

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	Cr. No. H-02-0665
	§	
ANDREW S. FASTOW,	§	<u>Violations</u> : 18 U.S.C. §§ 371 (Conspiracy);
BEN F. GLISAN, JR., and	§	2 (Aiding and Abetting); 1343, 1346
DAN BOYLE	§	(Wire Fraud); 1512(b)(2)A (Obstruction of
		Justice);
		1956(a)(1), 1956(h), 1957 (Money
		Laundering); 15 U.S.C. §§ 78j(b), 78m,
		78ff, 17 C.F.R. 240.10b-5 (Securities
		Fraud); 26 U.S.C. § 7206 (False Tax
		Returns).

SUPERSEDING INDICTMENT

The Grand Jury charges:

1. At all times relevant to this Superseding Indictment, Enron Corp. (“Enron”) was an 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.

3. Under SEC regulations, Enron and its officers had a duty to make and keep books, records and accounts that fairly and accurately reflected Enron's business transactions, and file with the SEC reliable quarterly and annual reports.

#### The Defendants

4. The defendant ANDREW S. FASTOW, a resident of Houston, Texas, was Enron's Chief Financial Officer from March 1998 until his termination for cause on October 24, 2001. Prior to serving as CFO, FASTOW served as a Managing Director at Enron. As CFO, FASTOW had oversight over many of Enron's financial activities. FASTOW reported directly to Enron's Chief Executive Officer ("CEO"). During the time that he served as Enron's CFO, FASTOW also served as the general partner and otherwise was in control of certain special purpose entities ("SPEs") with which Enron did business.

5. The defendant BEN F. GLISAN, JR., a resident of Houston, Texas, was a former Arthur Andersen accountant who joined Enron in 1996. GLISAN held various positions at Enron, rising to the position of Treasurer in the spring of 2000, until his termination for cause in November 2001. As Treasurer, GLISAN along with FASTOW and other senior Enron management had responsibility for overseeing the financial well-being of the company.

6. The defendant DAN BOYLE, a resident of Houston, Texas, joined Enron in August 1998 and held a variety of positions, including Vice President in Global Finance. BOYLE was the lead Enron employee assigned to effectuate the Nigerian barge transactions discussed below.

7. As Enron employees, FASTOW, GLISAN, and BOYLE each owed a duty to Enron and its shareholders to provide the company with their honest services.

## THE SCHEMES TO DEFRAUD

8. Between at least 1996 and November 2001, FASTOW, GLISAN, BOYLE and others devised various schemes to defraud Enron and its shareholders, the investing public, the SEC, and others. The goals of the schemes included:

- (a) fraudulent manipulation of Enron's reported financial results so that Enron would appear more successful than it was;
- (b) artificial manipulation of the share price of Enron stock;
- (c) circumvention of federal regulations so that Enron could obtain benefits to which it was not entitled;
- (d) appearance of business skill and success on the part of FASTOW, GLISAN, BOYLE and others; and
- (e) personal enrichment of FASTOW, GLISAN, BOYLE, and others at the expense of Enron, its shareholders, and others to whom they owed a duty of honest services.

9. The means by which FASTOW, GLISAN, BOYLE and others achieved, and conspired and attempted to achieve, the goals of the various schemes included:

- (a) Enron's engaging in fraudulent transactions with third parties, including Merrill Lynch & Co., Inc. ("Merrill Lynch");
- (b) Enron's engaging in fraudulent transactions with SPEs;
- (c) Enron's engaging in transactions with SPEs and others, including Merrill Lynch, that were designed primarily to conceal the disparity between Enron's financial reporting goals and its actual business performance;
- (d) Enron's filing materially false and misleading financial statements with the SEC;

(e) Enron's making false and misleading public statements about Enron's financial performance; and

(f) FASTOW's and others' taking advantage of FASTOW's simultaneous control over SPEs and Enron's business operations.

### Enron's Use of Special Purpose Entities

10 Since the 1990's, Enron engaged in transactions with SPEs that were designed to improve Enron's reported financial results. Enron's treatment of its transactions with these SPEs for financial statement purposes was subject to accounting rules that governed whether an SPE should be consolidated onto Enron's balance sheet, or treated as a separate entity not under Enron's control. Enron's management, including FASTOW and GLISAN, and others, including BOYLE, preferred the latter result, known as "off-balance-sheet," because it enabled Enron to (a) book earnings and record cash flow and (b) avoid inclusion of unfavorable information in its reported financial statements, thereby presenting itself more attractively to Wall Street investment analysts, credit rating agencies, the investing public, and others.

11. Under applicable accounting rules, an SPE properly could receive off-balance-sheet treatment only if independent third-party equity investors contributed at least 3% of the SPE's capital, and the third-party investment was genuinely at risk, among other requirements. If the third party was not truly independent, or its equity not truly at risk, consolidation of the SPE onto Enron's balance sheet was required.

### The RADR Transaction

12. Enron owned interests in certain California wind farms (the "farms") which qualified for government financial benefits conferred on alternative energy sources. Such energy

facilities were known as “qualifying facilities” or “QF.” Under applicable federal regulations, wind farms that were more than fifty percent owned by an electric utility holding company were ineligible for QF status, and accordingly were not entitled to the associated financial benefits. By at least late 1996, FASTOW knew that the farms would lose their QF status because Enron was in the process of acquiring Portland General Electric, and as a consequence Enron would become an electric utility holding company.

13. In early 1997, FASTOW and others implemented a scheme to reap the proceeds from the farms for themselves, without the farms losing their valuable QF status. As part of the scheme, Enron appeared to divest itself partially of its interest in the farms through a sale to an SPE known as RADR. In reality, Enron retained an illegal and secret interest in the farms; FASTOW and his wife funded the purported independent 3% equity in RADR; and FASTOW and another Enron finance executive, Michael Kopper, controlled distribution of RADR proceeds, which they directed to themselves, friends, and families.

14. On approximately May 31, 1997, RADR purchased part of Enron’s interest in the farms for \$17 million.<sup>1/</sup> Enron funded 97% of the purchase price with a \$16.49 million loan to RADR. Nominees chosen by FASTOW and Kopper contributed the vast majority of the \$510,000 that was supposed to constitute the independent 3% equity in RADR. FASTOW and his wife contributed \$419,000 of that sum through concealed loans.

15. Although he did not appear as a partner or investor in RADR, FASTOW directed the distribution of RADR proceeds to himself, his family and others. FASTOW personally benefitted from the RADR transaction, in violation of his duty to provide Enron with his honest

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<sup>1/</sup> Numbers referred to herein are approximate.

services. For instance, RADR began making distributions to the nominees in July 1, 1997. On or about August 26, 1997, FASTOW and his wife received from the nominees \$481,850 in RADR proceeds, which represented \$62,850 more than the sum he and his wife had fronted the nominees. Between approximately December 1997 and February 2000, FASTOW and his family received over \$100,000 in additional RADR proceeds. So that his concealed interest in RADR would not be revealed, at FASTOW's direction the payments were mischaracterized as "gifts" from Kopper and a nominee to FASTOW, his wife, and two children. FASTOW and his wife did not report to their accountants or in their federal income tax returns to the Internal Revenue Service ("IRS") any of the RADR income disguised as gifts.

#### The Chewco Transaction

16. In 1993 Enron and the California Public Employees Retirement System ("CALPERS") entered into a \$500 million joint venture known as Joint Energy Development Investments ("JEDI"), which made various energy investments. Enron was able to treat JEDI for accounting purposes as an equity investment in an off-balance-sheet entity.

17. In approximately the summer of 1997, CALPERS decided to liquidate its investment in JEDI, and later agreed to do so for \$383 million. FASTOW proposed the creation of an SPE known as Chewco to buy CALPERS' interest in JEDI. Although FASTOW at first planned to serve as Chewco's outside equity investor and general partner, Kopper was substituted when FASTOW learned that his own involvement would trigger financial disclosure obligations for Enron.

18. While FASTOW was precluded from serving in an official role at Chewco, he nevertheless demanded and received a portion of Chewco's proceeds from Kopper, in violation of

FASTOW's duty to provide honest services to Enron and its shareholders. For example, in December 1998, FASTOW improperly authorized Enron to pay a \$400,000 "nuisance/arrangement fee" to Chewco to obtain its consent to amend the JEDI partnership agreement, even though the amendment was for the benefit of Chewco, not Enron. In December 1998 and January 1999, FASTOW received kickbacks from that payment totaling \$67,224, in the form of checks from Kopper to FASTOW and FASTOW's family. FASTOW and his wife did not report those kickbacks to their tax accountants or as income on their 1998 and 1999 federal income tax returns to the IRS.

19. FASTOW authorized other payments from Enron to Chewco that were against Enron's interest. For example, on March 26, 2001, Enron repurchased Chewco's interest in JEDI for \$35 million. On behalf of Chewco, Kopper requested an additional payment from Enron to Chewco of \$2.625 million under a purported tax indemnity agreement executed in 1997. Against the advice of both inside and outside counsel at Enron, FASTOW approved the payment to Chewco.

## The LJM Entities

### Overview

20. By 1999, Enron was increasingly dependent on transactions with SPEs to close the gap between its actual business performance and its financial reporting goals. By June 1999, in order to have an off-balance-sheet SPE to which Enron regularly could turn, Enron's Board of Directors (the "Board") agreed to permit FASTOW to create and serve as the managing partner of a new SPE known as LJM Cayman. The Board later approved FASTOW's participation in another SPE, known as LJM2 (the LJM entities hereafter collectively will be referred to as

“LJM”). Nearly all of LJM’s business transactions were with Enron and its affiliates.

21. From approximately July 1999 through October 2001, Enron entered into transactions with LJM that defrauded Enron, its shareholders, the SEC, credit rating agencies, and others. The transactions with LJM enabled Enron to: (a) manipulate its reported financial results by readily and unobtrusively moving poorly performing assets off balance sheet, when in fact such off-balance-sheet treatment was improper; (b) conceal Enron’s poor operating performance by engaging in transactions designed to close gaps between Enron’s actual business results and its stated financial reporting goals; (c) manufacture earnings through sham transactions when Enron was having trouble otherwise meeting its goals for a quarter; and (d) improperly inflate the value of Enron’s investment portfolio by backdating transaction documents to dates advantageous to Enron.

22. Enron’s dealings with LJM also ensured that: (a) Enron quietly could rid itself of poorly performing assets and thereby improve its reported financial results, which in turn enabled FASTOW, GLISAN, BOYLE and others to earn continued prestige, salary, bonuses, and other benefits from Enron; (b) LJM would meet its pre-arranged rate of return, as Enron senior management secretly agreed that LJM losses would be made up by Enron in other deals; and (c) FASTOW, GLISAN, and others personally could siphon off huge sums of money from such transactions.

#### False Representations to Enron’s Board

23. FASTOW and others made various false representations to Enron's Board to obtain its approval for FASTOW’s participation in LJM. Specifically, the Board was assured that: (a) Enron’s Chief Accounting and Chief Risk Officers would review all transactions with



LJM to ensure their fairness to Enron; (b) the Board would be informed of all Enron transactions with LJM; (c) the purpose of LJM was to buy assets from Enron and enable Enron to hedge certain investments; and (d) although FASTOW would be compensated by LJM, he would not have a pecuniary interest in the Enron stock held by LJM or its affiliates.

24. In fact, Enron senior management, including FASTOW and GLISAN, secretly agreed that Enron would prop up LJM so that, over time, LJM would not lose money in its dealings with Enron.

25. As FASTOW and others further knew, although the Board was told that LJM was a vehicle to which Enron could sell assets, and that it would be informed of all transactions with LJM, the Board was not informed that Enron would from time to time repurchase assets from LJM, or find another buyer, at a profit to LJM. Indeed, in presentations to the Board about Enron's transactions with LJM, Enron's senior management failed to report on transactions in which Enron repurchased assets from LJM.

26. Finally, as described more fully below in connection with a transaction known as Southampton, FASTOW, GLISAN, and others violated their duty to provide honest services to Enron. Specifically, FASTOW violated his representation to the Board that he would not personally profit from any appreciation in the value of Enron shares held by LJM. In addition FASTOW violated his duty to provide honest services when he arranged for himself and others, including GLISAN and other Enron and LJM employees, to profit personally from the Southampton transaction at the expense of Enron and others, without the knowledge or approval of Enron and in violation of Enron's internal ethics policies.

## Use of LJM to Manipulate Enron's Financial Results

27. Several transactions between Enron and LJM were mere "parking" or "warehousing" deals in which assets were "sold" to LJM so that Enron could book earnings and record cash flows. FASTOW and others secretly agreed that LJM would hold the asset for a limited time, after which Enron would arrange a repurchase of the assets at a profit to LJM.

### The Cuiaba Transaction

28. One parking transaction involved LJM's "purchase" of part of Enron's interest in a company that was building a power plant in Cuiaba, Brazil (the "Cuiaba project"). The Cuiaba project had caused Enron to incur significant costs and by 2001 was approximately over \$200 million over budget.

29. When no true third-party buyer could be found, FASTOW and others arranged on September 30, 1999 to "sell" a portion of Enron's interest in the Cuiaba project to LJM for \$11.3 million. This purported sale enabled Enron to recognize a total of approximately \$65 million of income in the third and fourth quarter of 1999, when it was struggling to meet its projected financial results.

30. LJM agreed to "buy" Enron's interest in the Cuiaba project despite its problems only because Enron and FASTOW in an undisclosed oral side deal agreed that Enron would buy back the interest, if necessary, at a profit to LJM.

31. After the LJM "purchase," the Cuiaba project continued to encounter serious problems. Despite these problems, in the spring of 2001 FASTOW caused Enron to agree to buy back LJM's Cuiaba interest at a considerable profit to LJM. Around the same time, Enron determined that FASTOW's continued role in LJM was resulting in adverse publicity and would

require unwanted disclosure in Enron's financial statements. To avoid such disclosure, while keeping LJM available for use by Enron, FASTOW sold his interest in LJM to Kopper.

32. In order to avoid public disclosure of Enron's repurchase of LJM's Cuiaba interest at an unwarranted profit, the sale was deliberately delayed by FASTOW and others until after FASTOW had divested his interest in LJM. The sale price paid by Enron to repurchase LJM's Cuiaba interest was used by FASTOW as a basis to increase the price paid by Kopper to buy out FASTOW's LJM interest.

#### The Nigerian Barge Transactions

33. Another example of asset parking involved Enron's interest in electricity-generating power barges moored off the coast of Nigeria. In 1999, Enron made unsuccessful efforts to sell an interest in the barges to third parties. When Enron failed to sell the project by December 1999, Enron through FASTOW, BOYLE and others arranged for Merrill Lynch to "buy" a \$28 million interest in the project. Enron agreed to finance 75% of the purchase price and only require Merrill Lynch to put up \$7 million. Merrill Lynch agreed to "purchase" the interest only because FASTOW orally promised that Merrill Lynch would receive a fixed interest rate and that Enron would make sure that Merrill Lynch held the barge interest for no more than six months. Merrill Lynch's "purchase" allowed FASTOW, BOYLE, and others to cause Enron to record improperly \$12 million in earnings and \$28 million in funds flow in the fourth quarter of 1999.

34. With no true third-party purchaser available to buy Merrill Lynch's interest as the six-month deadline loomed, on June 29, 2000, FASTOW, GLISAN, BOYLE, and others arranged for LJM to purchase Merrill Lynch's interest. LJM paid \$7,525,000 for Merrill Lynch's

interest, which represented a \$525,000 premium over Merrill Lynch's original investment to account for the rate of return promised by Enron. FASTOW, GLISAN, BOYLE, and others caused Enron to provide financing for LJM's purchase, and for Enron to pay LJM an undisclosed fee of \$350,000 for taking Merrill Lynch's interest in the barges. Enron subsequently arranged for a third party to purchase LJM's interest in the barges, at a profit to LJM.

#### Manipulation of Enron's Books Through Hedging Transactions

##### Talon

35. Beginning in the spring of 2000, Enron and LJM engaged in a complex scheme to manipulate artificially Enron's financial statements. LJM enabled Enron to falsify its financial picture; in return, LJM received a prearranged profit. Specifically, FASTOW, GLISAN, and others used an SPE known as Talon to engage in illegal transactions, namely: (1) the use of Talon as an off-balance-sheet vehicle that FASTOW, GLISAN, and others knew in fact did not qualify for such treatment and should have been included on Enron's books; (2) the backdating of documents to manipulate Enron's financial statements; and (3) the creation of guaranteed earnings for LJM.

36. Enron from time to time invested in other companies, including start-up ventures that later conducted initial public offerings ("IPO") of their shares. At the time of an IPO, Enron often owned substantial shares of the company. The value of such stock was required to be recorded at the prevailing market price in Enron's financial statements at the end of each quarter. Following an IPO, Enron was at risk for market price fluctuations in the shares, many of which were extremely volatile. Because Enron was restricted by "lock up" agreements from selling these shares until some future date, it sought to reduce the impact on its financial results of a

possible dramatic decline in the share price.

37. Talon, which was created in April 2000, was designed by FASTOW, GLISAN, and others to protect Enron's balance sheet from decreases in value of certain of these investments. Talon would enter into complex “hedging” transactions with an Enron subsidiary that would lock in the value of Enron's stock portfolio: if the price of Enron's stock increased, Talon would reap the upside gain, and if the stock declined, Talon would pay the Enron subsidiary the amount of the loss.

38. Talon was funded mainly by Enron through a promissory note and Enron's own stock. The remainder of Talon's funding came from a \$30 million “investment” from LJM. This alleged third party funding served as the supposed 3% outside equity required for Talon not to be reflected in Enron’s financial statements.

39. As FASTOW, GLISAN, and others knew, however, Talon was not properly off balance sheet. First, as FASTOW, GLISAN, and others knew, Enron and FASTOW entered into a secret side agreement whereby Enron guaranteed that it would pay \$41 million to LJM before Talon would engage in the hedging transactions for which it was created. In exchange, FASTOW allowed Enron to use Talon to manipulate Enron's financial statements. As a result of this secret side deal, LJM’s investment was never truly at risk. Second, once the payment to LJM was made, LJM relinquished control over Talon.

40. In order to mask the side deal, FASTOW, GLISAN and others devised a scheme to manufacture an ostensible reason for a \$41 million payment from Enron to LJM. To do so, Enron and Talon entered into a “put,” that is, a transaction that purportedly served to hedge Enron against a decline in its own stock value. Although there was no true business purpose, the

"put" option was purchased by Enron for \$41 million. The price was designed by FASTOW, GLISAN, and others to ensure that LJM would receive its prearranged \$41 million prior to Talon engaging in any other business. The \$41 million was paid to Talon and then transferred to LJM on September 7, 2000.

#### Back-Dating Documents In Order to Manipulate Enron's Financial Statements

41. Once Enron made sure that LJM would receive the agreed-upon \$41 million, LJM relinquished its control of Talon to allow Enron to use it as it wished. Enron thereafter used Talon improperly to hedge Enron's investments. For example, Enron used a back-dated hedge to fraudulently inflate the value of its investment in 1.09 million shares of AVICI stock. Specifically, FASTOW and others caused documents related to the hedge to be backdated to August 3, 2000, when the price of AVICI reached an all time high of \$163.50. In fact, the share price by the actual date of the hedge had declined significantly. By backdating the hedge transaction to August 3, 2000, Enron was able to falsely record the value of its AVICI shares at a significantly inflated price.

#### FASTOW and GLISAN's Use of LJM to Enrich Themselves and Others

42. Enron owned approximately 5.4 million shares of Rhythms NetConnections, Inc. ("Rhythms Net"), an internet company. In approximately April 1999, Rhythms Net conducted an IPO of its shares. Following the IPO, Enron was at risk for market price fluctuations in Rhythms Net shares. Because Enron was restricted from selling its shares until November 1999, it sought to reduce the impact on its financial results of a possible dramatic decline in the share price of Rhythms Net stock.

43. In approximately June 1999, FASTOW and others devised a means for Enron to

reduce the risk of its investment in Rhythms Net through a hedge. As part of this hedging effort, FASTOW and others caused the creation of an LJM subsidiary known as LJM Swap Sub, L.P. (“Swap Sub”). Credit Suisse First Boston (“CSFB”) and National Westminster Bank (“NatWest”) invested and became limited partners in Swap Sub, which held both Enron shares and cash. Swap Sub thereafter entered into a series of transactions with Enron, including a “put” that gave Enron the right to sell its Rhythms Net shares to Swap Sub for a set price on certain future dates even if the market value of the Rhythms Net shares was below the set price.

44. By early 2000, Enron’s and Rhythms Net’s share prices had increased; consequently, so had the value of Swap Sub. Even though FASTOW was prohibited by Enron’s Board from having any direct pecuniary interest in Enron’s stock held by LJM, FASTOW, Kopper, and three bankers employed by NatWest devised a scheme to defraud Enron and NatWest by capturing a substantial portion of the increased value of Swap Sub’s Enron shares for themselves and others, including GLISAN.

45. It was part of the scheme that FASTOW, Kopper, and the NatWest bankers fraudulently induced NatWest to sell its interest in Swap Sub for \$1 million, at a time when they knew the interest was worth millions more. Indeed, on or about March 22, 2000, FASTOW finalized an agreement with Enron to pay Swap Sub \$30 million to unwind Enron’s transactions with Swap Sub. FASTOW represented to Enron that CSFB would receive \$10 million, and falsely represented that NatWest would receive \$20 million. In fact, as FASTOW, GLISAN, and others knew, NatWest received only \$1 million.

46. The \$19 million of illegal proceeds was divided among the conspirators. The NatWest bankers received approximately \$7.3 million. The remaining balance of the funds went

to “investors” in a partnership known as Southampton. These “investors,” their “investments,” and their returns were as follows:

<b>“INVESTOR”</b>	<b>“INVESTMENT”</b>	<b>RETURN</b>
FASTOW Family Foundation	\$25,000	\$4,465,000
Michael Kopper	\$25,000	\$4,465,000
BEN F. GLISAN, JR.	\$5,826	\$1,040,744
Other Enron/LJM Employees	\$13,339	\$2,392,000

47. FASTOW and GLISAN’s receipt of these Enron funds violated their duty to provide Enron with their honest services. FASTOW further violated his duty to Enron by arranging for the other participants in the transaction to profit at Enron’s expense.

FASTOW’s Stock Trading

48. During the period relevant to this Indictment, FASTOW sold approximately 235,117 shares of Enron stock, generating gross proceeds of \$18,143,443.50.

COUNT ONE

(Conspiracy to Commit Wire Fraud: Self-Dealing by FASTOW)

49. The allegations of paragraphs 1 through 19 are realleged as if fully set forth here.

50. In or about and between at least late 1996 and October 2001, both dates being approximate and inclusive, within the Southern District of Texas and elsewhere, the defendant ANDREW S. FASTOW and others knowingly and intentionally conspired to devise a scheme and artifice to defraud, including to deprive Enron and its shareholders of their right of honest services, 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 would transmit and cause to be transmitted by means of wire communication in interstate and foreign



commerce writings, signs, signals, pictures and sounds, all in violation of Title 18, United States Code, Section 1343.

51. It was part of the scheme that FASTOW and others took advantage of FASTOW's simultaneous control over SPEs and Enron's business operations to enrich themselves, family members, friends, and others, including favored Enron employees such as Michael Kopper, Larry Lawyer and others.

#### OVERT ACTS

52. In furtherance of the conspiracy and to effect the objects thereof, within the Southern District of Texas and elsewhere, the defendant ANDREW S. FASTOW and others did commit and cause to be committed the following overt acts, among others:

#### RADR

- a. In or about May 1997, FASTOW's wife wired \$419,000 to Kopper.
- b. In or about August 1997, FASTOW and his wife received a \$481,850 wire transfer from Kopper.
- c. In or about December 1997 through February 2000, FASTOW and Kopper directed the payment of RADR proceeds to FASTOW, his wife, and two children.

#### Chewco

- d. In or about December 1998, FASTOW caused Enron to pay \$400,000 to Chewco as a "nuisance/arrangement fee."
- e. On or about and between December 31, 1998 and January 1999, FASTOW, his wife and children received checks from Kopper totaling \$67,224.

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

COUNT TWO

(Conspiracy to Commit Wire Fraud: Self-Dealing by FASTOW and GLISAN)

53. The allegations of paragraphs 42 through 48 are realleged as if fully set forth here.

54. In or about and between the spring of 2000 and November 2001, both dates being approximate and inclusive, within the Southern District of Texas and elsewhere, the defendants ANDREW S. FASTOW and BEN F. GLISAN, JR., and others, knowingly and intentionally conspired to devise a scheme and artifice to defraud, including to deprive Enron, its shareholders and NatWest of their right of honest services, 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 would transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce writings, signs, signals, pictures and sounds, all in violation of Title 18, United States Code, Section 1343.

55. It was part of the scheme that FASTOW, GLISAN and others took advantage of FASTOW's simultaneous control over SPEs and Enron's business operations to enrich themselves and others.

OVERT ACTS

56. In furtherance of the conspiracy and to effect the objects thereof, within the Southern District of Texas and elsewhere, the defendants ANDREW S. FASTOW and BEN F. GLISAN, JR. and others did commit and cause to be committed the following overt acts, among others:

a. On or about March 4, 2000, FASTOW met with a NatWest banker in the Cayman Islands.

- b. On or about March 10, 2000, a NatWest banker faxed a letter from London, England to Houston, Texas stating that NatWest would sell its interest in Swap Sub for \$1 million.
- c. On or about March 20, 2000, GLISAN signed a partnership agreement for the partnership known as Southampton Place.
- d. On or about March 21, 2000, a check in the amount of \$5,816 from Ben Glisan was deposited in a Trade Star Investments Account belonging to Kopper.
- e. On or about April 25, 2000, a NatWest banker caused a wire transfer of \$251,993 from an account in England to an account in Houston, Texas.
- f. On or about May 1, 2000, \$7,352,626 was wire transferred from Houston, Texas to an account in the Cayman Islands controlled by a NatWest banker.
- g. On or about May 1, 2000, \$1,040,744 was wire transferred to an account controlled by GLISAN.
- h. On or about May 1, 2000, \$4,466,189 was wire transferred to an account in the name of the FASTOW Family Foundation.

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

COUNT THREE

(Conspiracy to Commit Wire Fraud -- Nigerian Barges)

57. The allegations of paragraphs 1 through 11, 20 through 27, and 33 and 34 are realleged as if fully set forth here.

58. In or about and between December 1999 and January 2001, both dates being approximate and inclusive, within the Southern District of Texas and elsewhere, the defendants ANDREW S. FASTOW, BEN F. GLISAN, JR., and DAN BOYLE, and others, including Merrill

Lynch and LJM, knowingly and intentionally conspired to devise a scheme and artifice to defraud, including to deprive Enron and its shareholders of their intangible right of honest services, and to obtain money and property by means of materially false and fraudulent pretenses and representations, and for the purpose of executing such scheme and artifice would transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce writings, signs, signals, pictures and sounds, all in violation of Title 18, United States Code, Section 1343.

#### OVERT ACTS

59. In furtherance of the conspiracy and to effect the objects thereof, within the Southern District of Texas and elsewhere, the defendants ANDREW S. FASTOW, BEN F. GLISAN, JR., and DAN BOYLE, and others, did commit and cause to be committed the following overt acts, among others:

a. In or about December 1999, FASTOW promised Merrill Lynch that Enron would take Merrill Lynch out of the barge transaction within six months.

b. In or about December 1999, BOYLE, as the lead Enron employee on the barge deal, effectuated the transfer of the barge interest from Enron to Merrill Lynch.

c. In or about December 1999, Enron made false representations to its outside auditors regarding the terms of the agreement between Merrill Lynch and Enron.

d. In or about May and June, 2000, GLISAN enforced FASTOW's promise to Merrill Lynch that it would be taken out of the barges by June 30, 2000.

e. In or about May and June 2000, BOYLE sought to find a buyer for Merrill Lynch's interest in the barges in order to carry out the promise that FASTOW had made to Merrill Lynch

that it would be taken out of the barges by June 30, 2000.

f. On or about June 14, 2000, BOYLE informed Merrill Lynch that Enron had found a buyer for its interest in the barges.

g. In or about June 2000, at GLISAN's direction, BOYLE negotiated and facilitated the transfer of the barges from Merrill Lynch to LJM.

h. In or about June 2000, LJM purchased Merrill Lynch's interest in the barges.

i. In or about June 2000, FASTOW caused Enron to agree to pay LJM an undisclosed fee of \$350,000 for purchasing Merrill Lynch's interest in the barges.

j. In or about June 2000, Enron made false representations to its outside auditors regarding the agreement between Merrill Lynch, Enron and LJM.

k. In or about the fall of 2000, GLISAN, BOYLE and others at Enron found a buyer for LJM's interest in the barges.

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

#### COUNT FOUR

(Conspiracy to Falsify Books, Records and Accounts -- Nigerian Barges)

60. The allegations of paragraphs 1 through 11, 20 through 27, and 33 and 34 are realleged as if fully set forth here.

61. In or about and between December 1999 and January 2001, both dates being approximate and inclusive, within the Southern District of Texas and elsewhere, the defendants ANDREW S. FASTOW, BEN F. GLISAN, JR., and DAN BOYLE and others, including Merrill Lynch and LJM, knowingly and intentionally conspired to falsify books, records and accounts which in reasonable detail accurately and fairly reflected the transactions and dispositions of the

assets of Enron, as required to be kept in accordance with Title 15, United States Code, Section 78m, in violation of Title 15, United States Code, Section 78m(b)(5).

#### OVERT ACTS

62. In furtherance of the conspiracy and to effect the objects thereof, within the Southern District of Texas and elsewhere, the defendants ANDREW S. FASTOW, BEN F. GLISAN, JR., and DAN BOYLE and others did commit and cause to be committed the overt acts in paragraph 60, among others, which are incorporated herein by reference.

(Title 15, United States Code, Section 78ff)

#### COUNT FIVE

(Conspiracy to Commit Wire and Securities Fraud -- Talon Conspiracy)

63. The allegations of paragraphs 1 through 11, 20 through 27, and 35 through 40 are realleged as if fully set forth here.

64. In or about and between spring 2000 and September 2001, both dates being approximate and inclusive, within the Southern District of Texas and elsewhere, the defendants ANDREW S. FASTOW and BEN F. GLISAN, JR., and others, did knowingly and intentionally conspire (a) 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 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) 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 purchases and sales 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) and Rule 10b-5 of the SEC, Title 17, Code of Federal Regulations, Section 240.10b-5, and (b) to devise a scheme and artifice to defraud, including to deprive Enron and its shareholders of their intangible right of honest services, and to obtain money and property by means of materially false and fraudulent pretenses, representations, 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

65. In furtherance of the conspiracy and to effect the objects thereof, within the Southern District of Texas and elsewhere, the defendants ANDREW S. FASTOW and BEN F. GLISAN, JR. and others did commit and cause to be committed the following overt acts, among others:

- a. In or about spring 2000, GLISAN devised various structures to attempt to guarantee LJM a return on its investment in Talon.
- b. In or about April 2000, FASTOW and GLISAN caused Enron to enter into a put with Talon.
- c. On or about September 2000, FASTOW caused LJM to receive \$41 million from Enron.

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

#### COUNT SIX

(Conspiracy to Falsify Books, Records and Accounts -- Talon)

66. The allegations of paragraphs 1 through 11, 20 through 27, and 35 and 40 are realleged as if fully set forth here.

67. In or about and between December 1999 and January 2001, both dates being approximate and inclusive, within the Southern District of Texas and elsewhere, the defendants ANDREW S. FASTOW and BEN F. GLISAN, JR. and others knowingly and intentionally conspired to falsify books, records and accounts which in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of Enron, as required to be kept in accordance with Title 15, United States Code, Section 78m, in violation of Title 15, United States Code, Section 78m(b)(5).

#### OVERT ACTS

68. In furtherance of the conspiracy and to effect the objects thereof, within the Southern District of Texas and elsewhere, the defendants ANDREW S. FASTOW and BEN F. GLISAN, JR., and others, did commit and cause to be committed the overt acts in paragraph 66, among others, which are incorporated herein by reference.

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

#### COUNT SEVEN

(Conspiracy to Commit Wire and Securities Fraud -- AVICI Hedge Conspiracy)

69. The allegations of paragraphs 1 through 11, 20 through 27, and 35 through 41 are realleged as if fully set forth here.

70. In or about and between August 2000 and September 2000, both dates being approximate and inclusive, within the Southern District of Texas and elsewhere, the defendant ANDREW S. FASTOW and others did knowingly and intentionally conspire (a) 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 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) 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 purchases and sales 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) and Rule 10b-5 of the SEC, Title 17, Code of Federal Regulations, Section 240.10b-5, and (b) to devise a scheme and artifice to defraud, including to deprive Enron and its shareholders of their intangible right of honest services, and to obtain money and property by means of materially false and fraudulent pretenses, representations, 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

71. In furtherance of the conspiracy and to effect the objects thereof, within the Southern District of Texas and elsewhere, the defendant ANDREW S. FASTOW and others did commit and cause to be committed the following overt acts, among others:

a. In or about late August 2000, FASTOW met with an LJM employee and instructed the employee to permit Enron to enter into a back-dated hedge of the AVICI stock.

b. In or about late August 2000, LJM caused Talon to enter into a hedge with Enron of its AVICI stock, back-dated to August 3, 2000.

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

#### COUNT EIGHT

(Conspiracy to Falsify Books, Records and Accounts -- AVICI)

72. The allegations of paragraphs 1 through 11, 20 through 27, and 35 through 41 are realleged as if fully set forth here.

73. In or about and between August and September 2000, both dates being approximate and inclusive, within the Southern District of Texas and elsewhere, the defendant ANDREW S. FASTOW, and others, knowingly and intentionally conspired to falsify books, records and accounts which in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of Enron, as required to be kept in accordance with Title 15, United States Code, Section 78m, in violation of Title 15, United States Code, Section 78m(b)(5)..

#### OVERT ACTS

74. In furtherance of the conspiracy and to effect the objects thereof, within the Southern District of Texas and elsewhere, the defendants ANDREW S. FASTOW and others did commit and cause to be committed the overt acts in paragraph 72, among others, which are incorporated herein by reference.

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

#### COUNTS NINE THROUGH THIRTY-SEVEN

(Wire Fraud --RADR)

75. The allegations of paragraphs 1 through 15 are realleged as if fully set forth here.

76. On or about the dates specified below, within the Southern District of Texas and elsewhere, the defendant ANDREW S. FASTOW and others did knowingly and intentionally devise a scheme and artifice to defraud, including to deprive Enron and its shareholders of their intangible right of honest services, 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 did transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce writings, signs, signals, pictures and sounds, as follows:

<b>Count</b>	<b>Date</b>	<b>From</b>	<b>To</b>	<b>Description</b>
9	12/23/97	New York, NY	Houston, TX	wire transfer: \$55,820.04
10	12/23/97	New York, NY	Houston, TX	wire transfer: \$65,835.62
11	2/4/98	New York, NY	Houston, TX	wire transfer: \$75,091.94
12	2/4/98	New York, NY	Houston, TX	wire transfer: \$31,808.22
13	3/31/98	New York, NY	Houston, TX	wire transfer: \$40,684.93
14	4/13/98	New York, NY	Houston, TX	wire transfer: \$9,292.00
15	6/25/98	New York, NY	Houston, TX	wire transfer: \$19,733.78
16	6/25/98	New York, NY	Houston, TX	wire transfer: \$63,616.44
17	8/5/98	New York, NY	Houston, TX	wire transfer: \$94,780.06
18	8/5/98	New York, NY	Houston, TX	wire transfer: \$30,328.77
19	9/30/98	New York, NY	Houston, TX	wire transfer: \$10,178.77
20	9/30/98	New York, NY	Houston, TX	wire transfer: \$41,424.66
21	12/23/98	New York, NY	Houston, TX	wire transfer: \$42,740.07
22	12/23/98	New York, NY	Houston, TX	wire transfer: \$62,136.99
23	2/4/99	New York, NY	Houston, TX	wire transfer: \$18,665.99
24	2/4/99	New York, NY	Houston, TX	wire transfer: \$31,808.22
25	7/1/99	New York, NY	Houston, TX	wire transfer: \$32,669.59
26	7/1/99	New York, NY	Houston, TX	wire transfer: \$108,000.00
27	8/6/99	New York, NY	Houston, TX	wire transfer: \$45,357.84
28	8/6/99	New York, NY	Houston, TX	wire transfer: \$27,369.86
29	10/19/99	New York, NY	Houston, TX	wire transfer: \$12,263.01
30	10/29/99	New York, NY	Houston, TX	wire transfer: \$54,739.73
31	12/23/99	New York, NY	Houston, TX	wire transfer: \$18,217.07

32	12/23/99	New York, NY	Houston, TX	wire transfer: \$48,082.19
33	2/15/00	New York, NY	Houston, TX	wire transfer: \$845,241.59
34	2/15/00	New York, NY	Houston, TX	wire transfer: \$39,945.21
35	3/27/00	New York, NY	Houston, TX	wire transfer: \$98,383.56
36	6/27/00	New York, NY	Houston, TX	wire transfer: \$256,616.47
37	7/24/00	New York, NY	Houston, TX	wire transfer: \$2,000,000.00

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

COUNTS THIRTY-EIGHT THROUGH FORTY-FIVE  
(Wire Fraud –Southampton)

77. The allegations of paragraphs 1 through 11 and 42 through 47 are realleged as if fully set forth here.

78. On or about the dates set forth below, within the Southern District of Texas and elsewhere, the defendants ANDREW S. FASTOW and BEN F. GLISAN, JR. and others did knowingly and intentionally devise a scheme and artifice to defraud, including to deprive Enron and its shareholders of their right of honest services, and to obtain money and property by means of false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice did transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce writings, signs, signals, pictures and sounds, as follows:

<b>Count</b>	<b>Date</b>	<b>From/To</b>	<b>Description</b>
38	3/6/00	Houston/London	Fax: offer to purchase Swap Sub interest
39	3/10/00	London/Houston	Fax: re sale of Swap Sub interest

Count	Date	From/To	Description
40	3/16/00	London/Houston	Email: signature needed for Swap Sub sale documents
41	3/17/00	London/Houston	Email: final Swap Sub sale documents
42	4/21/00	London/Houston	Fax: signed notice of option exercise
43	4/26/00	England/Houston	Wire transfer of \$251,993 to exercise option
44	5/1/00	Houston/Cayman Islands	Wire transfer of \$7,352,626
45	5/1/00	Fed Wire	Wire transfer of \$1,040,744 to GLISAN

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

COUNT FORTY-SIX  
(Obstruction of Justice)

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

80. In or about August and September 2001, within the Southern District of Texas, the defendant ANDREW S. FASTOW did knowingly, intentionally and corruptly persuade and attempt to persuade another person, namely, Michael J. Kopper, with intent to cause and induce Kopper to (a) withhold records, documents and other objects from official proceedings, namely: governmental proceedings and investigations, and (b) alter, destroy, mutilate and conceal objects, namely, laptop and desktop computers and information contained therein, with intent to impair the objects' integrity and availability for use in such official proceedings.

(Title 18, United States Code, Sections 1512(b)(2)(A) and (B) and 3551 et seq.)

COUNT FORTY-SEVEN  
(Money Laundering Conspiracy: RADR)

81. The allegations in paragraphs 1 through 15 are realleged as if fully set forth here.

82. From in or about July 1997 through October 2001, in the Southern District of Texas and elsewhere, defendant ANDREW S. FASTOW and others, did knowingly and intentionally conspire to commit offenses against the United States in violation of Title 18, United States Code, Sections 1956 and 1957, to wit:

(a) to conduct and attempt to conduct financial transactions affecting interstate commerce and foreign commerce, which transactions involved the proceeds of specified unlawful activity, that is, wire fraud, in violation of Title 18, United States Code, Section 1343, and securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and 17 C.F.R. 240.10b-5, (i) with intent to engage in conduct constituting a violation of section 7206 of the Internal Revenue Code of 1986, and (ii) knowing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, and that while conducting and attempting to conduct such financial transactions, knew that the property involved in the financial transactions represented the proceeds of some form of unlawful activity, in violation of Title 18, United States Code, Sections 1956(a)(1)(A)(ii) and 1956(a)(1)(B)(i); and

(b) to engage and attempt to engage, in monetary transactions by, through or to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000, that is the deposit, withdrawal, or transfer of funds, such property having been derived from a specified unlawful activity, that is, wire fraud and securities fraud, in violation of the provisions of Title 18, United States Code, Section 1957.

#### OVERT ACTS

83. In furtherance of the conspiracy and to effect the objects thereof, within the

Southern District of Texas and elsewhere, the defendant ANDREW S. FASTOW and others did commit and cause to be committed the following overt acts, among others:

RADR

84. On or about the dates below, FASTOW arranged for the following RADR proceeds to be paid purported “gifts” in order to conceal the nature of the payment:

<b>Date</b>	<b>Payment</b>
12/29/1997	Transfer of \$9,000 via check number 699 payable to Lea Fastow from Bank One account number 1883757583 in the name of Michael Kopper to JP Morgan Chase account number 054-06029219
12/29/1997	Transfer of \$9,742.80 via check number 700 payable to Andy Fastow from Bank One account number 1883757583 in the name of Michael Kopper to JP Morgan Chase account number 054-06029219
3/7/1998	Transfer of \$6,288.26 via check number 747 payable to Andy Fastow from Bank One account number 1883757583 in the name of Michael Kopper to JP Morgan Chase account number 054-06029219
3/21/1998	Transfer of \$6,288.26 via check number 748 payable to Lea Fastow from Bank One account number 1883757583 in the name of Michael Kopper to JP Morgan Chase account number 054-06029219
7/28/1998	Transfer of \$5,728.36 via check number 1107 payable to Lea Fastow from Bank One account number 1883757583 in the name of Michael Kopper to JP Morgan Chase account number 054-06029219
12/30/1998	Transfer of \$10,000 via check number 1182 payable to Jeffrey Fastow from Bank One account number 1883757583 in the name of Michael Kopper to JP Morgan Chase account number 766-09061417
12/28/1998	Transfer of \$10,000 via check number 1172 payable to Jeffrey Fastow from Charles Schwab account number 2883-7706 in the name of William Dodson to JP Morgan Chase account number 766-09061417
12/30/1998	Transfer of \$10,000 via check number 1183 payable to Matthew Fastow from Bank One account number 1883757583 in the name of Michael Kopper to JP Morgan Chase account number 766-09061227

12/28/1998	Transfer of \$10,000 via check number 1171 payable to Matthew Fastow from Charles Schwab account number 2883-7706 in the name of William Dodson to JP Morgan Chase account number 766-09061227
12/28/1998	Transfer of \$6,535.10 via check number 1173 payable to Lea Fastow from Charles Schwab account number 2883-7706 in the name of William Dodson to JP Morgan Chase account number 054-05023866
1/18/1999	Transfer of \$6,433.55 via check number 1196 payable to Andrew Fastow from Bank One account number 1883757583 in the name of Michael Kopper to JP Morgan Chase account number 054-05023866
12/10/1999	Transfer of \$7,400 via check number 1194 payable to Lea Fastow from Charles Schwab account number 2883-7706 in the name of William Dodson to JP Morgan Chase account number 054-05023866
12/10/2000	Transfer of \$7,800 via check number 1310 payable to Andy Fastow from Bank One account number 1883757583 in the name of Michael Kopper to JP Morgan Chase account number 054-05023866
2/28/2000	Transfer of \$10,000 via check number 1202 payable to Lea Fastow from Charles Schwab account number 2883-7706 in the name of William Dodson to JP Morgan Chase account number 054-05023866
2/28/2000	Transfer of \$10,000 via check number 1203 payable to Andrew Fastow from Charles Schwab account number 2883-7706 in the name of William Dodson to JP Morgan Chase account number 054-05023866
2/28/2000	Transfer of \$10,000 via check number 1204 payable to Jeffrey Fastow from Charles Schwab account number 2883-7706 in the name of William Dodson to JP Morgan Chase account number 766-09061417
2/28/2000	Transfer of \$10,000 via check number 1205 payable to Matthew Fastow from Charles Schwab account number 2883-7706 in the name of William Dodson to JP Morgan Chase account number 766-09061227

85. On or about July 2, 2001, Kopper and FASTOW directed RADR nominees to transfer \$750,000 of RADR proceeds to Kristina Mordaunt.

(Title 18, United States Code, Sections 1956(h) and 3551 et seq.)

COUNT FORTY-EIGHT  
(Money Laundering Conspiracy: Southampton)



86. The allegations in paragraphs 1 through 11 and 42 through 47 are realleged as if fully set forth here.

87. From in or about the first quarter of 2000 through October 2001, in the Southern District of Texas and elsewhere, defendant ANDREW S. FASTOW and others did knowingly and intentionally conspire to commit offenses against the United States in violation of Title 18, United States Code, Sections 1956 and 1957, to wit:

(a) to conduct and attempt to conduct financial transactions affecting interstate and foreign commerce, which transactions involved the proceeds of specified unlawful activity, that is, wire fraud, in violation of Title 18, United States Code, Section 1343, and securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and 17 C.F.R. 240.10b-5, knowing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, and that while conducting and attempting to conduct such financial transactions, knew that the property involved in the financial transactions represented the proceeds of some form of unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i); and

(b) to engage and attempt to engage, in monetary transactions by, through or to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000, that is the deposit, withdrawal, or transfer of funds, such property having been derived from a specified unlawful activity, that is, wire fraud and securities fraud, in violation of the provisions of Title 18, United States Code, Section 1957.

#### OVERT ACTS

88. In furtherance of the conspiracy and to effect the objects thereof, within the

Southern District of Texas and elsewhere, the defendant ANDREW S. FASTOW and others did commit and cause to be committed the following overt acts, among others:

89. On or about April 28, 2000, LJM Swap Sub, LP's Citibank account no. 4079-8061 (the "Swap Sub Citibank account") received a wire transfer of \$16,706,041.33 from Enron.

90. On or about April 28, 2000, LJM Swap Sub, LP transferred by wire \$3,750,018 into the Swap Sub Citibank account.

91. On or about April 28, 2000, LJM Swap Sub, LP transferred by wire \$15,259,529.67 to Southampton, LP's Citibank account no. 3042-5536 (the "Southampton Citibank account").

92. On or about April 28, 2000, LJM Swap Sub, LP transferred by wire \$5,196,529.66 to Southampton Place, LP's Chase Bank account no. 323-905781 (the "Southampton Chase account").

93. On or about April 28, 2000, \$7,352,626 was transferred by wire from the Southampton Citibank account to Southampton K Company's Bank of Bermuda account, for eventual distribution to the three NatWest bankers.

94. On or about April 28, 2000, \$7,856,904, was transferred by wire to the Southampton Chase account.

95. On or about May 1, 2000, Kopper distributed funds in the Southampton Chase account to the following individuals and/or entities:

Name	Amount
BEN F. GLISAN	\$1,040,744
Kathy Lynn	\$416,298

Kristina Mordaunt	\$1,040,744
Anne Yaeger Patel	\$520,372
Fastow Family Foundation	\$4,466,189
Michael Kopper	\$4,466,188.66
Michael Hinds	\$\$416,298

(Title 18, United States Code, Sections 1956(h) and 3551 et seq.)

COUNTS FORTY-NINE THROUGH FIFTY-SEVEN

(Money Laundering: RADR)

96. The allegations in paragraphs 1 through 15 are realleged as if fully set forth here.

97. On or about the dates listed in the chart below, in the Southern District of Texas and elsewhere, defendant ANDREW S. FASTOW, knowing that the property involved in the financial transaction represented the proceeds of some form of unlawful activity, did knowingly conduct and attempt to conduct, such a financial transaction affecting interstate and foreign commerce which in fact involved the proceeds of specified unlawful activity, that is, wire fraud, in violation of Title 18, United States Code, Section 1343, and securities fraud, in violation of Title 15, United States Code, Sections 78j(b), 78ff and 17 C.F.R. 240.10b-5, knowing that the transaction was designed in whole or in part to conceal and disguise the source, ownership, and control of the proceeds of specified unlawful activity, to wit:

<b>Count</b>	<b>Date</b>	<b>Transaction</b>
49	12/30/1998	Transfer of \$10,000 via check number 1182 payable to Jeffrey Fastow from Bank One account number 1883757583 in the name of Michael Kopper to JP Morgan Chase account number 766-09061417

50	12/28/1998	Transfer of \$10,000 via check number 1172 payable to Jeffrey Fastow from Charles Schwab account number 2883-7706 in the name of William Dodson to JP Morgan Chase account number 766-09061417
51	12/30/1998	Transfer of \$10,000 via check number 1183 payable to Matthew Fastow from Bank One account number 1883757583 in the name of Michael Kopper to JP Morgan Chase account number 766-09061227
52	12/28/1998	Transfer of \$10,000 via check number 1171 payable to Matthew Fastow from Charles Schwab account number 2883-7706 in the name of William Dodson to JP Morgan Chase account number 766-09061227
53	12/28/1998	Transfer of \$6,535.10 via check number 1173 payable to Lea Fastow from Charles Schwab account number 2883-7706 in the name of William Dodson to JP Morgan Chase account number 054-05023866
54	2/28/2000	Transfer of \$10,000 via check number 1202 payable to Lea Fastow from Charles Schwab account number 2883-7706 in the name of William Dodson to JP Morgan Chase account number 054-05023866
55	2/28/2000	Transfer of \$10,000 via check number 1203 payable to Andrew Fastow from Charles Schwab account number 2883-7706 in the name of William Dodson to JP Morgan Chase account number 054-05023866
56	2/28/2000	Transfer of \$10,000 via check number 1204 payable to Jeffrey Fastow from Charles Schwab account number 2883-7706 in the name of William Dodson to JP Morgan Chase account number 766-09061417
57	2/28/2000	Transfer of \$10,000 via check number 1205 payable to Matthew Fastow from Charles Schwab account number 2883-7706 in the name of William Dodson to JP Morgan Chase account number 766-09061227

(Title 18, United States Code, Sections 1956(a)(1)(B)(i), 2 and 3551 et seq.)

COUNTS FIFTY-EIGHT THROUGH NINETY  
(Money Laundering: FASTOW)

98. The allegations in paragraphs 1 through 48 are realleged as if fully set forth here.

99. On or about the dates listed in the chart below, in the Southern District of Texas, and elsewhere, the defendant ANDREW S. FASTOW did knowingly engage and attempt to engage, and did aid, abet, counsel, command, induce, procure and cause the engaging and attempting to engage, in the following monetary transaction by, through or to a financial institution, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, which funds were derived from a specified unlawful activity, that is, wire fraud in violation of Title 18, United State Code, Section 1343, and securities fraud in violation of Title 15, United State Code, Sections 78j(b) and 78ff and 17 C.F.R. 240.10b-5, to wit:

a. Transfers of funds generated through the Southampton fraud scheme:

<b>Count</b>	<b>Date</b>	<b>Transaction</b>
58	5/1/2000	Transfer of \$1,040,744 from Southampton Place, LP's Chase Bank account number 323-905781 to BEN F. GLISAN'S Charles Schwab Account number 3714-9242
59	5/1/2000	Transfer of \$416,298 from Southampton Place, LP's Chase Bank account number 323-905781 to Kathy Lynn's Bank One account number 1883761874
60	5/1/2000	Transfer of \$1,040,744 from Southampton Place, LP's Chase Bank account number 323-905781 to Kristina Mordaunt's UBS Paine Webber account number HS 75406 EJ
61	5/1/2000	Transfer of \$520,372 from Southampton Place, LP's Chase Bank account number 323-905781 to Anne Yaeger Patel's Enron Credit Union share account number 618571
62	5/1/2000	Transfer of \$416,298 from Southampton Place, LP's Chase Bank account number 323-905781 to Michael Hind's Merrill Lynch account number 728-17J39

b. Transfers of funds generated through distributions from the LJM entities:

63	10/13/2000	Purchase of 1,000,000 City of Austin Imp municipal bonds with funds from FASTOW JP Morgan Chase Account Q62603-00-8
64	8/06/2001	Purchase of 500,000 Texas A & M Univ Revs Financing municipal bonds with funds from FASTOW JP Morgan Chase Account Q62603-00-8
65	8/07/2001	Purchase of 500,000 Katy Independent School District Tex Perm Sch Fund municipal bonds with funds from FASTOW JP Morgan Chase Account Q62603-00-8
66	8/30/2001	Purchase of 1,050,000 San Antonio Independent School District municipal bonds with funds from FASTOW JP Morgan Chase Account Q62603-00-8
67	9/13/2001	Purchase of 1,000,000 Irving Independent School district municipal bonds with funds from FASTOW JP Morgan Chase Account Q62603-00-8
68	9/18/2001	Purchase of 500,000 Hays County Tax Genl Purpose Fund municipal bonds with funds from FASTOW JP Morgan Chase Account Q62603-00-8
69	9/24/2001	Purchase of 1,000,000 Comal Independent School District municipal bonds with funds from FASTOW JP Morgan Chase Account Q62603-00-8
70	10/02/2001	Purchase of 500,000 University of Texas Univ Rev Financing Sys municipal bonds with funds from FASTOW JP Morgan Chase Account Q62603-00-8
71	10/02/2001	Purchase of 500,000 University of Texas Univ Rev Financing Sys municipal bonds with funds from FASTOW JP Morgan Chase Account Q62603-00-8
72	10/02/2001	Purchase of 500,000 University of Texas Univ Rev Financing Sys municipal bonds with funds from FASTOW JP Morgan Chase Account Q62603-00-8
73	11/01/2001	Purchase of 1,110,000 Carrolton Farmers Branch Independent School District municipal bonds with funds from FASTOW JP Morgan Chase Account Q62603-00-8
74	11/29/2001	Purchase of 500,000 Port of Houston Auth Tex Harris County Port municipal bonds with funds from FASTOW JP Morgan Chase Account Q62603-00-8

75	11/29/2001	Purchase of 1,000,000 Port of Houston Auth Tex Harris County Port municipal bonds with funds from FASTOW JP Morgan Chase Account Q62603-00-8
76	11/29/2001	Purchase of 500,000 Port of Houston Auth Tex Harris County Port municipal bonds with funds from FASTOW JP Morgan Chase Account Q62603-00-8
77	12/20/2001	Purchase of 1,000,000 City of Austin Tex Wtr & Water Sys Revs Ref municipal bonds with funds from FASTOW JP Morgan Chase Account Q62603-00-8
78	5/2/2002	Transfer of \$2,500,000 from FASTOW Fidelity Investments account number Z11-068497 to FASTOW JP Morgan Chase Account 054-05023866

c. Transfer of funds generated through the RADR fraud scheme:

79	7/2/2001	Transfer of \$750,000 from CS-11's Salomon Smith Barney, account number 719-02668-12-125 to Kristina Mordaunt's UBS Paine Webber account number HS 75406 EJ
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d. Transfers of funds generated from the sale of the LJM entities by FASTOW to Kopper:

80	9/13/2001	Transfer of \$60,000 from FASTOW JP Morgan Chase Account Q62603-00-8 to FASTOW JP Morgan Chase Account 054-05023866
81	9/21/200	Transfer of \$1,020,000 from FASTOW JP Morgan Chase Account Q62603-00-8 to FASTOW JP Morgan Chase Account 054-05023866
82	12/19/2001	Transfer of \$5,000,000 from FASTOW JP Morgan Chase Account Q62603-00-8 to FASTOW JP Morgan Chase Account 054-05023866

83	2/22/2002	Transfer of \$1,000,000 from FASTOW JP Morgan Chase Account Q62603-00-8 to FASTOW JP Morgan Chase Account 054-05023866
84	4/9/2002	Transfer of \$1,000,000 from FASTOW JP Morgan Chase Account Q62603-00-8 to FASTOW JP Morgan Chase Account 054-05023866
85	4/16/2002	Transfer of \$2,000,000 from FASTOW JP Morgan Chase Account Q62603-00-8 to FASTOW JP Morgan Chase Account 054-05023866
86	5/2/2002	Transfer of \$4,000,000 from FASTOW JP Morgan Chase Account Q62603-00-8 to FASTOW JP Morgan Chase Account 054-05023866

e. Transfer of funds generated through insider trading:

87	4/17/2000	Transfer of \$2,679,025.01 from Fidelity Investments Account # Z11-068497 to purchase Spartan Municipal Money Market Fund
88	4/17/2000	Transfer of \$1,193,385.71 from Fidelity Investments Account # Z11-068497 by wire to JP Morgan Chase Account # 054-05023866
89	7/31/2000	Transfer of \$2,407,502.12, as part of a larger transfer of \$2,434,518.72, from Paine Webber Account no. HS 76002 ES to Fidelity Investment Account no. Z11-068497
90	11/13/2000	Transfer of \$2,416,405.10, as part of a larger transfer of \$4,330,993.69, from Paine Webber Account no. HM 01507 ES to JP Morgan Chase Account no. Q62603-008

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

COUNTS NINETY-ONE THROUGH ONE-HUNDRED-ONE  
(Money Laundering)

100. The allegations in paragraphs 1 through 9, 20 through 27, and 42 through 47 are realleged as if fully set forth here.

101. On or about the dates listed in the chart below, in the Southern District of Texas,



and elsewhere, the defendant BEN F. GLISAN, JR. did knowingly engage and attempt to engage, and did aid, abet, counsel, command, induce, procure and cause the engaging and attempting to engage in the following monetary transaction by, through or to a financial institution, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, which funds were derived from a specified unlawful activity, that is, wire fraud in violation of Title 18, United State Code, Section 1343, and securities fraud in violation of Title 15, United State Code, Sections 78j(b) and 78ff and 17 C.F.R. 240.10b-5, to wit:

<b>Count</b>	<b>Date</b>	<b>Transaction</b>
91	5/9/2000	Transfer of \$300,000 to purchase Janus Global Life Science Fund from Charles Schwab account no. 3714-9242
92	5/9/2000	Transfer of \$300,000 to purchase Janus Special Situations Fund from Charles Schwab account no. 3714-9242
93	9/1/2000	Transfer of \$31,105.06 by check number 155, payable to David Merryman, Interior Design from Charles Schwab account no. 3714-9242
94	9/18/2000	Transfer of \$10,000 by check number 156, payable to RNC Presidential Trust, from Charles Schwab account no. 3714-9242
95	11/3/2000	Transfer of \$28,523.89 by check number 157, payable to David Merriman, from Charles Schwab account no. 3714-9242
96	11/17/2000	Transfer of \$9,477.75 by check number 158, payable to David Merryman, from Charles Schwab account no. 3714-9242
97	1/25/2001	Transfer of \$10,478.57 by check number 104, payable to American Express, from Charles Schwab account no. 3714-9242
98	1/25/2001	Transfer of \$7,318.57 by check number 159, payable to David Merriman, Interior Design, from Charles Schwab account no. 3714-9242
99	2/7/2001	Transfer of \$10,801.75 by check number 161, payable to David Merryman, Interior Design, from Charles Schwab account no. 3714-9242

100	2/5/2001	Transfer of \$25,000 by check number 160, payable to Bay Partners X, LP, from Charles Schwab account no. 3714-9242
101	5/14/2001	Transfer of \$224,241.57 to Paine Webber account no. HM 80620 ES from Charles Schwab account no. 3714-9242

(Title 18, United States Code, Section 1957, 2 and 3551 et sec.)

COUNTS ONE-HUNDRED-TWO THROUGH ONE-HUNDRED-FIVE

(Insider Trading)

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

103. On or about the dates set forth below, within the Southern District of Texas and elsewhere, the defendant ANDREW S. FASTOW did knowingly and intentionally conspire (a) 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 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) 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 purchases and sales 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. Specifically, while in possession of material non-public information regarding the financial performance of Enron, including but not limited to the fact that it had engaged in fraudulent transactions described in paragraphs 1 through 44 above, FASTOW sold shares of Enron stock as follows:

COUNT	DATE	SHARES	SALE PRICE	GROSS PROCEEDS
102	3/27/00	100,000	\$75.5151	\$7,551,510.00
103	5/17/00	83,037	\$75.50	\$6,269,293.50
104	11/1/00	24,196	\$83.00	\$2,008,268.00
105	11/7/00	27,844	\$83.00	\$2,314,372.00
				TOTAL: \$18,143,443.50

(Title 15, United States Code, Section 78j(b) and 78ff; Title 18, United States Code, Sections 2 and 3551 et seq.)

COUNT ONE-HUNDRED-SIX  
(False Income Tax Return – 1997)

104. The allegations in paragraphs 1 through 19 above are realleged as if set forth in full here.

105. On or about the 11th day of April, 1998, within the Southern District of Texas and elsewhere, the defendant ANDREW S. FASTOW, a resident of Houston, Texas, did willfully make and subscribe a joint United States Individual Income Tax Return, Form 1040, for the calendar year 1997, which was verified by a written declaration that it was made under penalties of perjury and was filed with the IRS, which income tax return he did not believe to be true and correct as to every material matter, in that the return reported total income in the amount of \$1,287,543, whereas he then and there well knew and believed that he and his spouse received income in addition to the amount reported.

(Title 26, United States Code, Section 7206(1); Title 18, United States Code, Sections 2

and 3551 et seq.)

COUNT ONE-HUNDRED-SEVEN  
(False Income Tax Return – 1998)

106. The allegations in paragraphs 1 through 19 above are realleged as if set forth in full here.

107. On or about the 8th day of April, 1999, within the Southern District of Texas and elsewhere, the defendant ANDREW S. FASTOW, a resident of Houston, Texas, did willfully make and subscribe a joint United States Individual Income Tax Return, Form 1040, for the calendar year 1998, which was verified by a written declaration that it was made under penalties of perjury and was filed with the IRS, which income tax return he did not believe to be true and correct as to every material matter, in that the return reported total income in the amount of \$2,183,850, whereas he then and there well knew and believed that he and his spouse received income in addition to the amount reported.

(Title 26, United States Code, Section 7206(1); Title 18, United States Code, Sections 2 and 3551 et seq.)

COUNT ONE-HUNDRED-EIGHT  
(False Income Tax Return – 1999)

108. The allegations in paragraphs 1 through 19 above are realleged as if set forth in full here.

109. On or about the 8th day of September, 2000, within the Southern District of Texas and elsewhere, the defendant ANDREW S. FASTOW, a resident of Houston, Texas, did willfully make and subscribe a joint United States Individual Income Tax Return, Form 1040, for the calendar year 1999, which was verified by a written declaration that it was made under

penalties of perjury and was filed with the IRS, which income tax return he did not believe to be true and correct as to every material matter, in that the return reported total income in the amount of \$9,129,602, whereas he then and there well knew and believed that he and his spouse received income in addition to the amount reported.

(Title 26, United States Code, Section 7206(1); Title 18, United States Code, Sections 2 and 3551 et seq.)

COUNT ONE-HUNDRED-NINE  
(False Income Tax Return – 2000)

110. The allegations in paragraphs 1 through 19 above are realleged as if set forth in full here.

111. On or about the 19th day of September, 2001, within the Southern District of Texas and elsewhere, the defendant ANDREW S. FASTOW, a resident of Houston, Texas, did willfully make and subscribe a joint United States Individual Income Tax Return, Form 1040, for the calendar year 2000, which was verified by a written declaration that it was made under penalties of perjury and was filed with the IRS, which income tax return he did not believe to be true and correct as to every material matter, in that the return reported total income in the amount of \$48,583,318, whereas he then and there well knew and believed that he and his spouse received income in addition to the amount reported.

(Title 26, United States Code, Section 7206(1); Title 18, United States Code, Sections 2 and 3551 et seq.)

FORFEITURE ALLEGATIONS  
(18 U.S.C. §§ 982, 981, 28 U.S.C. § 2461)

112. Upon conviction of one or more of the fraud offenses alleged in this Indictment,

FASTOW 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 violation(s), including but not limited to the properties listed in paragraph 3 below.

113 Upon conviction of one or more of the fraud offenses alleged in this Indictment, FASTOW 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. §§ 1956 and 1957, or conspiracy to commit such offense, 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 1956 and 1957, including but not limited to the properties listed in paragraph 3 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 FASTOW is convicted.

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

- (a) the contents of JP Morgan Chase account no. 054-05023866, in the name of Lea and Andrew Fastow;
- (b) the contents of JP Morgan Chase account no. Q62603-00-8, in the name of Andrew S. and Lea W. Fastow;
- (c) the contents of JP Morgan Chase account no. 340160, in the name of Lea and Andrew Fastow;
- (d) the contents of J.P. Morgan Chase account no. Q65183-00-8, in the name of the Fastow Family Foundation; and
- (e) real property known as 3005 Del Monte Dr., Houston, Texas.

115. Pursuant to Title 21 United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b), FASTOW shall forfeit substitute property, up to the value of the amount involved in the crimes of which FASTOW is convicted, if, by any act or omission of the 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.

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

Dated: Houston, Texas  
April 30, 2003

A TRUE BILL

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FOREPERSON

JOSHUA HOCHBERG  
Acting United States Attorney  
Southern District of Texas

LESLIE R. CALDWELL  
Director, Enron Task Force

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ANDREW WEISSMANN  
Deputy Director, Enron Task Force

LAUREL LOOMIS  
Trial Attorney, Enron Task Force

MICHAEL R. PAUZÉ  
Trial Attorney, Enron Task Force