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ONE HUNDRED SEVENTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

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February 28, 2002

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Mr. Jeffrey Skilling
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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.

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

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."

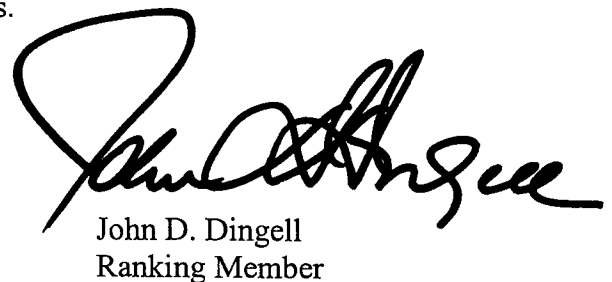
Your responses – all of which focused on rates of return – did not specifically answer the questions posed to you at the hearing, which were whether there were any agreements or understandings, written or otherwise, that would protect the LJM partnership or Mr. Fastow from the loss of their investments 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.

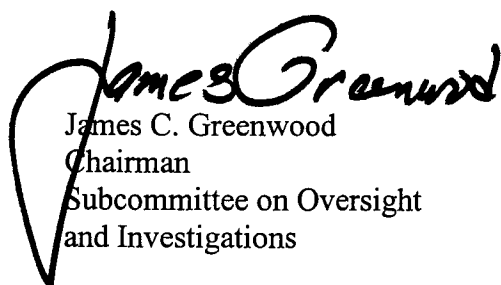
If you have any questions, please contact Mark Paoletta, Chief Counsel for Oversight and Investigations, at (202) 225-2927, or Edith Holleman, Minority Counsel, at (202) 226-3400.

Thank you for your prompt attention to these matters.


W.J. "Billy" Tauzin
Chairman

Sincerely,


John D. Dingell
Ranking Member


James C. Greenwood
Chairman
Subcommittee on Oversight
and Investigations


Peter Deutsch
Ranking Member
Subcommittee on Oversight
and Investigations

Attachments