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January 11, 2002

The Honorable Paul H. O'Neill  
Secretary of the Treasury  
15<sup>th</sup> St. & Pennsylvania Ave., NW  
Washington, DC 20220

The Honorable Donald L. Evans  
Secretary of Commerce  
14<sup>th</sup> St. & Constitution Ave., NW  
Washington, DC 20230

Dear Secretary O'Neill and Secretary Evans:

I am writing to request information about your communications with Enron Chairman Kenneth L. Lay and possibly other Enron officials or representatives prior to the company's bankruptcy filing. The purpose of the request is to determine why the Administration apparently did nothing to mitigate the harm of the Enron bankruptcy to thousands of its employees and shareholders. I am also interested in knowing why it has taken so long to learn that two Cabinet Secretaries had early warning of Enron's impending bankruptcy.

News accounts of January 11, 2002, indicate that Secretary O'Neill received calls from Mr. Lay on October 28 and November 8.<sup>1</sup> In one or both of these calls, Mr. Lay reportedly informed Secretary O'Neill that he was concerned that Enron might not be able to meet its financial obligations and that the results could be similar to those that occurred when Long-Term Capital Management went bankrupt. Mr. Lay reportedly also had a conversation on October 29 with Secretary Evans. In this conversation, Mr. Lay apparently stated "that he was having problems with his bond rating and he was worried about its impact on the energy sector," and

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<sup>1</sup>*Enron Asked for Help from Cabinet Officials*, Washington Post (Jan. 11, 2002); *Enron Contacted 2 Cabinet Officers before Collapsing*, N.Y. Times (Jan. 11, 2002).

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that "he would welcome any support the Secretary thinks appropriate."<sup>2</sup> In addition, Enron President Lawrence "Greg" Whalley reportedly telephoned the Treasury Undersecretary for domestic finance, Peter Fisher, six or eight times in late October and early November.<sup>3</sup>

White House Press Secretary Ari Fleischer stated that as a result of your conversations with Mr. Lay, Secretary O'Neill asked Undersecretary Fisher to explore whether the "financial condition of Enron could have similar implications as Long Term Capital."<sup>4</sup> According to Mr. Fleischer, you decided to do nothing.<sup>5</sup> Mr. Fleischer stated:

[T]he government...took a look at this from a substantive matter, from when Mr. Lay made those phone calls, and decided the appropriate step was not to intervene or take any action....This was done based on judgment of the Cabinet Secretaries and the merits, and they decided properly and wisely so, in the President's opinion, that the government should not have intervened in any way after Mr. Lay made the phone call to Secretary Evans."<sup>6</sup>

On December 2, Enron filed for bankruptcy. Approximately 4,000 Enron employees have been laid off, and an additional 3,500 have been placed on leave.<sup>7</sup> Many Enron employees have lost virtually their entire retirement accounts, which were heavily tied up in Enron stock. Numerous other investors, including many retirement plans around the country, have lost millions of dollars.

Mr. Lay's discussions with the two of you took place squarely within a lock-down period, when an estimated 12,000 participants in Enron's 401(k) plan were prevented from accessing

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<sup>2</sup>*Enron's Lay Sought Cabinet Officials' Help*, Wall Street Journal (Jan. 11, 2002); *Enron Chairman Warned Bush Officials on Collapse*, N.Y. Times (Jan. 10, 2002).

<sup>3</sup>*Enron Asked Treasury for Credit Aid*, Associated Press (Jan. 11, 2002).

<sup>4</sup>White House Press Briefing (Jan. 10, 2002).

<sup>5</sup>*Id.*

<sup>6</sup>*Id.*

<sup>7</sup>*Labor Opens ERISA Investigation of Enron Assistance to Dislocated Workers*, U.S. News and World Report (Dec. 5, 2001).

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their retirement accounts and selling their plummeting Enron stock.<sup>8</sup> If Mr. Fleischer's representations are accurate, it would appear that no one in the Bush Administration acted on the knowledge of Enron's rapidly declining financial condition to help employees whose retirement plan collectively lost an estimated \$1 billion.<sup>9</sup> The life savings of many Enron employees simply evaporated during this period. Moreover, based on the scant information that this Administration has provided to date, it appears that no one bothered even to ask whether any remedies, administrative or legislative, were available to help the Enron employees frozen out of their retirement accounts.

In fact, some senior Administration officials have publicly expressed surprising indifference to the fate of Enron employees and shareholders. Secretary O'Neill stated this morning that "while Enron may be important, . . . in the world that I live in, with hundreds of other things going on, this is just another piece of business."<sup>10</sup> The President's chief economic advisor, Larry Lindsey, called the Enron debacle a "tribute to American capitalism."<sup>11</sup>

In addition, accounts of your early conversations with Mr. Lay raise concerns about whether advance notice of Enron's desperate financial condition was taken into account as the Administration formulated positions on important matters of public policy. For example, throughout the month of November, you continued to advocate for retroactive repeal of the alternative minimum tax.<sup>12</sup> This legislation would have had dramatic implications for Enron, as it would have given the company a government-funded infusion of \$254 million.<sup>13</sup>

Given the magnitude of the financial harm caused by Enron's collapse, and the close ties

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<sup>8</sup>*Fair Shares? Why Company Stock is a Burden for Many*, Wall Street Journal (Nov. 27, 2001).

<sup>9</sup>*See Enron Employees Enraged Over Losses*, Business Insurance (Dec. 10, 2001).

<sup>10</sup>Transcript of Good Morning America (Jan. 11, 2002).

<sup>11</sup>*Interview with Lawrence Lindsey*, Fox News Sunday Roundtable (Jan. 6, 2002).

<sup>12</sup>*See Deal Breaker*, New Republic (Nov. 29, 2001); *U.S. Panel Says that Recession Officially Began in March*, Business Day (Nov. 28, 2001); *Economic Aid Stalled Amid Recession*, Newsday (Nov. 27, 2001); U.S. Department of the Treasury, *O'Neill Urges Senate to Act Quickly on a Bipartisan Economic Stimulus Bill* (Nov. 8, 2001) (press release).

<sup>13</sup>Citizens for Tax Justice, *House GOP "Stimulus" Bill Offers 16 Large, Low-Tax Corporations \$7.4 Billion in Instant Tax Rebates* (Oct. 16, 2001, updated Oct. 26, 2001).

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between the company and the Bush Administration, the public deserves to know what Administration officials knew and when they knew it about the situation of Enron and its employees. Therefore, I request that the two of you individually respond to the following questions:

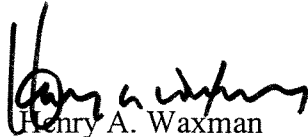
- (1) Please provide details regarding your conversations with Mr. Lay of October 28, October 29, and November 8. Please provide any written or electronic materials held by your Department that relate to this question.
- (2) Please provide details regarding Undersecretary Fisher's conversations with Mr. Whalley in October and November. Please provide any written or electronic materials held by your Department that relate to this question.
- (3) Did you, any other person in your Department, or to your knowledge any other official in the Administration have any other communications with Mr. Lay or any other Enron officials or representatives in 2001, beyond those referred to in questions 1 and 2? If so, please provide names, dates, form of communication, and information exchanged or matters discussed.
- (4) Upon receiving the information regarding Enron's financial situation in October, did you convey information about Enron's financial condition to any person, apart from Undersecretary Fisher? If so, please provide the names, dates, form of communication, and the information exchanged, including copies of any written or electronic materials.
- (5) Did you, any other person in your Department, or to your knowledge any other official in the Administration convey this information to any person within the Vice President's office or any of the advisors to the President? If so, please provide the names, dates, form of communication, and the information exchanged, including copies of any written or electronic materials.
- (6) Please provide details about Undersecretary Fisher's review. For example, over what time period did Undersecretary Fisher explore the financial implications of a potential Enron bankruptcy? What was the scope of the exploration? Did the Department of the Treasury or the Department of Commerce examine the impact of Enron's potential bankruptcy on the employees of the corporation? On the shareholders of the corporation? On other creditors of the corporation? What were your respective departments' conclusions regarding the impacts of an Enron bankruptcy on each of these groups? On the energy sector? On the financial sector? On the economy at large? Please provide any written or electronic materials held by your respective departments that relate to any of these questions.

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- (7) How did Undersecretary Fisher conduct this investigation? Did he or his staff communicate with any Enron officials or representatives? If so, please indicate names, dates, form of communications, and information exchanged. Did he or his staff communicate with Enron's auditors or any financial backers? Did he or his staff communicate with any financial experts outside of the Commerce or Treasury Departments? Did he or his staff communicate with any others within the Administration? Please provide any written or electronic materials held by your respective departments that relate to any of these questions.
- (8) At the time that you decided to take no action, had you considered the potential impacts of an Enron bankruptcy on its employees? Did you make any attempt to obtain information about the impact of such a bankruptcy on the employees?
- (9) The Bush Administration continued to advocate for retroactive repeal of the corporate alternative minimum tax throughout the month of November, when repeal could have had a significant impact on Enron's financial situation. Did any Enron official or representative ask you, any other person in your Department, or to your knowledge any other official in the Administration, to support this legislation? Were you aware that Enron favored adoption of this legislation?
- (10) Why did it take so long for the public to learn about your contacts with Enron prior to its bankruptcy filing?

I want to make clear that I believe it is inappropriate to make any ethical allegations against you or any other Administration official at this time. I think it is essential, however, that these questions be answered so that there is a clear public accounting of this matter. We all owe that to the thousands of families that are facing financial ruin from the Enron bankruptcy, and I hope that it will be possible for you to provide the answers I'm seeking by January 18, 2002.

Sincerely,



Henry A. Waxman  
Ranking Minority Member