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UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

United States District Court Southern District of Texas Fil Fil

APR 29 2003

Michael N. Milby, Clerk

UNITED STATES OF AMERICA

v.

KENNETH RICE, JOSEPH HIRKO, KEVIN HANNON, KEVIN HOWARD, SCOTT YEAGER, REX SHELBY, and MICHAEL KRAUTZ

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Cr. No. H-03-93-01

Violations: 15 U.S.C. §§ 78j(b) and 78ff, 17 C.F.R. § 240.10b-5 (Securities Fraud); 18 U.S.C. §§ 1001 (False Statements); 1343 (Wire Fraud); 371 (Conspiracy); 2 (Aiding and Abetting); 1957 (Money Laundering); 981 and 982 (Asset Forfeiture); 28 U.S.C. § 2461 (Asset Forfeiture).

SUPERSEDING INDICTMENT

The Grand Jury charges:

INTRODUCTION

1. At all times relevant to this Superseding Indictment, Enron Corp. ("Enron") was a publicly-traded Oregon corporation with its headquarters in Houston, Texas. Among other businesses, Enron was engaged in the purchase and sale of natural gas, construction and ownership of pipelines and power facilities, provision of telecommunication services, and trading in contracts to buy and sell various commodities. Before it filed for bankruptcy on December 2, 2001, Enron was the seventh largest corporation in the United States.

2. Enron was a publicly traded company whose shares were listed on the New York Stock Exchange. As a public company, Enron was required to comply with regulations of the United States Securities and Exchange Commission ("SEC"). Those regulations protect members of the investing public by, among other things, ensuring that a company's financial information is accurately recorded and disclosed to the public.

TRUE COPY I CERTIFY ATTEST: MICHAEL N. MILBY, CLERK By Deputy Clerk

3. Prior to 1997, Enron was not involved in the telecommunications business. On July 1, 1997, Enron acquired a public utility, Portland General Corporation, based in Portland, Oregon. As part of that acquisition, Enron acquired Portland General's telecommunications division, FirstPoint Communications, Inc. ("FirstPoint"). In 1998, Enron changed the name of FirstPoint to Enron Communications, Inc. ("ECI") and expanded the business. In approximately January 2000, ECI was renamed Enron Broadband Services (ECI and EBS will collectively be referred to herein as "EBS"). At all times relevant to this Indictment, EBS was a wholly-owned subsidiary of Enron engaged in the telecommunications business.

The Defendants

4. Defendant KENNETH RICE is a resident of Houston, Texas. RICE was Chairman and Chief Executive Officer ("CEO") of EBS from approximately July 16, 1999 to approximately July 13, 2001. RICE shared CEO responsibilities with JOSEPH HIRKO from approximately July 16, 1999 to July 28, 2000.

5. Defendant JOSEPH HIRKO is a resident of Portland, Oregon. HIRKO was President and CEO of EBS from approximately July 1, 1998 to July 28, 2000. HIRKO shared CEO responsibilities with KENNETH RICE from approximately July 16, 1999 to July 28, 2000.

6. Defendant KEVIN HANNON is a resident of Houston, Texas. HANNON was Chief Operating Officer ("COO") of EBS from approximately January 27, 2000 to June 2001.

7. Defendant KEVIN HOWARD is a resident of Houston, Texas. HOWARD was Vice President of Finance at EBS from approximately August 1, 1999 to September 2001.

8. Defendant SCOTT YEAGER is a resident of Sugarland, Texas. YEAGER became Senior Vice President of Strategic Development at EBS on approximately October 1,

1998. His employment at EBS was terminated on approximately August 1, 2001.

9. Defendant REX SHELBY is a resident of Houston, Texas. SHELBY became Senior Vice President of Engineering Operations at EBS on approximately December 9, 1998. His employment at EBS was terminated on approximately November 15, 2001.

10. Defendant MICHAEL KRAUTZ is a resident of Houston, Texas. KRAUTZ was Senior Director of Transactional Accounting at ECI/EBS from approximately August 16, 1999 to October 3, 2001.

THE SCHEMES TO DEFRAUD

Summary of the Schemes

11. From at least April 1999 until May 14, 2001, defendants KENNETH RICE, JOSEPH HIRKO, KEVIN HANNON, KEVIN HOWARD, SCOTT YEAGER, REX SHELBY, and MICHAEL KRAUTZ, together with others, engaged in conduct and made false and misleading statements and omitted material information from statements made, all of which were designed to and did deceive the investing public and others about the technological capabilities, value, revenue and business performance of EBS. The defendants executed this scheme by, among other means: (i) causing Enron to issue materially false and misleading press releases; (ii) making and causing others to make materially false and misleading statements to equity analysts and others; (iii) using fraudulent means to generate revenue so that EBS could appear to reach publicly declared financial targets; and (iv) failing to disclose material adverse information about EBS's poor business performance. During this same time period, defendants RICE, HIRKO, HANNON, YEAGER, and SHELBY sold large quantities of Enron stock, generating millions of dollars in profits for themselves.

Proposal to Build the Enron Intelligent Network

12. In late 1998, defendant SCOTT YEAGER proposed that Enron build an advanced, software-driven "intelligent" telecommunications network. Defendant JOSEPH HIRKO backed this proposal. To implement this plan, EBS acquired Modulus, a small software company run by, among others, defendant REX SHELBY. SHELBY was tasked with turning Modulus' messaging software, called InterAgent, into complex "intelligent" network control software capable of running a nationwide telecommunications network with advanced features, such as automated billing and user-defined and controlled quality of service.

False Statements: Press Releases

13. On April 19, 1999, defendants HIRKO, YEAGER and SHELBY issued and caused to be issued the first of many materially false and misleading press releases. The press release announced that the Enron Intelligent Network was tested, "lit," or operational, and ready to deliver two products, a media streaming product and a media transport product. The press release stated that a software control layer powered by InterAgent was embedded on Enron's network and the networks of Enron's distribution partners. The press release stated that the InterAgent software provided built-in "intelligence" that allowed Enron to route data efficiently and reliably and provide usage-based metering and billing, bandwidth scheduling, and user-defined quality of service, or "QOS," to the desktop. All of these claims were false and misleading. Among other false claims, only a small part of the network was lit, the two media products were not functional, and the claimed network control software did not exist.

14. During the remainder of 1999, defendants RICE, HIRKO, YEAGER and SHELBY issued and caused to be issued numerous additional press releases containing false claims about

the Enron network similar to those set forth in paragraph 13 above. At various times during 1999 and early 2000, numerous EBS executives and employees told RICE, HIRKO, YEAGER and SHELBY that, among other things, the Enron network was not intelligent and Enron's press releases and marketing materials were false and misleading. Despite these warnings, and other negative information about EBS, RICE, HIRKO, YEAGER and SHELBY failed to correct past false statements and continued to issue new false statements.

15. In the summer of 1999, Enron announced that EBS would become a "core" Enron business and a major part of Enron's overall business strategy. In early November 1999, Enron senior management, HIRKO and RICE decided to make EBS the centerpiece of Enron's annual presentation to equity analysts, scheduled for January 20, 2000.

The January 20, 2000 Analyst Conference

16. Between late October 1999 and January 2000, defendants RICE, HIRKO, YEAGER, SHELBY, HOWARD and others attended meetings and participated in conference calls to prepare a PowerPoint and video presentation about EBS for Enron's upcoming analyst conference. In these meetings, RICE, YEAGER, HIRKO, SHELBY and others decided to rename Enron's network software, which was still in very early planning stages, the "Broadband Operating System," or "BOS." Early drafts of the PowerPoint presentation clearly stated that the BOS and related network control software was under development and would not be deployed and operational until a future date. During December 1999 and January 2000, these "forward-looking" statements were progressively deleted from the PowerPoint presentation.

17. On January 20, 2000, Enron made EBS the major focus of its annual equity analyst conference in Houston, Texas. During the presentation, which defendant YEAGER also attended,

defendants RICE, HIRKO, SHELBY and others made numerous false and misleading statements about EBS's fiber network, proprietary software and technical capabilities. Among other things, HIRKO, SHELBY and others claimed that EBS possessed advanced network control software that made Enron superior to its competitors by allowing Enron to control quality of service all the way to the customer's desktop and to bill customers solely for the amount of bandwidth capacity they actually used rather than at a flat billing rate. As part of this effort, SHELBY made a video presentation about the BOS in which he claimed that the BOS software was built and controlling the network, providing quality of service control and other features. These claims, along with other statements made by RICE, HIRKO, SHELBY and others during the presentation, were false and misleading. As RICE, HIRKO, SHELBY and YEAGER knew, Enron did not have any proprietary network control or BOS software on its commercial network, Enron's network did not possess most of the advanced capabilities claimed during the presentation, the only portion of the BOS project actually in existence was in development in a software lab, and most of the software specifications that would be required before the BOS software could be written and deployed had not yet been defined.

18. The Enron presentation was received favorably by analysts and investors. On January 20, 2000, the day of the presentation, the share price of Enron stock increased from approximately \$54 to \$67. The following day, the stock rose above \$72.

Continued False Statements

19. Following the analyst conference, between approximately January 31, 2000 and July 19, 2000, defendants RICE, HIRKO, YEAGER, SHELBY and others continued to cause the issuance of materially false and misleading press releases. These press releases falsely stated that

intelligent software or an intelligent operating system, typically referred to by name as the BOS, was embedded on the Enron network and provided quality of service control and other features. In fact, the BOS remained in the specification drafting phase, Enron had no proprietary control software deployed on its network, and Enron had no software that could control quality of service.

The Blockbuster Agreement

20. On April 5, 2000, EBS signed a 20-year exclusive agreement with Blockbuster Inc. ("Blockbuster"), the nation's largest video rental company, to stream movies to customers' homes. Under the agreement, Blockbuster was responsible for obtaining digital rights to film content from studios and other sources. EBS was responsible for encoding the movies and streaming them over its telecommunications network to customers' homes. This business was known as "video on demand," or "VOD," because the customers were supposed to be able to access and watch movies in their homes whenever they wanted. To obtain this contract, EBS employees misled Blockbuster employees about the capabilities of the Enron network and software. Enron announced the deal on July 19, 2000, issuing a press release that was false and misleading in numerous respects.

21. The VOD service never got beyond the testing stage, as EBS never developed a cost-effective way to stream movies to customers' homes, and Blockbuster and EBS never obtained sufficient quantities of premium content to distribute over the system. As a result, the EBS/Blockbuster relationship never generated any significant recurring revenue for EBS.

Origins of Project Braveheart

22. Enron's Chief Operating Officer projected at the January 2000 analyst conference that EBS would lose approximately \$60 million during 2000. On October 9, 2000, defendants

RICE, HANNON, HOWARD, YEAGER and others were informed that EBS - which had failed to generate any significant recurring revenues during 2000 - would lose approximately \$118 million in the fourth quarter of 2000 alone. As a result, RICE, HANNON, HOWARD and YEAGER knew that absent a large infusion of revenue before year end, EBS would miss its previously announced target by a wide margin.

23. In approximately fall of 2000, defendant HOWARD ordered Enron employees who reported to him to examine the Blockbuster agreement to see if there was any way Enron could derive accelerated earnings for the fourth quarter of 2000. The structured finance transaction that resulted was known at EBS by the code name "Project Braveheart" and was designed to allow EBS to "monetize" the Blockbuster agreement. The monetization first involved calculating the net present value of the VOD business, based upon estimated future earnings from the VOD business, and then creating a joint venture that would allow EBS to sell those future earnings to a third party as a financial asset. EBS would then recognize the gain from this sale as revenue immediately at the time of the monetization, rather than gradually over the life of the agreement. Though EBS initially planned to recognize a small amount of the proceeds as revenue in 2000, HANNON and HOWARD ordered that the size of the transaction be increased over the course of the fourth quarter of 2000, as defendants HANNON, HOWARD and others learned that EBS would miss its earnings target by an increasing amount.

Structure of the Braveheart Transaction

24. In order to complete the Braveheart transaction, EBS created a joint venture with two investors: nCube, a small VOD technology company based in Beaverton, Oregon, and "Thunderbird," an investment vehicle owned by an Enron-controlled investment fund called

"Whitewing." nCube and Thunderbird purportedly combined to contribute 3% of the equity of the joint venture, which was called EBS Content Systems LLC. The joint venture was purposely "deconsolidated" from Enron's books so that the results of its operations were not reflected on Enron's financial statements. EBS assigned the Blockbuster contract to the joint venture. EBS then sold a portion of its interest in the joint venture for approximately \$115 million to an investment structure called "Hawaii 125-0," which previously had been created and funded by the Canadian Imperial Bank of Commerce ("CIBC"). Enron recognized approximately \$111 million of the \$115 million it received from CIBC as revenue in the fourth quarter of 2000 and the first quarter of 2001.

Accounting Requirements for the Braveheart Transaction

25. Under relevant accounting rules, Enron could recognize earnings from the Braveheart transaction only if, among other things, three basic accounting requirements were met: (i) EBS did not control the joint venture; (ii) nCube and Thunderbird made at-risk equity investments in the joint venture, and these investments remained at risk for the duration of the joint venture; and (iii) the Hawaii 125-0 trust's capital structure included at least a 3% at-risk equity investment. Defendants HOWARD and KRAUTZ were aware of and understood these requirements. If these requirements were not met, the proceeds Enron received from CIBC should have been reported as debt, not revenue.

Violation of Accounting Requirements

26. Defendants HOWARD, KRAUTZ and others intentionally violated these accounting requirements in order to complete the transaction and record \$111 million in revenue for Enron. Among other things, HOWARD, KRAUTZ, and others (i) selected nCube as a joint

venture partner because they knew that nCube would and did allow EBS to control the joint venture; (ii) promised nCube that it could sell its interest in the joint venture to EBS or an EBS designee in early 2001 and would receive at that time its investment plus a fixed return; and (iii) "sold" an interest in the joint venture to CIBC even though HOWARD and others knew that Enron had promised CIBC that it would not lose money on its Hawaii 125-0 transactions.

27. Defendants HOWARD, KRAUTZ and others also intentionally deceived Arthur Andersen accountants working on the transaction by failing to disclose, among other things, that the Braveheart transaction deliberately had been structured in a way that violated applicable accounting requirements. As HOWARD and KRAUTZ knew, had all of the facts about the transaction been disclosed, Enron would not have been able to report any of the \$111 million in revenue.

Impact of the Braveheart Transaction

28. In the fourth quarter of 2000, \$53 million of EBS's reported \$63 million in revenue came from Braveheart, while in the first quarter of 2001, \$58 million of EBS's \$85 million in reported revenue was from the transaction. On January 22, 2001, Enron's Chief Operating Officer announced to equity analysts on a conference call that EBS had met its \$60 million loss target. Absent the fraudulent Braveheart revenues, EBS would have missed its publicly stated target for the year 2000 by more than \$50 million. Enron reported the revenue from the Braveheart transaction on its publicly filed SEC form 10-K for 2000 and SEC form 10-Q for the first quarter of 2001.

The January 25, 2001 Analyst Conference

29. Between approximately October 2000 and January 22, 2001, defendants RICE and

HANNON were repeatedly informed that EBS was performing very poorly, EBS had made little commercial progress during 2000, EBS's network should be sold, and EBS had an unsupportable cost structure. This information was provided by senior executives, independent business consultants, and in weekly management summaries setting forth EBS's projected losses. On January 22, 2001, RICE and HANNON were informed that every business unit at EBS was losing money and that EBS currently estimated that it would lose more than \$149 million in the first quarter of 2001.

30. In December 2000, defendants RICE and HANNON were informed that Blockbuster was threatening to terminate the EBS-Blockbuster VOD agreement because, among other things, EBS had failed to meet its contractual commitment to sign distribution agreements with each regional Bell operating company by December 2000. In order to prevent termination, which would threaten the Braveheart transaction, EBS negotiated an extension with Blockbuster in which both parties agreed not to terminate the agreement before March 2001. The agreement was subsequently terminated in March 2001.

31. In January 2000, defendants RICE and HANNON held a series of meetings to plan the EBS presentation for Enron's upcoming annual equity analyst conference, scheduled for January 25, 2001. During these meetings, RICE and HANNON, among other things, reviewed estimates of EBS's value. During one meeting, RICE and HANNON reviewed a model showing the value of EBS's content distribution business as \$8 billion, a sharp decline from the \$18 billion estimate presented at the 2000 analyst conference. After RICE stated that he would not allow EBS to present a number lower than the prior year, the number was inflated to \$21 billion.

32. On January 25, 2001, defendants RICE and HANNON made a presentation about

EBS at Enron's annual equity analyst conference. In the EBS presentation, RICE stated, among other things, that EBS's strategy was right on target; EBS's content delivery business had an outstanding year; Blockbuster was EBS's "anchor tenant" with a 20-year deal; EBS had a commercially viable and scalable broadband delivery platform; the BOS was up and running and controlling Enron's network; EBS was ahead of where it expected to be in January 2000; and EBS, which Enron claimed was worth an estimated \$30 billion in January 2000, was now, after deducting costs, worth \$36 billion, with \$21 billion of that figure derived from content services. These statements and others were false and misleading. RICE and HANNON did not disclose that EBS was performing worse than expected, that every business unit at EBS but one was losing more money than expected, that EBS did not have a cost effective or scalable broadband delivery platform, that the BOS was still under development, that the Blockbuster deal was in danger of cancellation and had been extended only through March 2001, or that, even though EBS had yet to receive any significant revenue from the Blockbuster deal, it already had sold the majority of the revenue from the Blockbuster contract through the Braveheart transaction. RICE also stated that EBS would lose \$65 million in 2001, even though he had been provided three days earlier with EBS's own internal estimate of far greater losses.

The Defendants' Stock Trading

33. Defendants RICE, HIRKO, HANNON, YEAGER and SHELBY received shares of Enron stock as part of their compensation. At a time when they and others at Enron were making materially false and misleading public statements about EBS, the defendants sold large quantities of Enron stock, generating huge profits. Specifically, between January 20, 2000 and July 12, 2001, RICE sold \$53,087,529.44 worth of Enron stock. Between January 20, 2000 and July 28,

2000, HIRKO sold \$35,167,761.41 worth of Enron stock. On December 26, 2000, HANNON sold \$7,852,750.60 in Enron stock. Between January 20, 2000 and August 23, 2000, YEAGER sold \$54,660,686.46 in Enron stock. Between January 20, 2000 and July 19, 2000, SHELBY sold \$35,230,923.89 worth of Enron stock.

COUNT ONE
(Conspiracy to Commit Wire and Securities Fraud)

34. The allegations of paragraphs 1 through 33 are realleged as if fully set forth here.
35. In or about and between at least April 19, 1999 and May 14, 2001, both dates being approximate and inclusive, within the Southern District of Texas and elsewhere, the defendants KENNETH RICE, JOSEPH HIRKO, KEVIN HANNON, KEVIN HOWARD, SCOTT YEAGER, REX SHELBY and MICHAEL KRAUTZ, together with others, did knowingly and intentionally conspire (1) willfully and unlawfully to use and employ manipulative and deceptive devices and contrivances and directly and indirectly (i) to employ devices, schemes and artifices to defraud; (ii) to make untrue statements of material fact and omit to state facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (iii) to engage in acts, practices, and courses of conduct which would and did operate as a fraud and deceit upon members of the investing public, in connection with the purchase and sale of Enron stock and by the use of the instruments of communication in interstate commerce and the mails, in violation of Title 15, United States Code, Section 78j(b), 78ff and Rule 10b-5 of the SEC, Title 17, Code of Federal Regulations, Section 240.10b-5, and (2) to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, and, for the purpose of executing

such scheme and artifice, to cause interstate wire communications in violation of Title 18, United States Code, Section 1343.

OVERT ACTS

36. In furtherance of the conspiracy and to effect the objects thereof, within the Southern District of Texas and elsewhere, the defendants KENNETH RICE, JOSEPH HIRKO, KEVIN HANNON, KEVIN HOWARD, SCOTT YEAGER, REX SHELBY, MICHAEL KRAUTZ, and others, did commit and cause to be committed the following overt acts, among others:

False Press Releases - 1999

- a. On or about April 19, 1999, HIRKO, YEAGER, SHELBY and others issued and caused to be issued a press release regarding the Enron Intelligent Network.
- b. On or about April 19, 1999, HIRKO, YEAGER, SHELBY and others issued and caused to be issued a press release regarding Media Cast.
- c. On or about May 11, 1999, HIRKO, YEAGER, SHELBY and others issued and caused to be issued a press release regarding a fiber lease agreement.
- d. On or about May 20, 1999, HIRKO, YEAGER, SHELBY and others issued and caused to be issued a press release regarding a global bandwidth commodity market.
- e. On or about September 23, 1999, RICE, HIRKO, YEAGER, SHELBY and others issued and caused to be issued a press release regarding the Country Music Awards webcast.
- f. On or about October 26, 1999, RICE, HIRKO, YEAGER, SHELBY and others issued and caused to be issued a press release regarding new ISP partners.

The 2000 Analyst Conference

- g. In or about and between November 1999 and January 2000, both dates being

approximate and inclusive, RICE, HIRKO, HOWARD, YEAGER, SHELBY and others attended meetings and participated in conference calls to plan the scheduled January 20, 2000 analyst conference.

h. On or about November 9, 1999, RICE instructed business consultants that RICE, HIRKO and SHELBY would be responsible for planning the upcoming January 2000 equity analyst conference.

i. On or about January 20, 2000, RICE, HIRKO, SHELBY and others made false statements about EBS at Enron's equity analyst conference.

False Press Releases – 2000

j. On or about January 31, 2000, RICE, HIRKO, HANNON, YEAGER, SHELBY and others issued and caused to be issued a press release regarding Sycamore Networks.

k. On or about March 8, 2000, RICE, HIRKO, HANNON, YEAGER, SHELBY and others issued and caused to be issued a press release regarding i2.

l. On or about March 30, 2000, RICE, HIRKO, HANNON, YEAGER, SHELBY and others issued and caused to be issued a press release regarding VOD Network Solutions.

m. On or about April 11, 2000, RICE, HIRKO, HANNON, YEAGER, SHELBY and others issued and caused to be issued a press release regarding AtomFilms.

n. On or about May 15, 2000, RICE, HIRKO, HANNON, YEAGER, SHELBY and others issued and caused to be issued a press release regarding Warpspeed.

o. On or about June 29, 2000, RICE, HIRKO, HANNON, YEAGER, SHELBY and others issued and caused to be issued a press release regarding Wimbledon.

p. On or about July 19, 2000, RICE, HIRKO, HANNON, YEAGER, SHELBY and

others issued and caused to be issued a press release regarding Blockbuster.

The 2001 Analyst Conference

q. In or about January 2001, RICE, HANNON and others attended meetings to plan the scheduled January 25, 2001 analyst conference.

r. On or about January 25, 2001, RICE, HANNON and others made false statements about EBS to equity analysts at Enron's equity analyst conference in Houston, Texas.

Project Braveheart

s. In or about early fall 2000, HOWARD ordered EBS employees to examine the Blockbuster agreement to see if Enron could use it to generate revenue in the fourth quarter of 2000.

t. On or about September 19, 2000, KRAUTZ sent an e-mail message to EBS employees regarding the Blockbuster agreement and the proposed monetization.

u. On or about October 10, 2000, HOWARD sent an e-mail message to an EBS employee discussing formation of the joint venture and the relevant accounting requirements.

v. On or about November 7, 2000, HOWARD caused an EBS employee to send an e-mail message to a representative of nCube proposing formation of the joint venture.

w. On or about November 8, 2000, HOWARD met with an nCube executive to propose formation of the joint venture.

x. On or about November 22, 2000, HOWARD and KRAUTZ participated in a telephone conversation with nCube executives to discuss the proposed joint venture.

y. On or about November 22, 2000, KRAUTZ caused an EBS employee to send to nCube a document that set forth proposed accounting journal entries.

- z. On or about November 30, 2000, HOWARD and KRAUTZ participated in a telephone conversation with nCube executives to discuss the proposed joint venture.
- aa. On or about December 13, 2000, KRAUTZ sent an e-mail message to Arthur Andersen and Enron employees describing the nature of nCube's investment in the joint venture.
- bb. On or about February 7, 2001, KRAUTZ sent an e-mail message to an EBS employee regarding possible disclosure of information to Arthur Andersen.
- cc. On or about February 16, 2001, HOWARD caused \$1.7 million to be wired from an Enron bank account in New York to an nCube account at the Bank of America in Beaverton, Oregon.
- dd. On or about March 1, 2001, KRAUTZ sent an e-mail message to an EBS employee regarding EBS's performance of duties by the joint venture.
- ee. On or about March 15, 2001, HOWARD sent an e-mail message to EBS employees congratulating them on the Braveheart transaction.
- ff. In or about April 2001, HOWARD presented an executive summary of the Braveheart transaction to senior EBS executives.

(Title 18, United States Code, Sections 371 and 3551 et seq.)

COUNT TWO

(Securities Fraud: January 2000 Analyst Conference)

37. The allegations of paragraphs 1 through 33 and 36(g - i) are realleged as if fully set forth here.
38. On or about January 20, 2000, within the Southern District of Texas and elsewhere, the defendants KENNETH RICE, JOSEPH HIRKO, SCOTT YEAGER and REX

SHELBY, together with others, did willfully and unlawfully use and employ manipulative and deceptive devices and contrivances and directly and indirectly (i) employ devices, schemes and artifices to defraud; (ii) make untrue statements of material facts and omit to state facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (iii) engage in acts, practices, and courses of conduct which would and did operate as a fraud and deceit upon members of the investing public, in connection with purchases and sales of Enron stock and by the use of the instruments of communication in interstate commerce and the mails.

(Title 17, Code of Federal Regulations, Section 240.10b-5; Title 15, United States Code, Sections 78j(b) and 78ff; Title 18, United States Code, Sections 2 and 3551 et seq.)

COUNTS THREE THROUGH FOURTEEN
(Wire Fraud: April 1999 to July 2000)

39. The allegations of paragraphs 1 through 33 and 36(a - f) and (j - p) are realleged as if fully set forth here.

40. On or about the dates specified below, within the Southern District of Texas and elsewhere, the defendants KENNETH RICE, JOSEPH HIRKO, SCOTT YEAGER and REX SHELBY, together with others, having devised a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, did for the purpose of executing such scheme and artifice transmit and cause to be transmitted by means of wire communication in interstate commerce writings, signs, signals, pictures and sounds, as follows:

Count	Date	From	To	Description
3	4/19/99	New York, NY	Nationwide ^{1/}	Press Release
4	5/11/99	New York, NY	Nationwide	Press Release
5	5/20/99	New York, NY	Nationwide	Press Release
6	9/23/99	New York, NY	Nationwide	Press Release
7	10/26/99	New York, NY	Nationwide	Press Release
8	1/31/00	New York, NY	Nationwide	Press Release
9	3/8/00	New York, NY	Nationwide	Press Release
10	3/30/00	New York, NY	Nationwide	Press Release
11	4/11/00	New York, NY	Nationwide	Press Release
12	5/15/00	New York, NY	Nationwide	Press Release
13	6/29/00	New York, NY	Nationwide	Press Release
14	7/19/00	New York, NY	Nationwide	Press Release

(Title 18, United States Code, Sections 1343, 2 and 3551 et seq.)

COUNT FIFTEEN

(Securities Fraud: Project Braveheart)

41. The allegations of paragraphs 1 through 33 and 36(s - ff) are realleged as if fully set forth here.

42. In or about and between fall 2000 and May 14, 2001, both dates being approximate and inclusive, within the Southern District of Texas and elsewhere, the defendants KEVIN HOWARD and MICHAEL KRAUTZ, together with others, did willfully and unlawfully use and employ manipulative and deceptive devices and contrivances and directly and indirectly (i) employ devices, schemes and artifices to defraud; (ii) make untrue statements of material facts

^{1/}Among other places, these "nationwide" press releases were disseminated to Houston, Texas.

and omit to state facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (iii) engage in acts, practices, and courses of conduct which would and did operate as a fraud and deceit upon members of the investing public, in connection with purchases and sales of Enron stock and by the use of the instruments of communication in interstate commerce and the mails.

(Title 17, Code of Federal Regulations, Section 240.10b-5; Title 15, United States Code, Sections 78j(b) and 78ff; Title 18, United States Code, Sections 2 and 3551 et seq.)

COUNTS SIXTEEN THROUGH THIRTY
(Wire Fraud: Project Braveheart)

43. The allegations of paragraphs 1 through 33 and 36(s - ff) are realleged as if fully set forth here.

44. On or about the dates specified below, within the Southern District of Texas and elsewhere, the defendants KEVIN HOWARD and MICHAEL KRAUTZ, together with others, having devised a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, did for the purpose of executing such scheme and artifice transmit and cause to be transmitted by means of wire communication in interstate commerce writings, signs, signals, pictures and sounds, as follows:

Count	Date	From	To	Description
16	11/07/00	Houston, TX	California	e-mail
17	11/17/00	Houston, TX	Oregon	e-mail
18	11/22/00	Houston, TX	Oregon	e-mail
19	11/22/00	Houston, TX	Oregon	e-mail
20	11/22/00	Houston, TX	Oregon	telephone call

21	11/30/00	Houston, TX	Oregon	telephone call
22	12/08/00	Houston, TX	Oregon	e-mail
23	12/20/00	Houston, TX	Oregon	e-mail
24	1/24/01	Oregon	Houston, TX	e-mail
25	1/26/01	Houston, TX	Oregon	e-mail
26	1/26/01	Oregon	Houston, TX	e-mail
27	2/08/01	Houston, TX	Oregon	e-mail
28	2/14/01	Houston, TX	Oregon	e-mail
29	2/16/01	Houston, TX	Oregon	e-mail
30	2/16/01	Houston, TX	Oregon	e-mail

(Title 18, United States Code, Sections 1343, 2 and 3551 et seq.)

COUNT THIRTY-ONE

(Securities Fraud: 2001 Analyst Conference)

45. The allegations of paragraphs 1 through 33 and 36(q - r) are realleged as if fully set forth here.

46. On or about January 25, 2001, within the Southern District of Texas, the defendant **KENNETH RICE**, together with others, did willfully and unlawfully use and employ manipulative and deceptive devices and contrivances and directly and indirectly (i) employ devices, schemes and artifices to defraud; (ii) make untrue statements of material facts and omit to state facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (iii) engage in acts, practices, and courses of conduct which would and did operate as a fraud and deceit upon members of the investing public, in connection with purchases and sales of Enron stock and by the use of the instruments of communication in interstate commerce and the mails.

(Title 17, Code of Federal Regulations, Section 240.10b-5; Title 15, United States Code, Sections 78j(b) and 78ff; Title 18, United States Code, Sections 2 and 3551 et seq.)

COUNTS THIRTY-TWO THROUGH FORTY-EIGHT
(Insider Trading: KENNETH RICE)

47. The allegations in paragraphs 1 through 33 are realleged as if fully set forth here.

48. On or about the dates set forth below, within the Southern District of Texas and elsewhere, the defendant KENNETH RICE knowingly and willfully used and employed manipulative and deceptive devices and contrivances, by use of means and instrumentalities of interstate commerce, in violation of Rule 10b-5 of the Rules and Regulations of the United States Securities and Exchange Commission (Title 17, Code of Federal Regulations, Section 240.10b-5), in that he engaged in acts, practices, and courses of business which would operate as a fraud and deceit upon members of the investing public in connection with the purchase or sale of securities, in violation of Title 15, United States Code, Section 78j(b) and 78ff. Specifically, while in possession of material non-public information regarding the technological capabilities, value, revenue and business performance of Enron Communications, Inc. and Enron Broadband Services, RICE sold shares of Enron stock and generated total proceeds of \$53,087,529.44 including but not limited to the following sales:

Count	Date	Shares	Sale Price	Gross Proceeds
32	2/17/00	42,400	\$ 70.3870	\$ 2,984,408.80
33	2/17/00	26,700	\$ 70.3870	\$ 1,879,332.90
34	2/17/00	49,382	\$ 70.3870	\$ 3,475,850.83
35	4/19/00	5,022	\$ 70.4940	\$ 354,020.87
36	4/19/00	9,980	\$ 70.4940	\$ 703,530.12

37	4/19/00	26,698	\$ 70.4940	\$ 1,882,048.81
38	4/19/00	58,300	\$ 70.4940	\$ 4,109,800.20
39	8/29/00	50,000	\$ 86.8473	\$ 4,342,365.00
40	8/29/00	13,920	\$ 86.8473	\$ 1,208,914.42
41	8/29/00	60,182	\$ 86.8473	\$ 5,226,644.21
42	12/13/00	100,000	\$ 76.6901	\$ 7,669,010.00
43	1/3/01	1,000	\$ 77.6250	\$ 77,625.00
44	1/3/01	1,000	\$ 77.00	\$ 77,000.00
45	1/3/01	1,500	\$ 76.00	\$ 114,000.00
46	2/14/01	136,300	\$ 80.0531	\$10,911,237.53
47	6/14/01	250	\$ 49.50	\$ 12,400.00
48	6/14/01	250	\$ 48.04	\$ 12,010.00

(Title 17, Code of Federal Regulations, Section 240.10b-5; Title 15, United States Code, Sections 78j(b) and 78ff; Title 18, United States Code, Sections 2 and 3551 et seq.)

COUNTS FORTY-NINE THROUGH FIFTY-SEVEN
(Insider Trading: JOSEPH HIRKO)

49. The allegations in paragraphs 1 through 33 are realleged as if fully set forth here.

50. On or about the dates set forth below, within the Southern District of Texas and elsewhere, the defendant JOSEPH HIRKO knowingly and willfully used and employed manipulative and deceptive devices and contrivances, by use of means and instrumentalities of interstate commerce, in violation of Rule 10b-5 of the Rules and Regulations of the United States Securities and Exchange Commission (Title 17, Code of Federal Regulations, Section 240.10b-5), in that he engaged in acts, practices, and courses of business which would operate as a fraud and deceit upon members of the investing public in connection with the purchase or sale of securities,

in violation of Title 15, United States Code, Section 78j(b) and 78ff. Specifically, while in possession of material non-public information regarding the technological capabilities, value, revenue and business performance of Enron Communications, Inc. and Enron Broadband Services, HIRKO sold shares of Enron stock as follows, generating total proceeds of \$35,167,761.41:

Count	Date	Shares	Sale Price	Gross Proceeds
49	2/18/00	761	\$ 69.3852	\$ 52,802.14
50	2/18/00	31,710	\$ 69.3852	\$ 2,200,204.69
51	2/18/00	2,741	\$ 69.3852	\$ 190,184.83
52	2/18/00	57,975	\$ 69.3852	\$ 4,022,606.97
53	4/20/00	35,212	\$ 70.6972	\$ 2,489,389.81
54	4/20/00	95,438	\$ 70.6972	\$ 6,747,199.37
55	5/11/00	35,212	\$ 78.0496	\$ 2,748,282.52
56	5/11/00	156,788	\$ 78.0496	\$12,237,240.68
57	5/12/00	58,000	\$ 77.2388	\$ 4,479,850.40

(Title 17, Code of Federal Regulations, Section 240.10b-5; Title 15, United States Code, Sections 78j(b) and 78ff; Title 18, United States Code, Sections 2 and 3551 et seq.)

COUNT FIFTY-EIGHT
(Insider Trading: KEVIN HANNON)

51. The allegations in paragraphs 1 through 33 are realleged as if fully set forth here.
52. On or about the dates set forth below, within the Southern District of Texas and elsewhere, the defendant KEVIN HANNON knowingly and willfully used and employed manipulative and deceptive devices and contrivances, by use of means and instrumentalities of interstate commerce, in violation of Rule 10b-5 of the Rules and Regulations of the United States

Securities and Exchange Commission ("SEC") (Title 17, Code of Federal Regulations, Section 240.10b-5), in that he engaged in acts, practices, and courses of business which would operate as a fraud and deceit upon members of the investing public in connection with the purchase or sale of securities, in violation of Title 15, United States Code, Section 78j(b) and 78ff. Specifically, while in possession of material non-public information regarding the technological capabilities, value, revenue and business performance of Enron Broadband Services, HANNON sold shares of Enron stock as follows:

Count	Date	Shares	Sale Price	Gross Proceeds
58	12/26/00	94,000	\$ 83.5399	\$ 7,852,750.60

(Title 17, Code of Federal Regulations, Section 240.10b-5; Title 15, United States Code, Sections 78j(b) and 78ff; Title 18, United States Code, Sections 2 and 3551 et seq.)

COUNTS FIFTY-NINE THROUGH EIGHTY
(Insider Trading: SCOTT YEAGER)

53. The allegations in paragraphs 1 through 33 are realleged as if fully set forth here.

54. On or about the dates set forth below, within the Southern District of Texas and elsewhere, the defendant SCOTT YEAGER knowingly and willfully used and employed manipulative and deceptive devices and contrivances, by use of means and instrumentalities of interstate commerce, in violation of Rule 10b-5 of the Rules and Regulations of the United States Securities and Exchange Commission (Title 17, Code of Federal Regulations, Section 240.10b-5), in that he engaged in acts, practices, and courses of business which would operate as a fraud and deceit upon members of the investing public in connection with the purchase or sale of securities, in violation of Title 15, United States Code, Section 78j(b) and 78ff. Specifically, while in

possession of material non-public information regarding the technological capabilities, value, revenue and business performance of Enron Communications, Inc. and Enron Broadband Services, YEAGER sold shares of Enron stock as follows, generating total proceeds of \$54,660,686.46:

Count	Date	Shares	Sale Price	Gross Proceeds
59	1/21/00	100,000	\$ 72.0689	\$ 7,206,890.00
60	3/22/00	25,000	\$ 75.00	\$ 1,875,000.00
61	4/12/00	10,000	\$ 73.7563	\$ 737,563.00
62	5/10/00	10,000	\$ 75.00	\$ 750,000.00
63	5/11/00	10,000	\$ 77.2650	\$ 772,650.00
64	6/8/00	10,000	\$ 72.00	\$ 720,000.00
65	6/9/00	10,000	\$ 74.00	\$ 740,000.00
66	7/24/00	50,000	\$ 74.8750	\$ 3,743,750.00
67	7/27/00	25,000	\$ 74.00	\$ 1,850,000.00
68	7/27/00	25,000	\$ 74.95	\$ 1,873,750.00
69	7/27/00	25,000	\$ 74.5315	\$ 1,863,287.50
70	7/27/00	50,000	\$ 75.8215	\$ 3,791,075.00
71	7/27/00	50,000	\$ 76.9669	\$ 3,848,345.00
72	7/27/00	4,100	\$ 75.6870	\$ 310,316.70
73	7/27/00	900	\$ 75.75	\$ 68,175.00
74	8/2/00	50,000	\$ 77.8875	\$ 3,894,375.00
75	8/7/00	80,500	\$ 79.8633	\$ 6,428,995.65
76	8/8/00	69,500	\$ 81.0598	\$ 5,633,656.10
77	8/14/00	25,000	\$ 83.00	\$ 2,075,000.00
78	8/16/00	25,000	\$ 84.0018	\$ 2,100,045.00
79	8/17/00	25,000	\$ 85.35	\$ 2,133,750.00

80	8/23/00	25,000	\$ 89,7625	\$ 2,244,062.50
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(Title 17, Code of Federal Regulations, Section 240.10b-5; Title 15, United States Code, Sections 78j(b) and 78ff; Title 18, United States Code, Sections 2 and 3551 et seq.)

COUNTS EIGHTY-ONE THROUGH EIGHTY-EIGHT
(Insider Trading: REX SHELBY)

55. The allegations in paragraphs 1 through 33 are realleged as if fully set forth here.

56. On or about the dates set forth below, within the Southern District of Texas and elsewhere, the defendant REX SHELBY knowingly and willfully used and employed manipulative and deceptive devices and contrivances, by use of means and instrumentalities of interstate commerce, in violation of Rule 10b-5 of the Rules and Regulations of the United States Securities and Exchange Commission (Title 17, Code of Federal Regulations, Section 240.10b-5), in that he engaged in acts, practices, and courses of business which would operate as a fraud and deceit upon members of the investing public in connection with the purchase or sale of securities, in violation of Title 15, United States Code, Section 78j(b) and 78ff. Specifically, while in possession of material non-public information regarding the technological capabilities, value, revenue and business performance of Enron Communications, Inc. and Enron Broadband Services, SHELBY sold shares of Enron stock and generated total proceeds of \$35,230,923.89 including but not limited to the following sales:

Count	Date	Shares	Sale Price	Gross Proceeds
81	1/21/00	75,000	\$ 72.00	\$ 5,400,000.00
82	1/21/00	75,000	\$ 70.25	\$ 5,268,750.00
83	2/1/00	50,000	\$ 66.5469	\$ 3,327,345.00
84	3/22/00	47,500	\$ 75.00	\$ 3,562,500.00

85	6/26/00	207,615	\$ 70.8199	\$14,703,273.54
86	6/27/00	1,450	\$ 70.00	\$ 101,500.00
87	6/28/00	39,665	\$ 70.00	\$ 2,776,550.00
88	7/19/00	1,230	\$ 73.2144	\$ 90,053.71

(Title 17, Code of Federal Regulations, Section 240.10b-5; Title 15, United States Code, Sections 78j(b) and 78ff; Title 18, United States Code, Sections 2 and 3551 et seq.)

COUNTS EIGHTY-NINE THROUGH NINETY-EIGHT
(Money Laundering: KENNETH RICE)

57. The allegations in paragraphs 1 through 33, 40 and 48 are realleged as if fully set forth here.

58. On or about the dates listed in the chart below, within the Southern District of Texas and elsewhere, the defendant KENNETH RICE did knowingly engage and attempt to engage, and did aid, abet, counsel, command, induce, procure and cause others to engage and attempt to engage in the following monetary transactions by, through or to a financial institution, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, to wit, the following transfers of funds generated through wire fraud and fraud in the sale of securities, which funds were derived from a specified unlawful activity, that is, wire fraud in violation of Title 18, United State Code, Section 1343, and fraud in the sale of securities in violation of Title 15, United States Code, Sections 78j(b) and 78ff and Title 17, Code of Federal Regulations, Section 240.10b-5.

Count	Date	Transaction
89	2/23/2000	Exchange of \$3,975,597.37 in proceeds from sale of Enron stock to offset margin debt in Paine Webber account no. HS E0255

90	4/25/2000	Exchange of \$6,236,021.67 in proceeds from sale of Enron stock to offset margin debt in Paine Webber account no. HS E0255
91	9/1/2000	Exchange of \$7,210,463.09 in proceeds from sale of Enron stock to offset margin debt in Paine Webber account no. HS E0255
92	9/6/2000	Transfer of \$1,050,500 by federal fund wire from Paine Webber account no. HS E0255 to United Title Companies
93	9/7/2000	Transfer of \$43,457.60 by check number 2223, payable to Charles Cunniffe Architects, from Paine Webber account no. HS E 0255
94	9/18/2000	Transfer of \$2,421,958.27 from Paine Webber account no. HS E0255 to Paine Webber account no. HM E 0007
95	1/3/2001	Transfer of \$3,882,947.95 from Paine Webber account no. HM E0281 to Paine Webber account no. HM E0007
96	3/9/2001	Transfer of \$1,500,000 from Paine Webber account no. HM E0281 to Paine Webber account no. HM E0007
97	5/22/2001	Transfer of \$1,419,911.43 from Paine Webber account no. HM E0281 to Paine Webber account no. HM E0007
98	7/12/2001	Transfer of \$508,806.75 from Paine Webber account no. HS G3848 to Paine Webber account no. HM E0007

(Title 18, United States Code, Sections 1957, 2 and 3551 et seq.)

COUNTS NINETY-NINE THROUGH ONE HUNDRED TEN

(Money Laundering: JOSEPH HIRKO)

59. The allegations in paragraphs 1 through 33, 40 and 50 are realleged as if fully set forth here.

60. On or about the dates listed in the chart below, within the Southern District of Texas and elsewhere, the defendant JOSEPH HIRKO did knowingly engage and attempt to engage, and did aid, abet, counsel, command, induce, procure and cause others to engage and attempt to engage in the following monetary transactions by, through or to a financial institution, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, to

wit, the following transfers of funds generated through wire fraud and fraud in the sale of securities, which funds were derived from a specified unlawful activity, that is, wire fraud in violation of Title 18, United State Code, Section 1343, and fraud in the sale of securities in violation of Title 15, United States Code, Sections 78j(b) and 78ff and Title 17, Code of Federal Regulations, Section 240.10b-5.

Count	Date	Transaction
99	3/31/2000	Transfer of \$224,500 from Paine Webber account no. HS 72449 to purchase 8,087.176 units of Pilgrim International Core Growth Fund Class A
100	3/31/2000	Transfer of \$224,500 from Paine Webber account no. HS 72449 to purchase 13,944.099 units of Pilgrim International Value Class A
101	3/31/2000	Transfer of \$224,500 from Paine Webber account no. HS 72449 to purchase 7,389.73 units of Pilgrim Growth & Value Class A
102	3/31/2000	Transfer of \$224,500 from Paine Webber account no. HS 72449 to purchase 5,182.36 units of Federated Intl Small Company Fd A
103	4/4/2000	Transfer of \$336,794 from Paine Webber account no. HS 72449 to Paine Webber account no. HS E5704
104	4/4/2000	Transfer of \$336,794 from Paine Webber account no. HS 72449 to Paine Webber account no. HS E5705
105	4/4/2000	Transfer of \$336,794 from Paine Webber account no. HS 72449 to Paine Webber account no. HS E5697
106	4/7/2000	Transfer of \$96,500 from Paine Webber account no. HS 72449 to Paine Webber account no. HS E5697
107	4/26/2000	Transfer of \$2,860,716.53 from Paine Webber account no. HS 72449, by check no. HS76782 to Bank of America account no. 28041-15626
108	5/17/2000	Transfer of \$3,674,635.99 from Paine Webber account no. HS 72449, by check no. HS78811 to Bank of America account no. 28041-15626

109	5/18/2000	Transfer of \$1,087,216.54 from Paine Webber account no. HS 72449, by check no. HS78858 to Bank of America account no. 28041-15626
110	9/21/2000	Transfer of \$234,068.43, as part of a larger transfer of \$301,113.30 from Paine Webber account no. HM 01298 to Paine Webber account no. HM 0292

(Title 18, United States Code, Sections 1957, 2 and 3551 et seq.)

COUNTS ONE HUNDRED ELEVEN THROUGH TWO HUNDRED NINE
(Money Laundering: SCOTT YEAGER)

61. The allegations in paragraphs 1 through 33, 40 and 54 are realleged as if fully set forth here.

62. On or about the dates listed in the chart below, within the Southern District of Texas and elsewhere, the defendant SCOTT YEAGER did knowingly engage and attempt to engage, and did aid, abet, counsel, command, induce, procure and cause others to engage and attempt to engage in the following monetary transactions by, through or to a financial institution, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, to wit, the following transfers of funds generated through wire fraud and fraud in the sale of securities, which funds were derived from a specified unlawful activity, that is, wire fraud in violation of Title 18, United State Code, Section 1343, and fraud in the sale of securities in violation of Title 15, United States Code, Sections 78j(b) and 78ff and Title 17, Code of Federal Regulations, Section 240.10b-5.

Count	Date	Transaction
111	2/7/2000	Transfer of \$250,000 by federal funds wire from Paine Webber Account no. HS E2608 to Salomon Smith Barney Account no. 414-4317510106

112	3/15/2000	Transfer of \$999,892.31 by federal funds wire, as part of a larger transfer of \$1,000,000, from Paine Webber Account no. HS E2608 to EOL Partnership
113	4/5/2000	Transfer of \$100,000 by federal funds wire from Paine Webber Account no. HS E2608 to BancFirst - Insured Escrow Service
114	4/10/2000	Transfer of \$400,000 by federal funds wire from Paine Webber Account no. HS E2608 to Merrill Lynch account no. 230-63517
115	6/14/2000	Payment of \$250,000.00 from Paine Webber Account no. HS E2608 to purchase 10 shares of Dreyfus Muni Income Inc.
116	6/14/2000	Payment of \$750,000.00 from Paine Webber Account no. HS E2608 to purchase 30 shares of Muniyield Fund Inc
117	6/16/2000	Transfer of \$425,000 by federal funds wire from Paine Webber Account no. HS E2608 to Merrill Lynch Account no. 230-63517
118	8/14/2000	Transfer of \$10,000 by check number 102, payable to John Summers, from Paine Webber Account no. HS E2608
119	8/14/2000	Transfer of \$10,000 by check number 103, payable to Russell Summers, from Paine Webber Account no. HS E2608
120	8/14/2000	Transfer of \$10,000 by check number 106, payable to Justin Yeager, from Paine Webber Account no. HS E2608
121	8/14/2000	Transfer of \$10,000 by check number 107 payable to Joshua Yeager, from Paine Webber Account no. HS E2608
122	8/14/2000	Transfer of \$10,000 by check number 104, payable to Katie Summers, from Paine Webber Account no. HS E2608
123	8/14/2000	Transfer of \$10,000 by check number 105, payable to Katie Summers, from Paine Webber Account no. HS E2608
124	8/21/2000	Transfer of \$50,000 by check number 109, payable to FSY Consultants, from Paine Webber Account no. HS E2608
125	8/23/2000	Payment of \$2,000,000.00 from Paine Webber Account no. HS E2608 to purchase 2,000,000 units of Manulife North American
126	8/25/2000	Payment of \$100,143.39 from Paine Webber Account no. HS E2608 to purchase 100,000 units of Gulf Coast Wtr Tex W/Sys Bonds
127	8/25/2000	Payment of \$103,454.50 from Paine Webber Account no. HS E2608 to purchase 100,000 units of Western Wash Univ Wash Rev Bonds
128	8/25/2000	Payment of \$105,936.25 from Paine Webber Account no. HS

		E2608 to purchase 105,000 units of Liberal Kans G.O. Bonds
129	8/25/2000	Payment of \$106,299.38 from Paine Webber Account no. HS E2608 to purchase 105,000 units of West Vy City Mun Bldg Rev Bonds
130	8/25/2000	Payment of \$144,743.33 from Paine Webber Account no. HS E2608 to purchase 150,000 units of Kansas City Mo Mac Rev Bonds
131	8/25/2000	Payment of \$146,644.23 from Paine Webber Account no. HS E2608 to purchase 140,000 units of Utah St Brd Rgnts/R Crss Rev Bonds
132	8/25/2000	Payment of \$160,973.55 from Paine Webber Account no. HS E2608 to purchase 155,000 units of Childress Tex Ctfs Oblig Bonds
133	8/25/2000	Payment of \$197,031.39 from Paine Webber Account no. HS E2608 to purchase 200,000 units of Allen Tex Indpt Sch Dist Bonds
134	8/25/2000	Payment of \$216,271.83 from Paine Webber Account no. HS E2608 to purchase 200,000 units of Decatur Ill Fgic Bonds
135	8/25/2000	Payment of \$231,644.70 from Paine Webber Account no. HS E2608 to purchase 220,000 units of Westmoreland Cnty Pa Rev Bonds
136	8/25/2000	Payment of \$254,735.36 from Paine Webber Account no. HS E2608 to purchase 245,000 units of Tarrant Cnty Tx Hlth Fac Dev Corp Bonds
137	8/25/2000	Payment of \$258,130.75 from Paine Webber Account no. HS E2608 to purchase 250,000 units of Colorado Hlth Fac Bonds
138	8/28/2000	Transfer of \$15,677.30 by check number 111, payable to American Express, from Paine Webber Account no. HS E2608
139	8/30/2000	Payment of \$101,973.28 from Paine Webber Account no. HS E2608 to purchase 100,000 units of Harlandale ISD Texas Ref Sch Bldg Bonds
140	8/30/2000	Payment of \$256,907.94 from Paine Webber Account no. HS E2608 to purchase 235,000 units of Harlandale ISD Texas Ref Sch Bldg Bonds
141	8/31/2000	Payment of \$199,850.33 from Paine Webber Account no. HS E2608 to purchase 200,000 units of Johnson City Usd Ks G.O. Bldg Bonds
142	9/5/2000	Transfer of \$50,000 by check number 112, payable to FSU Consultants, from Paine Webber Account no. HS E2608
143	9/5/2000	Transfer of \$68,041.11 by check number 113, payable to Provident Bank, from Paine Webber Account no. HS E2608
144	9/6/2000	Payment of \$207,022.33 from Paine Webber Account no. HS

		E2608 to purchase 200,000 units of Oconto Falls Wis Pub Sch Dist Bonds
145	9/6/2000	Transfer of \$19,267.45 by check number 115, payable to American Express, from Paine Webber Account no. HS E2608
146	9/12/2000	Transfer of \$210,000 by federal funds wire from Paine Webber Account no. HS E2608 to Gees Garrett
147	9/13/2000	Payment of \$1,500,000.00 from Paine Webber Account no. HS E2608 to purchase 60 shares of Blackrock Inv Quality Muni Trust
148	9/19/2000	Payment of \$161,705.30 from Paine Webber Account no. HM E0123 to purchase 160,000 units of Collin Cnty Tx Ultd Tax bonds
149	10/5/2000	Payment of \$230,219.59 from Paine Webber Account no. HM E0123 to purchase 225,000 units of US Treasury Notes
150	10/5/2000	Payment of \$228,263.23 from Paine Webber Account no. HM E0123 to purchase 225,000 units of US Treasury Notes
151	10/5/2000	Payment of \$100,863.89 from Paine Webber Account no. HM E0123 to purchase 100,000 units of US Treasury Notes
152	10/5/2000	Payment of \$103,393.34 from Paine Webber Account no. HM E0123 to purchase 100,000 units of US Treasury Notes
153	10/5/2000	Payment of \$225,600.25 from Paine Webber Account no. HM E0123 to purchase 225,000 units of US Treasury Notes
154	10/5/2000	Payment of \$100,592.38 from Paine Webber Account no. HM E0123 to purchase 100,000 units of US Treasury Notes
155	10/5/2000	Payment of \$75,751.65 from Paine Webber Account no. HM E0123 to purchase 75,000 units of US Treasury Notes
156	10/5/2000	Payment of \$154,103.92 from Paine Webber Account no. HM E0123 to purchase 150,000 units of US Treasury Notes
157	10/12/2000	Payment of \$95,035.87 from Paine Webber Account no. HM E0123 to purchase \$95,000 certificate of deposit from IBJ Whitehall Bk & Trst
158	10/17/2000	Transfer of \$67,837.92 by check number 124, payable to Provident Bank, from Paine Webber Account no. HM E0123
159	10/19/2000	Transfer of \$232,605.25 by federal funds wire from Paine Webber Account no. HM E0123 to Garrett Aviation Services
160	10/25/2000	Payment of \$96,837.72 from Paine Webber Account no. HM E0123 to purchase 100,000 units of Aldine Tex Isd bonds
161	10/25/2000	Payment of \$99,718.25 from Paine Webber Account no. HM E0123 to purchase 100,000 units of Chattanooga Tn Elect Sys Rev bonds
162	10/25/2000	Payment of \$99,543.64 from Paine Webber Account no. HM

		E0123 to purchase 100,000 units of Harris Cnty Tex Rfdg Toll Rev bonds
163	10/25/2000	Payment of \$103,231.00 from Paine Webber Account no. HM E0123 to purchase 100,000 units of Lake Co IL Cons S/D # 50 bonds
164	10/25/2000	Payment of \$97,652.50 from Paine Webber Account no. HM E0123 to purchase 100,000 units of St Louis Mo Cop Cap Impt bonds
165	10/25/2000	Payment of \$102,947.00 from Paine Webber Account no. HM E0123 to purchase 100,000 units of Socorro Tex Indpt Sch bonds
166	10/25/2000	Payment of \$94,952.50 from Paine Webber Account no. HM E0123 to purchase 100,000 units of Travis Cnty Tex bonds
167	10/26/2000	Payment of \$107,819.97 from Paine Webber Account no. HM E0123 to purchase 100,000 units of Allen Cnty Ind Jail Bldg Corp Rev bonds
168	10/27/2000	Payment of \$94,515.50 from Paine Webber Account no. HM E0123 to purchase 100,000 units of Travis Cnty Tex bonds
169	11/2/2000	Transfer of \$150,000 by federal funds wire from Paine Webber Account no. HM E0123 to Merrill Lynch account no. 230-6351
170	11/6/2000	Payment of \$178,054.50 from Paine Webber Account no. HM E0123 to purchase 30,000 units of Enron Corp call options
171	11/7/2000	Transfer of \$536,575.18 by federal funds wire from Paine Webber Account no. HM E0123 to Chase Manhattan Mortgage
172	11/7/2000	Payment of \$95,096.67 from Paine Webber Account no. HM E0123 to purchase \$95,000 certificate of deposit from BSB Bank & Trust
173	11/13/2000	Transfer of \$150,000 from Paine Webber account no. HM E0123 to Paine Webber account no. HM 80178-0100
174	11/13/2000	Transfer of \$700,000 from Paine Webber account no. HM E0123 to Paine Webber account no. HM 80179-8100
175	11/13/2000	Transfer of \$500,000 from Paine Webber account no. HM E0123 to Paine Webber account no. HM 80180-1100
176	11/13/2000	Transfer of \$500,000 from Paine Webber account no. HM E0123 to Paine Webber account no. HM 80181-0100
177	11/13/2000	Transfer of \$150,000 from Paine Webber account no. HM E0123 to Paine Webber account no. HM 80182-8100
178	11/14/2000	Payment of \$100,410.83 from Paine Webber Account no. HM E0123 to purchase 100,000 units of McKinney Texas Wtrwks & Rev bonds

179	11/27/2000	Transfer of \$200,000 by federal funds wire from Paine Webber Account no. HM E0123 ES to Merrill Lynch account no. 230-63517
180	12/5/2000	Transfer of \$100,000 from Paine Webber account no. HM E0123 to Paine Webber account no. HM 80178-0100
181	12/5/2000	Transfer of \$100,000 from Paine Webber account no. HM E0123 to Paine Webber account no. HM 80179-8100
182	12/5/2000	Transfer of \$100,000 from Paine Webber account no. HM E0123 to Paine Webber account no. HM 80180-1100
183	12/5/2000	Transfer of \$100,000 from Paine Webber account no. HM E0123 to Paine Webber account no. HM 80181-0100
184	12/5/2000	Transfer of \$100,000 from Paine Webber account no. HM E0123 to Paine Webber account no. HM 80182-8100
185	12/7/2000	Transfer of \$10,739.29, as part of larger transfer of \$11,740.12, by check number 153, payable to American Express, from Paine Webber Account no. HM E0123
186	12/18/2000	Payment of \$95,204.58 from Paine Webber Account no. HM E0123 to purchase \$95,000 certificate of deposit from Peoples Heritage Bank
187	12/15/2000	Transfer of \$14,850.88 by check number 154, payable to University of Notre Dame, from Paine Webber Account no. HM E0123
188	12/29/2001	Transfer of \$150,000 by check number 156, payable to FYI Realty, from Paine Webber Account no. HM E0123
189	12/29/2001	Transfer of \$350,000 by check number 157, payable to FSY Consultants, from Paine Webber Account no. HM E0123
190	12/30/2001	Transfer of \$17,321.37 by check number 159, payable to Haverford College, from Paine Webber Account no. HM E0123
191	1/11/2001	Transfer of \$33,671.91 by check number 161, payable to American Express, from Paine Webber Account no. HM E0123
192	1/14/2001	Transfer of \$11,347.50 by check number 163, payable to La Bandera Ranch, from Paine Webber Account no. HM E0123
193	04/23/2001	Payment of \$244,198.17 from Paine Webber Account no. HM E0123 to purchase 255,000 units of Allen Tex Indpt Sch Dist bonds

194	04/23/2001	Payment of \$99,816.06 from Paine Webber Account no. HM E0123 to purchase 100,000 units of Decatur Tx Isd Ult Sch Bldg bonds
195	04/23/2001	Payment of \$100,100.67 from Paine Webber Account no. HM E0123 to purchase 100,000 units of Barton Cnty Kans USD bonds
196	04/23/2001	Payment of \$99,613.22 from Paine Webber Account no. HM E0123 to purchase 100,000 units of Araphoe Libr Dist Colo C.O.P. Rev bonds
197	04/23/2001	Payment of \$99316.06 from Paine Webber Account no. HM E0123 to purchase 100,000 units of Hurst-Eulesse Bedford Tex bonds
198	04/23/2001	Payment of \$110,007.92 from Paine Webber Account no. HM E0123 to purchase 110,000 units of Mansfield Texas Ww/Ss Rv bonds
199	04/23/2001	Payment of \$119,692.69 from Paine Webber Account no. HM E0123 to purchase 125,000 units of Maricopa Cnty Ariz Sch bonds
200	05/02/2001	Payment of \$129,341.68 from Paine Webber Account no. HM E0123 to purchase 110,000 units of Pflugerville Tex Cap Gty bonds
201	05/03/2001	Payment of \$98,885.78 from Paine Webber Account no. HM E0123 to purchase 100,000 units of West Ouachita Par S/D La Rev bonds
202	05/03/2001	Payment of \$98,804.00 from Paine Webber Account no. HM E0123 to purchase 100,000 units of West Ouachita Par S/D La Rev bonds
203	05/15/2001	Payment of \$105,274.72 from Paine Webber Account no. HM E0123 to purchase 100,000 units of New Braunfels Texas Isd Unltd bonds
204	5/15/2001	Transfer of \$200,000 by check number 177, payable to FYI Net, from Paine Webber Account no. HM E0123
205	6/4/2001	Transfer of \$75,000 by electronic funds transfer from Paine Webber Account no. HM E0123 to Bank of America
206	6/4/2001	Transfer of \$10,000 by electronic funds transfer from Paine Webber Account no. HM E0123 to Compass Bank
207	6/6/2001	Transfer of \$55,701.89 by automatic payment to Provident Bank from Paine Webber Account no. HM E0123
208	6/19/2001	Transfer of \$50,000 by check number 179, payable to US Treasury, from Paine Webber Account no. HM E0123

209	9/18/2001	Transfer of \$924,458.53, as part of a larger transfer of \$3,405,739.03, from Paine Webber Account no. HM E0123 to First Union Account no. 8845-9357
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(Title 18, United States Code, Sections 1957, 2 and 3551 et seq.)

COUNTS TWO HUNDRED TEN THROUGH TWO HUNDRED FIFTEEN
(Money Laundering: REX SHELBY)

63. The allegations in paragraphs 1 through 33, 40 and 56 are realleged as if fully set forth here.

64. On or about the dates listed in the chart below, within the Southern District of Texas and elsewhere, the defendant REX SHELBY did knowingly engage and attempt to engage, and did aid, abet, counsel, command, induce, procure and cause others to engage and attempt to engage in the following monetary transactions by, through or to a financial institution, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, to wit, the following transfers of funds generated through wire fraud and fraud in the sale of securities, which funds were derived from a specified unlawful activity, that is, wire fraud in violation of Title 18, United State Code, Section 1343, and fraud in the sale of securities in violation of Title 15, United States Code, Sections 78j(b) and 78ff and Title 17, Code of Federal Regulations, Section 240.10b-5.

Count	Date	Transaction
210	2/16/2001	Transfer of \$5,409,816, as part of a larger transfer of \$5,454,737.19, from Paine Webber account no. HM E0299 to Paine Webber account no. HM E0109
211	4/2/2002	Transfer of \$800,000 by check no.107 from Paine Webber account no. HM E0109 to Fidelity Cash Reserves account no. 2BX-812021

212	4/2/2002	Transfer of \$400,000 by check no. 108 from Paine Webber account no. HM E0109 to Fidelity Municipal Money Market account no. 2BX-812021
213	4/6/2002	Transfer of \$1,200,000 by check no. 109 from Paine Webber account no. HM E0109 to Vanguard Prime Money Market Fund account no. 9956144176 (\$800,000) and to Vanguard Federal Money Market Fund account no. 9956144176 (\$400,000)
214	4/6/2002	Transfer of \$1,600,000 by check no. 110 from Paine Webber account no. HM E0109 to Dreyfus Money Market Reserves account no. 317-0001465913 (\$800,000) and to Dreyfus Worldwide Dollar Money Market Fund account no. 762-0214600876 (\$800,000)
215	4/7/2002	Transfer of \$1,200,000 by check no. 111 from Paine Webber account no. HM E0109 to T. Rowe Price Summit Cash Reserves Fund account no. 522676398-0 (\$800,000) and to T. Rowe Price Short Term Bond Fund account no. 522676402-8 (\$400,000)

(Title 18, United States Code, Sections 1957, 2 and 3551 et seq.)

COUNT TWO HUNDRED SIXTEEN
(Money Laundering: KEVIN HANNON)

65. The allegations in paragraphs 1 through 33 and 52 are realleged as if fully set forth here.

66. On or about the dates listed in the chart below, within the Southern District of Texas and elsewhere, the defendant KEVIN HANNON did knowingly engage and attempt to engage, and did aid, abet, counsel, command, induce, procure and cause others to engage and attempt to engage in the following monetary transactions by, through or to a financial institution, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, to wit, the following transfer of funds generated through fraud in the sale of securities, which funds were derived from a specified unlawful activity, that is, fraud in the sale of securities in violation of Title 15, United States Code, Sections 78j(b) and 78ff and Title 17, Code of Federal

Regulations, Section 240.10b-5.

Count	Date	Transaction
216	4/12/2001	Transfer of \$3,925,022.59, as part of a larger transfer of \$4,090,448.58, from Paine Webber account no. 00728 to Charles Schwab account no. 4081-3743

(Title 18, United States Code, Sections 1957, 2 and 3551 et seq.)

COUNT TWO HUNDRED SEVENTEEN

(False Statements: KEVIN HOWARD)

67. The allegations of paragraphs 1 through 33, 42 and 44 are realleged as if fully set forth here.

68. On or about September 12, 2002, within the Southern District of Texas, the defendant KEVIN HOWARD did knowingly and wilfully make materially false, fictitious and fraudulent statements and representations in a matter within the jurisdiction of the executive branch of the United States, to wit: the Federal Bureau of Investigation, in that the defendant KEVIN HOWARD stated that the equity stakes of CIBC and nCube, relating to Project Braveheart, were at risk; that there were no oral promises, side agreements, understandings, options, guarantees or commitments of any sort made to nCube about its equity investment; that he himself never made any guarantees or promises to nCube that it would be bought out; and that he was not aware of any proposals that EBS would buy back nCube's equity at a pre-determined price.

(Title 18, United States Code, Sections 1001 and 3551 et seq.)

COUNT TWO HUNDRED EIGHTEEN
(False Statements: MICHAEL KRAUTZ)

69. The allegations of paragraphs 1 through 33, 36, 42 and 44 are realleged as if fully set forth here.

70. On or about August 8, 2002, within the Southern District of Texas, the defendant MICHAEL KRAUTZ did knowingly and wilfully make materially false, fictitious and fraudulent statements and representations in a matter within the jurisdiction of the executive branch of the United States, to wit: the Federal Bureau of Investigation, in that the defendant MICHAEL KRAUTZ stated that no one ever stated or suggested to him prior to September 2001 that the nCube equity, relating to Project Braveheart, was not at risk; and that if the nCube equity was not at risk, then he had been misled.

(Title 18, United States Code, Sections 1001 and 3551 et seq.)

FORFEITURE ALLEGATIONS

71. Upon conviction of one or more of the wire fraud or fraud in the sale of securities offenses alleged in this Indictment, defendants HANNON, HIRKO, RICE, SHELBY AND YEAGER each shall forfeit to the United States pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) any property constituting or derived from proceeds obtained directly or indirectly as a result of the said violations, including but not limited to the properties listed in paragraph 73 below.

72. Upon conviction of one or more of the money laundering offenses alleged in this Indictment, each defendant shall forfeit to the United States pursuant to 18 U.S.C § 982(a)(1) the following property:

- a. all right, title, and interest in any and all property involved in each offense in violation of 18 U.S.C. § 1957 for which the defendant is convicted, and all property traceable to such property, including the following: (1) all money or other property that was the subject of each transaction, transportation, transmission, or transfer in violation of Section 1957, including but not limited to the properties listed in paragraph 73 below; (2) all commissions, fees and other property constituting proceeds obtained as a result of those violations; and (3) all property used in any manner or part to commit or to facilitate the commission of those violations.
- b. A sum of money equal to the total amount of money involved in each offense, or conspiracy to commit such offense, for which the defendant is convicted. If more than one defendant is convicted of an offense, the defendants so convicted are jointly and severally liable for the amount involved in such offense.

73. The United States intends to forfeit property of the defendants including, but not limited to, the following:

- a. With respect to defendant KENNETH RICE, the following property:
- (i) Manulife annuity contract 2101902, in the name of Kenneth Rice;
 - (ii) real property known as 7207 Last Dollar, located in Telluride, Colorado, titled in the name of Summit Canyon, LLC;
 - (iii) a platinum, sapphire and diamond necklace, with 16 diamonds (total weight approximately 3.38 carats) and 226 sapphires (total weight approximately 15.05 carats) and a platinum, sapphire and diamond bracelet with approximately 6.65 carats of sapphires and

approximately 1.68 carats of diamonds, purchased from Borsheim's Jewelry on June 15, 2000;

- (iv) one 1995 Ferrari F355 Challenge, VIN no. ZFFPR41A2S0104478, registered to Ken Rice;
- (v) one 2000 BMW X5, VIN no. WBAFB3348YLH02260, registered to Kenneth Rice;
- (vi) one 2001 Ferrari 360 Challenge, VIN no. ZFFYR51800123311, registered to Ken Rice;
- (vii) one 1999 Shelby, VIN no. 5CXSA1810XL000027, registered to Kenneth Rice; and
- (viii) one 2001 Jeep Wrangler, VIN no. 1J4FA49S91P347560, registered to Kenneth D. Rice.

b. With respect to defendant SCOTT YEAGER, the following property:

- (i) \$4,349,174.41 in First Union Account no. 8845-9357, in the name of F. Scott Yeager and Susan S. Yeager;
- (ii) all funds held in the name "Andrew J. Clark III, Attorney at Law FBO F. Scott Yeager Legal Fund" in Wachovia account no. 3429-2303;
- (iii) the contents of Wachovia account no. 3429-2301, in the name of F. Scott Yeager and Susan S. Yeager; and
- (iv) the contents of Wachovia account no. 3429-2307, in the name of F. Scott Yeager and Susan S. Yeager.

c. With respect to defendant REX SHELBY, the following property:

- (i) \$811,107.09 in Fidelity Cash Reserve account no. 2BX-812021-055, in the name of Rex T. Shelby;
- (ii) \$404,259.77 in Fidelity Municipal Money Market account no. 2BX-812021-010, in the name of Rex T. Shelby;
- (iii) the contents of Vanguard Prime Money Market account no. 09956144176-0030, in the name of Rex T. Shelby;

- (iv) the contents of Vanguard Federal Money Market account no. 09956144176-0033, in the name of Rex T. Shelby;
- (v) the contents of Dreyfus Money Market Reserve account no. 317-0001465913, in the name of Rex T. Shelby;
- (vi) the contents of Dreyfus Worldwide Dollar Money Market Fund account no. 762-0214600876, in the name of Rex T. Shelby;
- (vii) the contents of T. Rowe Price Summit Cash Reserve account no. 522676398-0, in the name of Rex T. Shelby;
- (viii) the contents of T. Rowe Price Short Term Bond account no. 522676402-8, in the name of Rex T. Shelby; and
- (ix) \$4,177,791.32 in Paine Webber account no. HM E0109, in the name of Rex T. Shelby.

d. With respect to defendant KEVIN HANNON, the following property:

- (i) all shares of Federated Short Term Municipal Trust Fund held in Charles Schwab account no. 3066-5660, in the name of Christine M. Hannon;
- (ii) all shares of Strong Municipal Ultra Short Fund held in Charles Schwab account no. 3066-5660, in the name of Christine M. Hannon;
- (iii) all shares of Strong Short Term Municipal Fund held in Charles Schwab account no. 3066-5660, in the name of Christine M. Hannon; and
- (iv) all shares of Charles Schwab Cash and Sweep Money Market Fund held in Charles Schwab account no. 3066-5660, in the name of Christine M. Hannon.

74. Pursuant to 21 U.S.C. § 853(p), as incorporated by Title 18, United States Code, Section 982(b), each defendant shall forfeit substitute property, up to the value of the amount described in paragraphs 1 and 2, if, by any act or omission of said defendant,

- a. cannot be located upon the exercise of due diligence;

- b. has been transferred, sold to or deposited with a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty.

All in accordance with 18 U.S.C. § 982(a)(1), and Rule 32.2(a), Federal Rules of Criminal Procedure.

(Title 18, United States Code, Sections 981 and 982; Title 28 United States Code, Section 2461.)

Dated: Houston, Texas
April 29, 2003


A TRUE BILL

~~_____~~
FOREPERSON

JOSHUA R. HOCHBERG
Acting United States Attorney, Southern District of Texas

LESLIE R. CALDWELL
Director, Enron Task Force

By:



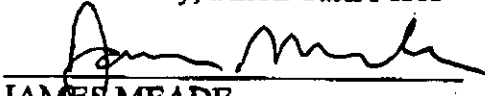
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