

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

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**SECURITIES AND EXCHANGE COMMISSION,** :

Plaintiff, :

v. :

**COMPLAINT**

**El Paso Corporation, El Paso CGP Company LLC,** :

**El Paso Exploration & Production Co.,** :

**Rodney D. Erskine, Randy L. Bartley,** :

**Steven L. Hochstein, John D. Perry** :

**and Bryan T. Simmons,** :

Defendants. :

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Plaintiff Securities and Exchange Commission alleges as follows:

**SUMMARY**

1. Between 1998 and 2003, El Paso Corporation’s (“El Paso’s”) oil and gas production subsidiaries, El Paso CGP Company LLC (“CGP”) and El Paso Exploration and Production Co. (“EPPH”), materially overstated their proved oil and gas reserves under the Securities and Exchange Commission’s (“Commission’s”) rules. In September 2004, El Paso restated its financial statements for the period from year end 1999 through September 30, 2003.

2. During most of the relevant time period, Rodney D. Erskine was the president of El Paso’s Exploration and Production Business Segment and Randy L. Bartley was its senior vice president. Steven L. Hochstein, John D. Perry, and Bryan T. Simmons served as vice presidents in charge of the oil and gas production in various geographic regions. Erskine, with Bartley’s assistance, aggressively sought to maximize

oil and gas reserves. The vice presidents, in response to the pressure to maximize reserves, overstated reserves totals in several ways. First, they improperly attributed proved reserves to unproved oil and gas reservoirs. Second, they improperly recorded reserves as proved without having sufficient supporting geological or engineering data, as required by the Commission's rules. Finally, they improperly failed to reduce reserves despite negative drilling and production data. The vice presidents certified falsely to the Exploration and Production Business Segment's chief financial officer that the reserves in their respective districts were reported in compliance with the Commission's rules, and with guidance published by the staff of the Division of Corporation Finance.

3. The companies' inadequate internal controls facilitated the reserves overstatement. In 2001, Erskine adopted a reporting structure in which reserve estimates were made in the geographical districts and were certified by the district vice presidents, with the assistance of El Paso's independent reserves group. The changes in the company's reserves reporting control structure contributed to its failure to detect overstated reserves.

#### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §77u(a)] and Section 27 of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§78u(e) and 78aa].

5. Defendants have, directly and indirectly, made use of the means or instrumentalities of interstate commerce and/or the mails in connection with the transactions described in this Complaint.

6. Venue lies in this Court pursuant to Section 22(a) of the Securities Act [15 U.S.C. §77u(a)] and Section 27 of the Exchange Act [15 U.S.C. §§78u(e) and 78aa] because certain of the acts and transactions described herein took place in Houston, Texas.

### DEFENDANTS

7. **El Paso Corporation** is a Delaware corporation headquartered in Houston, Texas. El Paso's common stock is registered with the Commission under Section 12(b) of the Exchange Act and trades on the NYSE under the symbol "EP." El Paso offered and sold securities during the period from December 31, 1999 to February 17, 2004, pursuant to registration statements on Forms S-3, S-4, and S-8. In September 2004, El Paso recorded a \$1.7 billion cumulative charge to earnings through September 30, 2003 and restated its 1999 to September 30, 2003 financial statements to account for an overstatement of its proved reserves. This restatement affected two other reporting companies which are wholly-owned subsidiaries of El Paso: El Paso Exploration & Production Co. and El Paso CGP Company, LLC.

8. **El Paso CGP Company, LLC, f/k/a The Coastal Corporation**, a Delaware corporation headquartered in Houston, Texas, is a wholly-owned subsidiary of El Paso Corporation. Between 2001 and 2006 CGP had debt securities registered with the Commission under Section 12(b) of the Exchange Act and filed periodic reports with the Commission. In September 2004, CGP recorded a \$1.1 billion cumulative charge to earnings through September 30, 2003 and restated its 1999 to September 30, 2003 financial statements to account for an overstatement of its proved reserves. In January 2006, CGP completed a transaction in which El Paso became the sole obligor for CGP's outstanding

long-term debt. In February 2006, CGP filed a Form 15 to certify termination of registration and its duty to file reports under Sections 13 and 15(d) of the Exchange Act.

9. **El Paso Exploration & Production Co., f/k/a El Paso Production Holding Company**, a Delaware corporation headquartered in Houston, Texas, is a wholly-owned subsidiary of El Paso Corporation. As a result of a debt securities offering completed in January 2004, EPPH was required under Section 15(d) of the Exchange Act to file periodic reports with the Commission. In September 2004, EPPH recorded a \$387 million cumulative charge to earnings through September 30, 2003 and restated its 1999 to September 30, 2003 financial statements to account for an overstatement of its proved reserves. In June 2007, EPPH repurchased 100% of these debt securities and filed a Form 15 to certify termination of registration and its duty to file reports under Section 15(d) of the Exchange Act.

10. **Erskine**, age 63, of Houston, Texas, was president of El Paso's Exploration and Production Business Segment from January 2001 until he resigned in November 2003. Erskine was a senior vice president at Coastal Corporation ("Coastal") from 1997 to January 2001, and held various positions with Coastal and other energy companies since 1966. He signed sub-certifications in connection with El Paso and CGP's periodic filings in 2002 and 2003.

11. **Bartley**, age 54, of Houston, Texas, was senior vice president at El Paso's Exploration and Production Business Segment between January 2001 and November 2003; he was appointed COO of El Paso's Exploration and Production Business Segment in March 2003 and acting president in November 2003, in which latter capacity

he served until he was terminated in February 2004. Previously, Bartley held various positions with Coastal, including senior vice president, since 1978.

12. **Hochstein**, age 50, of Houston, Texas, is a geologist licensed by the Texas Board of Professional Geoscientists. Hochstein was vice president of El Paso's Exploration and Production Business Segment's coal bed methane ("CBM"), Rocky Mountain, and Mid Continent districts (February 2003 until terminated in April 2004), Director of CBM (August 2001 to February 2003), CBM Technical Manager (1999 to 2001), and CBM senior staff geologist (1998 to 1999).

13. **Perry**, age 52, of Allen, Texas, was vice president of El Paso's Exploration and Production Business Segment's Onshore Operations district (March 2003 until terminated in April 2004) and vice president of EPPH's, and previously Coastal's, South Texas district (November 1999 to March 2003). From 1980 to November 1999, Perry held various engineering positions at Coastal.

14. **Simmons**, age 50, of West University Place, Texas, was vice president of El Paso's Exploration and Production Business Segment's Rocky Mountain district (August 2001 to February 2003) and Director of CBM (1999 to August 2001).

#### **OTHER RELEVANT PARTIES**

15. **B P Huddleston & Company, Inc.** ("Huddleston & Co."), is a Texas corporation with its principal place of business in Houston, Texas. Huddleston & Co. is registered with the Texas Board of Professional Engineers to offer engineering services to the public. Peter D. Huddleston has served as president of Huddleston & Co. since 1989. As El Paso's independent petroleum engineer since 2000, Huddleston & Co. annually issued reports on its evaluations of El Paso's oil and gas reserves and consented to

references in El Paso, CGP, and EPPH's Commission filings. In its Form 10-K, El Paso stated that its reserves were "reviewed by" Huddleston & Co. For Coastal, Huddleston & Co. annually issued reports on its evaluations of Coastal's oil and gas reserves and consented to references in Coastal's Commission filings.

16. **Peter D. Huddleston**, age 49, of Houston, Texas, is a professional engineer licensed by the Texas Board of Professional Engineers and president of Huddleston & Co. Peter Huddleston signed reports issued by Huddleston & Co. evaluating El Paso's oil and gas reserves and signed Huddleston & Co.'s consents in connection with El Paso, CGP, and EPPH's Commission filings.

#### **FACTS**

17. On February 17, 2004, El Paso announced a negative revision of approximately 35% of its proved oil and gas reserves reported at year-end 2002, together with its expectation that the revision would reduce El Paso's fourth quarter 2003 earnings by approximately \$1 billion. Three weeks later, El Paso announced that restatements of El Paso, CGP, and EPPH's historical financial statements were "likely" and that the filing of El Paso, CGP, and EPPH's 2003 Forms 10-K would be delayed, pending conclusion of the Company's internal and independent reviews.

18. On September 30, 2004, El Paso filed its 2003 Form 10-K in which it also restated its financial statements for each of the years ended December 31, 1999, 2000, 2001 and 2002, and for each of the quarters ended March 31, June 30, and September 30, 2003. CGP and EPPH similarly restated their financial statements. In its 2003 Form 10-K, El Paso reported that:

during the period from the beginning of 1999 and into 2003, certain employees used aggressive and, at times, unsupportable methods to book

proved reserves. In addition ... certain employees provided proved reserve estimates that they knew or should have known were incorrect at the time they were reported.

19. Furthermore, El Paso reported that it “did not, in some cases, maintain adequate documentation and records to support historically booked proved natural gas reserves,” and that its internal controls had failed to prevent the overstatement of its oil and gas reserves. El Paso concluded in its filings that deficiencies in its internal controls over financial reporting represented a material weakness. Ultimately, El Paso concluded that a material portion of the negative reserve revisions should have been reflected in periods prior to 2003.

20. Prior to 1999, El Paso was one of the largest gas pipeline transmission companies in North America. Between 1999 and 2001, however, El Paso vastly increased its oil and gas reserves; it acquired those reserves, in large part, by merging with Sonat in September 1999 (the “Sonat merger”) and with Coastal in January 2001 (the “Coastal merger”). After the Coastal merger, El Paso reported the combined companies’ historically reported proved reserves, assets, stockholders’ equity, and operating results as if El Paso, Sonat, and Coastal had always been one company.

21. In accounting for its oil and gas properties, El Paso follows the “full cost” method. Under this method, El Paso capitalizes substantially all costs incurred in connection with the acquisition, exploration, and development of proved reserves (“Capitalized Costs”) and reports those costs as an asset on its balance sheet. El Paso amortizes its Capitalized Costs by reducing this asset and expensing a pro rata amount of Capitalized Costs as oil and gas is produced. The amount of El Paso’s Capitalized Costs cannot exceed a ceiling equal to the sum of the present value of all future cash flows

from proved reserves discounted at 10% per year (“PV10”), the cost of certain properties not subject to amortization, on an after tax basis (the “Ceiling Amount”). To the extent that Capitalized Costs exceed the Ceiling Amount, El Paso is required to expense the excess as a “ceiling test” charge and take a corresponding write down of its Capitalized Costs, which were included as an asset on its balance sheet. As a result of its proved reserves being overstated, El Paso had artificially high PV10 values and it failed to take timely ceiling test charges.

22. Reporting companies, such as El Paso, are subject to two principal authoritative pronouncements governing financial accounting and reporting for oil and gas activities: Rule 4-10 of Regulation S-X, *Financial Accounting and Reporting for Oil and Gas Producing Activities Pursuant to the Federal Securities Laws and the Energy Policy and Conservation Act of 1975* (“Rule 4-10”); and Statement of Financial Accounting Standards No. 69, *Disclosures About Oil and Gas Producing Activities* (“SFAS 69”). Rule 4-10 prescribes the form and content of financial statements including oil and gas activities, defines the “full cost” method and its application, and defines the meaning of proved reserves and other key terms. SFAS 69 establishes comprehensive disclosure requirements for oil and gas activities, including PV10 adjusted for future income taxes (the “Standardized Measure”). El Paso failed to follow Rule 4-10 by improperly classifying certain reserves as “proved.”

23. The overstatements in proved reserves caused EP, CGP, and EPPH’s financial statements to be materially misleading. El Paso’s restatement revised downward the companies’ proved reserves at December 31, 2002, 2001, and 2000. Based upon the restated proved reserves, El Paso also recalculated its Standardized

Measure in each of these periods. El Paso disclosed in its 2003 Form 10-K, the restatement was not based on a detailed reconstruction of proved reserves for any prior period. Rather, El Paso “utilized the estimated proved reserves as of December 31, 2003 that were derived from [El Paso’s] review completed in February 2004, and then determined historical reserves by adjusting these reserves for actual historical production data . . . .” For periods prior to December 31, 2000, El Paso estimated “reserves and related future cash flows (for ceiling test purposes)” by using a “reserve over production ratio.”

24. El Paso concluded in its 2003 Form 10-K that El Paso had a material weakness in its internal controls. This material weakness included a weak control environment surrounding the booking of its oil and gas reserves, inadequate controls over system access, inadequate documentation of policies and procedures, and ineffective controls to monitor compliance with existing policies and procedures. Because of this weakness in its internal controls, El Paso failed to detect or prevent material overstatements of its oil and gas reserves. Erskine, as one of his duties as president of El Paso’s Exploration and Production Business Segment, was responsible for establishing appropriate controls over reserves to reasonably ensure that El Paso’s reserves were properly reported. Bartley, indirectly, was responsible for ensuring that El Paso’s vice presidents conformed to the company’s reserves-related controls.

25. Beginning in early 2001, El Paso distributed a reserves reporting manual (the “Reserves Manual”), which was available to all personnel involved in the estimation of reserves. The Reserves Manual delineated the responsibilities of El Paso’s reserves reporting staff and the policies for estimating and reporting oil and gas resources. The Reserves Manual made it clear that all reserve estimates were to be prepared in accordance with Rule 4-10 and would be reported in the company’s Commission filings. Additionally,

the Reserves Manual included, as appendices, copies of both Rule 4-10 and guidance issued by the staff of the Commission's Division of Corporation Finance (the "Guidance").

26. Later in 2001, El Paso began holding annual reserves reporting workshops to ensure compliance by El Paso personnel with the company's reserves policies and the requirements of Rule 4-10 and the Guidance. The reserves workshop in 2001 was not attended by staff in El Paso's CBM district. Despite the distribution of the Reserves Manual and materials used in the training workshops, certain of El Paso's management and reserves reporting staff failed to follow, at all times, El Paso's stated policies regarding Rule 4-10, as well as the Guidance.

27. Prior to Coastal's merger with El Paso, a group of Coastal's reserves engineers (the "Reserves Group"), without operational responsibilities, were charged with enforcing Coastal's compliance with Rule 4-10. Coastal had required the vice president of the Reserves Group to sign internal certifications addressed to Erskine attesting to the fact that their reserves valuations were "in accordance with all SEC, FASB, and [Society of Petroleum Engineers] regulations and requirements."

28. After the Coastal merger, El Paso adopted an internal reserves certification process making the district vice presidents responsible for certifying El Paso's proved reserves. Although the Reserves Manual clearly documents district employees' roles and responsibilities, some district vice presidents and employees failed to adhere to the company's reserves reporting policies, procedures, and controls in all instances.

29. At year-end 2001 and 2002, pursuant to the revised procedures, each district vice president (including Hochstein, Perry and Simmons) certified to the CFO of El Paso's Exploration and Production Business Segment that his respective district's

reserve estimates had been prepared in conformity with the requirements of Rule 4-10. These certifications were also provided to El Paso's financial auditor.

30. Each vice president certified that his respective district's reserves estimates had been prepared in accordance with SEC rules governing the estimation of proved oil and gas reserves (Regulation S-X, Rule 4-10). Specifically, the vice presidents certified that the following conditions had been met:

1. All reserve estimates have been prepared by employees who are, or who work under the direct supervision of persons qualified to prepare reserve estimates by virtue of their education and relevant industry experience.
2. Employees responsible for reserves estimates have received copies of and read El Paso Production Company's reserves reporting policy contained in the Reserves Management Manual and have received training from the Reserve Evaluation department regarding the Policy and Regulation S-X Rule 4-10.
3. These reserve estimates meet the SEC definition of proved reserves. Specifically, they are estimated quantities of oil and gas that are recoverable in future years from known reservoirs under existing economic and operating conditions. The reserve estimates were derived by the application of sound engineering and geological principles to all available, relevant data. The estimates of proved reserves are 'reasonably certain' in the sense that future revisions (if necessary) are much more likely to be positive, rather than negative.

31. In practice, Hochstein, Perry, and Simmons signed certifications that were inaccurate. El Paso's financial auditor relied upon the vice presidents' certifications in connection with its audits of El Paso, CGP and EPPH's financial statements.

32. Inadequate internal controls, combined with a willingness on the part of some of El Paso's management and employees to estimate proved reserves in a manner inconsistent with SEC rules, led to El Paso, CGP, and EPPH's violating Rule 4-10 and incorrectly reporting their proved oil and gas reserves. Between year-end 1999 and

September 30, 2003, El Paso and its subsidiaries at times: (1) attributed proved reserves to unproved reservoirs; (2) booked reserves as “proved” in the absence of sufficient supporting geological and engineering data demonstrating with reasonable certainty that reserves could be economically recovered; and (3) failed to take into account negative drilling and production data in estimating proved reserves.

33. From year-end 1999 until the third quarter of 2003 (“the relevant period”), El Paso and its subsidiaries improperly attributed some proved reserves to unproved reservoirs. A reservoir, as defined by Rule 4-10, is “a porous and permeable underground formation containing a natural accumulation of producible oil and/or gas that is confined by impermeable rock or water barriers and is individual and separate from other reservoirs.” A reservoir is proved under Rule 4-10 “if economic producibility is supported by either actual production or conclusive formation test.” If a reservoir has neither produced hydrocarbons nor is supported by a conclusive formation test, the reservoir and all associated reserves are “unproved.” If a reservoir has either produced hydrocarbons or is supported by a conclusive formation test, Rule 4-10 defines what portion of the reservoir is “proved.” In certain instances, El Paso attributed proved reserves to reservoirs which had not produced or for which there were no conclusive formation tests.

34. During the relevant period, El Paso improperly attributed some proved reserves to wells and undrilled locations for which it did not have sufficient underlying data. Therefore, the Company could not demonstrate with reasonable certainty, as required by Rule 4-10, that those reserves could be economically produced at existing economic and operating conditions. For example, in some instances, El Paso lacked geological and engineering information, such as mapped locations and pressure test data, to support its

proved reserves estimates. In other instances, El Paso used optimistic cost and operating assumptions that were inconsistent with actual costs and operating conditions.

35. Finally, during the relevant period, El Paso, at times, failed to take into account negative drilling and production trends in estimating and reporting its proved reserves. For example, El Paso gained information from drilling activities suggesting that certain wells were not producing as predicted. El Paso, however, failed to investigate adequately the reasons for the negative trends or to adjust downward those estimates. In other instances, El Paso failed to adjust downward its proved undeveloped (“PUD”) reserve estimates to account for the negative production trends of El Paso’s wells or nearby, comparable wells.

36. El Paso’s overstatement of proved reserves occurred throughout most of its geographic districts. The largest revisions were recorded in the Rocky Mountain, CBM and South Texas districts. Had the proved reserves been reported at that time in accordance with Rule 4-10, El Paso would have taken ceiling test charges, materially reducing the amount of its assets.

37. Beginning as early as year-end 1998 and continuing until the majority of the Rocky Mountain district properties were sold in 2002, El Paso reported estimates of proved reserves and PV10 values in the Rocky Mountain district that were not always in conformance with Rule 4-10. Simmons was the vice president in charge of the Rocky Mountain district at year-end 2001; he reported directly to Bartley and indirectly to Erskine.

38. The overstatements of El Paso’s Rocky Mountain district proved reserves resulted principally from: (1) the absence of sufficient geological and engineering data

demonstrating with reasonable certainty that the reserves could be economically recovered; and (2) the attribution of proved reserves to unproved reservoirs. Some of the overstatements in the Rocky Mountain district relate to the company's reporting of proved reserves for Coastal's High Mountain properties acquired in 1998 ("High Mountain") and the booking of certain reserves in the "Castlegate" formation beginning at year-end 1999. At least some of the High Mountain and Castlegate reserves remained on El Paso's books until sold in the fourth quarter of 2002. In addition, Erskine, Bartley, and Simmons failed to respond to red flags that should have caused them to investigate the accuracy of the Rocky Mountain district proved reserves.

39. At year-end 1998, Coastal reported approximately 500 BCFe as proved reserves in connection with High Mountain, which it acquired in November 1998. Coastal, however, lacked sufficient geological and engineering data to support some of the High Mountain proved reserves. Based on conversations with Huddleston & Co., Coastal engineers erroneously believed that they had three years to create sufficient documentation, such as maps, to substantiate such recently acquired reserves. Between 1999 and 2002, the engineers worked to identify drilling locations and create engineering support. Because the engineers never fully completed the task of "proving up" the High Mountain reserves, some portion of these reserves remained overstated until the properties were sold in 2002.

40. Erskine was made aware of questions about the High Mountain reserves estimates made at year-end 1998. In early 1999, P. Huddleston's father, B.P. Huddleston, personally discussed the High Mountain reserves with Erskine. Moreover, P. Huddleston and B. P. Huddleston drafted a letter, dated January 22, 1999, specifically

identifying the High Mountain reserves, as well as the reserves of other properties in the Rocky Mountain and South Texas districts, as aggressive. Despite the January 1999 letter and Erskine's discussion with B.P. Huddleston, El Paso did not investigate adequately whether the High Mountain reserves were in conformity with the requirements of Rule 4-10.

41. At year-end 2001, El Paso also violated Rule 4-10 by evaluating certain Rocky Mountain district reserves using costs that were artificially below its actual year-end 2001 costs. As a result, El Paso overstated some of its proved reserves by including reserves that would not be produced economically at El Paso's existing, year-end 2001 costs and may have avoided recording a ceiling test charge (and, thereby, a reduction in its assets) at year-end 2001.

42. The cost of developing reserves became an issue for the Rocky Mountain district in 2001 as a result of declining gas prices. Low prices at the end of the third quarter of 2001 caused substantially all of the Rocky Mountain district's PUDs to become uneconomic and thus, no longer proved. By year-end 2001, gas prices had recovered somewhat, which enabled El Paso, under Rule 4-10, to re-record as proved some of the reserves written off at the end of the third quarter. Other reserves became economically viable only after El Paso engineers began using lower capital and operating cost assumptions. This conduct, sanctioned by Simmons, violated the Rule 4-10 requirement to use current costs and current economic and operating conditions.

43. In late 2001, El Paso decided to sell a substantial portion of its Rocky Mountain district properties. For presentation to prospective purchasers, Rocky Mountain district engineers extracted data from the reserves database used for SEC

reporting purposes. During this process and prior to El Paso's filing its 2001 Form 10-K, Simmons learned that El Paso could not support classifying certain reserves as proved under Rule 4-10. In the Colorado sales package, El Paso reclassified 67 BCFe of reserves from proved to probable. Simmons was aware and Erskine should have known of this reclassification, but they did not take adequate steps to ensure that data submitted for inclusion in El Paso's 2001 Form 10-K were likewise corrected. As a result, overstated reserves were included in El Paso's 2001 Form 10-K.

44. Other overstated reserves included in El Paso's 2001 Form 10-K came to light during the Colorado sales process. For example, potential buyers alerted El Paso that its cost estimates for some of its proved reserves were missing or appeared to be understated. In other instances, the sales package contained misstatements regarding El Paso's ownership interests in certain properties. In each of these instances, Simmons instructed his staff to make the appropriate reduction in proved reserve amounts in the sales packages, but he did not take steps to correct the data used for El Paso's Form 10-K.

45. In the closing days of 1999, Coastal booked 412 BCFe (approximately 11% of Coastal's reserve base at the time) of PUD reserves attributable to Castlegate, a gas-producing area in Utah. Due to insufficient underlying data, this booking was unsupported for Rule 4-10 purposes.

46. Even though there was only sufficient geological and engineering data to justify classifying some of the proposed area as proved, Coastal booked all 412 BCFe as proved within an area defined by two producing wells and three test locations.

47. Because the booking included 150 PUD locations but only two producing wells and three test locations, Coastal clearly attributed proved reserves to locations more than one offset location from a producing well. The reserves per location were excessive as they were booked, contrary to Rule 4-10, at volumes exceeding three months of production of the two producing wells and exceeding the historical performance of wells in comparable formations. Essentially, the data available at that time supported fewer PUD locations and fewer reserves per PUD location.

48. El Paso learned that its then-reserves engineering firm disagreed with the Castlegate booking during its due diligence for the proposed Coastal merger, when Erskine and P. Huddleston, on behalf of Coastal, met with representatives of El Paso's management and El Paso's then-reserves engineering firm to review Coastal's oil and gas reserves. Following this meeting, El Paso's then-reserves engineering firm issued a letter, dated January 14, 2000, to El Paso summarizing its evaluations of the Coastal reserves. The letter stated, in part, that "[s]ome 412 BCF of natural gas reserves attributable to the Castlegate formation in the Natural Buttes Field (Utah) should be reclassified from proved to probable undeveloped reserves given the dearth of both geological and performance data available as of December 31, 1999." El Paso failed to investigate whether the Castlegate reserves that remained on the books at the time of the merger were proved under Rule 4-10. Moreover, El Paso continued to report some portion of the Castlegate as proved after the Coastal merger until the reserves were sold in 2002.

49. In addition, poor drilling results in 2000 demonstrated to the Rocky Mountain district engineering staff that the Castlegate PUDs booked in the closing days

of 1999 were not economically viable, and therefore those reserves did not meet the requirements of Rule 4-10. Although the reserves associated with the original Castlegate PUDs were removed from the books in 2000, the staff booked approximately 126 PUDs in a different, but deeper, series of reservoirs within the formation. As was the case at year-end 1999, not all of these reservoirs by year-end 2000 had been confirmed as proved by actual production or by conclusive formation tests in the manner required by Rule 4-10. Consequently, such reserves were, by definition, unproved.

50. Because the area consisted of multiple reservoirs, not all of which were penetrated by a well bore, Coastal could not demonstrate with certainty the requisite continuity of production for many of the Castlegate reserves. Therefore, certain Castlegate reserves at year-end 2000 did not conform to the existing data and were not “proved” under Rule 4-10. Although El Paso removed additional Castlegate reserves from the books by the end of 2001, El Paso continued to report as proved some unproved Castlegate reserves.

51. Simmons certified, among other things, that the year-end 2001 reserve estimates complied with SEC rules and regulations without making any effort to ascertain their accuracy. Simmons also knew, from his participation in selling El Paso’s Rocky Mountain properties, that certain reserves did not comply with the requirements of Rule 4-10. Despite his knowledge, Simmons falsely certified that the Rocky Mountain reserves complied with SEC rules and regulations.

52. El Paso obtained most of its CBM properties through the Sonat merger in 1999. At the time, Simmons was the vice president of the CBM district. He remained the CBM vice president until transferring to the Rocky Mountain district in mid-2001.

Hochstein, who had worked as a geologist and a technical manager in the CBM district since 1998, replaced Simmons as CBM vice president.

53. The CBM overstatements resulted principally from El Paso's: (1) reporting proved reserves for which it did not have sufficient geological and engineering data to the extent required under Rule 4-10 demonstrating with reasonable certainty that the reserves could be economically recovered; and (2) failing to take into account in a timely manner negative production trends.

54. As discussed above with regard to the Rocky Mountain district, Rule 4-10 limits proved PUD reserves "to those drilling units offsetting productive units that are reasonably certain of production when drilled." The Guidance points out that, "generally, proved undeveloped reserves can be claimed only for legal and technically justified drainage areas offsetting an existing productive well." In its CBM district in 2000 and 2001, however, El Paso did not limit its reported reserves to locations directly adjacent to producing wells; it also included reserves from PUDs two locations from a producing well ("non-adjacent PUDs").

55. Although Rule 4-10 allows the reporting of proved reserves for non-adjacent PUDs, the reporting is limited to locations "where it can be demonstrated with certainty that there is continuity of production." The Guidance states that "continuity of production" cannot be based on seismic data alone and that "the required data would be the conclusive evidence of communication from production or pressure tests." With respect to non-adjacent CBM PUDs, El Paso did not have the required conclusive evidence of communication as referenced in the Guidance. In lieu of production or pressure tests, El Paso relied, improperly, on data from reservoir extent and/or historical

well statistics to support the non-adjacent PUDs in the Raton basin in 2000 and 2001. Although Hochstein knew, or was reckless in not knowing, that El Paso did not have the referenced data, he certified at year-end 2001 that the CBM district's reserves complied with Rule 4-10.

56. At year-end 2002, El Paso ceased reporting non-adjacent PUDs as proved, after the Corp Fin staff, in an exchange of letters from August 2002 through January 2003, advised El Paso that it disagreed with El Paso's reliance on data from reservoir extent and/or historical well statistics as not in conformity with Rule 4-10. Erskine agreed to exclude approximately 153 BCF of reserves attributed to non-adjacent locations at year-end 2002 (11% of CBM reserves, as reported) and El Paso did so.

57. To minimize the total reserves eliminated for non-adjacency, Bartley directed Hochstein in late 2002 to drill CBM locations that were not adjacent to a producing well to maximize the number of potential PUD reserves, not production. This approach was a deviation from generally accepted CBM development practices, because by not continuing to drill the next adjacent location, expected gas production would be significantly delayed.

58. With Bartley's approval, Hochstein implemented this drilling program in the fourth quarter of 2002, which minimized the reserve reduction caused by removing non-adjacent PUDs at year-end 2002. El Paso did not publicly disclose its deviation from its typical CBM development practices or the resulting negative impact on expected CBM production trends.

59. In July 2002, El Paso acquired the remaining working interest in the Raton Basin (the "Raton Acquisition"), thereby increasing El Paso's ownership to 100% of this

working interest. In the third quarter of 2002, El Paso recorded 508 BCFe of proved reserves related to this acquisition. In the fourth quarter of 2002, without explanation or support, El Paso increased its estimate of reserves attributed to the Raton Acquisition from 508 BCFe to 562 BCFe. El Paso made no corresponding increase in the reserves attributed to the working interest it owned before acquiring the remaining interest. Since El Paso owned 100% of the working interest, any adjustments to the interest it acquired in 2002 should have been mirrored by a corresponding change to the interest already owned by El Paso.

60. During 2001 and 2002, the actual production performance of El Paso's Raton basin wells and of nearby wells operated by a competitor ("analogous wells") was less than had been projected for that time period. El Paso's Raton basin wells did not perform as expected, in part, due to mechanical and operational problems; as a result, the wells produced no gas or produced gas at rates significantly below previous projections. By mid-2001, Hochstein was aware, and Erskine and Bartley should have known, that the analogous wells were underperforming. No one, however, made adjustments to El Paso's CBM reserve estimates either at year-end 2001 or 2002. To the contrary, El Paso's CBM staff improperly assumed future performance would be better than the data suggested. The CBM staff adjusted the shape of the curve (which is determined by the rate of production and the timing of the production of gas) to conform to these optimistic projections, which had the effect of artificially inflating PV10 values. Hochstein knew that his staff was adjusting the curve.

61. As early as mid-2001, Hochstein was aware, and Erskine and Bartley should have known, of the underperformance of El Paso's Raton basin wells and the

neighboring analogous wells. Hochstein, as vice president of the CBM district, had firsthand knowledge of the district's operational problems and the underperformance of the analogous wells. Nonetheless, no one took steps to adjust downward El Paso's CBM PV10 estimates to account for these material negative trends. Consequently, El Paso's 2001 and 2002 Commission filings materially overstated the present value of its expected cash flows.

62. After the January 2001 Coastal merger, as a result of the overstated CBM reserves, El Paso's cost per MCFe of finding new proved reserves and El Paso's DD&A rate were artificially low. Bartley issued to Hochstein aggressive reserve targets, and Hochstein, in turn, pressured the CBM district staff involved in estimating, booking, and reporting reserves. The CBM staff responded by prematurely booking reserves as proved without sufficient supporting data. More significantly, the CBM staff failed to timely take account of negative performance trends that called into question the "reasonable certainty" of prior estimates.

63. Hochstein falsely certified that year-end 2001 and 2002 reserves complied with SEC rules and regulations without making any effort to ascertain their accuracy. For example, Hochstein certified that each of his staff had received, read, and been trained on El Paso's internal reserves reporting policies. In reality, this representation was false for CBM staff at year-end 2001 and not completely true at year-end 2002. Additionally, Hochstein certified that the CBM district reserves had been estimated in conformity with Rule 4-10 and that, "as more technical data became available, the likelihood of positive revisions was more likely than the likelihood of negative revisions." The negative performance trends, of which Hochstein was aware in 2001

and 2002, made this representation false. Hochstein, nonetheless, presented for approval the CBM district reserves to his supervisors, first to Bartley and then to Erskine. Hochstein then certified the CBM reserves, which were then reported by El Paso in its Form 10-Ks.

64. As early as mid-2001, Erskine and Bartley should have known about negative performance trends and aggressive reserve reporting issues in the CBM district, but failed to exercise reasonable care to address the situation.

65. Perry was the vice president in charge of the South Texas district from 1999 until March 2003 when he was transferred to another district. He reported directly to Bartley, and indirectly to Erskine. El Paso's South Texas reserves overstatements were material and accounted for nearly one-third of the El Paso's revisions for 2001 and 2002. The South Texas overstatements resulted principally from: (1) a failure to take account of negative drilling and production trends; and (2) the reporting of proved reserves without sufficient geological and engineering data demonstrating with reasonable certainty that the reserves could be economically recovered.

66. El Paso relied primarily on two methods to estimate its proved reserves in South Texas — volumetric modeling and decline curve analysis. Volumetric models, based on geological factors rather than production history, were used for PUDs and early stage PDPs. Decline curves, which in contrast to volumetric models incorporate a well's production data, were used for PDPs with sufficient production histories.

67. No later than the first quarter of 2002, Perry knew or was reckless in not knowing, and Erskine and Bartley should have known, that El Paso's actual drilling results in many South Texas fields were underperforming the company's pre-drilling

volumetric estimates. The company's quarterly Pre-Post Drilling Analysis reports (the "Drilling Reports") provided Erskine, Bartley, and Perry with a clear picture of this problem. The Drilling Reports compared, among other things, reserve estimates for a particular location before and after drilling. By the end of 2002, the Drilling Reports demonstrated that for all wells drilled in South Texas in 2002, El Paso expected it would recover only 67% of its pre-drill estimated reserves. In fact, later evidence revealed that the problem was even worse than the Drilling Reports indicated. A former member of El Paso's Reserves Group, then serving the South Texas district, after reviewing first quarter 2003 drilling results, concluded that El Paso's actual 2002 post-drill results were only 50% of the pre-drill estimate. By the second quarter of 2003, the same Reserves Group engineer observed that El Paso's post-drill estimates were only 39% of its pre-drill estimates.

68. Despite the fact that Perry knew or was reckless in not knowing, and Erskine and Bartley should have known, of the negative production trends beginning in early 2002, no one re-evaluated El Paso's South Texas PUD estimates. Failing to adjust the PUD reserves virtually assured that future negative revisions would occur when those locations were drilled.

69. In addition to the Drilling Reports, other evidence in South Texas raised questions about the reliability of the South Texas reserves. For example, with respect to El Paso's *ad valorem* tax assessments for the Santa Fe Ranch field in 2002 and 2003, El Paso successfully argued before the county taxing authorities that its Santa Fe Ranch PDP reserves were materially lower than the reserves recorded for SEC reporting purposes, which significantly reduced El Paso's tax liability. Although the standards

used for determining reserves for tax purposes are somewhat different than the standards used for SEC reporting purposes, the fact that the resulting number was significantly smaller should have raised a red flag about the proved reserves used for SEC reporting purposes.

70. Perry, Erskine and Bartley were aware of, and supported, the *ad valorem* tax reduction efforts. Moreover, they knew about the substantial discrepancy between the two Santa Fe Ranch estimates. Perry, Erskine, and Bartley failed to investigate the reasons for the difference.

71. El Paso also overstated its South Texas reserves by using an overly optimistic and unsupportable minimum decline rate for many of its South Texas fields. Lower minimum decline rates result in higher proved reserve estimates. El Paso's South Texas reserves from 2001 through 2003 were overstated because El Paso relied upon an outdated study of a single field to support, for a large portion of the South Texas district, a minimum decline rate of 7%. The study, performed in the late 1990's, was no longer valid by 2001, in large part because El Paso was drilling its wells much closer together than the wells used to support the 7% minimum decline rate.

72. The use in South Texas of the 7% minimum decline rate resulted in materially overstated proved reserves. In its 2004 restatement, El Paso concluded that 12-13% minimum decline rates were appropriate for its South Texas wells. This change alone accounted for at least a 25% reduction of its South Texas proved reserves during the restatement period. Perry knew or was reckless in not knowing, and Erskine and Bartley should have known, that using 7% minimum decline rate would materially overstate El Paso's South Texas reserves.

73. Perry certified on March 1, 2002 and January 23, 2003, respectively, that the year-end 2001 and 2002 South Texas reserves complied with SEC rules and regulations, including Rule 4-10, despite knowing, or recklessly not knowing, that the certifications were false and materially misleading. Perry also knew, or was reckless in not knowing, that the South Texas reserves set forth in his certifications would be used in reporting El Paso's financial results in the company's Form 10-K for those years.

74. By receiving and reviewing the Drilling Reports and the *ad valorem* tax information, Erskine and Bartley should have known that El Paso's South Texas reserves were overstated.

75. In November 2002, El Paso's proved reserves booking practices became the subject of a Houston Business Journal article. The article, published on November 8, 2002, cited two El Paso engineers as sources. The engineers alleged, among other things: that an order was issued from "downtown" to return 300 BCFe of proved reserves to the books and that the Colorado sales package process led to reserves that were reclassified from proved to probable. In response to the allegations in the article, El Paso conducted an internal investigation led by an Exploration and Production Business Segment attorney.

76. At the conclusion of a week-long investigation, the attorney documented his findings concerning the two allegations in a memorandum to El Paso's assistant general counsel. In the two-page document, the attorney did little more than recount what Bartley had told him. He explained that a decrease in third quarter 2001 gas prices caused the removal of proved reserves at that time, but that gas prices had rebounded enough by year-end to re-record those reserves on the books. While gas prices did

increase, some of the reserves were removed because they failed to meet Rule 4-10 (*e.g.*, mediocre drilling results in 2001 indicated that a number of PUDs required downward adjustment by at least 300 BCFe). The attorney failed to discover this fact and therefore did not investigate whether such reserves had been improperly added back to El Paso's books, as alleged in the article.

77. The attorney acknowledged in his memorandum the fact that even though certain reserves were reclassified in the Colorado sales packages, the reclassification was disclosed to potential buyers but not reflected in the 2001 year-end reserves data base used for SEC reporting purposes. Notably, the attorney failed to investigate why no corresponding corrections were made to El Paso's 2001 Form 10-K. There was no other follow-up discussion within El Paso regarding the allegations in the article or regarding the attorney's memo.

78. During 2003, EPPH filed a registration statement on Form S-4 for the offer of \$1.2 billion of debt securities, which were issued in January 2004. Prior to his resignation on November 14, 2003, Erskine, as EPPH's president, signed EPPH's registration statement on Form S-4, and amendments thereto. After Erskine's resignation, Bartley, as EPPH's "acting president," signed the amendments to EPPH's registration statement on Form S-4 filed on November 24, 2003 and December 12, 2003. Bartley should have known that EPPH failed to disclose, in connection with this offering, that its oil and gas reserves, assets, stockholders' equity, and earnings were materially overstated.

79. In connection with EPPH's registration statement, and amendments thereto, Erskine and Bartley signed letters of representation to EPPH's financial auditor.

Erskine and Bartley represented to the auditor that “the Company’s net capitalized oil and gas property costs did not exceed the cost center ceiling, as defined by SEC Regulation S-X Rule 4-10.” Additionally, Erskine and Bartley represented to the auditor that there were no significant deficiencies, including material weaknesses in El Paso’s internal controls over financial reporting. Erskine and Bartley should have known that these statements were false and materially misleading.

**FIRST CLAIM**  
**Violations of Section 17(a) of the Securities Act**

80. Paragraphs 1 through 79 are realleged and incorporated by reference.

81. Defendants EPPH, CGP, Hochstein, Perry and Simmons, in the offer or sale of securities, have: (a) employed devices, schemes or artifices to defraud; (b) made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged in transactions, practices or courses of business, which operated or would operate as a fraud or deceit upon the purchaser.

82. Defendants EPPH, CGP, Hochstein, Perry and Simmons knowingly, or with severe recklessness, engaged in the conduct described in this claim.

83. By reason of the foregoing, EPPH, CGP, Hochstein, Perry and Simmons violated and, unless enjoined, will continue to violate Section 17(a) of the Securities Act [15 U.S.C. § 77q].

**SECOND CLAIM**  
**Violations of Section 17(a)(2) of the Securities Act**

84. Paragraphs 1 through 79 are realleged and incorporated by reference.

85. Defendants El Paso, Erskine, and Bartley directly or indirectly, singly or

in concert with others, in the offer or sale of securities, by the use of means or instruments of transportation or communication in interstate commerce, or by the use of the mails, has obtained money or property by means of untrue statements of material facts or omissions of material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

86. El Paso, Erskine, and Bartley engaged in the above-referenced conduct in a negligent manner.

87. By reason of the foregoing, El Paso, Erskine, and Bartley violated and, unless enjoined, will continue to violate, Section 17(a)(2) of the Securities Act [15 U.S.C. § 77q(a)(2)].

**THIRD CLAIM**  
**Violations of Section 10(b) of the**  
**Exchange Act and Rule 10b-5 Thereunder**

88. Paragraphs 1 through 79 are realleged and incorporated by reference.

89. Defendants EPPH, CGP, Hochstein, Perry and Simmons, in connection with the purchase or sale of securities, have: (a) employed devices, schemes or artifices to defraud; (b) made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged in acts, practices and courses of business which operated or would operate as a fraud or deceit upon purchasers, prospective purchasers, and other persons.

90. Defendants EPPH, CGP, Hochstein, Perry and Simmons knowingly, or with severe recklessness, engaged in the conduct described in this claim.

91. By reason of the foregoing, EPPH, CGP, Hochstein, Perry and Simmons violated and, unless enjoined, will continue to violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5].

**FOURTH CLAIM**  
**Violations of Section 13(a) of the Exchange Act**  
**and Rules 12b-20, 13a-1 and 13a-13**

92. Paragraphs 1 through 79 are realleged and incorporated by reference.

93. Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] requires issuers to file such annual and quarterly reports as the Commission may prescribe and in conformity with such rules as the Commission may promulgate. Exchange Act Rule 13a-1 [17 C.F.R. § 240.13a-1] requires the filing of accurate annual reports and Exchange Act Rule 13a-13 [17 C.F.R. §240.13a-13] requires the filing of accurate quarterly reports. Rule 12b-20 [17 C.F.R. § 240.12b-20] requires an issuer to include material information as may be necessary to make the required statements, in light of the circumstances under which they were made, not misleading.

94. El Paso and CGP filed periodic reports with the Commission that were not prepared in accordance with Rules promulgated by the Commission.

95. By reason of the foregoing, El Paso and CGP violated and, unless enjoined, will continue to violate Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1 and 13a-13 thereunder. [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13].

**FIFTH CLAIM**

**Violations of Sections 13(b)(2)(A) and 13b(2)(B) of the Exchange Act**

96. Paragraphs 1 through 79 are realleged and incorporated by reference.

97. Defendants El Paso, EPPH, and CGP, each having a class of securities registered pursuant to Section 12 of the Exchange Act, in the manner set forth above, failed to:

- (a) make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of its assets;
- (b) devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that —
  - (i) transactions are executed in accordance with management's general or specific authorization;
  - (ii) transactions are recorded as necessary (I) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and (II) to maintain accountability for assets;
  - (iii) access to assets is permitted only in accordance with management's general or specific authorization; and
  - (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

98. By reason of the foregoing, Defendants El Paso, EPPH and CGP violated and, unless enjoined, will continue to violate Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act. [15 U.S.C. §§78m(b)(2)(A) and 78m(b)(2)(B)].

**SIXTH CLAIM**  
**Violations of Section 13(b)(5) of the Exchange Act**

99. Paragraphs 1 through 79 are realleged and incorporated by reference.

100. Defendants Hochstein, Perry and Simmons violated Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] by knowingly circumventing or knowingly failing to implement a system of internal accounting controls, or knowingly falsifying El Paso, CGP and EPPH's books, records or accounts.

101. By reason of the foregoing, Hochstein, Perry and Simmons violated and, unless enjoined, will continue to violate Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)].

**SEVENTH CLAIM**  
**Violations of Exchange Act Rules 13b2-1 and 13b2-2**

102. Paragraphs 1 through 79 are realleged and incorporated by reference.

103. Defendants Erskine, Bartley, Hochstein, Perry and Simmons violated Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1] by, directly or indirectly, falsifying or causing to be falsified, the books, records or accounts of El Paso, EPPH and CGP subject to Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)]. Furthermore, Erskine, Bartley, Hochstein, Perry and Simmons violated Exchange Act Rule 13b2-2 [17 C.F.R. § 240.13b2-2] by making, or causing to be made, materially false or misleading statements or omissions to an accountant or auditor.

104. Defendants Erskine, Bartley, Hochstein, Perry and Simmons engaged in the above-referenced conduct in a negligent manner.

105. By reason of the foregoing, Erskine, Bartley, Hochstein, Perry and Simmons violated and, unless enjoined, will continue to violate Exchange Act Rules 13b2-1 and 13b2-2 [17 C.F.R. §§ 240.13b2-1 and 240.13b2-2].

**EIGHTH CLAIM**  
**Violations of Section 15(d) of the**  
**Exchange Act and Rules 12b-20, 15d-1 and 15d-13 Thereunder**

106. Paragraphs 1 through 79 are realleged and incorporated by reference.

107. Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)] requires issuers to file such annual and quarterly reports as the Commission may prescribe and in conformity with such rules as the Commission may promulgate. Exchange Act Rule 15d-1 [17 C.F.R. § 240.15d-1] requires the filing of accurate annual reports and Exchange Act Rule 15d-13 [17 C.F.R. §240.15d-13] requires the filing of accurate quarterly reports. Rule 12b-20 [17 C.F.R. § 240.12b-20] requires an issuer to include material information as may be necessary to make the required statements, in light of the circumstances under which they were made, not misleading.

108. EPPH filed periodic reports with the Commission that were not prepared in accordance with Rules promulgated by the Commission.

109. By reason of the foregoing, EPPH violated and, unless enjoined, will continue to violate Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)] and Rules 12b-20, 15d-1 and 15d-13 thereunder. [17 C.F.R. §§ 240.12b-20, 240.15d-1 and 240.15d-13].

**NINTH CLAIM**

**Aiding and Abetting El Paso and CGP's Violations of Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1 and 13a-13 Thereunder**

110. Paragraphs 1 through 79 are realleged and incorporated by reference.

111. Based on the conduct alleged herein, El Paso and CGP violated Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1 and 13a-13 thereunder.

112. Defendants Erskine, Bartley, Hochstein, Perry and Simmons, in the manner set forth above, aided and abetted El Paso and CGP, as issuers of securities registered pursuant to Section 12 of the Exchange Act, in their failure to exercise due care to file with the Commission, in accordance with rules and regulations the Commission has prescribed, information and documents required by the Commission to keep reasonably current the information and documents required to be included in or filed with an application or registration statement filed pursuant to Section 12 of the Exchange Act and annual reports and quarterly reports as the Commission has prescribed.

113. By reason of the foregoing, Erskine, Bartley, Hochstein, Perry and Simmons aided and abetted violations of and, unless enjoined, will aid and abet further violations of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1 and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-13].

**TENTH CLAIM**

**Aiding and Abetting El Paso, EPPH and CGP's Violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act**

114. Paragraphs 1 through 79 are realleged and incorporated by reference.

115. Based on the conduct alleged herein, El Paso, EPPH and CGP violated Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act.

116. Defendants Erskine, Bartley, Hochstein, Perry and Simmons, in the manner set forth above, aided and abetted El Paso, EPPH and CGP in connection with their failure to exercise due care to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflected El Paso, EPPH and CGP's transactions and dispositions of their assets.

117. Defendants Erskine, Bartley, Hochstein, Perry and Simmons, in the manner set forth above, aided and abetted El Paso, EPPH and CGP in connection with their failure to exercise due care to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles.

118. By reason of the foregoing, Erskine, Bartley, Hochstein, Perry and Simmons aided and abetted violations of and, unless enjoined, will aid and abet further violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(b)(2)(A) and 78m(B)(2)(B)].

**ELEVENTH CLAIM**

**Aiding and Abetting EPPH's Violations of Sections 15(d) of the Exchange Act and Rules 12b-20, 15d-1 and 15d-13 Thereunder**

119. Paragraphs 1 through 79 are realleged and incorporated by reference.

120. Based on the conduct alleged herein, EPPH violated Section 15(d) of the Exchange Act and Rules 12b-20, 15d-1 and 15d-13 thereunder.

121. Defendants Erskine, Bartley, Hochstein and Perry, in the manner set forth above, aided and abetted EPPH, as an issuer of securities registered pursuant to the Securities Act, in its failure to exercise due care to file with the Commission, in accordance with rules and regulations the Commission has prescribed, information and documents required by the Commission to keep reasonably current the information and documents required to be included in or filed with an application or registration statement filed pursuant to the Securities Act and annual reports and quarterly reports as the Commission has prescribed.

122. By reason of the foregoing, Erskine, Bartley, Hochstein and Perry aided and abetted violations of and, unless enjoined, will aid and abet further violations of Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)] and Rules 12b-20, 15d-1 and 15d-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.15d-1 and 240.15d-13].

**PRAYER FOR RELIEF**

The Commission respectfully requests that the Court:

123. Permanently restrain and enjoin defendants from violating, or aiding and abetting, directly or indirectly, the provisions of law and rules alleged in this Complaint.

124. Order defendants Erskine, Bartley, Hochstein, Perry and Simmons to pay civil penalties, including post-judgment interest, pursuant to Section 21(d)(3) of the

Exchange Act [15 U.S.C. § 78u(d)(3)] and Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] in an amount to be determined by the Court.

125. Grant such other relief as this Court may deem just or appropriate.

Respectfully submitted,



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