

Mark K. Schonfeld (MS-2798)
Regional Director
Attorney for Plaintiff
Securities and Exchange Commission
Northeast Regional Office
3 World Financial Center
New York, New York 10281-1022

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
: SECURITIES AND EXCHANGE COMMISSION, :
: : COMPLAINT
: Plaintiff, :
: :
: - against- : 05 Civ. _____
: :
: DELOITTE & TOUCHE LLP, :
: :
: Defendant. :
: :
-----X

Plaintiff Securities and Exchange Commission (the “Commission”) alleges as follows:

SUMMARY

1. This case involves the conduct of Deloitte & Touche LLP (“Deloitte”) in connection with its audit of the financial statements of Adelpia Communications Corporation (“Adelpia”) for the year ended December 31, 2000 (the “Relevant Period”). The conduct at issue is described in detail in the Commission’s Order Instituting Public Administrative Proceedings Pursuant to Rule 102(e) of the Commission’s Rules of Practice, Making Findings, and Imposing Remedial Sanctions, issued on or about April 26, 2005.

2. During the Relevant Period, Adelphia committed massive fraud resulting in the issuance of a Form 10-K for the year-ended December 31, 2000 (the “2000 Form 10-K”) containing significant material misstatements. Among other things, Adelphia understated its subsidiary debt by \$1.6 billion, overstated equity by at least \$368 million, improperly netted related party receivables and payables between Adelphia and related parties, and failed to disclose the extent of related party transactions.

3. Deloitte failed to: (a) implement audit procedures in accordance with generally accepted auditing standards (“GAAS”) designed to provide reasonable assurance of detecting the illegal acts at Adelphia, acts that had a material effect on the determination of financial statement amounts; and (b) implement audit procedures in accordance with GAAS designed to identify material related party transactions or related party transactions otherwise requiring disclosure.

4. By virtue of the conduct alleged in this Complaint, Deloitte violated Section 10A(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. § 78j-1(a).

5. By this action, the Commission seeks the entry of a Final Judgment ordering Deloitte to pay disgorgement and civil penalties pursuant to Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3).

JURISDICTION AND VENUE

6. This Court has jurisdiction over this matter pursuant to Sections 21(d)(3)(A) and 27 of the Exchange Act, 15 U.S.C. §§ 78u(d)(3)(A) and 78aa. Venue is proper in this District because Deloitte is headquartered in the Southern District of New York.

DEFENDANT

7. Deloitte & Touche LLP is a Delaware limited liability partnership that is headquartered in New York City. As of October 22, 2003, Deloitte has been registered with the Public Company Accounting Oversight Board, pursuant to Section 102 of the Sarbanes Oxley Act of 2002, to prepare and issue audit reports on U.S. public companies. Deloitte served as the independent auditor for Adelphia from at least 1986, the year when Adelphia's securities became publicly traded, until May 14, 2002, when Deloitte suspended its work on the 2000 audit, citing, among other concerns, that Adelphia's books and records had been falsified. Starting in 1993, and until the audit was suspended in 2002, Deloitte serviced the Adelphia account through its Pittsburgh, Pennsylvania office (the "Pittsburgh Office"). Adelphia was one of the Pittsburgh Office's largest clients. In addition, Adelphia was deemed by the Pittsburgh Office to have "much greater than normal audit risk."

OTHER RELEVANT ENTITIES AND INDIVIDUALS

8. Adelphia Communications Corporation, a Delaware corporation that was headquartered in Coudersport, Pennsylvania, is the sixth largest cable television operator in the United States and, through numerous consolidated subsidiaries, provides cable television and local telephone service to customers in twenty-nine states and Puerto Rico. Prior to June 3, 2002, Adelphia's Class A shares were listed on NASDAQ's National Market, while the Company's Class B shares were never publicly traded. Citing public interest concerns and Adelphia's failure to comply with NASDAQ Rule 431(c)(14), which requires an issuer, among other things, to timely file its Form 10-K, a NASDAQ Listing Qualifications Panel de-listed Adelphia stock, effective June 3, 2002. Adelphia

shares are now quoted by Pink Sheets, LLC. On July 24, 2002, the Commission filed SEC v. Adelphia Communications Corporation, et al., 02 Civ. 5776 (S.D.N.Y.) (PKC), alleging that Adelphia and six senior officers, including four members of the Rigas family, had engaged, between at least 1998 and March 2002, in widespread financial fraud and reporting violations. That action is pending. Since June 25, 2002, Adelphia and its subsidiaries have operated under the protection of Chapter 11 of the U.S. Bankruptcy code.

9. The Rigases include John Rigas (J. Rigas), his sons, Timothy J. Rigas (“T. Rigas”), Michael J. Rigas (“M. Rigas”) and James P. Rigas (“J.P. Rigas”), his daughter, Ellen Rigas Venetis (“E. Rigas”) and his spouse, Doris Nielsen Rigas (“D. Rigas”). At all relevant times, J. Rigas and members of his immediate family held five of Adelphia’s nine Board of Director positions, and exercised voting control of Adelphia stock. Specifically, J. Rigas was Adelphia’s Chief Executive Officer and Chairman of its Board of Directors. T. Rigas, M. Rigas, and J.P. Rigas each were directors of Adelphia and held the positions, respectively, of Chief Financial and Accounting Officer, Executive Vice President for Operations, and Executive Vice President for Strategic Planning. J. Rigas and T. Rigas were found guilty, in U.S. v. John J. Rigas, et al., 02 Crim. 1236 (S.D.N.Y.)(LBS), of a total of 18 counts of securities fraud, bank fraud and conspiracy to commit securities fraud, bank fraud, and making or causing to be made false statements in Commission filings.

10. Rigas Entities consist of approximately 63 various partnerships, corporations, or limited liability companies exclusively owned or controlled by members of the Rigases. While approximately fourteen of the Rigas Entities were engaged in the

ownership and operation of cable television systems and other related ventures (the “Rigas Cable Entities”), the balance, or approximately forty-nine of the Rigas Entities, were involved in businesses completely unrelated to cable television (the “Rigas Non-Cable Entities”), including, but not limited to, Christmas tree farming, interior design, furniture retailing, honey cultivation and sales, ownership of a National Hockey League team franchise, venture capital, residential and commercial landscaping, and film production by E. Rigas. Adelphia managed and maintained virtually every aspect of the Rigas Cable Entities, including maintaining their books and records on a general ledger system shared with Adelphia and its subsidiaries. Adelphia and the Rigas Entities participated jointly in a cash management system (“CMS”) operated by Adelphia. This resulted in the commingling of funds among the Adelphia CMS participants, including Adelphia subsidiaries and Rigas Entities. As detailed below, the sharing by Adelphia and the Rigas Entities of the same management, general ledger system, and cash management system greatly facilitated the fraud at Adelphia.

11. The Co-Borrowing Credit Facilities: Since at least 1996, Adelphia negotiated and established various commercial loans, credit facilities, and other credit arrangements for its benefit and the benefit of the Rigas Cable Entities. Among these credit facilities were four facilities, dated respectively, March 29, 1996, May 6, 1999, April 14, 2000, and September 28, 2001, in which certain subsidiaries of Adelphia became co-borrowers with certain Rigas Cable Entities (hereafter, the “Rigas Co-Borrowers”). Under the terms of these credit facilities (the “Co-Borrowing Credit Facilities”) the co-borrowers under each Facility constituted a “borrowing group” for that Facility and, as a group, prepared and submitted annually to the lending banks audited

combined financial statements, including a balance sheet and income statement. From December 31, 1996 through at least December 31, 2000, Deloitte audited the annual financial statements of each borrowing group and, in each instance, issued an unqualified audit opinion on those financial statements. Also, under the terms of the Co-Borrowing Credit Facilities, each co-borrower had the ability to borrow up to the entire amount of the available credit under the applicable Facility, and, was jointly and severally liable for the entire outstanding balance under that Facility.

FACTS

Adelphia's Exclusion of \$1.6 Billion in Debt From its Balance Sheet

12. Under the terms of the Co-Borrowing Credit Facilities, Adelphia and the Rigas Co-Borrowers each contributed various assets as collateral for the extension of credit. While Rigas Co-Borrowers contributed approximately 66% of the total collateral underlying the 1996 Co-Borrowing Credit Facility, in 1999 to 2001, the Rigas Co-Borrowers contributed significantly less collateral – 19% in 1999 and 4% in both 2000 and 2001. The balance of the collateral was contributed by Adelphia subsidiaries. During the Relevant Period, Deloitte audited the annual financial statements of each borrowing group and in each instance issued an unqualified audit opinion on those financial statements. As of December 31, 2000, the total borrowing capacity under the three Co-Borrowing Credit Facilities then in existence was \$3.751 billion.

13. As of December 31, 2000, the Co-Borrowing Credit Facilities were completely drawn-down. Of the \$3.751 billion outstanding, Adelphia improperly excluded approximately \$1.6 billion of Co-Borrowing debt from its balance sheet for year-ended 2000. Moreover, Adelphia's 2000 Form 10-K included a footnote disclosure

that suggested that all of the debt for which Adelphia was liable, including the \$1.6 billion owed by the Rigas Co-Borrowers, was properly reflected on Adelphia's balance sheet. This amount represented over 28% of Adelphia's reported bank debt and nearly 10% of Adelphia's reported total liabilities.

14. Adelphia's exclusion of \$1.6 billion in debt from its balance sheet had a direct and material effect on Adelphia's financial statement in its 2000 Form 10-K.

15. In its audit of Adelphia's 2000 Form 10-K, Deloitte failed to include, in accordance with GAAS, procedures designed to provide reasonable assurance of detecting Adelphia's improper exclusion of \$1.6 billion in debt from its balance sheet.

Adelphia's Improper Netting of Related Party Payables and Receivables

16. During the Relevant Period, Adelphia was required by Regulation S-X paragraphs 210.5-02.3 and 210.5.02.19 to report related party receivables and payables as gross numbers on its balance sheet included in its 2000 Form 10-K.

17. In violation of this requirement, Adelphia improperly netted, or offset, related party payables and related party receivables as of year-end, and presented only that net balance on its balance sheet in a line item called, "Related-party Receivables—Net." By presenting the net balance, rather than the gross balance on its balance sheet, Adelphia was able to reflect a mere \$3 million net receivable on its 2000 Form 10-K. This practice of netting did not conform to generally accepted accounting principles, obscured the extent and magnitude of Rigas self-dealing, and assisted Adelphia in creating the appearance of de-leveraging.

18. As of year-ended December 31, 2000, Adelphia had gross related party receivables of \$1.3513 billion and gross related party payables of \$1.348 billion, much

more relevant numbers than the net \$3 million receivable Adelphia reflected on its balance sheet. Accordingly, Adelphia's improper netting of related party payables and receivables had a direct and material effect on Adelphia's financial statement in its 2000 Form 10-K.

19. In its audit of Adelphia's 2000 Form 10-K, Deloitte failed to include, in accordance with GAAS, procedures designed to provide reasonable assurance of detecting Adelphia's improper netting of related party payables and receivables.

20. In its audit of Adelphia's 2000 Form 10-K, Deloitte failed to include, in accordance with GAAS, procedures designed to identify related party transactions that were material to Adelphia's financial statements or otherwise required disclosure.

Adelphia's Overstatement of its Stockholders' Equity

21. On January 24, 2000, a Rigas Entity acquired \$368 million of Adelphia Class B shares, and purportedly paid for the shares with immediately available funds. In fact the Rigas Entity paid nothing and Adelphia booked an affiliate receivable from that entity for the purchase price of the shares. This receivable was never satisfied for cash but, along with other affiliate receivables, was netted against and reduced by fake affiliate payables. This resulted in Adelphia's overstatement of its stockholders' equity by \$368 million, thereby falsely improving Adelphia's overall financial picture.

22. Adelphia's overstatement of its stockholders' equity by \$368 million had a direct and material effect on Adelphia's financial statement in its 2000 Form 10-K.

23. In its audit of Adelphia's 2000 Form 10-K, Deloitte failed to include, in accordance with GAAS, procedures designed to provide reasonable assurance of detecting Adelphia's overstatement of its stockholders' equity.

CLAIM FOR RELIEF

DELOITTE VIOLATED SECTION 10A(a) OF THE EXCHANGE ACT

24. Paragraphs 1 through 23 are realleged and incorporated herein by reference.

25. Section 10A(a) of the Exchange Act requires a registered public accounting firm performing an audit required pursuant to the Exchange Act of the financial statements of an issuer to include, in accordance with GAAS, among other things, “procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts;” and “procedures designed to identify related party transactions that are material to the financial statements or otherwise require disclosure therein.”

26. Deloitte violated Section 10A(a) by: (a) failing to implement audit procedures in accordance with GAAS designed to provide reasonable assurance of detecting the illegal acts at Adelphia that had a direct and material effect on the determination of financial statement amounts in Adelphia’s 2000 Form 10-K; and (b) failing to implement audit procedures in accordance with GAAS designed to identify material related party transactions or related party transactions otherwise requiring disclosure in Adelphia’s 2000 Form 10-K.

RELIEF SOUGHT

WHEREFORE, plaintiff Commission respectfully requests that this Court enter a Final Judgment:

1. directing Deloitte to disgorge its ill-gotten gains obtained from its conduct, plus prejudgment interest thereon;
2. requiring Deloitte to pay a civil penalty pursuant to Section 21(d)(3) of the Exchange Act;
3. granting such other and further relief as the Court may deem just and proper; and
4. retaining jurisdiction of this action in order to implement and carry out the terms of any Orders which may be entered herein.

Dated: New York, NY
April 26, 2005

MARK K. SCHONFELD (MS-2798)
Regional Director

Attorney for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
Northeast Regional Office
3 World Financial Center
New York, New York 10281-1022
(212) 336-1020

Of counsel:

Helene T. Glotzer
Alistaire Bambach
Meaghan S. Cheung
Panayiota K. Bougiamas