    b. I don't think any other unrelated company would have entered into these transactions at these prices. What else is going on here? What was the compensation to the related party to induce it to enter into such transactions?

3. There is a veil of secrecy around LJM and Raptor. Employees question our accounting propriety consistently and constantly. This alone is cause for concern

    a. Jeff McMahon was highly vexed over the inherent conflicts of LJM. He complained mightily to Jeff Skilling and laid out 5 steps he thought should be taken if he was to remain as Treasurer. 3 days later, Skilling offered him the CEO spot at Enron Industrial Markets and never addressed the 5 steps with him.
    b. Cliff Baxter complained mightily to Skilling and all who would listen about the inappropriateness of our transactions with LJM.
    c. I have heard one manager level employee from the principle investments group say "I know it would be devastating to all of us, but I wish we would get caught. We're such a crooked company." The principle investments group hedged a large number of their investments with Raptor. These people know and see a lot. Many similar comments are made when you ask about these deals. Employees quote our CFO as saying that he has a handshake deal with Skilling that LJM will never lose money.

4. Can the General Counsel of Enron audit the deal trail and the money trail between Enron and LJM/Raptor and its principals? Can he look at LJM? At Raptor? If the CFO says no, isn't that a problem?

Condor and Raptor work:

-

1. Postpone decision on filling office of the chair, if the current decision includes CFO and/or CAO.

2. Involve Jim Derrick and Rex Rogers to hire a law firm to investigate the Condor and Raptor transactions to give Enron attorney client privilege on the work product. (Can't use V&E due to conflict – they provided some true sale opinions on some of the deals).

3. Law firm to hire one of the big 6, but not Arthur Andersen or PricewaterhouseCoopers due to their conflicts of interest: AA&Co (Enron); PWC (LJM).

4. Investigate the transactions, our accounting treatment and our future commitments to these vehicles in the form of stock, N/P, etc..
For instance: In Q3 we have a $250 mm problem with Raptor 3 (NPW) if we don't 'enhance' the capital structure of Raptor 3 to commit more ENE shares. By the way: in Q1 we enhanced the Raptor 3 deal, committing more ENE shares to avoid a write down.

5. Develop clean up plan:

   a. Best case: Clean up quietly if possible.

   b. Worst case: Quantify, develop PR and IR campaigns, customer assurance plans (don't want to go the way of Salomon's trading shop), legal actions, severance actions, disclosure.

6. Personnel to quiz confidentially to determine if I'm all wet:
   a. Jeff McMahon
   b. Mark Koenig
   c. Rick Buy
   d. Greg Whalley

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To put the accounting treatment in perspective I offer the following:

1. We've contributed contingent Enron equity to the Raptor entities. Since it's contingent, we have the consideration given and received at zero. We do, as Causey points out, include the shares in our fully diluted computations of shares outstanding if the current economics of the deal imply that Enron will have to issue the shares in the future. This impacts 2002 – 2004 EPS projections only.

2. We lost value in several equity investments in 2000. $500 million of lost value. These were fair value investments, we wrote them down. However, we also booked gains from our price risk management transactions with Raptor, recording a corresponding PRM account receivable from the Raptor entities. That's a $500 million related party transaction – it's 20% of 2000 IBIT, 51% of NI pre tax, 33% of NI after tax.

3. Credit reviews the underlying capitalization of Raptor, reviews the contingent shares and determines whether the Raptor entities will have enough capital to pay Enron its $500 million when the equity derivatives expire.

4. The Raptor entities are technically bankrupt; the value of the contingent Enron shares equals or is just below the PRM account payable that Raptor owes Enron. Raptor's inception to date income statement is a $500 million loss.

5. Where are the equity and debt investors that lost out? LJM is whole on a cash on cash basis. Where did the $500 million in value come from? It came from Enron shares. Why haven't we booked the transaction as $500 million in a promise of shares to the Raptor entity and $500 million of value in our "Economic Interests" in these entities? Then we would have a write down of our value in the Raptor entities. We have not booked the latter, because we do not have to yet. Technically, we can wait and face the music in 2002 – 2004.

6. The related party footnote tries to explain these transactions. Don't you think that several interested companies, be they stock analysts, journalists, hedge fund managers, etc., are busy trying to discover the reason Skilling left? Don't you think their smartest people are pouring over that footnote disclosure right now? I can just hear the discussions – "It looks like they booked a $500 million gain from this related party company and I think, from all the undecipherable ½ page on Enron's contingent contributions to this related party entity, I think the related party entity is capitalized with Enron stock." ..... "No, no, no, you must have it all wrong, it can't be that, that's just too bad, too fraudulent, surely AA&Co wouldn't let them get away with that?" ..... "Go back to the drawing board, it's got to be something else. But find it!" ...... "Hey, just in case you might be right, try and find some insiders or 'redeployed' former employees to validate your theory."

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Vinson&Elkins

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Telephone (713) 758-2346

October 15, 2001

Privileged and Confidential: Attorney-Client Communication and Attorney Work Product

Mr. James V. Derrick, Jr.
Executive Vice President and General Counsel
Enron Corp.
1400 Smith Street
Houston, Texas 77002

Re: Preliminary Investigation of Allegations of an Anonymous Employee

Dear Jim:

You requested that Vinson & Elkins L.L.P. ("V&E") conduct an investigation into certain allegations initially made on an anonymous basis by an employee of Enron Corp. ("Enron"). Those allegations question the propriety of Enron's accounting treatment and public disclosures for certain deconsolidated entities known as Condor or Whitewing and certain transactions with a related party, LJM, and particularly ~~transactions with LJM~~ known as Raptor vehicles. The anonymous employee later identified herself as Sherron Watkins, who met with Kenneth L. Lay, Chairman and Chief Executive Officer of Enron, ~~for approximately~~ one hour to express her concerns and provided him with materials to supplement her initial anonymous letter. This letter constitutes our report with respect to our investigation and sets forth the scope of our review, the activities undertaken, the identification of primary concerns, and our analysis and conclusions with respect to those concerns.

I. **Scope of Undertaking**

In general, the scope of V&E's undertaking was to review the allegations raised by Ms. Watkins' anonymous letter and supplemental materials and to conduct an investigation to determine whether the facts she has raised warrant further independent legal or accounting review.

By way of background, some of the supplemental materials provided by Ms. Watkins proposed a series of steps for addressing the problems she perceived, which included retention of independent legal counsel to conduct a wide-spread investigation, and the engagement of independent auditors, apparently for the purpose of analyzing transactions in detail and opining as to the propriety of the accounting treatment employed by Enron and its auditors Arthur Andersen

Mr. James V. Derrick, Jr.
October 15, 2001
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L.L.P. ("AA"). In preliminary discussions with you, it was decided that our initial approach would not involve the second guessing of the accounting advice and treatment provided by AA, that there would be no detailed analysis of each and every transaction and that there would be no full scale discovery style inquiry. Instead, the inquiry would be confined to a determination whether the anonymous letter and supplemental materials raised new factual information that would warrant a broader investigation.

2. **Activities Undertaken**

Our preliminary investigation included the review of selected documents provided to us by Enron and from our internal sources, interviews with key Enron and AA personnel and discussions with V&E attorneys who are familiar with legal issues addressed by Enron in connection with the subject transactions. The focus, of course, was to identify background information, disclosures and personal views with respect to the Condor/Whitewing and Raptor vehicles and Enron's relationship with LJM.

Documents reviewed in this process included excerpts of meetings of Enron's Board of Directors, including minutes of meetings of the Audit and Finance Committees of the Board, various public filings of Enron (annual reports, 10-K's, 10-Q's), documents relating to Enron's transactions with LJM, including Deal Approval Sheets and Investment Summaries, and various miscellaneous materials in the nature of presentations and memoranda. The focus of our document review was to determine whether the requisite approval of the transactions referenced in the anonymous letter had been obtained from Enron's Board and its committees, the nature of the disclosures made with respect to the transactions and relationships questioned by the anonymous letter and supplemental materials and to provide general background information.

Interviews were also conducted with various Enron personnel based either on their connection with the transactions involving Condor/Whitewing, LJM and Raptor, or because they were identified in materials provided by Ms. Watkins as persons who might share her concerns. Those persons interviewed were: Andrew S. Fastow, Executive Vice President and Chief Financial Officer; Richard B. Causey, Executive Vice President and Chief Accounting Officer; Richard B. Buy, Executive Vice President and Chief Risk Officer; Greg Whalley, President and Chief Operating Officer (formerly Chairman of Enron Wholesale), Jeffrey McMahon, President and Chief Executive Officer, Enron Industrial Markets (formerly Treasurer of Enron); Jordan H. Mintz, Vice President and General Counsel of Enron Global Finance; Mark E. Koenig, Executive Vice President, Investor Relations; Paula H. Rieker, Managing Director, Investor Relations; and Sherron Watkins, the author of the anonymous letter and supplemental materials.

Interviews were also conducted with David B. Duncan and Debra A. Cash, both partners with AA assigned to the Enron audit engagement.

In addition to the foregoing formal interviews, discussions were likewise held with Rex Rogers, Vice President and Assistant General Counsel of Enron, and Ronald T. Astin of V&E regarding general background information and the identification of specific issues relating to the matters raised by the anonymous letter and supplemental materials.

After completing interviews with all of the foregoing individuals, supplemental interviews were conducted with Andrew S. Fastow and Richard B. Causey of Enron and David B. Duncan and Debra A. Cash of AA to confirm certain information learned in the overall interview process.

As we initially discussed, we limited our interviews (with the exception of the AA partners mentioned above) to individuals still employed with Enron. Therefore, we did not interview individuals no longer with Enron mentioned in the anonymous letter or supplemental materials or any third party related to LJM.

3. **Identification of Primary Concerns**

Our preliminary investigation revealed four primary areas of concern expressed by Ms. Watkins' anonymous letter and supplemental materials. Accordingly, our document review and interview process focused on those areas of concern and whether the facts raised by Ms. Watkins' anonymous letter and supplemental materials presented any new information as to those matters that may warrant further independent investigation. Those areas of primary concern are as follows:

a. the apparent conflict of interests by Mr. Fastow's ownership in LJM;

b. the accounting treatment accorded the Condor and Raptor structures in Enron's financial statements;

c. the adequacy of public disclosures of the Condor and Raptor transactions; and

d. the potential impact on Enron's financial statements as a result of the Condor/Whitewing and Raptor vehicles because of the decline in value of the merchant investments placed in those vehicles as well as the decline in the market price of Enron common stock.

Our findings and conclusions with respect to each of these areas of concern are set forth separately below.

4. **Conflict of Interest**

Mr. Fastow actually organized two separate investment partnerships. The first, LJM-Cayman L.P. ("LJM1"), was launched in June, 1999. The LJM concept appears to have been fully discussed

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with the Office of the Chairman and was presented to and approved by Enron's Board of Directors at a special meeting on June 28, 1999. That approval included the Board's waiver of Enron's code of ethics to permit Mr. Fastow to act as the general partner of LJM1. The primary purpose for the organization of LJM1 was to establish a non-Enron entity with which Enron could enter into a swap transaction to hedge its investment in Rhythms NetCommunications. It was likewise recognized that LJM might negotiate to purchase additional assets in Enron's merchant portfolio. LJM raised $16 million in outside equity, invested in a Raptor vehicle that entered into a swap for Rhythms NetCommunications and also purchased a sufficient portion of Enron's equity in the Cuiaba power plant in Brazil to allow Enron to deconsolidate that project.

The second investment partnership – LJM2 Co-Investment, L.P. ("LJM2") – was organized in October, 1999.[1] At an October 11, 1999 meeting of the Finance Committee of the Board of Directors, Enron's activities with LJM1 were reviewed and the proposal for transacting business with LJM2 was discussed and approved. The Board of Directors, at its meeting on October 12, 1999, waived Enron's code of ethics to permit Mr. Fastow to serve as general partner of LJM2 and established guidelines for Enron's transaction of business with LJM2. Those included: (i) no obligation to do transactions between Enron and LJM2; (ii) the Chief Accounting and Risk Officers would review, and where appropriate, approve transactions with LJM2; (iii) there would be an annual review by the Board's Audit Committee of completed transactions or recommendations, as appropriate; and (iv) there would be an annual review as to the application of the Company's code of ethics to assure that such transactions would not adversely affect the best interests of the Company.

The LJM2 partnership raised $349 million in equity from investors ranging from commercial and investment banks, insurance companies, public and private pension funds and high net worth individuals. LJM2 has engaged in approximately 21 separate transactions with Enron.

Pursuant to the Board's guidelines, special procedures were adopted and utilized for the transaction of business with LJM. Those procedures included the preparation of a special LJM2 Deal Approval Sheet ("DASH") that would be prepared for every Enron/LJM2 transaction generally describing the nature of the commercial transaction and the relevant economics. Approval was also required by a variety of senior level commercial, technical and commercial support professionals. DASH was supplemented by an LJM approval process checklist testing for compliance with Board directives for transactions with LJM2, including questions addressing the following:

- alternative sales options and counter-parties.

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[1] The initial LJM partnership was then referred to as "LJM1." LJM1 and LJM2 will be referred to jointly as "LJM" unless there is a particular reason to distinguish between the two investment partnerships.

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- determination that the transaction was conducted at arm's length,
- disclosure obligations, and
- review of the transaction by Enron's Office of the Chairman, Chief Accounting Officer and Chief Risk Officer.

As part of these procedures, it also appeared that several additional controls were adhered to. These included LJM senior management professionals never negotiating on behalf of Enron; Enron professionals negotiating with LJM reporting to senior Enron professionals other than Mr. Fastow; Enron Global Finance commercial, legal and accounting monitoring of compliance with procedures and controls for regular updates for Chief Accounting and Risk Officers, and internal and outside counsel regularly consulted regarding disclosure obligations and review of any such disclosures.

Based on our review of the LJM Deal Approval Sheets and accompanying checklist, it appears that the approval procedures were generally adhered to. Transactions were uniformly approved by legal, technical and commercial professionals as well as the Chief Accounting and Risk Officers. In most instances, there was no approval signature for the Office of the Chairman except for several significant transactions. It also appeared that the LJM transactions were reviewed by the Audit Committee on an annual basis. At the February 7, 2000 meeting of the Audit Committee, all LJM transactions occurring prior to that date were reviewed. A review of all the LJM transactions during the following year was made at the February 12, 2001 meetings of both the Audit and Finance Committees.

Based on our interviews with various Enron representatives, and notwithstanding the foregoing guidelines and procedures that were adopted, concerns were expressed about the awkwardness in LJM's operating within Enron and two potential conflicts of interest. The awkwardness arose from the fact that LJM's professionals – primarily individuals reporting to Mr. Fastow and Michael Koppers – were also Enron employees who officed in Enron space and worked among Enron employees. Transactions were negotiated between Enron employees acting from Enron and other Enron employees acting for LJM. Within Enron, there appeared to be an air of secrecy regarding the LJM partnerships and suspicion that those Enron employees acting for LJM were receiving special or additional compensation. Although there was a Services Agreement between Enron and LJM pursuant to which LJM compensated Enron for the services of Enron personnel and use of Enron's facilities, this fact did not quell the awkwardness of the Enron employees "wearing two hats." Much of this awkwardness should be eliminated on a going-forward basis, however, by reason of Mr. Fastow's sale of his ownership interest in LJM effective July 31, 2001 to Mr. Koppers (who resigned from Enron prior to the transaction) and the complete separation of LJM's employees and facilities from Enron.

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The first area of potential conflict of interest voiced by several individuals was the risk that undue pressure may be placed on Enron professionals who were negotiating with LJM because those individuals would ultimately have their performance evaluated for compensation purposes by Mr. Fastow in his capacity as Chief Financial Officer. In particular, Jeffrey McMahon stated that while he was Treasurer of Enron he discussed this conflict directly with Mr. Fastow and Jeffrey Skilling, and that the conflict was not resolved prior to his acceptance of a new position within Enron. Mr. McMahon stated, however, that he was aware of no transaction where Enron suffered economic harm as a result of this potential conflict.

The second potential conflict of interest identified by several individuals was that investors in LJM may have perceived that their investment was required to establish or maintain other business relationships with Enron. Although no investors in LJM were interviewed, both Mr. Fastow and Mr. McMahon stated unequivocally that they told potential investors that there was no tie-in between LJM investment and Enron business. Moreover, Mr. Fastow stated that Merrill Lynch was paid a fee for marketing LJM2 partnership interests and that a number of investors, such as private and public pension funds and high net worth individuals, had no business relationship with Enron.

In summary, none of the individuals interviewed could identify any transaction between Enron and LJM that was not reasonable from Enron's standpoint or that was contrary to Enron's best interests. Conversely, the individuals interviewed were virtually uniform in stating that LJM provided a convenient alternative equity partner with flexibility that permitted Enron to close transactions that otherwise could not have been accomplished. Moreover, both the awkwardness and potential for conflict of interest should be eliminated on a going-forward basis as a result of Mr. Fastow's divestment of his ownership interest in the LJM partnerships.

5. **Accounting Issues**

As stated at the outset, the decision was made early in our preliminary investigation not to engage an independent accounting firm to second guess the accounting advice and audit treatment provided by AA. Based on interviews with representatives of AA and Mr. Causey, all material facts of the Condor/Whitewing and Raptor vehicles, as well as other transactions involving LJM, appeared to have been disclosed to and reviewed by AA. In this regard, AA reviewed the LJM solicitation materials and partnership agreement to assure that certain safeguards were provided that would permit LJM to be a source of third party equity in transactions conducted with Enron. AA likewise reviewed specific transactions between Enron and LJM to assure that LJM had sufficient equity in the transaction to justify the accounting and audit principles being applied.

The relationship between Enron and AA was an open one and, according to Mr. Causey, Enron consults AA early and often on accounting and audit issues as they arise. AA concurs with this statement, but points out that in certain of its accounting and audit treatment, it must rely on

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Enron's statement of the business purpose for specific transactions and Enron's valuation of assets placed in the Condor/Whitewing and Raptor structures.

Enron and AA representatives both acknowledge that the accounting treatment on the Condor/Whitewing and Raptor transactions is creative and aggressive but no one has reason to believe that it is inappropriate from a technical standpoint. In this regard, AA consulted with its senior technical experts in its Chicago office regarding the technical accounting treatment on the Condor/Whitewing and Raptor transactions, and the AA partners on the Enron account consulted with AA's senior practice committee in Houston on other aspects of the transactions. Enron may also take comfort from AA's audit opinion and report to the Audit Committee which implicitly approves the transactions involving Condor/Whitewing and Raptor structures in the context of the approval of Enron's financial statements.

Following our initial interview with AA representatives you agreed with us that it was desirable and appropriate to provide them with Ms. Watkins' anonymous letter and supplemental materials so that AA could comment directly on specific allegations contained in those materials. AA identified two allegations in particular that, if accurate, would affect their accounting and audit treatment. Those allegations were, in effect: (i) There was a handshake deal between Mr. Skilling and Mr. Fastow that LJM would never lose money on any transaction with Enron; and (ii) LJM received a cash fee in the Raptor transactions that completely recouped its investment and profit.

Mr. Fastow adamantly denies any agreement with Mr. Skilling or anyone else that LJM would never lose money in transactions with Enron, and he recognized that such an agreement would defeat the accounting treatment that was the very objective for the formation of LJM. Mr. Causey is unaware of any such agreement and has seen no evidence of it.

Both Mr. Fastow and Mr. Causey acknowledge that LJM was to receive a cash fee for its management of the Raptor vehicles in an amount not to exceed $250,000.00 annually for each company, for a total of $1,000,000.00 for the four entities. AA was aware of Enron's payment of these fees as well as other organizational costs of the Raptor entities, but these fees fall far short of recouping LJM's investment in the Raptor entities. Both Mr. Fastow and Mr. Causey were quick to point out, however, that in each Raptor vehicle the first transaction was a "put" of Enron shares which was settled favorably to LJM prior to maturity, and as a result thereof, distributions were made to LJM in amounts equal to or greater than its initial investment in those Raptor vehicles. AA is aware of these transactions and is comfortable that, by reason of the applicable special purpose entity accounting rules, the transactions do not undermine LJM's equity investment in the Raptor vehicles.

When questioned about her basis for these two allegations in her anonymous letter and supplemental materials, Ms. Watkins acknowledged that she had no personal, first hand knowledge of either allegation. Both were based solely on rumors that she heard during the two months she was working in Enron Global Finance, and she was uncertain about any details of the alleged cash fee allegation. Notwithstanding the lack of any solid basis for the allegations, we think it is likely that AA will seek some kind of assurance from Enron and perhaps from Messrs. Fastow and Causey that no such agreement or cash fee payment occurred.

6. **Adequacy of Disclosures**

Notwithstanding the expression of concern in Ms. Watkins' anonymous letter and supporting materials regarding the adequacy of Enron's disclosures as to the Condor/Whitewing and Raptor vehicles (which, to a large extent, reflect her opinion), AA is comfortable with the disclosure in the footnotes to the financials describing the Condor/Whitewing and Raptor structures and other relationships and transactions with LJM. AA points out that the transactions involving Condor/Whitewing are disclosed in aggregate terms in the unconsolidated equity affiliates footnote and that the transactions with LJM, including the Raptor transactions, are disclosed in aggregate terms in the related party transactions footnote to the financials.

The concern with adequacy of disclosures is that one can always argue in hindsight that disclosures contained in proxy solicitations, management's discussion and analysis and financial footnotes could be more detailed. In this regard, it is our understanding that Enron's practice is to provide its financial statements and disclosure materials to V&E with a relatively short time frame within which to respond with comments.

7. **Potential Bad Cosmetics**

Concern was frequently expressed that the transactions involving Condor/Whitewing and Raptor could be portrayed very poorly if subjected to a Wall Street Journal exposé or class action lawsuit. Factors pointed to in support of these concerns included (i) the use of Enron stock to provide equity necessary to do transactions with Condor/Whitewing and Raptor; (ii) recognizing earnings through derivative transactions with Raptor when it could be argued that there was no true "third party" involved in those transactions; (iii) because both merchant investment value and Enron stock have fallen, the Raptor entities may not be able to satisfy their obligations to Enron, thus raising the question "Who ultimately bears this loss?"; (iv) the apparent conflict of interest issue raises questions as to the valuation of assets sold to or that were the subject of transactions with Raptor and the timing of those transactions, (generally at a point when the valuation was at a historical high point).

8. **Conclusions**

Based on the findings and conclusions set forth with respect to each of the four areas of primary concern discussed above, the facts disclosed through our preliminary investigation do not, in our judgment, warrant a further widespread investigation by independent counsel and auditors.

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Our preliminary investigation, however, leaves us with concern that, because of the bad cosmetics ~~involving the LJM entities and~~ Raptor transactions, coupled with the poor performance of the merchant investment assets placed in those vehicles and the decline in the value of Enron stock, there is a serious risk of adverse publicity and litigation. It also appears that because of the inquiries and issues raised by Ms. Watkins, AA will want additional assurances that Enron had no agreement with LJM that LJM would not lose money on transactions with Enron and that Enron paid no fees to LJM in excess of those previously disclosed to AA. Finally, we believe that some response should be provided ~~to Ms. Watkins~~ to assure her that her concerns were thoroughly reviewed, analyzed, and although ~~found not to~~ raise new or undisclosed information, were given serious consideration.

We have previously reported verbally to Mr. Lay and you regarding our investigation and conclusions and, at your request, have reported the same information to Robert K. Jaedicke, in his capacity of Chairman of the Audit Committee of Enron's Board of Directors. At Dr. Jaedicke's request, we gave a verbal summary of our review and conclusions to the full Audit Committee. Should you desire to discuss any aspect of this written report or any other details regarding our review of this matter, please do not hesitate to contact us at your convenience.

Very truly yours,

VINSON & ELKINS L.L.P.

By: Max Hendrick III
Max Hendrick, III

c: Joseph C. Dilg

Edison, Andrew

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From:	Enron Announcements/Corp/Enron@ENRON on behalf of Jim Derrick@ENRON
ent:	Thursday, October 25, 2001 11:55 PM
o:	All Enron Worldwide@ENRON
Subject:	Important Announcement Regarding Document Preservation

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As you know, Enron, its directors, and certain current and former officers are defendants in litigation in Federal and State court involving the LJM partnerships.

Enron has employed counsel and they will represent Enron and its interests in the litigation.

Under the Private Securities Litigation Reform Act, we are required to preserve documents that might be used in the litigation.

Accordingly, our normal document destruction policies are suspended immediately and shall remain suspended until further notice.

Please retain all documents (which include handwritten notes, recordings, e-mails, and any other method of information recording) that in any way relate to the Company's related party transactions with LJM 1 and LJM 2, including, but not limited to, the formation of these partnerships, any transactions or discussions with the partnerships or its agents, and Enron's accounting for these transactions.

You should know that this document preservation requirement is a requirement of Federal law and you could be ndividually liable for civil and criminal penalties if you fail to follow these instructions.

You should know that Enron will defend these lawsuits vigorously. In the meantime, you should not discuss atters related to the lawsuits with anyone other than the appropriate persons at Enron and its counsel.

If you have any questions, please contact Jim Derrick at 713-853-5550.

SERVICES AGREEMENT

This Services Agreement (this "Agreement") is made and entered into as of the 4th day of April, 2000, between Enron Corp., an Oregon corporation ("Enron"), and LJM2 Capital Management, L.P., a Cayman Island company ("LJM2"). Enron and LJM2 may hereinafter be referred to individually as a "Party" or collectively as the "Parties".

RECITALS:

WHEREAS, Enron and LJM2 desire by their execution of this Agreement to evidence their understanding concerning the provision of certain services by Enron to LJM2;

NOW, THEREFORE, for and in consideration of the mutual promises and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto hereby agree as follows:

1. Services. Enron agrees to provide and LJM2 agrees to purchase, subject to the terms and conditions set forth herein, services for account set-up and closure, payments, collections, and investment execution, and any other cash management service mutually agreed by the Parties (collectively, the "Services").

2. Term. This Agreement shall become effective and Enron shall make the Services available to LJM2 pursuant to the terms of this Agreement for the period commencing on March 21,2000, and shall terminate upon 30 days written notice by either party; provided, however, that LJM2 shall remain responsible for all out-of-pocket costs and expenses incurred by Enron pursuant to agreements entered into by Enron for the benefit of LJM2 that could not be terminated prior to the date of termination of this Agreement.

3. Payment. LJM2, as compensation for the performance of the Services, agrees to the fee schedule as outlined in Attachment A. Invoices shall be submitted quarterly and are due 30 days from invoice date.

4. Information from LJM2. Any information necessary for Enron or any third party to perform any Services shall be submitted by LJM2 in a manner mutually agreed upon by the Parties. Should LJM2's failure to supply such information render Enron's or any third party's performance of any Services unreasonably difficult, Enron or any third party, upon reasonable notice to LJM2, may refuse to perform such Services until such information is supplied.

5. Sole Beneficiaries. LJM2 acknowledges that the Services shall be provided only with respect to the business of LJM2 and its subsidiaries or affiliates. LJM2 will not request performance of any Services for the benefit of any entity other than LJM2 and its subsidiaries or affiliates. LJM2 represents and agrees that it will use the Services only in accordance with all applicable federal, state and local laws and regulations and communications and common carrier tariffs, and in accordance with the reasonable conditions, rules, regulations and specifications which may be set forth in any manuals, materials, documents, or instructions in existence on the effective date of this Agreement and furnished by Enron to LJM2. Enron reserves the right to take all actions, including termination of any particular Services, that Enron reasonably believes to be necessary to assure compliance with applicable laws, regulations and tariffs.

6. Scope of Undertaking. Enron's duties and responsibilities in connection with this Agreement shall be purely ministerial and shall be limited to those expressly set forth in this Agreement. Enron is not a principal, participant or beneficiary in any transaction underlying this agreement and shall have no duty to inquire beyond the terms and provisions hereof. Enron may rely on, and shall not be liable for acting or refraining from acting in accordance with any written notice, instruction or request furnished to it hereunder or pursuant hereto and believed by it to have been signed or presented by the proper party. It is hereby expressly agreed and stipulated by the parties that Enron shall not be required to exercise any

discretion hereunder and shall have no investment or management responsibility and, accordingly, shall have no duty to, or liability for its failure to, provide investment recommendations or investment advice to LJM2. It is the intention of the parties hereto that Enron shall never be required to use, advance or risk its own funds or otherwise incur financial liability in the performance of any of its duties or the exercise of any of its rights an powers hereunder.

7. LIMITED WARRANTY; LIMITATION OF LIABILITY. ALL PRODUCTS OBTAINED FOR LJM2 ARE AS IS, WHERE IS, WITH ALL FAULTS, OTHER THAN FAULTS DUE TO THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ENRON. NEITHER ENRON, ANY ENRON AFFILIATE NOR ANY THIRD PARTY PERFORMING ANY SERVICES HEREUNDER MAKE ANY WARRANTIES OR REPRESENTATIONS WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING THE WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICES RENDERED OR PRODUCTS OBTAINED FOR LJM2. NOTWITHSTANDING THE FOREGOING, TO THE EXTENT A WARRANTY PROVIDED BY A THIRD PARTY MANUFACTURER OR PROVIDER OF GOODS OR SERVICES TO ENRON CAN BE PASSED ON TO LJM2, NOTHING HEREIN IS INTENDED TO LIMIT AND LJM2 SHALL HAVE THE RIGHT TO THE BENEFITS (SUBJECT TO THE TERMS AND CONDITIONS THEREOF) OF ALL SUCH THIRD PARTY WARRANTIES.

IN NO EVENT SHALL EITHER ENRON OR LJM2 BE LIABLE TO THE OTHER PARTY OR ANY OTHER PERSON FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ANY ERROR IN THE PERFORMANCE OF SERVICES OR FROM THE BREACH OF THIS AGREEMENT, REGARDLESS OF SUCH PARTY'S OR ANY THIRD PARTY'S FAULT. TO THE EXTENT ANY THIRD PARTY HAS LIMITED ITS LIABILITY TO EITHER ENRON OR LJM2 FOR SERVICES UNDER AN OUTSOURCING OR OTHER AGREEMENT, THE OTHER PARTY AGREES TO BE BOUND BY SUCH LIMITATION OF LIABILITY FOR ANY PRODUCT OR SERVICE PROVIDED TO ENRON OR LJM2 BY SUCH THIRD PARTY UNDER SUCH AGREEMENT.

8. Force Majeure. Enron shall have no obligation to perform the Services if its failure to do so is caused by or results from any act of God, governmental action, natural disaster, strike, failure of essential equipment or any other cause or circumstance beyond the control of Enron. Enron agrees that upon restoring service following any failure of any equipment necessary for Enron to provide any Services, Enron will allow LJM2 to have equal priority, in accordance with prior practice, with respect to access to the restored service. At its election, Enron may cause one or more of its subsidiaries, affiliates or third party contractors to provide the Services; however, such action shall not release Enron from its obligations under this Agreement.

9. Severability. In the event any portion of this Agreement shall be found by a court of competent jurisdiction to be unenforceable, that portion of the Agreement will be null and void and the remainder of the Agreement will be binding on the Parties as if the unenforceable provisions had never been contained herein.

10. Assignment. This Agreement shall not be assignable by either of the Parties hereto without prior written consent of the other.

11. Entire Agreement; Amendment. This Agreement constitutes the entire agreement of the Parties relating to the performance of the Services and all prior or contemporaneous written or oral

agreements are merged herein. This Agreement may not be amended or otherwise modified except by a writing signed by both Parties.

12. Choice of Law. This Agreement shall be governed by the laws of the State of Texas, without regard to any conflict-of-law rule or principle that might refer the construction or interpretation of this Agreement to the laws of another state.

13. Notice. Any notice, request, instruction, correspondence or other document to be given hereunder by either Party to the other (herein collectively called "Notice") shall be in writing and delivered personally or mailed, postage prepaid, or by facsimile or telegram, as follows:

If to Enron:	Enron Corp. Attn: Mary Perkins 1400 Smith Street Houston, TX 77002
If to LJM2:	LJM2 Capital Management, L.P. 333 Clay St. – Suite 1203 Houston, TX 77002

Notice given by personal delivery or mail shall be effective upon actual receipt by the Party to whom addressed. Notice given by facsimile or telegram shall be effective upon actual receipt if received during the recipient's normal business hours, or at the beginning of the recipients next business day after receipt if not received during the recipient's normal business hours. Any Party may change any address to which Notice is to be given to it by giving Notice as provided above of such change of address.

14. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have caused this Services Agreement to be signed on their behalf by their duly authorized officers or individuals.

LJM2 Capital Management, L.P.	Enron Corp.
By:	By: Mary Perkins cor
Name:	Name: Mary Perkins
Title:	Title: Asst. Treasurer

Confidential Treatment Requested

Attachment A

Schedule of Fees:

Account Opening	
New York Accounts	$50
Other locations	Subject to Mutual Agreement
Account Closure	
New York Accounts	$25
Other locations	Subject to Mutual Agreement
Direct Bank Charges Including but not limited to Transaction Fees, Account Maintenance, Reconcilement Services, Auto Sweep Investments, Overdraft fees, and other administrative services.	Reimbursement of fees from third party service provider
Wire Transfers-Manual Execution	
Regular	$ 5.00
Priority	$15.00
Investment Execution & Administration	$2,000 per month

Fees are subject to change with 60 days prior written notice.

SERVICES AGREEMENT

This Services Agreement (this "Agreement") is made and entered into as of the 4th day of April, 2000, between Enron Corp., an Oregon corporation ("Enron"), and LJM Management, L.P., a Cayman Island company ("LJM"). Enron and LJM may hereinafter be referred to individually as a "Party" or collectively as the "Parties".

RECITALS:

WHEREAS, Enron and LJM desire by their execution of this Agreement to evidence their understanding concerning the provision of certain services by Enron to LJM;

NOW, THEREFORE, for and in consideration of the mutual promises and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto hereby agree as follows:

1. Services. Enron agrees to provide and LJM agrees to purchase, subject to the terms and conditions set forth herein, services for account set-up and closure, payments, collections, and investment execution, and any other cash management service mutually agreed by the Parties (collectively, the "Services").

2. Term. This Agreement shall become effective and Enron shall make the Services available to LJM pursuant to the terms of this Agreement for the period commencing on June 28, 1999, and shall terminate upon 30 days written notice by either party; provided, however, that LJM shall remain responsible for all out-of-pocket costs and expenses incurred by Enron pursuant to agreements entered into by Enron for the benefit of LJM that could not be terminated prior to the date of termination of this Agreement.

3. Payment. LJM, as compensation for the performance of the Services, agrees to the fee schedule as outlined in Attachment A. Invoices shall be submitted quarterly and are due 30 days from invoice date.

4. Information from LJM ____________. Any information necessary for Enron or any third party to perform any Services shall be submitted by LJM in a manner mutually agreed upon by the Parties. Should LJM's failure to supply such information render Enron's or any third party's performance of any Services unreasonably difficult, Enron or any third party, upon reasonable notice to LJM, may refuse to perform such Services until such information is supplied.

5. Sole Beneficiaries. LJM acknowledges that the Services shall be provided only with respect to the business of LJM and its subsidiaries or affiliates. LJM will not request performance of any Services for the benefit of any entity other than LJM and its subsidiaries or affiliates. LJM represents and agrees that it will use the Services only in accordance with all applicable federal, state and local laws and regulations and communications and common carrier tariffs, and in accordance with the reasonable conditions, rules, regulations and specifications which may be set forth in any manuals, materials, documents, or instructions in existence on the effective date of this Agreement and furnished by Enron to LJM. Enron reserves the right to take all actions, including termination of any particular Services, that Enron reasonably believes to be necessary to assure compliance with applicable laws, regulations and tariffs.

6. Scope of Undertaking. Enron's duties and responsibilities in connection with this Agreement shall be purely ministerial and shall be limited to those expressly set forth in this Agreement. Enron is not a principal, participant or beneficiary in any transaction underlying this agreement and shall have no duty to inquire beyond the terms and provisions hereof. Enron may rely on, and shall not be liable for acting or refraining from acting in accordance with any written notice, instruction or request furnished to it hereunder or pursuant hereto and believed by it to have been signed or presented by the proper party. It is hereby expressly agreed and stipulated by the parties that Enron shall not be required to exercise any

discretion hereunder and shall have no investment or management responsibility and, accordingly, shall have no duty to, or liability for its failure to, provide investment recommendations or investment advice to LJM. It is the intention of the parties hereto that Enron shall never be required to use, advance or risk its own funds or otherwise incur financial liability in the performance of any of its duties or the exercise of any of its rights an powers hereunder.

7. LIMITED WARRANTY; LIMITATION OF LIABILITY. ALL PRODUCTS OBTAINED FOR LJM ARE AS IS, WHERE IS, WITH ALL FAULTS, OTHER THAN FAULTS DUE TO THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ENRON. NEITHER ENRON, ANY ENRON AFFILIATE NOR ANY THIRD PARTY PERFORMING ANY SERVICES HEREUNDER MAKE ANY WARRANTIES OR REPRESENTATIONS WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING THE WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICES RENDERED OR PRODUCTS OBTAINED FOR LJM. NOTWITHSTANDING THE FOREGOING, TO THE EXTENT A WARRANTY PROVIDED BY A THIRD PARTY MANUFACTURER OR PROVIDER OF GOODS OR SERVICES TO ENRON CAN BE PASSED ON TO LJM, NOTHING HEREIN IS INTENDED TO LIMIT AND LJM SHALL HAVE THE RIGHT TO THE BENEFITS (SUBJECT TO THE TERMS AND CONDITIONS THEREOF) OF ALL SUCH THIRD PARTY WARRANTIES.

IN NO EVENT SHALL EITHER ENRON OR LJM BE LIABLE TO THE OTHER PARTY OR ANY OTHER PERSON FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ANY ERROR IN THE PERFORMANCE OF SERVICES OR FROM THE BREACH OF THIS AGREEMENT, REGARDLESS OF SUCH PARTY'S OR ANY THIRD PARTY'S FAULT. TO THE EXTENT ANY THIRD PARTY HAS LIMITED ITS LIABILITY TO EITHER ENRON OR LJM FOR SERVICES UNDER AN OUTSOURCING OR OTHER AGREEMENT, THE OTHER PARTY AGREES TO BE BOUND BY SUCH LIMITATION OF LIABILITY FOR ANY PRODUCT OR SERVICE PROVIDED TO ENRON OR LJM BY SUCH THIRD PARTY UNDER SUCH AGREEMENT.

8. Force Majeure. Enron shall have no obligation to perform the Services if its failure to do so is caused by or results from any act of God, governmental action, natural disaster, strike, failure of essential equipment or any other cause or circumstance beyond the control of Enron. Enron agrees that upon restoring service following any failure of any equipment necessary for Enron to provide any Services, Enron will allow LJM to have equal priority, in accordance with prior practice, with respect to access to the restored service. At its election, Enron may cause one or more of its subsidiaries, affiliates or third party contractors to provide the Services; however, such action shall not release Enron from its obligations under this Agreement.

9. Severability. In the event any portion of this Agreement shall be found by a court of competent jurisdiction to be unenforceable, that portion of the Agreement will be null and void and the remainder of the Agreement will be binding on the Parties as if the unenforceable provisions had never been contained herein.

10. Assignment. This Agreement shall not be assignable by either of the Parties hereto without prior written consent of the other.

11. Entire Agreement; Amendment. This Agreement constitutes the entire agreement of the Parties relating to the performance of the Services and all prior or contemporaneous written or oral

agreements are merged herein. This Agreement may not be amended or otherwise modified except by a writing signed by both Parties.

12. Choice of Law. This Agreement shall be governed by the laws of the State of Texas, without regard to any conflict-of-law rule or principle that might refer the construction or interpretation of this Agreement to the laws of another state.

13. Notice. Any notice, request, instruction, correspondence or other document to be given hereunder by either Party to the other (herein collectively called "Notice") shall be in writing and delivered personally or mailed, postage prepaid, or by facsimile or telegram, as follows:

If to Enron:	Enron Corp. Attn: Mary Perkins 1400 Smith Street Houston, TX 77002
If to LJM:	LJM Management, L.P. 333 Clay St. - Suite 1203 Houston, TX 77002

Notice given by personal delivery or mail shall be effective upon actual receipt by the Party to whom addressed. Notice given by facsimile or telegram shall be effective upon actual receipt if received during the recipient's normal business hours, or at the beginning of the recipients next business day after receipt if not received during the recipient's normal business hours. Any Party may change any address to which Notice is to be given to it by giving Notice as provided above of such change of address.

14. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have caused this Services Agreement to be signed on their behalf by their duly authorized officers or individuals.

LJM Management, L.P.
By: [signature]

Name:
Title:

Enron Corp.
By: Mary Perkins ccA

Name: Mary Perkins
Title: Asst. Treasurer

LJM058555

Confidential Treatment Requested

Attachment A

Schedule of Fees:

Account Opening	
New York Accounts	$50
Other locations	Subject to Mutual Agreement
Account Closure	
New York Accounts	$25
Other locations	Subject to Mutual Agreement
Direct Bank Charges Including but not limited to Transaction Fees, Account Maintenance, Reconcilement Services, Auto Sweep Investments, Overdraft fees, and other administrative services.	Reimbursement of fees from third party service provider
Wire Transfers-Manual Execution	
Regular	$ 5.00
Priority	$15.00
Investment Execution & Administration	$2,000 per month

Fees are subject to change with 60 days prior written notice.

SERVICES AGREEMENT

THIS SERVICES AGREEMENT (this "*Agreement*"), dated as of July 17, 2000, but effective for all purposes as of June 30, 1999, by and between (i) LJM Management, L.P., a Delaware limited partnership ("*LJM1 Management*"), and LJM2 Capital Management, L.P., a Delaware limited partnership ("*LJM2 Management*"), and (ii) Enron Corp., an Oregon corporation ("*Enron*").

W I T N E S S E T H:

WHEREAS, LJM1 Management provides certain management services to LJM Cayman, L.P. ("*LJM1*") pursuant to that certain Management Agreement dated June 30, 1999 by and among LJM1 Management, LJM Partners, L.P. (as general partner of LJM1), and LJM1; and

WHEREAS, LJM2 Management provides certain management services to LJM2 Co-Investment, L.P. ("*LJM2*") as contemplated by the Third Amended and Restated Agreement of Limited Partnership of LJM2, dated as of April 5, 2000 (as the same has been amended by that certain Amendment effective as of June 30, 2000); and

WHEREAS, LJM1 Management and LJM2 Management shall collectively be referred to herein as "LJM Management" and LJM1 and LJM2 shall collectively be referred to herein as the "Partnership"; and

WHEREAS, LJM Management desires to utilize certain employees and other support services from Enron or its subsidiaries as needed in order to provide various services to the Partnership and Enron agrees, subject to the terms and conditions hereof, to make available to LJM Management such employees and other support services during the term of this Agreement.

NOW, THEREFORE, the parties hereby agree as follows:

1. *Enron Employees*. (a) During the term of this Agreement, Enron shall make or cause to be made available to LJM Management employees of Enron or its subsidiaries as requested by LJM Management and approved by Enron (employees so provided are referred to herein as "*Enron Employees*") to provide administrative assistance to LJM Management in rendering management services to the Partnership, provided that (i) Enron reserves the right at all times to refuse to make available any person (or to discontinue the availability of any person) for any reason and (ii) LJM Management reserves the right at all times to cease using the services of any such person for any reason. LJM Management has requested, and Enron has approved, that the Enron Employees set forth on Annex A shall be made available to LJM Management in accordance with the terms and conditions set forth in Annex A. Enron Employees (i) shall remain regular, full-time employees of Enron (or such subsidiary), (ii) shall be treated as regular, full-time employees of Enron (or such subsidiary) under all compensation and benefit plans and (iii) shall not be deemed to be employees of LJM Management. Enron (or such subsidiary) shall be responsible for all withholding taxes associated with the employment of such persons.

(b) In order to facilitate the training and development of Enron's employees, LJM Management will make rotations available to the Associates and Analysts of Enron (and its subsidiaries). Enron (and such subsidiaries) will be under no obligation to use any of such available rotations. If Enron (or a subsidiary) does use any of such rotations, the Enron Employees participating in the rotation program (i) shall remain regular, full-time employees of Enron (or such subsidiary), (ii) shall be treated as regular, full-time employees of Enron (or such subsidiary) under all compensation and benefit plans and (iii) shall not be deemed to be employees of LJM Management. Enron (or such subsidiary) shall be responsible for all withholding taxes and other employer taxes or contributions as required by applicable law associated with the employment of such persons.

2. *Administrative Support.* During the term of this Agreement, LJM Management personnel and Enron Employees providing services to LJM Management may (subject to paragraph 3 below) utilize facilities, services and vendor accounts of Enron and its subsidiaries (such as postage, courier services, photocopying, facsimile, telephone, limousine services and the like) to provide administrative support to LJM Management (*"Support Services"*).

3. *Compensation.* (a) LJM Management shall compensate Enron for the use of Enron Employees based on the cost to Enron and its subsidiaries for such Enron Employee and the amount of time that such Enron Employee spends providing services to LJM Management. For each Enron Employee made available to LJM Management, Enron and LJM Management shall agree, with reasonable promptness after such Enron Employee is first made available to LJM Management, upon a "per diem" rate or other reasonable cost allocation based upon the annual cost to Enron and its subsidiaries for such Enron Employee, including Base Compensation and Benefits, but excluding office space, administrative support and other allocated "overhead" costs (the *"Employee Cost"*). The Employee Cost for each Enron Employee shall be adjusted annually (or more frequently as Enron deems necessary) to reflect any changes in the Employee Cost for such Enron Employee. LJM Management and Enron have agreed that (i) Annex A hereto sets forth the types of compensation to be paid by LJM Management for the Enron Employees identified in Annex A and (ii) with respect to the Enron Employees participating in the rotation program described in paragraph 1(b) hereof, Enron (or such subsidiary) shall pay all compensation (including, but not limited to, base salary, cash bonus, long-term incentive compensation and benefits) related to such persons.

(b) If an Enron Employee ceases providing services to LJM Management for any reason, then LJM Management's obligation to compensate Enron for the use of such Enron Employee shall cease immediately and any reimbursable items such as cash bonuses shall be prorated in a manner to be agreed by the parties hereto.

(c) LJM Management shall also be responsible for reimbursing Enron for the cost to Enron and its subsidiaries for Support Services provided to LJM Management (the method for determining same to be agreed upon by LJM Management and Enron).

(d) The parties hereto acknowledge that some activities of LJM Management will also be for the benefit of Enron (such as a business trip with both LJM Management and Enron appointments) and agree to allocate the costs related thereto between Enron and LJM Management in a manner that is agreed upon by the parties hereto.

(e) For purposes of this Agreement, the following terms shall have the following meanings:

(i) "Benefits" means, for each employee, any benefits that Enron provides or may provide from time to time, including, without limitation, bonuses, long-term incentive compensation, qualified retirement benefits and health and welfare benefits, including, without limitation, severance and Enron's contribution if any to its employees pension and other retirement benefit plans, in accordance with the plan documents governing such benefit.

(ii) "Base Compensation" means, for each emnloyee, all amounts paid by Enron to its employees by way of salary, incentives, premiums and any other paid supplements as they may be increased from time to time by Enron, excluding Benefits.

4. *Accounting and Payment.* (a) LJM Management shall account for and maintain records of the amount of time actually expended by Enron Employees (other than those listed on Annex A and those participating in the rotation program described in paragraph 1(b) hereof) on LJM Management matters and the amount of Support Services utilized by LJM Management personnel and Enron Employees in providing services to LJM Management, which records shall be made available to Enron at its request. LJM Management shall remit payments to Enron semi-annually in arrears on each July 1 and each January 1 during the term of this Agreement (and at the termination of this Agreement), for amounts owing under paragraph 3 hereof for such prior semi-annual period, along with an accounting showing, in reasonable detail, LJM Management's calculation of the amount to be paid. Enron shall have the right to contest such accounting.

(b) Enron's accounting group will perform a quarterly (or, at Enron's option, more frequent) audit to ensure that Enron is being fully and properly compensated for all Enron Employees and Support Services that are being provided to LJM Management hereunder.

5. *Termination.* This Agreement shall be in effect for a term of one year, and shall automatically renew for additional one-year terms unless any party gives notice of its desire to terminate not later than sixty (60) days prior to the end of the applicable one-year term.

6. *Notices.* All notices, demands and other communications to be given and delivered under or by reason of provisions under this Agreement shall be in writing and shall be deemed to have been given when personally delivered, sent by express overnight courier service, or mailed by first class mail, return receipt requested, to the addresses set forth below.

LJM Management:

333 Clay Street
Suite 1203
Houston, TX 77002
Attention: Andrew S. Fastow

Enron:

1400 Smith Street
Houston, TX 77002-7361
Attention: Richard Causey

7. *Amendments; Waivers.* This Agreement may be amended only by an agreement in writing executed by the parties hereto. No waiver of any provision nor consent to any exception to the terms of this Agreement shall be effective unless in writing and signed by the party to be bound, and then only to the specific purpose, extent and instance so provided.

8. *Counterparts.* This Agreement and any other agreement (or document) delivered pursuant hereto may be executed in one or more counterparts. All of such counterparts shall constitute one and the same agreement and shall become effective when one or more counterparts of this Agreement have been signed by each party and delivered to the other party.

9. *Governing Law; Arbitration.* All questions concerning the construction, validity and interpretation of this Agreement shall be governed by the internal law, and not the law of conflicts, of the State of Texas. The parties hereto agree to submit to arbitration in the City of Houston, Texas any dispute arising out of this Agreement under the Commercial Arbitration Rules of the American Arbitration Association. The parties agree that any such dispute shall be submitted to three arbitrators selected from the panel of arbitrators of the American Arbitration Association. The parties further agree that they will faithfully observe this Agreement and such Rules, that they will abide by and perform any award rendered by the arbitrators and that a judgment of a court having jurisdiction may be entered upon the award.

10. *Severability.* If any provision of this Agreement is held invalid by any court, governmental agency or regulatory body, the other provisions to the extent permitted by law shall remain in full force and effect.

11. *Consequential Damages.* **IN NO EVENT SHALL ANY PARTY HERETO BE LIABLE FOR ANY LOST OR PROSPECTIVE PROFITS OR ANY OTHER SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, INCIDENTAL OR INDIRECT LOSSES OR DAMAGES (IN TORT, CONTRACT OR OTHERWISE) UNDER OR IN RESPECT OF**

THIS AGREEMENT OR FOR ANY FAILURE OF PERFORMANCE RELATED HERETO HOWSOEVER CAUSED, WHETHER OR NOT ARISING FROM A PARTY'S SOLE, JOINT OR CONCURRENT NEGLIGENCE.

12. *No Authority to Bind.* Unless otherwise authorized by LJM Management, nothing in this Agreement shall convey authority on Enron to bind, or attempt to bind, LJM Management to any contract or the performance of any obligation, and Enron shall not represent to third parties that Enron has any right to enter into any binding obligation on LJM Management's behalf. Unless otherwise authorized by Enron, nothing in this Agreement shall convey authority on LJM Management to bind, or attempt to bind, Enron to any contract or the performance of any obligation, and LJM Management shall not represent to third parties that LJM Management has any right to enter into any binding obligation on Enron's behalf.

[END OF PAGE]
[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed as of the date first above written.

LJM MANAGEMENT, L.P.

By: LJM Management, LLC,
its General Partner

By: ____________________
Andrew S. Fastow
Member

LJM2 CAPITAL MANAGEMENT, L.P.

By: LJM2 Capital Management, LLC,
its General Partner

By: ____________________
Andrew S. Fastow
Managing Member

ENRON CORP.

By: ____________________ SM RF
Richard A. Causey
Executive Vice President and
Chief Accounting Officer

ANNEX A

1. Michael Kopper: LJM Management will pay all of Michael Kopper's cash bonus (relating to the fiscal year 2000 and thereafter). Enron will continue to pay all other typical compensation including, but not limited to, base salary, long-term incentive compensation, and benefits.

2. Kathy Lynn: LJM Management will pay all of Kathy Lynn's base salary (effective January 1, 2000) and cash bonus (relating to the fiscal year 2000 and thereafter). Enron will continue to pay all other typical compensation including, but not limited to, long-term incentive compensation and benefits.

3. Anne Yaeger: LJM Management will pay one-half of Anne Yaeger's base salary (effective January 1, 2000) and one-half of Anne Yaeger's cash bonus (relating to the fiscal year 2000 and thereafter). Enron will continue to pay one-half of Anne Yaeger's base salary and cash bonus and 100% of all other typical compensation including, but not limited to, long-term incentive compensation and benefits.

4. Amy Flores: LJM Management will pay all of Amy Flores' base salary (effective January 1, 2000) and cash bonus (relating to the fiscal year 2000 and thereafter). Enron will continue to pay all other typical compensation including, but not limited to, long-term incentive compensation and benefits.

LJM2 –
BUSINESS CODE OF CONDUCT

LJM2 Original
closing
Back-up materials

LJM2 –
BUSINESS CODE OF CONDUCT

LJM058573

Confidential Treatment
Requested

Investments and Outside Business Interests of Officers and Employees

Employees of the Company have inquired from time to time as to the propriety of their association with, or the investment of their personal funds in, business enterprises similar in character to certain activities of the Company. In response, the Company has established certain principles for the guidance of officers and employees with respect to personal business and investment interests.

The primary consideration of the employment of every full-time (regular as well as temporary) officer and employee should be the fact that the employer is entitled to expect of every such person complete loyalty to the best interests of the Company and the maximum application of skill, talent, education, etc., to the discharge of job responsibilities, without any reservations whatever. Therefore, it follows that no full-time officer or employee should:

(a) Engage in any outside activity or enterprise which could interfere in any way with job performance;

(b) Make investments or perform services for his or her own or related interest in any enterprise under any circumstances where, by reason of the nature of the business conducted by such enterprise, there is, or could be, a disparity or conflict of interest between the officer or employee and the Company; or

(c) Own an interest in or participate, directly or indirectly, in the profits of any other entity which does business with or is a competitor of the Company, unless such ownership or participation has been previously disclosed in writing to the Chairman of the Board and Chief Executive Officer of Enron Corp. and such officer has determined that such interest or participation does not adversely affect the best interests of the Company.

Notwithstanding any provision to the contrary in this Policy on Investments, securities of publicly owned corporations which are regularly traded on the open market may be owned without disclosure if they are not purchased as a result of confidential knowledge about the Company's operations, relations, business, or negotiations with such corporations.

If an investment of personal funds by an officer or employee in a venture or enterprise will not entail personal services or managerial attention, and if there appears to be no conflict or disparity of interest involved, the following procedure nevertheless shall be followed if all or any part of the business of the venture or enterprise is identical with, or similar or directly related to, that conducted by the Company, or if such business consists of the furnishing of goods or services of a type utilized to a material extent by the Company:

(a) The officer or employee desiring to make such investment shall submit in writing to the Chairman of the Board and Chief Executive Officer of Enron Corp. a brief summary of relevant facts; and

(b) The Chairman of the Board and Chief Executive Officer of Enron Corp. shall consider carefully the summary of relevant facts, and if he concludes that there appears to be no probability of any conflict of interest arising out of the proposed investment, the officer or employee shall be so notified and may then make the proposed investment in full reliance upon the findings of the Chairman of the Board and Chief Executive Officer of Enron Corp.

In the event the Chairman of the Board and Chief Executive Officer of Enron Corp. should desire to make such an investment, he may do so only upon approval of the majority of a quorum of the Executive Committee of the Board of Directors of Enron Corp., other than himself, at any regular or special meeting of such Committee.

Every officer and employee shall be under a continuing duty to report, in the manner set forth above, any situation where by reason of economic or other interest in an enterprise there is then present the possibility of a conflict or disparity of interest between the officer or employee and the Company. This obligation includes but is not limited to (1) any existing personal investment at the date of promulgation of this policy, (2) any existing personal investment at the time of employment of any officer or employee by the Company, and (3) any existing personal investment, whether or not previously approved, which may become in conflict with the provisions of this policy because of changes in the business of the Company or changes in the business of the outside enterprise in which investment has been made.

In the event of a finding by the Chairman of the Board and Chief Executive Officer of Enron Corp. (or by the Executive Committee of the Board of Directors of Enron Corp., if applicable) that a material conflict or disparity of interest does exist with respect to any existing personal investment of an officer or employee, then, upon being so notified, the officer or employee involved shall immediately divest himself or herself of such interest and shall notify the Chairman and Chief Executive Officer of Enron Corp. (or the Executive Committee, if applicable) in writing that he or she has done so.

Interoffice Memorandum 21

Confidential Communications
Attorney-Client Privilege

CONFIDENTIAL

ENRON

To: Cliff Baxter
Mark Metts
Rick Causey

From: Jordan Mintz

Department: Enron Global Finance - Legal

Subject: **Proposed Sale of Enron Wind to LJM -- Disclosure Issues**

Date: April ~~16~~ 17, 2001

This memorandum addresses the disclosure issues (i.e. proxy and financial statements) implicated by a proposed sale by Enron of its ownership in Enron Wind to LJM ("Proposal"). In particular, it summarizes a safe-harbor under the SEC Rules which would avoid any proxy disclosure relating to the Proposal; however, it should also be noted that it is unlikely that compliance with such safe-harbor would also provide us with a basis for not disclosing such transaction for financial statement purposes (i.e. 10Q/10K).

Briefly stated, no disclosure is required in the annual proxy for transactions engaged in by a registrant (i.e. Enron) and a related party (i.e. LJM) if done pursuant to a "competitive bid" process. Although there is scant guidance in this area, it is my judgment that a process like the following would satisfy the definition of a competitive bid:

- A preprinted, unsigned form contract omitting the name of the counterparty and the pricing provisions would be delivered to several active, viable counterparties, including, for example, LJM;
- Each proposed counterparty would be instructed to fill-in pricing and sign the proposed agreement, and indicate any other changes it would propose to make to the preprinted agreement. Each proposed counterparty would be advised that changes to the preprinted agreement would be taken into account by Enron in selecting a winning counterparty; and
- All responses would be due back to Enron at a preset time, delivered to a contact within Enron, remote from the executive officer whose entity may be bidding on the proposal. At the appropriate time, all envelopes would be opened at the same time and the winning counterparty selected from the proposed counterparties responding.

As you know, the foregoing is a process similar to that used by investment banking firms when attempting to sell companies, and it is generally considered competitive by those in the industry. Of course, we could tweak the process to be responsive to our view of appropriate industry standards. Stating the obvious, for this process to pass muster, we would need to ensure that is it monitored carefully to ensure "true competition".

CONFIDENTIAL

If the process results in an LJM winning bid, no proxy disclosure would be required. Nevertheless, it appears that the accounting rules would require disclosure independently of the analysis just described.

It may well be that financial statement disclosure – without proxy disclosure -- could appear "too cute" and we may decide to proceed with the proxy disclosure in any event. In that instance, we would be required to provide a description of the Proposal, the related party's (i.e. LJM's) interest in the Proposal, the nature of the interest of the related party, the amount of the transaction and, "where practicable", the amount such related party may earn in the transaction. In addition, if the Proposal were not viewed as a "sale in the ordinary course" of Enron's business, we would also need to provide the sales price. Although such information can be provided in a fairly "punchy and pithy" fashion, we would obviously be revealing sensitive information.

I am available to discuss any questions or comment you may have; I may be reached at x 37897.

Cc: Rodney Faldyn
Rex Rogers

VEL 00533

Interoffice Memorandum 22

Confidential Communications
Attorney-Client Privilege

ENRON

To: Rick Buy
Rick Causey

From: Jordan Mintz Jordan

Department: Enron Global Finance - Legal

Subject: **Private Placement Memorandum for "LJM3"**

Date: December 7, 2000

As you know, LJM has recently circulated a PPM regarding the formation of a new private equity fund, "LJM3 Co-Investment, L.P." (I believe they are planning to close in two weeks.) For the most part, its contents closely mimic that used for LJM2, but in many instances pare down its discussion of Enron. The recurring reference to the "linkage" between Enron and LJM, however, continues to be substantial. To that end and in light of Enron now having a "history" with LJM (albeit only a year or so), I thought it would be instructive to summarize some of the provisions of LJM3 that are relevant for Enron's purposes. (We also are reviewing the related draft LJM3 limited partnership agreement.)

In particular, I offer for your review and consideration:

(1) Discussion of Investment Opportunity: This section describes why LJM3 is an attractive investment opportunity highlighting the following:
- Access to Significant [Enron] Proprietary Deal Flow;
- Enron's Capabilities to Analyze and Structure Investments and Operate Assets;
- The Ability to Evaluate Investments with Full Knowledge of the Assets [Due to the Principals' Insider Status]; and
- Speed and Knowledge Advantage of LJM3.

(2) Investment Strategy: This section describes how LJM3 plans to capitalize on its aforementioned advantages highlighting the following:
- Invests with Enron; and
- Invests in Assets/Businesses where Enron retains an ongoing economic interest thus ensuring that LJM3 has access to Enron's significant resources to manage assets on an ongoing basis.

(3) Dual Role Advantages: This section highlights the benefits investors should realize due to the dual roles played by Andy Fastow and Michael Kopper, thereby facilitating LJM3's access to Enron dealflow.

VEL 00522

12/7/2000 Page 2

CON[illegible]

(4) Discussion of Conflict of Interest: Describes the steps Enron has taken to ensure that conflict-of-interest issues are appropriately addressed, including the review roles of Enron's Chief Accounting and Risk Officers, as well as that of the Enron Board's Finance and Audit Committees. The PPM further notes that "Enron's Office of the Chairman has waived certain provisions of Enron's employee code of conduct to permit the Principals to form and operate the Partnership and Enron's Board of Directors has ratified that waiver as it applies to Mr. Fastow". (It is my understanding from Rex Rogers that this description is not wholly accurate and we are considering providing modified language for inclusion in the PPM Supplement.)

One additional item worthy of mention regarding LJM3 is my understanding that a targeted investor is CalPERs.

There are a number of additional important issues involving LJM that we are currently addressing (with the assistance of Rex Rogers and Ron Astin). Such issues primarily relate to (i) our internal review of the processes and deal review/substantiation efforts regarding Enron/LJM transactions and (ii) proxy disclosure issues, including scope of information and mitigation alternatives.

I will keep you advised regarding material developments; in turn, please do not hesitate to contact me with any questions or comments you may have. I may be reached at x 37897.

cc: Rex Rogers
Ryan Siurek
Ron Astin (Vinson & Elkins)

VEL 00523

Interoffice Memorandum **a3**

Confidential Communications
Attorney-Client Privilege

ENRON

U2-

To: Andy Fastow

From: Jordan Mintz

Department: Enron Global Finance-Legal

Subject: **Related-Party Proxy Disclosures**

Date: April 6, 2001

You will recall that in preparing the LJM related-party disclosure for this year's (2000) Proxy, we did not disclose financial information regarding your interest as the ultimate general partner/managing member in either LJM1 or LJM 2. The purpose of this memorandum is to explain our reasons for concluding such a disclosure was not required in either 1999 or 2000 and to explain why such rationale(s) may not be applicable in future filings.

Discussion

The Proxy Rules require -- among other things -- a description of the related party's (i.e. LJM's) interest in transactions entered into with the registrant (i.e. Enron), the nature of such interest, and -- "where practicable" -- the amount of such person's interest in the transaction(s). It is this last piece of information relating to your financial stake that we have not explicitly disclosed because the Legal Department, in consultation with our outside counsel, has concluded disclosure was not mandated. In both the 1999 and 2000 Proxies we have generally provided as follows: "The general partner is entitled to receive a percentage of the profits of the partnership in excess of the general partner's proportion of the total capital contributed to LJM1/LJM2, depending upon the performance of the investments made by LJM1/LJM2." Thus, it is clear that, at a minimum, there is public disclosure that you, as the general partner in these two investment vehicles, are entitled to receive some level of carried interest.

Our rational for not disclosing any additional financial information related to your general partner interests varies as between 1999 and 2000 and, in particular, with respect to the RhythmsNet transaction, as follows:

(1) 1999: The "where practicable" language in the Proxy Disclosure Rules gave us the basis for not providing additional financial information in 1999. More specifically, the majority of the transactions entered into in 1999 between Enron and LJM1/LJM2 -- and specifically the RhythmsNet hedge -- were "open" transactions during the 1999 fiscal year and had not yet settled or liquidated in a fashion that it would be "practicable" to determine what you earned in your general partner capacity. The "open transaction" basis applied to both the RhythmsNet transaction and the newly-executed LJM2-related acquisitions and hedges for 1999.

(2) 2000: We determined it was not practicable to quantify your interest in LJM2 in the most recent Proxy, again, based on the existence of multiple open and

> unmatured transactions making it impracticable to compute. The rationale for not making any additional disclosures relating to the settlement of the RhythmsNet transaction, however, is somewhat different. In particular, the RhythmsNet transaction settled in 2000 pursuant to terms allowed for under the original agreement. At settlement of RhythmsNet it may have been practicable to determine your financial interest. However, no further disclosure was otherwise required of the RhythmsNet transaction in 2000 because settlement occurred under conditions permitted in the original agreement. Thus, there was no new transaction involving LJM1 and Enron in the year 2000 required to be disclosed in this year's proxy; accordingly, we have concluded that there was no requirement to disclose any financial information related to what you may have earned in that transaction – notwithstanding that it was now more practicable to do so.

The decision not to disclose in this instance was a close call; arguably, the more conservative approach would have been to disclose the amount of your interest. Given other pertinent (and competing) issues that you and I have discussed at great length, we decided against doing so. It was, perhaps, fortuitous that the RhythmsNet transaction extended over two proxy filing years and the specific facts of the particular case allowed us to conclude that a disclosable transaction occurred only in the year in which financial disclosure was impracticable. Thus, we have relied on two different arguments for avoiding financial disclosure for you as the LJM1 general partner in both 1999 and then 2000. If, however, the RhythmsNet transaction began and concluded in the same year, it would have been more difficult to avoid making some additional level of financial disclosure.

Going Forward

This disclosure issue will continue to be a challenge as transactions entered into between Enron and LJM2 settle and, as such, it becomes "practicable" to quantify and, therefore, be required to disclose the amount of your financial interest. To that end, we need to continue to be cognizant of this issue as the year progresses and continue to consider some of the safe-harbors provided under the SEC rules from having to disclose related party transactions – including the (1) competitive bid and (2) reduction of general partner control alternatives we have previously discussed. I, of course, will continue to examine other alternatives, as well.

After you have had a chance to review this summary, I am available to discuss any questions or comments you may have.

Cc: Jim Derrick
Rex Rogers
Ron Astin (Vinson & Elkins)

24

Memo

ANDERSEN

To The Files

From Thomas H. Bauer

Date November 2, 2001

Subject Chewco Investigation

- CONFIDENTIAL -

October 26, 2001 I received a call from Rodney Faldyn and Ryan Siurek regarding formation of Chewco in 1997. Faldyn inquired about the requirements of EITF 90-15 for outside equity in an SPE if the investors include employees. I replied that the SPE needs to be capitalized with 3% of outside equity exclusive of the employee and that such conclusion is consistent with previous advice given on Chewco and more recently on LJM. Siurek acknowledged that LJM equity was grossed up for the percentage of Andy Fastow in the LJM transaction. Faldyn then advised that he had learned that Chewco may not have the requisite equity and inquired as to the accounting impact. I advised that the SPE would fail to qualify and the sponsor of the SPE would consolidate Chewco. Faldyn said he would meet with Rick Causey to discuss further and asked that I remain available. (Attached as Exhibit I is documentation prepared in 1997 upon initial advice given to Enron regarding its proposed Chewco structure.)

On October 27, 2001 I was asked to attend a meeting with Causey and Faldyn regarding Chewco. Also present at the meeting were Deb Cash and Dave Duncan. Causey presented a diagram of the Chewco transaction which he said had been constructed upon discussion with Ben Glisan. (Glisan is now treasurer of the company and was the principal accounting transaction support representative for Enron at the time of the transaction.) This diagram which was prepared by me from Causey's presentation is attached as Exhibit II.

Based upon the information presented, the group identified the following issues which would require further analysis:

- Did the Chewco partnership in fact have the requisite 3% of capital exclusive of any employee involvement?..

  Based on information presented it was not possible to determine how much of Michael Kopper's contribution was included in the $115,000 equity strip. (At the time of formation in 1997 we advised Enron that the 3% of outside equity must be exclusive of any employee involvement.) We were also advised by Causey that one of the other investees was Bill Dodson, a nonemployee, who's the business and personal partner of Kopper. We advised additional information about the relationship between Kopper and Dodson would be necessary to ascertain whether Dodson would be considered a related party.

- Was the Barclay's equity strip residual equity at risk as required by EITF 90-15?

TBAA 000731
Confidential Treatment
Requested by Tom Baue

Causey advised that Glisan indicated that, upon buyout of Chewco in the first quarter of 01, Sonar received a distribution of approximately $10 million. We discussed that if Glisan's connection was correct, the size of the distribution relative to Barclay's smaller distribution may indicate that Barclay's equity was disproportionate and perhaps in substance debt.

- Does Sonar control Chewco by virtue of a consent agreement from Big River?

  Per Causey, Glisan made reference to a consent agreement which provided Sonar the right to vote Barclay's shares of Chewco. Depending upon the terms or collateral of the consent (e.g. withdrawel rights, etc.) Sonar may be deemed to control, thereby invalidating the governance criteria.

I advised Causey and the group that we had never been provided access to any document beyond the amended JEDI partnership documents that were created upon the Chewco transaction. We requested Chewco documents at the time of the transaction, but were advised by Glisan that the documents were those of a third party and Enron does not have access to such documents. I advised Causey and the group that access to such documents would be necessary to answer the items raised. Causey reiterated that at the present time, he has seen no factual support for the items discussed above.

At that point, Faldyn indicated that he had been told that a memo exists within the treasury department from Kopper to accounting instructing Enron as general partner in JEDI to direct future distributions to Chewco from JEDI after some specified date to the attention of Lee Fastow at a home address. Lee Fastow is the wife of Andy Fastow and previously worked at Enron in the treasury department. Causey stated that he is unaware of any interest that Fastow or his wife may have in Chewco and therefore it is unclear why distributions would be sent to Lee. We requested that Causey gather information regarding the instructions and any subsequent cash disbursements that were executed pursuant to the instructions, if any. We asked that Causey inquire as to access to Chewco documents and related documents so we can perform additional audit procedures.

On November 2, 2001, Andersen received a set of documents related to Chewco from Wilmer & Cutler. Deb Cash and I reviewed the Chewco documents and constructed a diagram of ownership based upon our review as set forth in Exhibit III. This review of the transaction identified the following issues:

- The interest by Barclay's was in the form of a yield certificate which defines Big River and Little River as borrowers and requires a yield slightly above LIBOR.

- I reviewed a two page letter agreement dated December 30, 1997 between JEDI and Chewco which provided for a distribution to Chewco of approximately $16 million of which $10 million was to be paid to Enron as a guarantee fee on debt of Chewco and approximately $6 million to be deposited in reserve funding accounts of Big River and Little River. Based upon a review of other formation documents it appears that the deposit was a condition upon funding of the Barclay's certificate. As a consequence, a question arises as to whether the $11 million contributions by Barclay's was funded in part by a distribution from JEDI. Therefore Barclay's contribution would be a net $5 million which would be significantly below the 3% required.

On the evening of November 2, 2001 I was requested to attend a meeting with Mike Patrick, Alan Quaintance, Jim Brown, and Cris Sherman also from Andersen were Deb Cash, Patty Grutzmacher, Kimberly Scardino, Don

Date November 2, 2001
Subject Chewco Investigation Chewco Investigation
Page 3 of 4

Holley and Kate Agnew. Patrick stated that the purpose of the meeting was to seek our guidance on analysis of Chewco and LJM transactions and to compare notes on what Andersen had done to date. Patrick stated that he and others in the meeting had not begun any review and did not yet have access to documents. Such documents were to be presented on Saturday morning, November 3. I advised the group that we had reviewed the Chewco documents provided and identified, among other issues, the two items discussed above. I stated that we were continuing our analysis and had not formed conclusions at that time. I encouraged the company to review the certificate agreements and letter agreement and form their own conclusion. I added if the company concluded that the transaction met all the requisite capitalization tests after review of these documents, we would like to have a discussion as to the basis of their conclusions.

On the evening of November 3, 2001 I received a call from Patrick to attend a meeting to discuss the Chewco transaction. Patrick advised that he had met with inhouse counsel, Vinson & Elkins and Glisan and believed the transaction didn't result in a failed SPE. Dave Duncan and I attended this meeting. Present were Mike Patrick, Jim Brown, Cris Sherman, and Rick Causey. Subsequent to the commencement of the meeting others joined the discussion from time to time, Christina Mordant, inhouse legal counsel, Ron Astin, Vinson & Elkins Counsel, and Wes Colwell, North American Chief Accounting Officer. We discussed the following:

- Ron Astin commented that he believed the equity certificates were in fact equity within a legal definition and that the certificate holders had rights with respect to voting, and limiting the voting ability other parties, far greater that a typical debt agreement. I advised that to comply with SPE equity requirement the third party equity would be required to be equity in form and substance.

- Causey indicated that he was not sure that Dodson should be considered a related party. Mordant stated that Texas State Law doesn't legally recognize such relationships. I advised that I believed for accounting purposes, the assessment of whether Dodson was a related party would have to consider factors in addition to the legal factors to develop a conclusion.

- I inquired as to the group's response to the impact of the letter agreement dated December 30, 1997 referred to above. They replied they had not found such a document in their materials. We assisted the group with a search of the documents in the room, and located the agreement. Glisan, Mordant, and Astin each stated that they had never previously seen this agreement and were unaware of its existence. I inquired of Glisan as to the business purpose of this agreement. He said he did not know. I asked Glisan why Jeremy Blackman would have been the authorized party to sign such an agreement and he replied "that is a good question". I presented the accounting implications of the agreement which could reduce the 3% net equity as discussed above. Mordant presented an argument as to why the agreement should not alter the investors right to the capital account which I could not comprehend. Causey, Brown, Patrick, Glisan, Astin and Mordant then left the meeting to pursue this matter further. Later, Brown and Patrick returned to the meeting and stated that Glisan concluded that the transaction failed the criteria. I asked if this Enron's final conclusion and Patrick indicated he did not know.

On November 4, 2001 we were asked by Causey to work with Enron employees to assess the effect Enron Financial Statements assuming Chewco was a failed SPE. During that process we were presented a copy of Chewco's unaudited financial statements from Mark Lindsey. Mark Lindsey said he had received these from

TBAA 000733
Confidential Treatment
Requested by Tom Bauer

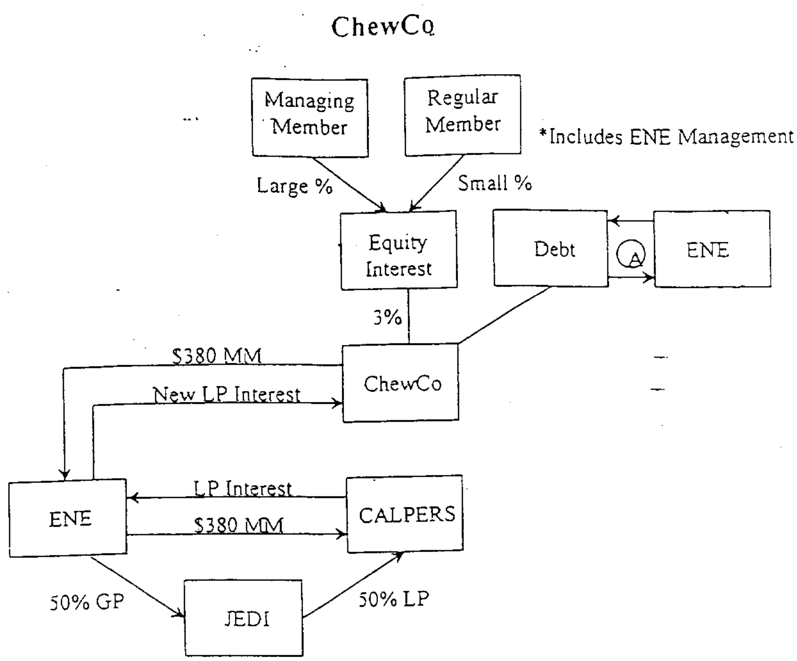
Shirley Hedler in the funds management group. Mark said he had not previously seen the Chewco financial statements or knew of their existence.

We completed our analysis regarding the impact of the adjustment and attended a meeting Sunday evening whereby the company presented its estimate of the effect on previously reported net income. We advised Causey that we had not audited these estimates and the complexity of the JEDI agreement would require significant additional analysis to develop a more precise estimate of the impact.

Cc: Nancy Temple

Attachments

Exhibit I



A Enron to provide guarantee on ChewCo debt for a fee or to provide ChewCo with loan.

Per discussion with John Stewart, ChewCo can qualify as an SPE and exist off the balance sheet of JEDI as a limited partner with Enron as the guarantor of debt or with Enron as the debt provider. However, the following conditions should apply.

1) The loan/guarantee from Enron to ChewCo should be at market.
2) The loan/guarantee from Enron to ChewCo should be executed under customary terms and conditions.
3) The equity holders (Managing Members and Regular Members) of ChewCo should have first risk of loss (i.e., be subordinate to the debt holder.)
4) Since the equity holders of ChewCo include a small percentage of Enron management, ChewCo will maintain 3% equity exclusive of these members and in no case shall the Enron Regular Members control ChewCo.

TBAA 000735
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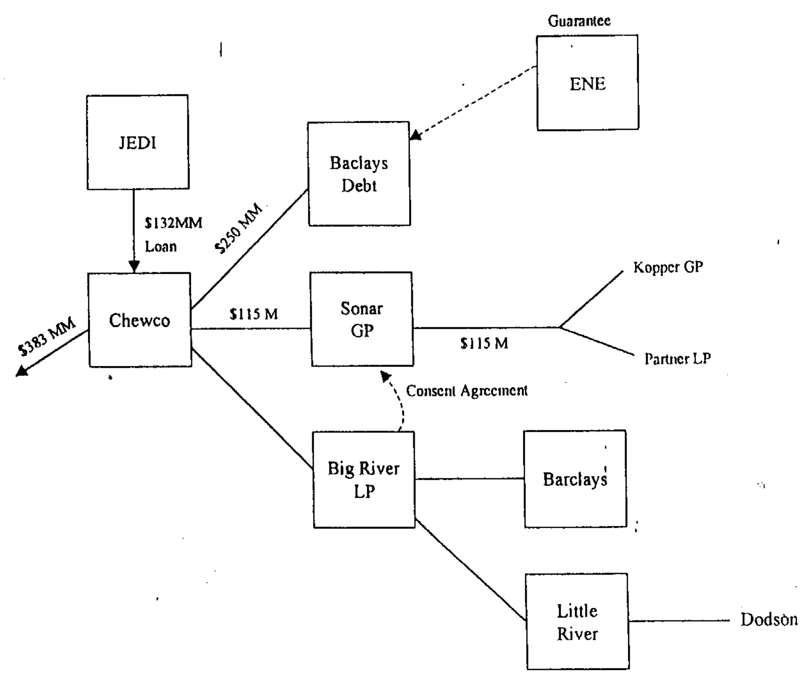
Requested by Tom Bauer

Exhibit II

TBAA 000736
Confidential Treatment
Requested by Tom Bauer

Chewco



Prepared by TBauer
10.27.01 based upon
discussion with Causey

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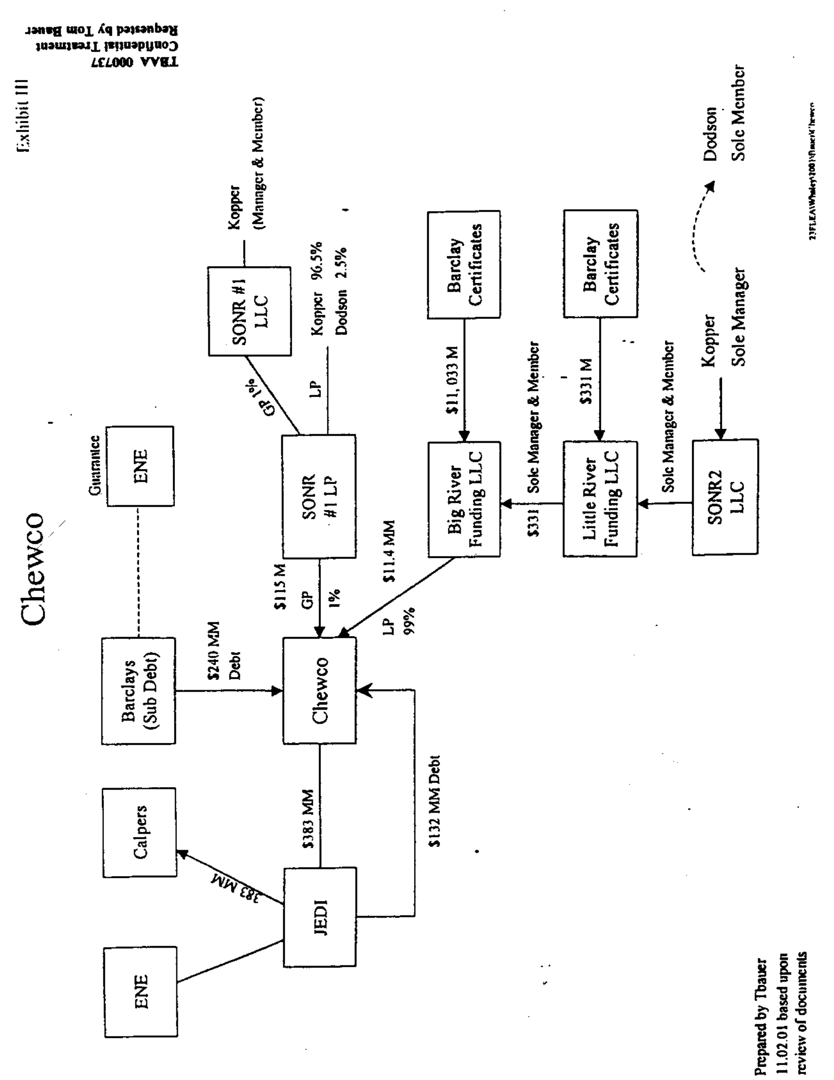
TBAA 000737
Confidential Treatment
Requested by Tom Bauer
Exhibit III
Chewco
ENE
Guarantee
Barclays (Sub Debt)
$240 MM Debt
Calpers
ENE
JEDI
383 MM
$383 MM
Chewco
$132 MM Debt
SONR #1 LP
$115 M
GP
1%
SONR #1 LLC
GP 1%
LP
Kopper (Manager & Member)
Kopper 96.5%
Dodson 2.5%
$11.4 MM
LP
99%
Big River Funding LLC
Barclay Certificates
$11, 033 M
Sole Manager & Member
$331
Little River Funding LLC
Barclay Certificates
$331 M
Sole Manager & Member
SONR2 LLC
Kopper
Sole Manager
Dodson
Sole Member
Prepared by Tbauer
11.02.01 based upon
review of documents

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ENRON CORP/OR/ filed this 8-K on 11/08/2001.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

Date of Report: November 8, 2001

Commission File Number 1-13159

ENRON CORP.
(Exact name of registrant as specified in its charter)

Oregon	47-0255140
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)
Enron Building 1400 Smith Street Houston, Texas	77002
(Address of principal executive Offices)	(Zip Code)

(713) 853-6161
(Registrant's telephone number, including area code)

ENRON CORP.

Item 5. Other Events.

Enron Corp. (NYSE: ENE) is providing information to investors concerning several important matters:

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

TABLE 1;

- o Enron intends to restate its financial statements for the years ended December 31, 1997 through 2000 and the quarters ended March 31 and June 30, 2001. As a result, the previously-issued financial statements for these periods and the audit reports covering the year-end financial statements for 1997 to 2000 should not be relied upon;
- o The accounting basis for the $1.2 billion reduction to shareholders' equity mentioned above;
- o The Special Committee appointed by Enron's Board of Directors to review transactions between Enron and related parties;

- o Information regarding the LJM1 and LJM2 limited partnerships formed by Enron's then Chief Financial Officer, the former CFO's role in the partnerships, the business relationships and transactions between Enron and the partnerships, and the economic results of those transactions as known thus far to Enron, which are outlined in TABLE 2; and
- o Transactions between Enron and other Enron employees.

The restatements discussed below affect prior periods. After taking into account Enron's previously disclosed $1.2 billion adjustment to shareholders' equity in the third quarter of 2001, these restatements have no effect on Enron's current financial position.

As used herein, "Enron" means Enron Corp. or one or more of its subsidiaries or affiliates. The dollar amounts and percentages set forth herein are rounded amounts and percentages.

....

1. Background on Special Purpose Entities and Related-Party Transactions

Enron, like many other companies, utilizes a variety of structured financings in the ordinary course of its business to access capital or hedge risk. Many of these transactions involve "special purpose entities," or "SPEs." Accounting guidelines allow for the non-consolidation of SPEs from the sponsoring company's financial statements in certain circumstances. Accordingly, certain transactions

between the sponsoring company and the SPE may result in gain or loss and/or between the sponsoring company and the SPE may result in gain or loss and/or cash flow being recognized by the sponsor, commonly referred to by financial institutions as "monetizations."

LJM Cayman, L.P. ("LJM1") and LJM2 Co-Investment, L.P. ("LJM2") (collectively "LJM") are private investment limited partnerships that were formed in 1999. Andrew S. Fastow, then Executive Vice President and Chief Financial Officer of Enron, was (from inception through July 2001) the managing member of the general partners of LJM1 and LJM2. Enron believes that the LJM partnerships have as limited partners a significant number of institutions and other investors that are not related parties to Enron. These partnerships are a subject of the Special Committee's investigation and it is possible that the Committee's review will identify additional or different information concerning matters described herein.

2. Restatement of Prior Period Financial Statements

Enron will restate its financial statements from 1997 to 2000 and the first and second quarters of 2001 to: (1) reflect its conclusion that three entities did not meet certain accounting requirements and should have been consolidated, (2) reflect the adjustment to shareholders' equity described below, and (3) include prior-year proposed audit adjustments and reclassifications (which were previously determined to be immaterial in the year originally proposed). Specifically, Enron has concluded that based on current information:

- o The financial activities of Chewco Investments, L.P. ("Chewco"), a related party which was an investor in Joint Energy Development Investments Limited Partnership ("JEDI"), should have been consolidated beginning in November 1997;
- o The financial activities of JEDI, in which Enron was an investor and which was consolidated into Enron's financial statements during the first quarter of 2001, should have been consolidated beginning in November 1997; and
- o The financial activities of a wholly-owned subsidiary of LJM1, which engaged in derivative transactions with Enron to permit Enron to hedge market risks of an equity investment in Rhythms NetConnections, Inc., should have been consolidated into Enron's financial statements beginning in 1999.

The effects of the restatements are outlined in Table 1. A description of the restatements follows the table.

TABLE 1

ENRON CORP.
RESTATEMENTS
DOLLARS IN MILLIONS, EXCEPT PER SHARE AMOUNTS
UNAUDITED

	1997	1998	1999	2000	1ST QTR 2001
Net income as reported	$ 105(a)	$ 703	$ 893	$ 979	$ 42
Restatements:					
Consolidation of JEDI and Chewco	(45)	(107)	(153)	(91)	--

Consolidation of JEDI and Chewco	(45)	(107)	(153)	(91)	--
Consolidation of LJM1 subsidiary	--	--	(95)	(8)	--
Raptor equity adjustment	--	--	--	--	--
Prior year proposed audit adjustments and reclassifications	(51)	(6)	(2)	(33)	1
NET INCOME RESTATED	9	590	643	847	44
Diluted EPS as reported	0.16	1.01	1.10	1.12	0.4
DILUTED EPS RESTATED	(0.01)	0.86	0.79	0.97	0.5
Recurring net income as reported	515	698	957	1,266	40
Restatements:					
Consolidation of JEDI and Chewco	(45)	(107)	(153)	(91)	--
Consolidation of LJM1 subsidiary	--	--	(95)	(8)	--
Raptor equity adjustment	--	--	--	--	--
Prior year proposed audit adjustments and reclassifications	(51)	(6)	(2)	(33)	1
RECURRING NET INCOME RESTATED	419	585	707	1,134	42
Diluted recurring EPS as reported	0.87	1.00	1.18	1.47	0.4
DILUTED RECURRING EPS RESTATED	0.71	0.85	0.87	1.33	0.4
Total assets as reported	22,552	29,350	33,381	65,503	67,26
Restatements:					
Consolidation of JEDI and Chewco	447	160	187	(192)	--
Consolidation of LJM1 subsidiary	--	--	(222)	--	--
Raptor equity adjustment	--	--	--	(172)	(1,00
Prior year proposed audit adjustments and reclassifications	(79)	(87)	(147)	(364)	(1,24
TOTAL ASSETS RESTATED	22,920	29,423	33,199	64,775	65,01
Debt as reported	6,254	7,357	8,152	10,229	11,92
Restatements:					
Consolidation of JEDI and Chewco	711	561	685	628	--
Consolidation of LJM1 Subsidiary	--	--	--	--	--
Raptor equity adjustment	--	--	--	--	--
Prior year proposed audit adjustments and reclassifications	--	--	--	--	--
DEBT RESTATED	6,965	7,918	8,837	10,857	11,92
Equity as reported	5,618	7,048	9,570	11,470	11,72
Restatements:					
Consolidation of JEDI and Chewco	(262)	(391)	(540)	(810)	--
Consolidation of LJM1 subsidiary	--	--	(166)	60	6
Raptor equity adjustment	--	--	--	(172)	(1,00
Prior year proposed audit adjustments and reclassifications	(51)	(57)	(128)	(242)	(28
EQUITY RESTATED	5,305	6,600	8,736	10,306	10,50

(a) After effect of significant contract restructuring charge totaling

$463 million (after tax)

(b) Represents estimated balances pending completion of September 30, 2001 financial statements

A. Restatement Number 1

Enron's decision that Chewco should be consolidated beginning in November 1997 is based on current information that Chewco did not meet the accounting criteria to qualify as an unconsolidated SPE. As a result of Chewco's failure to meet the criteria, JEDI, in which Chewco was a limited partner, also did not qualify for nonconsolidation treatment. Because of

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those consolidations, Enron's prior-year reported debt amounts will be increased by both JEDI's and Chewco's borrowings. The net effect will reduce Enron's prior-years' reported net income and shareholders' equity amounts. In addition, Enron's net income is reduced for specific JEDI revenues previously allocated to Chewco, relating to the appreciation in value of Enron stock, which eliminate upon consolidation. This, in effect, reduces Enron's share of JEDI's earnings.

B. Restatement Number 2

Enron's decision that the LJM1 subsidiary should be consolidated in 1999 and 2000 is based on Enron's current assessment that the subsidiary did not qualify for nonconsolidation treatment because of inadequate capitalization. Accordingly, Enron now believes that the hedging transactions in which Enron engaged with the LJM1 subsidiary (related to Enron's investment in the stock of Rhythms NetConnections, Inc.) should have been consolidated into Enron's financial statements for 1999 and 2000. This consolidation has the effect of reducing Enron's net income in 1999 and 2000 and shareholders' equity in 1999 and increasing shareholders' equity in 2000, thus eliminating the income recognized by Enron on these derivative transactions.

C. Restatement Number 3

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

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D. Restatement Number 4

The restatements will also include prior-year proposed audit adjustments and reclassifications which were determined to be immaterial in the year originally proposed.

3. Accounting Basis for $1.2 Billion Reduction in Shareholders' Equity

3. Accounting Basis for $1.2 Billion Reduction in Shareholders' Equity

Enron's previously-announced $1.2 billion reduction of shareholders' equity primarily involves the correction of the effect of an accounting error made in the second quarter of 2000 and in the first quarter of 2001. As described in more detail below, four SPEs known as Raptor I-IV (collectively, "Raptor") were created in 2000, permitting Enron to hedge market risk in certain of its investments. (LJM2 invested in these entities, but the related-party nature of the transaction is not relevant to the accounting correction). As part of the capitalization of these entities, Enron issued common stock in exchange for a note receivable. Enron increased notes receivable and shareholders' equity to reflect this transaction. Enron now believes that, under generally accepted accounting principles, the note receivable should have been presented as a reduction to shareholders' equity (similar to a shareholder loan). This treatment would have resulted in no net change to shareholders' equity. The net effect of this initial accounting entry was to overstate both notes receivable and shareholders' equity by approximately $172 million (which represented less than 2% of shareholders' equity at the time) in each of the second quarter, third quarter, and year-end financial statements of Enron for the year 2000.

In the first quarter of 2001, Enron entered into contracts with Raptor that could have obligated Enron to issue Enron common stock in the future in exchange for notes receivable. Enron

accounted for these transactions using the accounting treatment described in the preceding paragraph. This resulted in an additional overstatement of both notes receivable and shareholders' equity by $828 million. As a result of these errors, shareholders' equity and notes receivable were overstated by a total of $1 billion in the unaudited financial statements of Enron at March 31 and June 30, 2001.

In the third quarter of 2001, Enron purchased LJM2's equity interests in Raptor for $35 million. As previously discussed, Enron accounted for this transaction as a reduction to Enron shareholders' equity and notes receivable by $1.2 billion. Enron recorded a $200 million equity reduction (which was part of the $1.2 billion reduction) related to the excess of the fair value of contracts deliverable by Enron over the notes receivable recorded in shareholders' equity, as adjusted.

Prior period financials will be restated to adjust shareholders' equity for all periods affected as shown in Section 2.

4. The Special Committee

Based on various reports and information concerning Enron's transactions with certain related parties, on October 31, 2001, the Board of Directors elected William Powers, Dean of the University of Texas School of Law, to the Board, and appointed Dean Powers as Chairman of a newly formed Special Committee of the Board to conduct an independent investigation and review of transactions between Enron and certain related parties. The Special Committee also was charged with taking any disciplinary action that it deems appropriate, communicating with the Securities and Exchange Commission (which has commenced a formal investigation of these matters), and recommending to the Board any other appropriate actions. The other members of the Special Committee are independent directors Frank Savage, CEO of Savage Holdings LLC, Paulo Ferraz Pereira, Executive Vice President of investment bank Group Bozano, and Herbert S. Winokur, Jr., Chairman and CEO of Capricorn Holdings, Inc.

The Special Committee has retained the law firm of Wilmer, Cutler & Pickering as its counsel. The firm's representation is led by William R. McLucas, former head of the Division of Enforcement of the SEC. Wilmer, Cutler has retained Deloitte & Touche to provide related accounting advice to the law firm. The Special Committee's review is in its early stages. It will include an analysis of both the underlying substance and business purposes of the transactions, as well as an analysis of their financial impact on Enron and, to the extent information is available, on the related parties. The duration of the Special Committee's review, and the ultimate results of that review, have not yet been determined. While the information provided herein reflects Enron's current understanding of the relevant facts, it is possible that the Special Committee's review will identify additional or different information concerning these matters.

5. The LJM Limited Partnerships and Transactions with Enron

A. The LJM Partnerships.

As discussed above, LJM1 and LJM2 are private investment limited partnerships. Enron believes that, under the LJM1 and LJM2 limited partnership agreements (as with many similar agreements in private equity investing), the general partners are entitled to receive a percentage of the profits in excess of their portions of total capital contributed to the partnerships depending

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upon the performance of the partnerships' investments. Enron also believes that the general partners are entitled to receive annual management fees based in part on formulas that take into account the total amount of capital committed and/or invested by the limited partners. Enron now believes that Mr. Fastow received in excess of $30 million relating to his LJM management and investment activities. Enron believes that the initial capital commitments to LJM1 were $16 million, and the aggregate capital commitments to LJM2 were $394 million.

LJM1 and LJM2 were described to the Enron Board of Directors as potential sources of capital to buy assets from Enron, potential equity partners for Enron investments, and counterparties to help mitigate risks associated with Enron investments. The Board also was informed that LJM1 and LJM2 intended to transact business with third parties. Prior to approving Mr. Fastow's affiliation with LJM1 and LJM2, the Board determined that Mr. Fastow's participation in the partnerships would not adversely affect the interests of Enron. The Board approved the initial transaction with LJM1 and recognized that Enron may (but was not required to) engage in additional transactions with LJM1.

The Board directed that certain controls be put into place relating to Mr. Fastow's involvement with the partnerships and transactions between Enron and the partnerships. The Board required review and approval of each transaction by the Office of the Chairman, the Chief Accounting Officer and the Chief Risk Officer. The Board also recognized the ability of the Chairman of the Board to require Mr. Fastow to resign from the partnerships at any time, and directed that the Audit and Compliance Committee conduct annual reviews of transactions between Enron and between Enron and

LJM1 and LJM2 completed during the prior year. Whether these controls and procedures were properly implemented is a subject of the Special Committee's investigation.

Enron believes that, as of July 31, 2001, Mr. Fastow sold his interests in LJM1 and LJM2 to Michael J. Kopper, and that Mr. Fastow ceased to be the managing member of their general partners. Prior to that time, Mr. Kopper reported to Mr. Fastow as a non-executive officer of an Enron division. Enron believes Mr. Kopper resigned from Enron immediately before purchasing Mr. Fastow's interests in LJM2. Mr. Fastow is no longer working for Enron.

B. General Summary of LJM Transactions.

From June 1999 through September 2001, Enron and Enron-related entities entered into 24 business relationships in which LJM1 or LJM2 participated. These relationships were of several general types, including: (1) sales of assets by Enron to LJM2 and by LJM2 to Enron; (2) purchases of debt or equity interests by LJM1 or LJM2 in Enron-sponsored SPEs; (3) purchases of debt or equity interests by LJM1 or LJM2 in Enron affiliates or other entities in which Enron was an investor; (4) purchases of equity investments by LJM1 or LJM2 in SPEs designed to mitigate market risk in Enron's investments; (5) the sale of a call option and a put option by LJM2 on physical assets; and (6) a subordinated loan to LJM2 from an Enron affiliate. The financial results of these transactions are summarized in Table 2 below.

TABLE 2

UNAUDITED SUMMARY OF LJM TRANSACTIONS
(IN MILLIONS)

<Table>
<Caption>

	LJM INVESTMENT	CASH AND OTHER VALUE RECEIVED BY LJM	LJM NET CASH FLOW
2001:			
Sale of Assets	$ --	$ --	$ --
Purchases of Equity/Debt in Enron-Sponsored Special Purpose Entities	--	52.5	52.5
Investments in Enron Affiliates	3.4	49.7	46.3
Portfolio Special Purpose Entities	--	75.5	75.5
Call Option	--	--	--

Call Option	--	--	--
Transactions with LJM and Other Entities	--	--	--
Transaction with LJM and Whitewing	--	--	--
Total	$ 3.4	$ 177.7	$ 174.3
2000:			
Sale of Assets	$ 30.0(b)	$ 32.4	$ 2.4
Purchases of Equity/Debt in Enron-Sponsored Special Purpose Entities	100.7	64.4	(36.3)
Investments in Enron Affiliates	66.5	19.3	(47.2)
Portfolio Special Purpose Entities	127.1	148.5	21.4
Call Option	11.3	12.5	1.2
Transactions with LJM and Other Entities	7.5	11.7	4.2
Transaction with LJM and Whitewing	40.3	--	(40.3)
Total	$ 383.4	$ 288.8	$ (94.6)
1999:			
Sale of Assets	$ --	$ --	$ --
Purchases of Equity/Debt in Enron-Sponsored Special Purpose Entities	73.8	15.4	(58.4)
Investments in Enron Affiliates	44.5	1.0	(43.5)
Portfolio Special Purpose Entities	64.0	95.2(d)	31.2
Call Option	--	--	--
Transactions with LJM and Other Entities	--	--	--
Transaction with LJM and Whitewing	--	38.5	38.5
Total	$ 182.3	$ 150.1	$ (32.2)
Summary Totals:			
Sale of Assets	$ 30.0	$ 32.4	$ 2.4
Purchases of Equity/Debt in Enron-Sponsored Special Purpose Entities	174.5	132.3	(42.2)
Investments in Enron Affiliates	114.4	70.0	(44.4)
Portfolio Special Purpose Entities	191.1	319.2	128.1
Call Option	11.3	12.5	1.2

Transactions with LJM and Other Entities	7.5	11.7	4.2
Transaction with LJM and Whitewing	40.3	38.5	(1.8)
Total	$ 569.1	$ 616.6	$ 47.5
Estimated Fair Value of Existing LJM Investments			$ 43.6(e)

</Table>

(a) The pre-tax earnings impact of transactions with LJM2 through the Raptor SPEs was approximately $532 million in 2000 and $545 million for the nine months ended September 30, 2001. During 2000 and the nine months ended September 30, 2001, the Raptor SPEs hedged losses related to Enron investments of $501 million and $453 million respectively. The 2001 pre-tax earnings amount includes a $711 million pre-tax charge in the quarter ended September 30, 2001 related to the termination of the Raptor SPEs.

(b) This amount excludes a seller financed note from Enron to LJM of approximately $70 million.

(c) These pre-tax earnings resulted from a transaction with an LJM1 affiliate related to Enron's equity investment in Rhythms Netconnections, Inc. As previously stated, Enron now believes, based on current information, that the financial activities of the LJM1 affiliate should have been consolidated into its financial statements in 1999 and 2000 and will be restating prior years' financial statements to reflect this change. The pre-tax earnings / (loss) impact of this transaction was approximately $119.5 million and ($14.1) million in 1999 and 2000 respectively.

(d) This amount represents Enron's estimate of the value received in Enron common stock, a portion of which was restricted. The estimate was based on a 36% discount off of the screen price on the date of issuance for shares that were restricted and estimated proceeds received by LJM from the sale of the unrestricted shares.

(e) This amount represents Enron's estimated fair value of the six investments made by LJM that remain outstanding.

C. Sale of Assets.

In June 2000, LJM2 purchased dark fiber optic cable from Enron for a purchase price of $100 million. LJM2 paid Enron $30 million in cash and the balance in an interest-bearing note for $70 million. Enron recognized $67 million in pre-tax earnings in 2000 related to the asset sale. Pursuant to a marketing agreement with LJM2, Enron was compensated for marketing the fiber to others and providing operation and maintenance services to LJM2 with respect to the fiber. LJM2 sold a portion of the fiber to industry participants for $40 million, which resulted in Enron recognizing agency fee revenue of $20.3 million. LJM2 sold the remaining dark fiber for $113 million in December 2000 to an SPE that was formed to acquire the fiber. In December 2000, LJM2 used a portion of the proceeds to pay in full the note and accrued interest owed to Enron. At the time of LJM2's sale of the fiber to the SPE, Enron entered into a derivative contract which served as credit support for the benefit of some of the debt holders of a third-party investor in the SPE. This credit support provided the lender with a specified rate of return. As a result, Enron's credit exposure under the $70 million note was replaced with $61 million in remaining exposure under the derivative contract. LJM2 earned $2.4 million on its resale of the fiber.

D. Purchases of Equity/Debt in Enron-Sponsored SPEs.

D. Purchases of Equity/Debt in Enron-Sponsored SPEs.

Between September 1999 and December 2000, LJM1 or LJM2 purchased equity or debt interests in nine Enron-sponsored SPEs. LJM1 and LJM2 invested $175 million in the nine SPEs. These transactions enabled Enron to monetize assets and generated pre-tax earnings to Enron of $2 million in 1999.

Enron believes that LJM received cash of $15 million, $64 million and $53 million in 1999, 2000 and 2001, respectively, relating to its investments in these entities. In three instances, third-party financial institutions also invested in the entities. LJM invested on the same terms as the third-party investors. In one of these nine transactions, Enron entered into a marketing agreement with LJM2 that provided Enron with the right to market the underlying equity. This arrangement gave Enron profit potential in proceeds received after LJM2 achieved a specified return level. In six of these nine transactions, Enron repurchased all or a portion of the equity and debt initially purchased by LJM.

The SPEs owned, directly or indirectly, a variety of operating and financial assets. For example, Yosemite Securities Trust was a finance entity which facilitated Enron's ability to raise funds in the capital markets through the use of credit-linked notes, a standard financing arrangement offered by investment banks. Osprey Trust is beneficially-owned by a number of financial institutions and is a limited partner in Whitewing Associates, L.P., an Enron unconsolidated affiliate ("Whitewing"). Enron is the other partner. Whitewing purchased certain Enron investments for future sale.

In addition, as a result of these transactions, Enron was able to monetize equity interests with investment banks. These monetizations resulted in Enron's recognizing $146 million and $5 million in pre-tax earnings in 2000 and 2001, respectively, and $252 million in cash inflows, all in 2000.

E. Investment in Enron Affiliates.

In two transactions, LJM2 made direct and indirect investments in stock (and warrants convertible into stock) of New Power Holdings, Inc. ("NPW"). NPW initially was a wholly-owned subsidiary of Enron, subsequently included other strategic and financial investors, and in October 2000 became a public company. NPW is engaged in the retail marketing and retail sale of natural gas, electricity and other commodities, products and services to residential and small commercial customers in the United States. In January 2000, LJM2 invested $673,000 in Cortez Energy Services LLC ("Cortez"), a limited liability company formed by Enron and LJM2, and Enron contributed five million shares of NPW stock to Cortez. In July 2000, in a private placement, LJM2 purchased warrants exercisable for NPW stock for $50 million on the same terms as third-party investors. Enron believes that LJM2 still owns these investments.

In September 1999, LJM1 acquired from Enron a 13% equity interest in a company owning a power project in Brazil for $10.8 million, and acquired redeemable preference shares in a related company for $500,000. Enron recognized a $1.7 million loss on the sale of these interests to LJM1. Enron recognized revenues of $65 million, $14 million and $5 million from a commodity contract with the company owning the power project in 1999, 2000 and 2001, respectively. As part of an exclusive marketing arrangement to sell LJM1's equity in the project to third-parties and to limit LJM1's return, Enron paid LJM1 a $240,000 fee in May 2000. In 2001, Enron repurchased LJM1's 13% equity interest and the redeemable preference shares for $14.4 million. Enron currently owns this equity interest.

preference shares for $14.4 million. Enron currently owns this equity interest.

In December 1999, LJM2 paid Enron $30 million for a 75% equity interest in a power project in Poland. Enron recognized a $16 million gain in 1999 on the sale. Enron paid $750,000 to LJM2

as an equity placement fee. In March 2000, Enron repurchased 25% of the equity in the Polish power project from LJM2 for $10.6 million, and Whitewing acquired the remaining 50% from LJM2 for $21.3 million. Enron and Whitewing still own their respective equity interests.

In December 1999, LJM2 acquired a 90% equity interest in an Enron entity with ownership rights to certain natural gas reserves for $3 million. As a result, Enron recognized $3 million in revenue from an existing commodity contract. Subsequently, LJM2 assigned a portion of its ownership interest in the entity to Enron and Whitewing at no cost (to achieve certain after-tax benefits). Enron believes LJM2 continues to own its remaining interest.

F. Portfolio SPEs.

Enron and LJM established a series of SPEs in order to mitigate market exposures on Enron investments, including investments in NPW, Rhythms NetConnections, Inc., and other technology, energy, and energy-related companies. LJM made $191 million in equity investments in five separate SPEs, three of which (Raptor I, II and IV) were also capitalized with Enron stock and derivatives which could have required the future delivery of Enron stock. Raptor III was capitalized with an economic interest in warrants convertible into stock of NPW. The fifth SPE is discussed in Section 2B above. Enron subsequently engaged in hedging transactions with these SPEs, which included price swap derivatives, call options and put options. The derivatives and options generally were intended to hedge Enron's risk in certain investments having an aggregate notional amount of approximately $1.9 billion.

With respect to the four Raptor SPEs, Enron acquired LJM2's equity in the SPEs during the third quarter of 2001 for $35 million. Enron recognized pre-tax earnings (losses) relating to risk management activities of $119 million, $518 million and ($166) million in 1999, 2000 and 2001, respectively, including the effect of a $711 million pre-tax charge recognized in 2001, related to the termination of the Raptor SPEs. During 2000 and the nine months ended September 30, 2001, the Raptor SPEs hedged losses of $501 million and $453 million, respectively. The fifth SPE was used to hedge Enron's exposure arising from an investment in the stock of Rhythms NetConnections, Inc. However, it was subsequently determined that it did not meet the criteria to qualify for unconsolidated treatment. (See Section 2B for a discussion of the restatement related to the fifth SPE.)

In total, LJM1 and LJM2 invested $191 million and received $319 million (an estimated $95 million of which is non-cash value from the receipt of 3.6 million shares of Enron restricted stock) related to their investments in these five SPEs.

G. Call Option.

G. Call Option.

In May 2000, Enron purchased a call option from LJM2 on two gas turbines, at the same time that LJM2 contracted to purchase the gas turbines from the manufacturer. Enron paid LJM2 $1.2 million for this right during a seven-month period in 2000. The call option gave Enron the right to acquire these turbines from LJM2 at LJM2's cost, which was $11.3 million. The call option was subsequently assigned from Enron to an Enron-sponsored SPE capitalized by a third-party financial institution. In December 2000, the call option was exercised by the SPE and it acquired the turbines from LJM2 at cost.

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H. Transactions with LJM and Other Entities.

Enron sold its contractual right to acquire a gas turbine to a utility for $15.8 million in July 2000. Enron recognized a pre-tax gain of $3.5 million on the transaction. At the same time, the utility entered into a put option agreement with LJM2 relating to the turbine under which the utility paid LJM2 $3.5 million. Subsequently, upon the execution of an engineering, procurement and construction contract with a wholly-owned subsidiary of Enron, the utility assigned the contractual right to acquire the gas turbine to that subsidiary.

In December 1999, Enron sold an equity investment in Enron Nigeria Barge Ltd. to an investment bank and provided seller financing. In June of 2000, LJM2 purchased this equity investment directly from the investment bank for $7.5 million and the assumption of the seller-financed note from Enron. In September 2000, LJM2 sold the equity investment to an industry participant for $31.2 million. The proceeds from LJM2's sale were used by LJM2 to repay the principal and interest on the note from Enron in the amount of $23.0 million. The remaining $8.2 million repaid LJM2's $7.5 million purchase price and provided a profit of $700,000 to LJM2.

I. Transaction between LJM and Whitewing.

In December 1999, a wholly-owned subsidiary of Whitewing entered into a $38.5 million credit agreement with LJM2, the borrower. The loan had a term of one year and carried an interest rate of LIBOR+2.5%. The loan amount (including interest) of $40.3 million was repaid by LJM2 in 2000.

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J. Currently Outstanding LJM2 Transactions.

Enron believes that LJM2 currently has interests in six of the investments described above in which LJM2 originally invested $124 million, and that LJM2 has received cash inflows of $27 million from these investments. These investments include $23 million in equity in two Enron-sponsored SPEs, $32.5 million in equity in Osprey Trust $3 million in equity in an Enron affiliate, and $50.7 million in direct equity investments in NPW (representing two transactions).

Enron and LJM2 also entered into various agreements relating to cash management services, employee services, and office space provided by Enron to LJM2. In addition, Enron paid LJM2 a management fee for certain transactions, and other transaction fees described above. Enron also reimbursed LJM2 for transaction-related expenses (such as legal and tax fees and other costs) associated with some of the transactions described above.

6. Other Transactions

Like many other companies involved in trade and finance, Enron (through affiliates, subsidiaries, and SPEs) routinely engages in financing arrangements with third-party financial institutions, including commercial banks, investment banks and institutional investors, to fund acquisitions of assets or businesses, project development activities, and similar business arrangements. These activities are transacted with third parties using structures similar in some respects to the arrangements entered into with LJM. Enron provides credit support to the creditors of SPEs through the use of financial guarantees and hedging contracts. The payment of fees to third-party

financial institutions and institutional investors, such as debt and equity placement fees and structuring fees, is common in debt and equity syndications.

7. Other Employee Transactions

From June 1993 through November 1997, an Enron subsidiary was the general partner of JEDI and a third-party, the California Public Employees' Retirement System ("CalPERS"), was the limited partner. In November 1997, JEDI made a liquidating distribution to CalPERS of $383 million. Concurrently, Chewco purchased a limited partnership interest in JEDI for $383 million, $132 million of which was financed by an interest-bearing loan from JEDI to Chewco, and $240 million of which was borrowed from a third-party financial institution (supported by a guarantee from Enron). The restatement resulting from the Chewco transaction is discussed in 2A. Based on current information, Enron believes that a non-executive officer of an Enron division, Michael J. Kopper, was an investor in the general partner of Chewco and, at the time of the purchase, also was the manager of the Chewco general partner.

From December 1997 to December 2000, Chewco received distributions of $433 million from JEDI. Among other things, Chewco used a portion of these distributions to make repayments on its JEDI loan and to repay an additional borrowing from the third-party financial institution.

In December 1999, Chewco purchased a $15 million equity interest in Osprey Trust, an Enron-sponsored SPE, from LJM1.

In March 2001, Enron purchased Chewco's limited partnership interest in JEDI for $35 million. In September 2001, Enron paid an additional $2.6 million to Chewco in connection with a tax indemnification agreement between JEDI, Chewco and Enron. Of the total purchase consideration, $26 million was used by Chewco to make a payment on the JEDI loan. Chewco currently has an outstanding balance due on the JEDI loan of $15 million. JEDI is currently a wholly-owned subsidiary of Enron.

Enron now believes that Mr. Kopper also was the controlling partner of a limited partnership that (through another limited partnership) in March 2000 purchased partnership that (through another limited partnership) in March 2000 purchased interests in affiliated subsidiaries of LJM1. Enron also now believes that four of the six limited partners of the purchaser were, at the time of the investment, non-executive officers or employees of Enron, and a fifth limited partner was an entity associated with Mr. Fastow. These officers and employees, and their most recent job titles with Enron, were Ben Glisan, Managing Director and Treasurer of Enron Corp.; Kristina Mordaunt, Managing Director and General Counsel of an Enron division; Kathy Lynn, Vice President of an Enron division; and Anne Yaeger, a non-officer employee. Enron is terminating the employment of Mr. Glisan and Ms. Mordaunt. Ms. Lynn and Ms. Yaeger are no longer associated with Enron and Enron believes they are now associated with LJM2. At the time these individuals invested in the limited partnership, LJM1 had ceased entering into new transactions with Enron. However, some pre-existing investments involving LJM1 and Enron were still in effect, and Enron believes that these investments resulted in distributions or payments to LJM1 and to the limited partnership in which these individuals invested.

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Pursuant to a services agreement among Enron, LJM1, and LJM2, Enron made available to LJM1 and LJM2 a portion of the time of certain of its employees to provide administrative assistance to the general partners of LJM1 and LJM2. Mr. Kopper, Ms. Lynn and Ms. Yaeger, among other Enron employees, were made available to LJM1 or LJM2 from time to time during their employment by Enron.

This statement includes forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. The Private Securities Litigation Reform Act of 1995 provides a safe harbor for forward-looking statements made by Enron or on its behalf. These forward-looking statements are not historical facts, but reflect Enron's current expectations, estimates and projections. All statements contained herein which address future operating performance, events or developments that are expected to occur in the future (including statements relating to earnings expectations) are forward-looking statements. Important factors that could cause actual results to differ materially from those in the forward-looking statements herein include results of the Special Committee's review and results of the SEC investigation.

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Item 7. Exhibits.

(c) Exhibits.

Exhibit 99.1 - Enron Corp. press release dated November 8, 2001 regarding related party and off-balance sheet transactions and restatement of earnings

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

ENRON CORP.

Date: November 8, 2001 By: /s/ RICHARD A. CAUSEY

Richard A. Causey
Executive Vice President and Chief
Accounting Officer
(Principal Accounting Officer)

INDEX TO EXHIBITS

NO.	DESCRIPTION
Exhibit 99.1	- Enron Corp. press release dated November 8, 2001 regarding related party and off-balance sheet transactions and restatement of earnings

[ENRON LOGO]

Enron
P.O.Box 1188
Houston, TX 77251-1188

Mark Palmer
(713) 853-4738

ENRON PROVIDES ADDITIONAL INFORMATION ABOUT RELATED PARTY AND OFF-BALANCE SHEET TRANSACTIONS; COMPANY TO RESTATE EARNINGS FOR 1997-2001

FOR IMMEDIATE RELEASE: Thursday, Nov. 8, 2001

HOUSTON - Enron Corp. (NYSE: ENE) today provided additional information about various related party and off-balance sheet transactions in which the company was involved. The information was posted today on the company's website at www.enron.com/corp/sec and also made available in a Form 8-K Report filed today with the Securities and Exchange Commission (SEC).

Specifically, Enron's filing provides information about:

- a required restatement of prior period financial statements to reflect the previously disclosed $1.2 billion reduction to shareholders' equity, as well as various income statement and balance sheet adjustments required as the result of a determination by Enron and its auditors, based on current information, that certain off-balance sheet entities should have been included in Enron's consolidated financial statements pursuant to generally accepted accounting principles;
- the restatement of its financial statements for 1997 through 2000 and the first two quarters of 2001. As a result, financial statements for these periods and the audit reports relating to the year-end financial statements for 1997 through 2000 should not be relied upon;
- the accounting basis for the above-mentioned reduction to shareholders' equity;
- the special committee appointed by the Enron Board of Directors to review transactions between Enron and related parties;
- information regarding the two LJM limited partnerships formed by Enron's then Chief Financial Officer, his role in the partnerships, the business relationships and transactions between

partnerships, the business relationships and transactions between Enron and the partnerships, and the economic results of those transactions as known thus far· and

- transactions between Enron and certain other Enron employees.

"We believe that the information we have made available addresses a number of the concerns that have been raised by our shareholders and the SEC about these matters," said Ken Lay, Enron Chairman and CEO. "We will continue our efforts to respond to investor requests for information about our operational and financial condition so they can evaluate, appreciate and appropriately value the strength of our core businesses."

Restatement of Earnings

As further described on Enron's website, and its Form 8-K Report, Enron will restate prior years' financial statements to reflect its review of current information concerning the transactions discussed below. After taking into account Enron's previously disclosed adjustment to shareholders' equity in the third quarter of 2001, these restatements have no effect on Enron's current financial position.

Based on this review, Enron has determined that:

- the financial activities of Chewco Investments, L.P. (Chewco), a related party which was an investor in Joint Energy Development Investments Limited Partnership (JEDI), should have been consolidated beginning in November 1997;

- the financial activities of JEDI in which Enron was an investor and which was consolidated into Enron's financial statements during the first quarter of 2001, should have been consolidated beginning in 1997; and

- the financial activities of a wholly-owned subsidiary of LJM1, which engaged in structured transactions with Enron that were designed to permit Enron to mitigate market risks of an equity investment in Rhythms NetConnections, Inc., should have been consolidated into Enron's financial statements beginning in 1999.

Enron's current assessment indicates that the restatement will include a reduction to reported net income of approximately $96 million in 1997, $113 million in 1998, $250 million in 1999 and $132 million in 2000, increases of $17 million for the first quarter of 2001 and $5 million for the second quarter and a reduction of $17 million for the third quarter of 2001. These changes to net income are the result of the retroactive consolidation of JEDI and Chewco beginning in November 1997, the consolidation of the LJM1 subsidiary for 1999 and 2000 and prior year proposed audit adjustments. The consolidation of JEDI and Chewco also will increase Enron's debt by approximately $711 million in 1997, $561 million in 1998, $685 million in 1999 and $628 million in 2000. The restatement will have no negative impact on Enron's reported earnings for the nine month period ending Sept. 2001.

Enron is one of the world's leading energy, commodities and services companies. The company markets electricity and natural gas, delivers energy and other physical commodities, and provides financial and risk management services to customers around the world. Enron's Internet address is www.enron.com. The stock is traded under the ticker symbol "ENE."

This press release includes forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. The Private Securities Litigation Reform Act of 1995 provides a safe harbor for forward-looking statements made by Enron or on its behalf. These forward-looking statements are not historical facts, but reflect behalf. These forward-looking statements are not historical facts, but reflect Enron's current expectations, estimates and projections. All statements contained in this press release which address future operating performance, events or developments that are expected to occur in the future (including statements relating to earnings expectations) are forward-looking statements. Important factors that could cause actual results to differ materially from those in the forward-looking statements herein include results of the Special Committee's review and results of the S.E.C. investigation.

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LJM APPROVAL SHEET

This Approval Sheet should be used to approve Enron's participation in any transactions involving LJM Cayman, L.P ("LJM1") or LJ Co-Investment, L.P. ("LJM2"). LJM1 and LJM2 will collectively be referred to as "LJM". This Approval Sheet is in addition to (... in lieu of) any other Enron approvals that may be required.

GENERAL

Deal name: EEX

Date Approval Sheet completed: December 28, 1999

Enron person completing this form: Chris Loehr

Expected closing date: December 29, 1999

Business Unit: Enron North America

Business Unit Originator: Joe Deffner, Tim Proffitt

This transaction relates to ☐LJM1 and/or ☑LJM2.

This transaction is ☑ a sale by Enron ☐a purchase by Enron ☐a co-sale with Enron ☐a co-purchase with Enron and/or ☐other:__________________.

Person(s) negotiating for Enron: Joe Deffner, Tim Proffitt

Person(s) negotiating for LJM: Michael Kopper, Greg Caudell

Legal counsel for Enron: Andrews & Kurth (Wes Dorman)

Legal counsel for LJM: Kirkland & Ellis (Rob Marks)

DEAL DESCRIPTION

LJM2 will purchase from Enron North America a 90% equity interest in Bob West Treasure, L.L.C. for $2,953,125. Bob West Treasure is a special purpose vehicle created to be the counterparty for a prepay with EEX involving $105 million for up to 63 Bcfe of na' gas.

ECONOMICS

LJM2 will purchase the equity with the expectation of receiving a 25% IRR on its investment. LJM2 and ENA will enter into a marketing agreement under which ENA agrees to use its best efforts to sell the equity on LJM2's behalf and under which ENA receives 90% of any gains exceeding a 25% return to LJM2.

DASH

Attached.

LJM APPROVAL SHEET
Page 2

ISSUES CHECKLIST

1. Sale Options

   a. If this transaction is a sale of an asset by Enron, which of the following options were considered and rejected:

      ☑Condor ☐JEDI II ☐Third Party ☐Direct Sale. Please explain: A sale to Condor would achieve deconsolidation of the debt but would not allow Enron to book earnings.

   b. Will this transaction be the most beneficial alternative to Enron? ☑Yes ☐No. If no, please explain:__________.

   c. Were any other bids/offers received in connection with this transaction? ☑Yes ☐No. Please explain: The debt and equity were marketed to several banks including Chase, Deutsche and Paribas.

2. Prior Obligations

   a. Does this transaction involve a Qualified Investment (as defined in the JEDI II partnership agreement)? ☐Yes ☑No. If yes, please explain how this issue was resolved: __________.

   b. Was this transaction required to be offered to any other Enron affiliate or other party pursuant to a contractual or other obligation? ☐Yes ☑No. If yes, please explain: __________.

3. Terms of Transaction

   a. What are the benefits (financial and otherwise) to Enron in this transaction? ☐Cash flow ☑Earnings

      ☑Other: Funds flow of approximately $105 million.

   b. Was this transaction done strictly on an arm's-length basis? ☑Yes ☐No. If no, please explain:__________.

   c. Was Enron advised by any third party that this transaction was not fair, from a financial perspective, to Enron? ☐Yes ☑No. If yes, please explain:__________.

   d. Are all LJM expenses and out-of-pocket costs (including legal fees) being paid by LJM? ☐Yes ☑No. If no, is this market standard or has the economic impact of paying any expenses and out-of-pocket costs been considered when responding to items 1.b. and 3.b. above? ☑Yes ☐No.

4. Compliance

   a. Will this transaction require disclosure as a Certain Transaction in Enron's proxy statement? ☑Yes ☐No.

   b. Will this transaction result in any compensation (as defined by the proxy rules) being paid to any Enron employee? ☐Yes ☑No.

   c. Have all Enron employees' involvement in this transaction on behalf of LJM been waived by Enron's Office of the Chairman in accordance with Enron's Conduct of Business Affairs Policy? ☑Yes ☐No. If no, please explain: __________.

   d. Was this transaction reviewed and approved by Enron's Chief Accounting Officer? ☑Yes ☐No.

   e. Was this transaction reviewed and approved by Enron's Chief Risk Officer? ☑Yes ☐No.

   f. Has the Audit Committee of the Enron Corp. Board of Directors reviewed all Enron/LJM transactions within the past twelve months? ☐Yes ☑No. Have all recommendations of the Audit Committee relating to Enron/LJM transactions been taken into account in this transaction? ☐Yes ☐No.

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AF100168

"FOIA CONFIDENTIAL TREATMENT REQUESTED BY ANDREW FASTOW"

LJM APPROVAL SHEET
Page 3

... PROVALS	Name	Signature	Date
Business Unit	Andrea V. Reed	Andrea Reed	12/28/99
Business Unit Legal	[illegible]	[illegible] — SMS	12-28-99
Enron Corp. Legal	~~Rex Rogers~~ Jim Derrick	[illegible]	12.28.99
Global Finance Legal	Scott Sefton	Scott Sefton	12/28/99
RAC	Rick Buy	[illegible]	12/28/99
Accounting	Rick Causey	Richard A. Causey	12-28-99
Executive	Jeff Skilling		

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ENRON INVESTMENT SUMMARY

DEAL NAME: EEX
Originated: Enron North America
Expected Closing Date: 12/28/99
Expected Funding Date: 12/28/99

Date Completed: December 27, 1999
Investment Analyst: Chris Loehr
Investment Type: Equity

APPROVAL AMOUNT REQUESTED

Capital Commitment $ 2,953,125.00

DEAL DESCRIPTION

Purchase 90% of the equity in Bob West Treasure, L.L.C. ("Bob West"). Bob West is a special purpose vehicle created to be the counterparty for a prepay with EEX involving $105 million for up to 63 Bcfe of natural gas.

TRANSACTION SUMMARY

- On Dec. 28, 1999, LJM will purchase from Enron North America 90% of the Bob West equity for $ 2,953,125.00.
- $2,700,000.00 will be in the purchase price paid to Enron North America.
- $253,125.00 will be a capital contribution to Bob West Treasure LLC.
- ENA will pay LJM2's legal and tax advisory fees upfront.

CASH FLOW SUMMARY

LJM2, as a 90% equity holder in Bob West, is entitled to 90% of cashflows remaining after payment of interest on the $105 million of debt.

RETURN SUMMARY

LJM2's investment is expected to yield a return of 25%.

EXIT STRATEGY

- LJM2 has entered into a marketing agreement with ENA, whereby ENA agrees to use its reasonable best efforts to market the equity on LJM2's behalf.
- ENA will have a 90 day exclusivity period during which any gain on sale that exceeds LJM2's targeted 25% return on investment will be split 90% to ENA and 10% to LJM2.
- Exclusivity period ends 90 days from signing of contracts. At that point any gain on sale that exceeds LJM2's targeted 25% return on investment will be split 75% to ENA and 25% to LJM2.
- It is expected a resale of the equity will take place within six months to coincide with refinancing of the $105 million bridge financing.

RISKS AND MITIGANTS

Risk	Mitigant
Refinancing risk	LJM2 is entitled to cashflows after debt servicing. The bridge financing in place will need to be refinanced within ten months. Depending on the terms of the refinancing, equity cashflows may not support LJM2's targeted 25% return. LJM will have right to approve/reject terms of permanent financing.
Reserve risk	EEX has sold up to 63 Bcfe under the prepay agreement. While actual production of these reserves is a risk, 72% of the volumes are proved developed producing.
Interest rate risk	LJM2 is entitled to cashflows after debt servicing. The bridge financing in place is a floating rate facility (LIBOR+75bps); however, there is an existing swap which will be assigned to Bob West that fixes the rate on the bridge at 7.48%.
Operating risk	ENA will act as Managing Member and will be responsible for all operations.

AF100170

"FOIA CONFIDENTIAL TREATMENT REQUESTED BY ANDREW FASTOW"

APPROVALS	Name	Signature	Date
GEM Lead	Cheryl Lipshutz		2/15/00
Business Unit Originator	Andrea Reed		2/10/00
Business Unit Legal	~~Joel Ephross~~ Scott Sefton	S. Sefton	2/15/00

AF100171

"FOIA CONFIDENTIAL TREATMENT REQUESTED BY ANDREW FASTOW"

LJM APPROVAL SHEET

Approval Sheet should be used to approve Enron's participation in any transactions involving LJM Cayman, L.P. ("LJM1") or L...2 Co-Investment, L.P. ("LJM2"). LJM1 and LJM2 will collectively be referred to as "LJM". This Approval Sheet is in addition to (not in lieu of) any other Enron approvals that may be required.

GENERAL

Deal name: Cortez

Date Approval Sheet completed: January 4, 2000

Enron person completing this form: Trushar Patel

Expected closing date: January 6, 2000

Business Unit: Enron Energy Services

Business Unit Originator: Jimmie Williams

This transaction relates to ☐LJM1 and/or ☒LJM2.

This transaction is ☐ a sale by Enron ☐a purchase by Enron ☐a co-sale with Enron ☐a co-purchase with Enron and/or ☒other: Investment in Cortez, LLC which holds shares in EMW Energy Services Corp.

Person(s) negotiating for Enron: Jimmie Williams, Cheryl Lipshutz

Person(s) negotiating for LJM: Michael Kopper,

Legal counsel for Enron: Vinson & Elkins

Legal counsel for LJM: Kirkland & Ellis

DEAL DESCRIPTION [Insert short description of the transaction involving/between Enron and LJM; do not describe the underlying asset or transaction.]

L...2 will invest $673,200 equal to 51% ownership of the Class A membership interests in Cortez, LLC with EES owning the remaining 49% of the Class A membership interests. In turn, Cortez, LLC owns 25% of the common shares (with voting rights) in EMW Energy Services Corp.

ECONOMICS [Insert short description of the Enron economics of the transaction involving/between Enron and LJM; do not describe the economics of the underlying asset or transaction.]

The Class A Members (including LJM2) will receive 100% of the cash Cortez, LLC receives in the form of dividends, distribution or other payment on the Class A Common Stock of EMW Energy Services Corp. held by Cortez, LLC until the Class A Members attain the targeted IRR. Upon LJM2 receiving their targeted return, the cash will be distributed 99.75% to EES and 0.25% to LJM2.

DASH [Attach the DASH relating to the underlying asset or transaction. Insert brief update on the DASH if the underlying asset or transaction has changed materially since the original DASH was completed.]

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LJM APPROVAL SHEET
Page 2

ISSUES CHECKLIST

Sale Options

a. If this transaction is a sale of an asset by Enron, which of the following options were considered and rejected:

☐Condor ☒JEDI II ☐Third Party ☐Direct Sale. Please explain: Chewco, Enserco and Rawhide considered.

b. Will this transaction be the most beneficial alternative to Enron? ☒Yes ☐No. If no, please explain:__________.

c. Were any other bids/offers received in connection with this transaction? ☐Yes ☒No. Please explain: LJM2 was offered this investment.

2. Prior Obligations

a. Does this transaction involve a Qualified Investment (as defined in the JEDI II partnership agreement)? ☐Yes☒No. If yes, please explain how this issue was resolved: __________.

b. Was this transaction required to be offered to any other Enron affiliate or other party pursuant to a contractual or other obligation? ☐Yes ☒No. If yes, please explain: __________.

3. Terms of Transaction

a. What are the benefits (financial and otherwise) to Enron in this transaction? ☐Cash flow ☐Earnings ☒Other: New business opportunity & Deconsolidation.

b. Was this transaction done strictly on an arm's-length basis? ☒Yes ☐No. If no, please explain:__________.

c. Was Enron advised by any third party that this transaction was not fair, from a financial perspective, to Enron? ☐Yes ☒No. If yes, please explain:__________.

d. Are all LJM expenses and out-of-pocket costs (including legal fees) being paid by LJM? ☐Yes ☒No. If no, is this market standard or has the economic impact of paying any expenses and out-of-pocket costs been considered when responding to items 1.b. and 3.b. above? ☒Yes ☐No.

.. Compliance

a. Will this transaction require disclosure as a Certain Transaction in Enron's proxy statement? ☒Yes ☐No.

b. Will this transaction result in any compensation (as defined by the proxy rules) being paid to any Enron employee? ☐Yes ☒No (Certain EES employees may receive compensation not directly related to this transaction)

c. Have all Enron employees' involvement in this transaction on behalf of LJM been waived by Enron's Office of the Chairman in accordance with Enron's Conduct of Business Affairs Policy? ☒Yes ☐No. If no, please explain: __________.

d. Was this transaction reviewed and approved by Enron's Chief Accounting Officer? ☒Yes ☐No.

e. Was this transaction reviewed and approved by Enron's Chief Risk Officer? ☒Yes ☐No.

f. Has the Audit Committee of the Enron Corp. Board of Directors reviewed all Enron/LJM transactions within the past twelve months? ☐Yes ☒No. Have all recommendations of the Audit Committee relating to Enron/LJM transactions been taken into account in this transaction? ☐Yes ☒No (Audit committee has not reviewed any transactions to date).

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"FOIA CONFIDENTIAL TREATMENT REQUESTED BY ANDREW FASTOW"

LJM APPROVAL SHEET
Page 3

APPROVALS	Name	Signature	Date
Business Unit	Jimmie Williams		1/5/00
Business Unit Legal	Vicki Sharp		1/5/00
Enron Corp. Legal	Rex Rogers/Robert Eickenroht		1/5/00
Global Finance Legal	Scott Sefton	Scott Sefton	1/5/00
RAC	Rick Buy		1/5/00
Accounting	Rick Causey		1/5/00
Executive	Jeff Skilling		

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"FOIA CONFIDENTIAL TREATMENT REQUESTED BY ANDREW FASTOW"

Cortez Investment Summary

DEAL NAME: Cortez Investment
Originated: Enron Energy Services
Expected Closing Date: January 6, 2000
Expected Funding Date: January 6, 2000

Date Completed: January 4, 2000
Investment Analysts: Trushar Patel
Investment Type: Equity

EXPECTED MAXIMUM COMITTMENT OF LJM II

Capital Commitment	$673,200

DEAL DESCRIPTION

Enron Energy Services, LLC ("EES") along with strategic partners ("Investors") is forming EMW Energy Services Corp. (the "Company") to engage in the retail marketing and retail sale of natural gas, electricity and other commodities, products and services to residential and small commercial customers in the United States. Prior to cash contributions from the Investors (outlined below), EES and Enron Corp. will contribute or cause to be contributed (in exchange for Common Stock and Special Warrants) to the Company certain assets of the residential and small commercial retail electric power and gas marketing business of EES and its affiliates. Immediately following the contribution by EES and Enron Corp. the Investors will invest an aggregate of $100 million in exchange for Common Stock, Special Warrants and Investor Warrants in the Company.

Along with the Common Stock and Special Warrants issued to EES for its contribution, the Company will issue to EES 25,000 shares of Common Stock, which EES will promptly contribute to Cortez Energy Services, LLC ("Cortez"). The authorized membership interests of Cortez at closing will consist of Class A and Class B membership interests. At closing, EES will own 49% of the Class A interests and 100% of the Class B interests, LJM2 will own 51% of the Class A interests. EES will be managing member of Cortez. At closing, the LLC Agreement stipulates that prior to an Initial Public Offering or five years from the closing date, neither of the owners may transfer their interests in Cortez. The exception being that the transfer of the interests be to an Affiliate of EES or Enron Corp. or Cortez if, but only if, at least 80% of the economic and voting interests represented by the transferred interests continue to be held, directly or indirectly, by EES or Enron Corp.

The following table outlines the capitalization of the Company following consummation of the transactions described above:

	Contribution Amount	Shares	% of Common Shares (primary)
EES:	Assets		
Common		50,000	50%
Special Warrants		225,000	0%
Cortez:	NA		
Common		25,000	25%
DLJ:	$35 MM		
Common		8,750	8.8%
Special Warrants		26,250	0%
Investor Warrants		8,065	0%
GE:	$35 MM		
Common		8,750	8.8%
Special Warrants		26,250	0%
Investor Warrants		18,065	0%
CalPERS:	$15 MM		
Common		3,750	3.75%
Special Warrants		11,250	0%
Investor Warrants		7,742	0%
Ontario Teachers:	$15 MM		
Common		3,750	3.75%
Special Warrants		11,250	0%
Investor Warrants		7,742	0%

TRANSACTION SUMMARY

LJM 2 will invest $673,200 equal to 51% ownership of the Class A membership interests in Cortez with EES owning the remaining 49% of the Class A membership interests. In turn, Cortez owns 25% of the common shares (with voting rights) in EMW.

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BY ANDREW FASTOW"

LJM Deal Approval Sheet

RETURN SUMMARY

The Class A Members (including LJM2) will receive 100% of the cash Cortez receives in the form of dividends, distribution or other payment on the Common Stock of the Company held by Cortez, until the Class A Members attain the targeted IRR. Upon the Class A Members receiving their targeted return, the cash will be distributed 99.75% to EES and 0.25% to LJM2.

EXIT STRATEGY

LJM2 will be allowed to sell its interests in Cortez at the earlier of the Initial Public Offering date (subject to the required legal holding period) or five years from the closing date. LJM2 does have the ability to sell prior to the earlier of the Initial Public Offering date (subject to the required legal holding period) or five years from the closing date. In this case the transfer of the interests must be to an Affiliate of EES or Enron Corp. or Cortez if, but only if, at least 80% of the economic and voting interests represented by the transferred interests continue to be held, directly or indirectly, by EES or Enron Corp.

Risks

EMW Energy Services Corp.'s failure to execute on its business plan to engage in the retail marketing and retail sale of natural gas, electricity and other commodities, products and services to residential and small commercial customers in the United States. This would preclude the ability to proceed with an initial public offering in the next six to twelve months. This in turn will hamper LJM2's ability to exit the investment, as the underlying asset in Cortez is shares of Common of the Company.

AF100176

LJM APPROVAL SHEET

This Approval Sheet should be used to approve Enron's participation in any transactions involving LJM Cayman, L.P. ("LJM1") or [LJM]2 Co-Investment, L.P. ("LJM2"). LJM1 and LJM2 will collectively be referred to as "LJM". This Approval Sheet is in addition [to and] not in lieu of) any other Enron approvals that may be required.

GENERAL

Deal name: **Yosemite**

Date Approval Sheet completed: February 8, 2000

Enron person completing this form: Catherine Pernot

Expected closing date: February 15, 2000

Business Unit: Enron Corp.

Business Unit Originator: Bill Brown/ Doug McDowell

This transaction relates to ☐LJM1 and/or ☒LJM2.

This transaction is ☒ a sale by Enron ☐a purchase by Enron ☐a co-sale with Enron ☐a co-purchase with Enron and/or ☐other: ______

Person(s) negotiating for Enron: Bill Brown / Doug McDowell / Ben Glisan / Nicole Alvino

Person(s) negotiating for LJM: Michael Kopper

Legal counsel for Enron: Gareth Bahlmann

Legal counsel for LJM: Dave Lambert of Kirkland & Ellis

DEAL DESCRIPTION

LJM2 is purchasing Beneficial ownership in a Delaware Business Trust (Yosemite Securities Trust I) that owns Trust Investments [cons]isting of AAA securities, U.S. obligations, and payment obligations supported, in whole or in part, directly or indirectly, by [Enr]on. The face amount of the Trust Investments equals the amount of Notes and Certificates in the Trust. The Trust and Citibank have entered into the Citibank Swap, which will provide for yield payments on the Certificates and for certain settlement payments under credit events, in exchange for actual interest payments on the Trust Investments. <u>LJM2 intends to sell this investment to Condor within one week of purchase.</u>

ECONOMICS

LJM2 is purchasing the beneficial ownership at face value for $33,750,000 to achieve a yield of 11%

DASH

Included

AF100177

[illegible]

LJM APPROVAL SHEET
Page 2

ISSUES CHECKLIST

1. Sale Options
   a. If this transaction is a sale of an asset by Enron, which of the following options were considered and rejected:
   ☐Condor ☐JEDI II ☐JEDI ☐Margaux ☐EnSerCo ☐Rawhide ☐Chewco
   ☑Third Party ☐Direct Sale.
   Please explain: Enron entered into a Letter of Understanding with LJM2 and LJM2 subsequently entered into a similar arrangement to sell the Certificates to Condor.
   b. Will this transaction be the most beneficial alternative to Enron? ☑Yes ☐No. If no, please explain:__________.
   c. Were any other bids/offers received in connection with this transaction? ☐Yes ☑No. Please explain: ______.
2. Prior Obligations
   a. Does this transaction involve a Qualified Investment (as defined in the JEDI II partnership agreement)? ☐Yes ☑No. If yes, please explain how this issue was resolved: __________
   b. Was this transaction required to be offered to any other Enron affiliate or other party pursuant to a contractual or other obligation? ☐Yes ☑No. If yes, please explain: __________.
3. Terms of Transaction
   a. What are the benefits (financial and otherwise) to Enron in this transaction? ☐Cash flow ☐Earnings
   ☑Other: Sale of asset to third party (full risk transfer); non-consolidation of Yosemite Debt on Enron's balance sheet
   b. Was this transaction done strictly on an arm's-length basis? ☑Yes ☐No. If no, please explain:__________.
   c. Was Enron advised by any third party that this transaction was not fair, from a financial perspective, to Enron? ☐Yes ☑No. If yes, please explain:__________.
   d. Are all LJM expenses and out-of-pocket costs (including legal fees) being paid by LJM? ☐Yes ☑No. If no, is this market standard or has the economic impact of paying any expenses and out-of-pocket costs been considered when responding to items 1.b. and 3.b. above? ☑Yes ☐No.
4. Compliance
   a. Will this transaction require disclosure as a Certain Transaction in Enron's proxy statement? ☑Yes ☐No.
   b. Will this transaction result in any compensation (as defined by the proxy rules) being paid to any Enron employee? ☐Yes ☑No.
   c. Have all Enron employees' involvement in this transaction on behalf of LJM been waived by Enron's Office of the Chairman in accordance with Enron's Conduct of Business Affairs Policy? ☑Yes ☐No. If no, please explain: __________.
   d. Was this transaction reviewed and approved by Enron's Chief Accounting Officer? ☑Yes ☐No.
   e. Was this transaction reviewed and approved by Enron's Chief Risk Officer? ☑Yes ☐No.
   f. Has the Audit Committee of the Enron Corp. Board of Directors reviewed all Enron/LJM transactions within the past twelve months? ☐Yes ☑No. Have all recommendations of the Audit Committee relating to Enron/LJM transactions been taken into account in this transaction? ☐Yes ☑No.

APPROVALS	Name	Signature	Date
Business Unit	Bill Brown	[signature]	2/28/00
Business Unit	Doug McDowell	[signature]	2/24/00
Business Unit Legal	Gareth Bahlmann	[signature]	[illegible]
.on Corp. Legal	Rex Rogers	[signature]	[illegible]

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"FOIA CONFIDENTIAL TREATMENT REQUESTED BY ANDREW FASTOW"

LJM APPROVAL SHEET
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Global Finance Legal	Scott Sefton	Scott Sefton	2/10/00
\C	Rick Buy		2/21/00
Accounting	Rick Causey	Richard A. Causey	2/17/00
Executive	Jeff Skilling		

AF100179

"FOIA CONFIDENTI
TREATMENT REQUES
BY ANDREW FASTO

LJM2 APPROVAL SHEET

This Approval Sheet should be used to approve Enron's participation in any transactions involving LJM Cayman, L.P. ("LJM1") or 12 Co-Investment, L.P. ("LJM2"). LJM1 and LJM2 will collectively be referred to as "LJM". This Approval Sheet is in addition .ot in lieu of) any other Enron approvals that may be required.

GENERAL

Deal name: Raptor

Date Approval Sheet completed: April 18, 2000

Enron person completing this form: Trushar Patel

Expected closing date: May 4, 2000

Business Unit: Enron Corp.

Business Unit Originator: Ben Glisan

This transaction relates to ☐LJM1 and/or ☑LJM2.

This transaction is ☐ a sale by Enron ☐a purchase by Enron ☐a co-sale with Enron ☐a co-purchase with Enron and/or ☑other: __creation of hedging structure_________.

Person(s) negotiating for Enron: Ben Glisan

Person(s) negotiating for LJM: Michael Kopper

Legal counsel for Enron: Vinson & Elkins

Legal counsel for LJM: Kirkland & Ellis

DEAL DESCRIPTION

Talon I LLC ("Talon") is a special purpose entity organized for the purpose of entering into certain derivative transactions. LJM2, through its 100% voting control of Talon, has the unilateral ability to make the investment decisions for Talon and is not contractually ;ated to execute any derivative transactions with Enron. LJM2 will execute derivative transactions with Harrier I LLC (.arrier"), a wholly-owned subsidiary of Enron, to the extent those investment decisions are aligned with LJM2's investment objectives. Enron, through Harrier, will offer LJM2 the opportunity to execute derivative instruments relating to both public and private energy and telecommunication investments made by Enron.

ECONOMICS

Talon's distributions to equity holders will be limited by earnings at Talon. To the extent there are earnings and sufficient cash to distribute, distributions will be made according to the following waterfall:

- First, $41 million to LJM2
- Second, distributions as necessary until LJM2 receives a 30% IRR over the term of the structure (unless the IRR was achieved through the $41 million distribution above)
- Third, 100% to the special limited partnership interest, Harrier I LLC, a wholly-owned subsidiary of Enron

DASH

See attached.

AF100183

"FOIA CONFIDENTIAL TREATMENT REQUESTED BY ANDREW FASTOW"

ISSUES CHECKLIST

1. Sale Options
   a. If this transaction is a sale of an asset by Enron, which of the following options were considered and rejected:
   ☐Condor ☐JEDI II ☐Third Party ☐Direct Sale. Please explain: Not a sale of an asset by Enron
   b. Will this transaction be the most beneficial alternative to Enron? ☑Yes ☐No. If no, please explain: __________.
   c. Were any other bids/offers received in connection with this transaction? ☐Yes ☑No. Please explain: Private structured finance transaction
2. Prior Obligations
   a. Does this transaction involve a Qualified Investment (as defined in the JEDI II partnership agreement)? ☐Yes ☑No. If yes, please explain how this issue was resolved: __________.
   b. Was this transaction required to be offered to any other Enron affiliate or other party pursuant to a contractual or other obligation? ☐Yes ☑No. If yes, please explain: __________.
3. Terms of Transaction
   a. What are the benefits (financial and otherwise) to Enron in this transaction? ☐Cash flow ☐Earnings
   ☑Other: Ability to hedge mark-to-market exposure on investments in publicly and privately held companies
   b. Was this transaction done strictly on an arm's-length basis? ☑Yes ☐No. If no, please explain: __________.
   c. Was Enron advised by any third party that this transaction was not fair, from a financial perspective, to Enron? ☐Yes ☑No. If yes, please explain: __________.
   d. Are all LJM expenses and out-of-pocket costs (including legal fees) being paid by LJM? ☐Yes ☑No. If no, is this market standard or has the economic impact of paying any expenses and out-of-pocket costs been considered when responding to items 1.b. and 3.b. above? ☑Yes ☐No.
4. Compliance
   a. Will this transaction require disclosure as a Certain Transaction in Enron's proxy statement? ☑Yes ☐No.
   b. Will this transaction result in any compensation (as defined by the proxy rules) being paid to any Enron employee? ☐Yes ☑No.
   c. Have all Enron employees' involvement in this transaction on behalf of LJM been waived by Enron's Office of the Chairman in accordance with Enron's Conduct of Business Affairs Policy? ☑Yes ☐No. If no, please explain: __________.
   d. Was this transaction reviewed and approved by Enron's Chief Accounting Officer? ☑Yes ☐No.
   e. Was this transaction reviewed and approved by Enron's Chief Risk Officer? ☑Yes ☐No.
   f. Has the Audit Committee of the Enron Corp. Board of Directors reviewed all Enron/LJM transactions within the past twelve months? ☐Yes ☑No. (The Audit Committee has not held a meeting since LJM2's formation.) Have all recommendations of the Audit Committee relating to Enron/LJM transactions been taken into account in this transaction? ☐Yes ☐No.

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LJM APPROVAL SHEET
Page 3

APPROVALS	Name	Signature	Date
Business Unit	Ben Glisan		6-12-00
Business Unit Legal			
Enron Corp. Legal	Rex Rogers		5-24-00
Global Finance Legal	Scott Sefton	Scott Sefton	5-22-00
RAC	Rick Buy DB		5-22-00
Accounting	Rick Causey		5-21-00
Executive	Jeff Skilling		

AF100185

"FOIA CONFIDENTIAL TREATMENT REQUESTED BY ANDREW FASTOW"

DEAL NAME: Raptor
Originated: Enron Corp.
Expected Closing Date: 4/18/00
Expected Funding Date: 5/04/00

Date Completed: April 18, 2000
Investment Analyst: Chris Loehr
Investment Type: Equity

INVESTMENT

LJM2 Capital Commitment $ 30,000,000

DEAL DESCRIPTION

Talon I LLC ("Talon") is a special purpose entity organized for the purpose of entering into certain derivative transactions. LJM2, through its 100% voting control of Talon, has the unilateral ability to make the investment decisions for Talon and is not contractually obligated to execute any derivative transactions with Enron. LJM2 will execute derivative transactions with Harrier I LLC ("Harrier"), a wholly-owned subsidiary of Enron, to the extent those investment decisions are aligned with LJM2's investment objectives. Enron, through Harrier, will offer LJM2 the opportunity to execute derivative instruments relating to both public and private energy and telecommunication investments made by Enron.

TRANSACTION SUMMARY

- On April 21, 2000, LJM2 will purchase 100% of the voting interest in Talon for $30,000,000
- Talon is a bankruptcy remote, special purpose vehicle that will be capitalized with:
  - LJM2's capital investment
  - A series of forward sales on Enron shares ($500 million of gross value but $350 million of net value after a 30% liquidity discount has been ascribed given the restrictions imposed on the underlying shares) resulting in ultimate ownership by Talon of Enron common stock
  - The sale of puts on [7 million] Enron shares with a strike of [$57.50], a maturity in [six months] from close and a premium due of [$6] per share.
- In exchange for the above capitalization, Talon will provide Harrier: (i) a $400 million note whose principal is convertible into derivatives, and (ii) a special limited partnership interest in Talon initially valued at $1,000.
- To limit Talon's exposure to the mark-to-market movements of the underlying derivative transactions, Talon and Harrier agree to limit the notional amount of swaps and premiums paid as follows: (i) up to $1.5 billion notional value of at-the-money swaps, (ii) up to $400 million of net premiums on other derivative transactions, and (iii) up to $1 billion of loss on premium paid derivatives.
- LJM2 will have a fair market value put for its membership interest in Talon that allows LJM2 to put its interest back to Harrier in the event that LJM2 has not received the greater of $41 million or a 30% IRR by October 31, 2000. Enron has provided support for Harrier's financial obligation under such an event in the form of a guaranty.
- At the maturity of the structure, Talon will liquidate the excess value, if any, of the Enron shares under the forward sales over the derivative losses, if any, at Talon and any principal outstanding on the Talon note. The excess proceeds, if any, will be distributed to LJM2 and Harrier in accordance with their capital accounts and the distribution waterfall.

INVESTMENT RETURN SUMMARY

Base Case Return

It is expected that Talon will have earnings and cash sufficient to distribute $41 million to LJM2 within six months, yielding an annualized return on investment to LJM2 of 76.8%

Distributions

Talon's distributions to equity holders will be limited by earnings at Talon. To the extent there are earnings and sufficient cash to distribute, distributions will be made according to the following waterfall:

- First, $41 million to LJM2
- Second, distributions as necessary until LJM2 receives a 30% IRR over the term of the structure (unless the IRR was achieved through the $41 million distribution above)
- Third, 100% to the special limited partnership interest, Harrier I LLC, a wholly-owned subsidiary of Enron

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"FOIA CONFIDENTIAL TREATMENT REQUESTED BY ANDREW FASTOW"

Fair Market Value Put

In the event that LJM2 has not received the greater of $41 million or a 30% IRR on its investment by October 31, 2000, LJM2 will have a fair market value put whereby LJM2 can put its interest in Talon back to Harrier. The fair market value of the membership interest is determined largely by Enron's stock price and is summarized below:

Enron Stock Price	Fair Market Put Value	LJM2 IRR
[$57.50]	$41.0 million	76.8%
[$48.95]	$34.5 million	30.0%
[$48.35]	$30.0 million	0.0%

Expenses

Enron has agreed to cover all of LJM2's accounting and legal expenses related to this transaction. Enron will cover expenses related to formation of the structure as well as ongoing expenses.

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"FOIA CONFIDENTIAL TREATMENT REQUESTED BY ANDREW FASTOW"

APPROVALS	Name	Signature	Date
Business Unit Originator	Ben Glisan	[illegible]	6-12-00
Business Unit Legal	[illegible]	[illegible]	5-23-00

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LJM2 APPROVAL SHEET

This Approval Sheet should be used to approve Enron's participation in any transactions involving LJM Cayman, L.P. ("LJM1") or LJM2 Co-Investment, L.P. ("LJM2"). LJM1 and LJM2 will collectively be referred to as "LJM". This Approval Sheet is in addition to (not in lieu of) any other Enron approvals that may be required.

GENERAL

Deal name: EECC Blue Dog Turbine Purchase

Date Approval Sheet completed: as of 05/12/00

Enron person completing this form: Gehle/Marlow/Kelly

Expected closing date: 05/12/00

Business Unit: Enron Engineering & Construction

Business Unit Originator: Fred Kelly

This transaction relates to ☐LJM1 and/or ☒LJM2.

This transaction is ☐ a sale by Enron ☐ a purchase by Enron ☐ a co-sale with Enron ☐ a co-purchase with Enron and/or ☒ other: An option agreement to purchase turbines.

Person(s) negotiating for Enron: Fred Kelly

Person(s) negotiating for LJM: Michael Hinds

Legal counsel for Enron: David Bargainer

Legal counsel for LJM: Mike Edsall, Amy Harvey

DEAL DESCRIPTION

LJM2 will enter into a Letter of Agreement with General Electric Company to acquire the rights to purchase two PG7121EA Gas Turbine Generator Sets. LJM2 will appoint EECC as its Agent to negotiate the Purchase Agreement and EECC will enter an Option Agreement with LJM2 to acquire LJM2's rights to purchase the two Gas Turbine Generator Sets.

In consideration of LJM2s role in facilitating this transaction, EECC will pay LJM2 a non-refundable option payment of $846,378. In consideration for EECC acting as Agent for LJM2 in negotiating this transaction, LJM2 will pay EECC a pro-rated Agency Fee of $100,000 for each six months the Agency agreement is in effect.

In the event that EECC fails to complete negotiation of the Purchase Agreement by May 31, 2000 and the letter agreement is terminated by either party, EECC shall pay LJM2 as liquidated damages all amounts paid by LJM2 to GE under the Letter Agreement including the $2,000,000 initial payment. EECC will also reimburse LJM2 for the amount of the Agency fee payable by LJM2, and for all transaction costs incurred by LJM2 as a result of such failure. The Purchase Agreement is substantially complete, however, and it is definitely expected that it will be executed by May 31, 2000.

EECC will have the option to acquire the turbines until November 10, 2000. It is anticipated that by that date EECC will identify a profitable power project opportunity within Enron or with a third party in which to utilize the turbines and will exercise its option to purchase the turbines from LJM2, although there is no obligation for EECC to exercise such option.

ECONOMICS

This transaction will require EECC to pay the above-mentioned amounts to LJM2. Additionally, if EECC elects to exercise its option, it will acquire LJM2's rights to acquire the turbines, for the then Fair Market Value of the turbines.

This transaction will allow EECC to potentially secure these turbines off balance sheet until it is clear on which project opportunity and under which structure they will be employed.

DASH

Please reference the approved DASH dated 04/14/00 and the approved Amendment dated 04/28/00. Please note that the LJM2 option premium and the commitment fee, combined, is higher than $200,000 anticipated in the original DASH. Please also note the liquidated damages that will apply in the event EECC is unable to complete the negotiation of a Purchase Agreement by May 31,2000.

ISSUES CHECKLIST

1. **Sale Options**

C:\My Documents\LJM Approval sheet2.doc

AF100201

"FOIA CONFIDENTIAL TREATMENT REQUESTED BY ANDREW FASTOW"

LJM APPROVAL SHEET
Page 2

a. If this transaction is a sale of an asset by Enron, which of the following options were considered and rejected:

☐Condor ☐JEDI II ☐Third Party ☐Direct Sale. Please explain: this transaction involves the purchase of an asset (the option).

b. Will this transaction be the most beneficial alternative to Enron? ☑Yes ☐No. If no, please explain:____________.

c. Were any other bids/offers received in connection with this transaction? ☐Yes ☑No. Please explain: in view of time constraints LJM2 is considered the most expeditious vehicle for this transaction. Enron accounting and finance staff agree that the terms of the agreements with LJM2 are fair and at market for LJM2's role in this transaction.

2. Prior Obligations

a. Does this transaction involve a Qualified Investment (as defined in the JEDI II partnership agreement)? ☐Yes ☑No. If yes, please explain how this issue was resolved: ____________.

b. Was this transaction required to be offered to any other Enron affiliate or other party pursuant to a contractual or other obligation? ☐Yes ☑No. If yes, please explain: ____________.

3. Terms of Transaction

a. What are the benefits (financial and otherwise) to Enron in this transaction? ☐Cash flow ☐Earnings

☑Other: Since there is not a specific identified use for the turbines at this time, this transaction will provide accounting flexibility and will avoid the need to carry the transaction on Enron's balance sheet

b. Was this transaction done strictly on an arm's-length basis? ☑Yes ☐No. If no, please explain:____________.

c. Was Enron advised by any third party that this transaction was not fair, from a financial perspective, to Enron? ☐Yes ☑No. If yes, please explain:____________.

d. Are all LJM expenses and out-of-pocket costs (including legal fees) being paid by LJM? ☐Yes ☑No. If no, is this market standard or has the economic impact of paying any expenses and out-of-pocket costs been considered when responding to items 1.b. and 3.b. above? ☑Yes ☐No.

Compliance

a. Will this transaction require disclosure as a Certain Transaction in Enron's proxy statement? ☑Yes ☐No.

b. Will this transaction result in any compensation (as defined by the proxy rules) being paid to any Enron employee? ☐Yes ☑No.

c. Have all Enron employees' involvement in this transaction on behalf of LJM been waived by Enron's Office of the Chairman in accordance with Enron's Conduct of Business Affairs Policy? ☑Yes ☐No. If no, please explain: ____________.

d. Was this transaction reviewed and approved by Enron's Chief Accounting Officer? ☑Yes ☐No.

e. Was this transaction reviewed and approved by Enron's Chief Risk Officer? ☑Yes ☐No.

f. Has the Audit Committee of the Enron Corp. Board of Directors reviewed all Enron/LJM transactions within the past twelve months? ☐Yes ☑No. (The Audit Committee has not held a meeting since LJM2's formation.) Have all recommendations of the Audit Committee relating to Enron/LJM transactions been taken into account in this transaction? ☐Yes ☐No.

AF100202

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"FOIA CONFIDENTIAL TREATMENT REQUESTED BY ANDREW FASTOW"

LJM APPROVAL SHEET
Page 3

PROVALS	Name	Signature	Date
Business Unit	Fred Kelly/Larry Izzo	[illegible]	22 May 00
Business Unit Legal	John Schwartzenburg	[illegible]	22 May 00
Enron Corp. Legal	Rex Rogers	[illegible]	5·24·00
Global Finance Legal	Scott Sefton	Scott Sefton	5·23·00
RAC	Rick Buy RBB	Richard B. Buy [illegible]	5/25/00
Accounting	Rick Causey	Richard A. Causey	5/26/00
Executive	Jeff Skilling		

verbal from Rick Buy on 5/25/00

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AF100203

"FOIA CONFIDENTIAL TREATMENT REQUESTED BY ANDREW FASTOW"

DEAL NAME: Pluto
Originated: Enron North America
Expected Closing Date: 12/29/99
Expected Funding Date: 12/29/99

Date Completed: December 29, 1999
Investment Analyst: Chris Loehr
Investment Type: Debt and Equity

APPROVAL AMOUNT REQUESTED
Capital Commitment $ 26.3 MM

DEAL DESCRIPTION
Purchase $23,174,400 face value of MEGS, L.L.C. ("MEGS") debt from ENA, which based on market prices and required liquidity premiums, has a value of $25,570,569.78 and will yield 9.9%. Purchase 90% of the equity in MEGS from ENA for $743,040 which is expected to yield 25%. MEGS is a special purpose entity that purchased an offshore gathering system from Mariner Energy and Burlington Resources and is entitled to contractual cashflows under a gathering agreement with the same.

TRANSACTION SUMMARY
On Dec. 28, 1999, LJM will purchase from Enron North America $23.2 million face value of MEGS debt and 90% of MEGS equity for total consideration of $26,313,609.78.

CASH FLOW SUMMARY
LJM is entitled to the 14.15% monthly coupon on the debt. Equity is expected to receive a 25% return paid monthly. Both the debt and equity investments amortize monthly by the amount that contractual cashflows exceed return on capital.

RETURN SUMMARY
LJM's investment, if held to maturity, would yield a blended return of 10.28%.

EXIT STRATEGY
- LJM has entered into a marketing agreement with ENA, whereby ENA agrees to use its reasonable best efforts to market the equity on LJM's behalf.
- ENA will have a 90 day exclusivity period during which any gain on sale that exceeds LJM's targeted 25% return on investment will be split 90% to ENA and 10% to LJM.
- Exclusivity period ends 90 days from signing of contracts. At that point any gain on sale that exceeds LJM's targeted 25% return on investment will be split 75% to ENA and 25% to LJM.
- It is expected a resale of the equity will take place within two months.
- ENA has agreed to bear syndication risk on the debt. It is expected that the debt will be monetized in a Merlin-like vehicle which will purchase the debt to yield LJM a 25% annualized return in the first half of 2000.

RISKS AND MITIGANTS

Risk	Mitigant
Credit risk	Mariner and Burlington are the counterparties to the gathering agreement which stipulates contractual cashflows for each party, regardless of actual volumes shipped (ship or pay contract). Burlington credit risk is mitigated its A- credit rating and the guarantee provided to MEGS by Burlington. Mariner credit risk is mitigated by above market pricing on the Mariner tranche of debt.
Reserve risk	The contractual cashflows in the gathering agreement are predicated on natural gas volumes expected over the life of the Burlington/Mariner well. Should the reserves be substantially less than projected, the gathering agreement may become uneconomic for the counterparties.
Operating risk	Mariner, as operator, is responsible for all operating expenses and maintenance related to the gathering system. ENA will act as Managing Member and will be responsible for all other operations.

AF100261

"FOIA CONFIDENTIAL TREATMENT REQUESTED BY ANDREW FASTOW"

APPROVALS	Name	Signature	Date
GEM Lead	Cheryl Lipshutz		2/10/00
Business Unit Originator	~~Brian Redmond~~ Randy Maffett		2/10/00
Business Unit Legal	~~Joel Ephross~~ Scott Sefton	S. Sefton	2/10/00

AF100262

"FOIA CONFIDENTIAL TREATMENT REQUESTED BY ANDREW FASTOW"

LJM APPROVAL SHEET

This Approval Sheet should be used to approve Enron's participation in any transactions involving LJM Cayman, L.P. ("LJM1") or L" ") Co-Investment L.P. ("LJM2"). LJM1 and LJM2 will collectively be referred to as "LJM". This Approval Sheet is in addition t (in lieu of) any other Enron approvals that may be required.

GENERAL

Deal name: Nowa Sarzyna

Date Approval Sheet completed: December 17, 1999

Enron person completing this form: Nicole Alvino

Expected closing date: December 20, 1999

Business Unit: Enron Europe

Business Unit Originator: Anne Edgley

This transaction relates to ☐LJM1 and/or ☒LJM2.

This transaction is ☒a sale by Enron ☐a purchase by Enron ☐a co-sale with Enron ☐a co-purchase with Enron and/or ☐other: ______________.

Person(s) negotiating for Enron: Anne Edgley, Maroun Abboudy, Cheryl Lipshutz, Trushar Patel

Person(s) negotiating for LJM: Michael Kopper

Legal counsel for Enron: Freshfields, London – Julian Makin

Legal counsel for LJM: Kirkland &Ellis, Los Angeles – Eva Davis

DEAL DESCRIPTION [Insert short description of the transaction involving/between Enron and LJM; do not describe the underlying asset or transaction.]

LJ"" will purchase 75% of the Nowa Sarzyna power project from Enron Europe.

ECONOMICS [Insert short description of the Enron economics of the transaction involving/between Enron and LJM; do not describe the economics of the underlying asset or transaction.]

LJM2 will purchase 75% of Enron's economic interests in Enron Poland Investments B.V. for $30 MM. LJM2 is entitled to 75% of the cash flow in the form of dividends and shareholder loans.

DASH [Attach the DASH relating to the underlying asset or transaction. Insert brief update on the DASH if the underlying asset or transaction has changed materially since the original DASH was completed.]

Attached

AF100151

"FOIA CONFIDENTIAL TREATMENT REQUESTED BY ANDREW FASTOW"

LJM APPROVAL SHEET
Page 2

ISSUES CHECKLIST

1. Sale Options

   a. If this transaction is a sale of an asset by Enron, which of the following options were considered and rejected:

   ☐Condor ☒Margaux ☐Enserco ☐Rawhide ☐JEDI I ☐JEDI II ☐Chewco ☒Third Party ☐Direct Sale. Please explain: Third party could not transact quickly enough.

   b. Will this transaction be the most beneficial alternative to Enron? ☒Yes ☐No. If no, please explain: ____________.

   c. Were any other bids/offers received in connection with this transaction? ☐Yes ☒No. Please explain: The short time frame to transaction execution, and the need for certainty of closure drove the decision not to seek other bids.

2. Prior Obligations

   a. Does this transaction involve a Qualified Investment (as defined in the JEDI II partnership agreement)? ☐Yes☒No. If yes, please explain how this issue was resolved: ____________.

   b. Was this transaction required to be offered to any other Enron affiliate or other party pursuant to a contractual or other obligation? ☐Yes ☒No. If yes, please explain: ____________.

3. Terms of Transaction

   a. What are the benefits (financial and otherwise) to Enron in this transaction? ☐Cash flow ☒Earnings ☐Other: ____________.

   b. Was this transaction done strictly on an arm's-length basis? ☒Yes ☐No. If no, please explain: ____________.

   c. Was Enron advised by any third party that this transaction was not fair, from a financial perspective, to Enron? ☐Yes ☒No. If yes, please explain: ____________.

   d. Are all LJM expenses and out-of-pocket costs (including legal fees) being paid by LJM? ☐Yes ☒No. If no, is this market standard or has the economic impact of paying any expenses and out-of-pocket costs been considered when responding to items 1.b. and 3.b. above? ☒Yes ☐No. (market standard)

4. Compliance

   a. Will this transaction require disclosure as a Certain Transaction in Enron's proxy statement? ☒Yes ☐No.

   b. Will this transaction result in any compensation (as defined by the proxy rules) being paid to any Enron employee? ☐Yes ☒No.

   c. Have all Enron employees' involvement in this transaction on behalf of LJM been waived by Enron's Office of the Chairman in accordance with Enron's Conduct of Business Affairs Policy? ☒Yes ☐No. If no, please explain: ____________.

   d. Has the Audit Committee of the Enron Corp. Board of Directors reviewed all Enron/LJM transactions within the past twelve months? ☐Yes ☒No. Have all recommendations of the Audit Committee relating to Enron/LJM transactions been taken into account in this transaction? ☐Yes ☐No.

APPROVALS	Name	Signature	Date
Business Unit	John Sherriff		
Business Unit Legal	Mark Evans		
Enron Corp. Legal	Rex Rogers	[signature]	12/20/99
Global Finance Legal	Scott Sefton	S. Sefton	12/20/99
RAC	Rick Buy	R. B.	12 20 99
Accounting	Rick Causey		
Executive	Jeff Skilling		

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"FOIA CONFIDENTIAL TREATMENT REQUESTED BY ANDREW FASTOW"

LJM APPROVAL SHEET
Page 2

ISSUES CHECKLIST

1. **Sale Options**
   a. If this transaction is a sale of an asset by Enron, which of the following options were considered and rejected:
   ☐Condor ☒Margaux ☐Enserco ☐Rawhide ☐JEDI I ☐JEDI II ☐Osprey ☒Third Party ☐Direct Sale. Please explain: Third party could not transact quickly enough.
   b. Will this transaction be the most beneficial alternative to Enron? ☒Yes ☐No. If no, please explain ____________
   c. Were any other bids/offers received in connection with this transaction? ☐Yes ☒No. Please explain. The short time frame to transaction execution, and the need for certainty of closure drove the decision not to seek other bids
2. **Prior Obligations**
   a. Does this transaction involve a Qualified Investment (as defined in the JEDI II partnership agreement)? ☐Yes ☒No. If yes, please explain how this issue was resolved: ____________
   b. Was this transaction required to be offered to any other Enron affiliate or other party pursuant to a contractual or other obligation? ☐Yes ☒No. If yes, please explain: ____________
3. **Terms of Transaction**
   a. What are the benefits (financial and otherwise) to Enron in this transaction? ☐Cash flow ☒Earnings ☐Other: ____________
   b. Was this transaction done strictly on an arm's length basis? ☒Yes ☐No. If no, please explain: ____________
   c. Was Enron advised by any third party that this transaction was not fair, from a financial perspective, to Enron? ☐Yes ☒No. If yes, please explain: ____________
   d. Are all LJM expenses and out-of-pocket costs (including legal fees) being paid by LJM? ☐Yes ☒No. If no, is this market standard or has the economic impact of paying any expenses and out-of-pocket costs been considered when responding to items 1.b. and 3.b. above? ☒Yes ☐No. (market standard)
4. **Compliance**
   a. Will this transaction require disclosure as a Certain Transaction in Enron's proxy statement? ☒Yes ☐No.
   b. Will this transaction result in any compensation (as defined by the proxy rules) being paid to any Enron employee? ☐Yes ☒No.
   c. Have all Enron employees' involvement in this transaction on behalf of LJM been waived by Enron's Office of the Chairman in accordance with Enron's Conduct of Business Affairs Policy? ☒Yes ☐No. If no, please explain. ____________
   d. Has the Audit Committee of the Enron Corp. Board of Directors reviewed all Enron/LJM transactions within the past twelve months? ☐Yes ☒No. Have all recommendations of the Audit Committee relating to Enron/LJM transactions been taken into account in this transaction? ☐Yes ☐No.

APPROVALS	Name	Signature	Date
Business Unit	John Sherriff		
Business Unit Legal	Mark Evans		
Enron Corp. Legal	Rex Rogers	[signature]	12/20/99
Global Finance Legal	Scott Sefton	[signature]	12/20/99
RAC	Rick Buy	[signature]	12/20/99
Accounting	Rick Causey	[signature]	12/20/99
Executive	Jeff Skilling		

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"FOIA CONFIDENTIAL TREATMENT REQUESTED BY ANDREW FASTOW"

LJM APPROVAL SHEET
Page 2

ISSUES CHECKLIST

1. Sale Options

   a. If this transaction is a sale of an asset by Enron, which of the following options were considered and rejected:

   ☐Condor ☒Margaux ☐Enserco ☐Rawhide ☐JEDI I ☐JEDI II ☐Chewco ☒Third Party ☐Direct Sale. Please explain: Third party could not transact quickly enough.

   b. Will this transaction be the most beneficial alternative to Enron? ☒Yes ☐No. If no, please explain: ______

   c. Were any other bids/offers received in connection with this transaction? ☐Yes ☒No. Please explain: The short time frame to transaction execution, and the need for certainty of closure drove the decision not to seek other bids

2. Prior Obligations

   a. Does this transaction involve a Qualified Investment (as defined in the JEDI II partnership agreement)? ☐Yes ☒No. If yes, please explain how this issue was resolved ______

   b. Was this transaction required to be offered to any other Enron affiliate or other party pursuant to a contractual or other obligation? ☐Yes ☒No. If yes, please explain: ______

3. Terms of Transaction

   a. What are the benefits (financial and otherwise) to Enron in this transaction? ☐Cash flow ☒Earnings ☐Other: ______

   b. Was this transaction done strictly on an arm's-length basis? ☒Yes ☐No. If no, please explain: ______.

   c. Was Enron advised by any third party that this transaction was not fair, from a financial perspective, to Enron? ☐Yes ☒No. If yes, please explain: ______.

   d. Are all LJM expenses and out-of-pocket costs (including legal fees) being paid by LJM? ☐Yes ☒No. If no, is this market standard or has the economic impact of paying any expenses and out-of-pocket costs been considered when responding to items 1 b. and 3.b. above? ☒Yes ☐No. (market standard)

4. Compliance

   a. Will this transaction require disclosure as a Certain Transaction in Enron's proxy statement? ☒Yes ☐No.

   b. Will this transaction result in any compensation (as defined by the proxy rules) being paid to any Enron employee? ☐Yes ☒No.

   c. Have all Enron employees' involvement in this transaction on behalf of LJM been waived by Enron's Office of the Chairman in accordance with Enron's Conduct of Business Affairs Policy? ☒Yes ☐No. If no, please explain: ______.

   d. Has the Audit Committee of the Enron Corp. Board of Directors reviewed all Enron/LJM transactions within the past twelve months? ☐Yes ☒No. Have all recommendations of the Audit Committee relating to Enron/LJM transactions been taken into account in this transaction? ☐Yes ☐No. ANNUAL REVIEW NOT YET TAKEN PLACE.

APPROVALS	Name	Signature	Date
Business Unit	John Sherriff	[illegible]	21/12/99
Business Unit Legal	Mark Evans	[illegible]	21/12/99.
Enron Corp. Legal	Rex Rogers	[illegible]	12/20/99
Global Finance Legal	Scott Sefton	S. Sefton	12/20/99
RAC	Rick Buy	R. Buy	12/20/99
Accounting	Rick Causey		
Executive	Jeff Skilling		

AF100154

DEAL NAME: Poland
Originated: Enron Europe
Expected Closing Date: December 20, 1999
Expected Funding Date: December 21, 1999

Date Completed: December 17, 1999
Investment Analysts: Trushar Patel, Nicole Alvino
Investment Type: Equity

EXPECTED MAXIMUM COMITTMENT OF LJM2

	Capital Commitment	$ 30 MM	
Poland Discount Rate Components: *(Used by Underwriting Group)*			
US Risk Free Rate (2yr)	5.81%	**Sovereign Rating**	**BBB-/Baa3**
Country Premium (Pol' 04)	2.00%		
Equity Premium (Underwriting)	5.69%		
Discount Rate	**13.5%**		

DEAL DESCRIPTION

Purchase of indirect 75% equity interest in the Nowa Sarzyna Facility ("ENS") located in southeastern Poland, a gas-fired heat and power station with a generating capacity of 116 MW and thermal generating capacity of 70 MW. The Facility is located within the chemical complex of Organika (state owned chemical producer).

Power Sales:
Electric power will be sold to the Polish Grid Company (state owned owner and operator of Poland's transmission grid and principal purchaser and wholesale supplier of electricity in Poland) under a 20 year Power Delivery Agreement ("PDA"). The price of energy and capacity is expressed in zlotys but indexed to the US dollar every 6 months for the previous six months.

Fuel Supply:
The Polish Oil and Gas Company (a state owned integrated monopoly that controls the entire natural gas sector in Poland) will supply natural gas to ENS under a 20 year Fuel Supply Agreement. The fixed and variable price of fuel is passed through the power and steam sales agreements. ENS will not bear the risk of fuel price fluctuation as energy prices in the PDA and fuel costs in the Fuel Supply Agreement are indexed using the same indices.

Steam Sales:
ENS has agreed to sell low and high pressure steam to Organika (state owned chemical company) under a 20 year steam sales agreement. This agreement represents approximately 90% of the Facility's total thermal output. ENS is also negotiating to sell the remaining 10% of thermal energy to the City of Nowa Sarzyna for residential heating purposes.

TRANSACTION SUMMARY

Enron Europe Limited, through a 100%-owned affiliate, Nowa Sarzyna Holding BV, owns 100% of the Nowa Sarzyna Facility. LJM2 will purchase 75% of Enron's economic ownership interests and 75% voting interests(relating to dividend and share issuance matters only) through a purchase of 75% of Enron Poland Investments BV.

CASH FLOW SUMMARY

With its 75% ownership of the economic interest in Enron Poland Investments BV, LJM2 is entitled to 75% of the cash flows in the form of dividends and/or shareholder loans.

RETURN SUMMARY

Given the underlying assumptions of the Enron Europe Nowa Sarzyna model, LJM2 will pay $30 MM for 75% of EPI. LJM2 is taking on full equity risk with no Enron guarantees, and has used a discount rate of 14.255% in valuing this investment. LJM2 assumes they can sell the asset to a strategic buyer by 3/31/00 at the model discount rate of 13.5%

EXIT STRATEGY

Enron Europe commits to make reasonable and best efforts to launch Project Margaux, a securitization of Enron Europe assets. If Margaux is launched, Margaux will make an offer to buy the asset to be included in the Margaux asset pool. If Margaux is not launched by 3/31/00, EEL will make reasonable and best efforts to sell LJM2's equity interests to a "qualified" third party buyer.

AF100155

RISKS AND MITIGANTS

Risk	Description	Mitigation/Comments
Plant Completion Risk	Risk that project is not completed on time.	Builder's all risk insurance and delay in start-up insurance at the project level, ENS, of which LJM2 owns 75%.
Operator Risk	Risk that Operator will not operate and maintain the plant to meet contractual capacity and availability requirements.	The project company has contracted with an affiliate of Enron Corp., EE&CC to construct, operate and maintain the facility. Proven GE frame 6B turbines will be used.
Fuel Supply/Price Risk	Supply reliability and low volatility of fuel prices is critical to the plant performing to contractual requirements.	The state gas & oil company will be fuel supplier under a 20yr agreement. The fixed and variable components of the fuel cost will be passed through to the energy price in the PPA.
Offtaker Credit Risk	Risk that the offtaker will not be able to honor their obligations to pay for capacity and power delivered under the PPA.	The offtaker will be the Polish Grid Company (state owned power company), which solicited tenders for this project to satisfy the need to replace older coal fired plants (65% of their generation is over 25 years old).
Regulatory Risk	As part of the new energy laws in Poland - the supply, transmission and distribution sectors may be privatized. The Polish Grid Company has the right to assign the PPA to a private entity.	The PPA also stipulates that any assignee assumes all obligations under the PPA, is capable and qualified to perform and its obligations under the PPA are guaranteed by the Polish Grid Company or an entity of comparable creditworthiness to the Polish Grid Company. The Polish Grid Company cannot assign the PPA without prior written consent from ENS.
Environmental/Permitting Risks	Risk that the required permits are not obtained to proceed with commercial operations.	All permits have been obtained.
Inflation Risk	Risk of value being eroded due to inflation.	Contracts are structured to escalate with inflation indexes.
Currency Risk	Payments are to be made in Zlotys.	Zloty payments are indexed to the US dollar and adjustments are made every six months for the previous six-month period.
Political Risk	Country specific events that may degrade anticipated revenues and returns from the project.	LJM2 will be provided with an insurance policy underwritten by Enron, with payment guaranteed by Enron which will mirror the sovereign risk policy in place for the project at present.

AF100156

APPROVALS

Name	Signature	Date
John Sherriff		21-12-99
Anne Edgeir Edgley	Anne J. Edgley	21.12.99
Mark Evans		21.12.99
Cheryl Lipshutz		12-20-99

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Enron Directors Backed Moving Debt Off Books

By KATHLEEN DAY
and PETER BEHR
Washington Post Staff Writers

Members of Enron Corp.'s board of directors received detailed briefings as early as four years ago about the purpose and structure of controversial partnerships whose losses triggered the company's fall into bankruptcy, according to minutes of the meetings.

The minutes, which cover four board meetings in 1997 and 1999 and three meetings of the board's finance committee in 2000, suggest that board members approved aggressive accounting actions, including moving debt off the company books.

A dozen congressional committees as well as the Justice Department and the Securities and Exchange Commission are investigating Enron's collapse, which cost investors and employees billions of dollars. A focus of the inquiries is whether Enron hid debt and inflated its profits by using the private partnerships run by its chief financial officer.

In other Enron-related news yesterday, the General Accounting Office announced that it would sue the White House for access to records of Vice President Cheney's meetings with Enron and other industry interests that sought to influence the administration's energy policy last year. And Stephen Cooper, the interim head of Enron, said he was optimistic the company could survive, though in

See ENRON, A5, Col. 1

■ **GAO to sue Cheney for energy records.** | *Page A4*

■ **Credit-rating agencies face new scrutiny.** | *Page E1*

Enron Directors Aware of Deals for Years

ENRON, *From A1*

a much diminished form.

Individual Enron board members, who themselves are being sued and investigated, have said little publicly about their role in the transactions that toppled the company. The minutes, made available to The Washington Post by a source critical of the board, suggest that the partnerships were a key part of Enron's growth strategy and show they were regularly reviewed by the directors.

The copies of the minutes do not cover every board meeting and do not include documents that are referred to as being attached to the summaries of the board's actions.

When it was reported last fall that Andrew Fastow, the Enron CFO, made $30 million running partnerships with names such as LJM, Raptor and JEDI, then-chairman Kenneth L. Lay announced that the board was setting up a special committee to investigate. The minutes show that members of that special committee attended board meetings in which Fastow described the intricacy of the entities.

Sources said the committee's report, which is expected to be completed as early as tomorrow, will say that while the Enron board approved the partnerships, management and auditors withheld key information from them. That is expected to be the key element of the defense that will be offered by Lay and board member William C. Powers Jr. when they testify before Congress on Monday, sources said. Last night, Robert Bennett, a Washington lawyer representing Enron, gave every indication that would be the case.

"While the board of directors, including Mr. Lay, were aware that these special partnership entities were being set up, which were being run by Mr. Fastow, there is a great deal of information regarding their operation and execution that was unknown to the board of directors," Bennett said.

At an Oct. 11, 1999, board meeting, Fastow discussed the company's mix of "on-balance and off-balance sheet debt," according to the minutes. At another meeting on May 1, 2000, Fastow told board members about the risk of "accounting scrutiny" on the Raptor partnership.

A board resolution in October 1999 said one purpose of the LJM2 partnership was to create "a potential ready purchaser of the company's businesses and assets." A chart labeled "LJM2 Update," attached to the agenda for a May 2000 finance committee meeting, said the partnership had made seven investments, all purchased from Enron.

Enron has disclosed that the board waived the company's conflict-of-interest rules to let Fastow oversee the partnerships.

The board's special committee hired William R. McLucas, former head of enforcement at the SEC, to do the investigation and write a report for the committee. The report is expected to be released before Lay, who resigned last week, and board member Powers, who is also dean of the University of Texas law school, testify before Congress on Monday.

Until now, Congress has focused on the role Enron's outside auditor, Arthur Andersen, played in the company's collapse and the reported destruction by Andersen executives of Enron-related documents. Monday's hearings are expected to zero in on the behavior of Enron officials, including the board.

The outside directors are expected, as part of their defense, to push the focus back on Andersen, sources say. They will point, for example, to portions of board minutes that say Andersen "had spent considerable time analyzing . . . the governance structure" of one of the partnerships, LJM2, and "was comfortable with the proposed transaction."

Minutes from October 1999 and October 2000 say the board ordered several safeguards be implemented to maintain control of the partnerships. One was allowing Lay or the board to remove Fastow from one partnership, LJM, at any time. Another was directing then-Enron chief executive Jeffrey K. Skilling and others to review all transactions between Enron and LJM. And Skilling was to review Fastow's "economic interest" in the partnership.

Bennett said, "We have learned that many of the procedures that were put into place to ensure the appropriate operation of these entities were not complied with, without the knowledge of the board."

Patrick McGurn of Institutional Shareholder Services Inc. of Rockville, which advises large shareholders on corporate-governance issues, said last night that the minutes seem to provide more evidence that board members were fully informed of the company's aggressive financial strategies.

"If that's not the case, the directors better start talking and start talking now. Every step along the way it seems this board had the opportunity to say no to the partnerships, to the waiver of the ethics code, and each time they had an opportunity to take the right fork in the road, they took the wrong fork."

The Oct. 12, 1999, minutes show that outside director Herbert Winokur—now a member of the board's special investigating committee—recommended that the board approve Fastow's participation in the LJM2 partnership.

McGurn said, "The first principle of an investigation is that the people who presumably might be held responsible at the end of the day can't investigate themselves."

The other two members of the special committee—Powers and Raymond S. Troubh, a New York consultant—had no involvement with the company when the formation of the off-balance-sheet entities took place, sources close to the company said.

W. Neil Eggleston, an attorney for the outside directors of the board, said Winokur has no conflict of interest in serving on that special committee, despite his role in approving the partnership deals. "It was important for the special committee to render its report quickly and Mr. Winokur's participation provided continuity and speed to the special committee's efforts," Eggleston said.

The board minutes show that as early as Dec. 9, 1997, Enron's executive committee approved a buyout—that included a corporate guarantee of $633 million—of the interest of the California public employees pension fund in the JEDI partnership.

At an Aug. 7, 2000, meeting of the finance committee, chaired by Winokur, the off-balance-sheet partnerships are described as "the vehicles the company was utilizing to manage its balance sheet debt." Directors Wendy Gramm and Lay were among other board members that also attended the meeting.

At a special board meeting on June 28, 1999, Lay called on Skilling to discuss a proposed investment partnership. "Mr. Skilling noted that due to changes in the accounting treatment of off-balance-sheet transactions, the company had been analyzing new types of financing vehicles. He called on Mr. Fastow to discuss the proposal."

Skilling resigned suddenly in August. Fastow was ousted in October.

The LJM partnerships were specifically cited by the company last fall when it admitted violating some accounting standards, resulting in a $586 million overstatement of its profits between 1997 and 2001.

The excerpts that became available yesterday give no hint that board members had questions or qualms about the accounting maneuvers, with the exception of Fastow's dual role as Enron's chief financial officer and LJM's manager.

Staff writers David Hilzenrath, Albert B. Crenshaw and Carrie Johnson contributed to this report. Peter Behr reported from Houston.

■ **New CEO says he believes a smaller Enron can survive.** | *Page E3*

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Andy —

Here is my analysis of the distributions/purchase of Chewco's Interest in Jedi. I am showing you the numbers Jeff M gave you and I gave to you and will tell you any differences exist. I'll assume Buyout #s are correct per our conversation today.

	Eric #s		Actual #s
Buyout # Per Docs	69,901 (21mm)		69,901 (21mm)

CHEWCO DISTRIBUTIONS TO DATE:

	Eric #s		Actual #s
1. To Fill Reserves			
a. Debt Reserve	$6,580,000		$6,580,000
b. Yield Reserve	5,248,807		5,248,807
c. Working Capital Reserve	5,755,326		5,755,326
2. Investment Income			
a. On Debt Reserve	709,406		— 0 — *
b. On Yield Reserve	108,102		42,777 **
c. On Working Capital Reserve	227,503	w/c	113,400 ***
3. Other Distributions a. Year end 1999	17,500,000	17,700,000	17,700,000 ~~15,000,000~~ ****
b. Fee for Amend	400,000		400,000
Total	36,529,144		~~33,140,310~~ 35,840,310

* Jeff has assumed 5% interest for 2.25 yrs on $6,580,000 balance. This money was held in a collateral account by BZW and did not bear any interest. Both Bill and Ben Glisan knew this at closing.

** Jeff has assumed 5% interest for 2.25 yrs on total balance. These reserves did not fill up until 1st Qtr 99 (w/2nd Restructure). And BZW Only Paid 1.8% interest p.a.

*** I have no idea what the assumption for working capital reserve is. There was a $1.25mm balance from Nov '98 → Nov '99, and the remainder was filled at Year end '99 from proceeds of distribution (asterisk ****) and a draw on Chewco Revolver. Therefore, interest is (at 4%).
[1,250,000 x .04 = 50,000] + 3,755,000 x .04 (2/12) ≠
or .0333 x 5,755,000 x .04 (2/12) ≐ 38,366.67

**** While the distribution to Chewco at year end — 2 —
was $17,500,000, $2,500,000 of that amount was
used to fill the working capital reserve to its $5,755,326
level. I believe, and you can check with Shirley in case I'm
wrong, that the numbers Jeff got double counted this amount

Andy - Also note that Jeff's analysis assumes that all cash was
a distribution to Chewco. The reserves were partially filled up
by draws on the Chewco Revolver not through Partnership Distributions
(This is relevant because it impacts the initial $49mm number)

	Ene #s	Actual
		33,140,310
Cash "Distributions" to Chewco	36,529,144	
$ Needed to Pay BZW Principal	<11,364,862>	<11,364,862>
$ to Pay BZW Interest	<1,527,637>	± 2 mo <1,995,501> @ (L+250)
	23,636,645	19,779,947
		<10,500,000>

From here, I don't know what the proposal is you'd like
to put forward. In both cases $15,000,000 of the remaining
cash, whether 23,636,645 or 19,779,947, has been used
to purchase the Osprey Certificates. So if you net that out
residual cash is either $8,636,645 or $4,779,947 depending
on whose #s we use

Presumably, Chewco could either:

① Sign a note for the difference between the #s above, so the note would be either $13,136,645 or less $10.5mm (so the note would be either the $9,279,947) repayable thru the proceeds of the Payout on the Osprey Notes (I could pay a Libor plus cash interest on it) OR,

② Pay $4,779,947 upon closing and sign a note payable in the same manner as #1 above for the difference

either 13,136,645
<4,779,947>
8,356,698

or 9,279,947
<4,779,947>
4,500,000

E 72941

In all these scenarios my assumption -s- is that Ene's purchase for $10.5mm means that they/Jedi assumes the remainder of the Chewco Revolver (~$36mm) to pay out from the liquidation of portfolio assets. FYI, Jedi currently has $20+ mm of cash of which $15MM (at least) is freely distributable to the Partners. If we had distributed this 50% would go to Chewco and it could reduce its revolver by a minimum $7.5MM.