



May 10, 2001

Jordan H. Mintz
Vice President and
General Counsel
Enron Global Finance

Enron Corp.
1400 Smith Street
Houston, TX 77002-7361
713-853-7897
Fax: 713-646-3226
jordan.mintz@enron.com

PRIVILEGED AND CONFIDENTIAL
COMMUNICATIONS

VIA Federal Express

Mr. Richard A. Steinwurtzel
Fried, Frank, Harris, Shriver & Jacobson
1001 Pennsylvania Ave. NW
Suite 800
Washington, DC 20004-2505

Re: Related Party Transactions

Dear Richard:

I want to thank you for taking time out from your hectic schedule to visit with me over the telephone yesterday in connection with the above-referenced item. As promised, I have reviewed my files and have enclosed those documents which should be instructive in providing you with additional information to assist you in your evaluation and recommendations regarding those issues I have previously described to you.

Some of these documents attached may be drafts or, in certain instances, have handwritten notes on them. I am confident that everything I am providing you with, even if in the form of a draft, fairly reflects their final form. Supplemental information related to these documents are noted in parentheses, where appropriate.

To that end, I offer for your review and consideration the following items:

1. Enron 2000 Annual Report
 - See, in particular, footnote 16
2. Enron's March 27, 2001 Proxy
 - See, in particular, pages 26 and 27--"Certain Transactions"
3. Enron's March 28, 2000 Proxy
 - See, in particular, pages 26 and 27--"Certain Transactions"
4. Enron's Form 8-K, dated February 26, 2001
 - See, in particular, footnote 16--"Related Party Transactions", pages 56 and 57

Endless possibilities.™

MIN 000238

5. Enron Corp.'s Form 10-Q, dated May , 2001 (draft)
 - See, in particular, footnote 8, pages 14 and 15, "Related Party Transactions"
6. Audit Committee Presentation of the LJM Investment Activity for 1999, dated February 7, 2000 (Presented by Enron's Chief Accounting Officer, Rick Causey)
 - Note, Scott Sefon was my predecessor
7. Audit and Finance Committee Presentation for LJM Investment Activity for 2000, dated February 12, 2001 (Presented by Enron's Chief Accounting Officer, Rick Causey, and Chief Financial Officer, Andy Fastow (just Finance Committee))
8. Short Form Questionnaire for Andrew S. Fastow for Fiscal Year Ended December 31, 1999
 - See, in particular, question (g) and response (last page addendum)
9. Addendum to Questionnaire for Andrew S. Fastow for Fiscal Year Ended December 31, 2000 (Copy enclosed unexecuted; however, I have been advised that an executed copy has been provided to Enron's Corporate Secretary)
10. Finance Committee Presentation Regarding LJM 1, dated October 11, 1999
11. Enron Board of Directors' Minutes, dated June 28, 1999; October 11, 1999
12. Q&A's relating to LJM (draft): Correspondence from Counsel Bob Baird, Vinson & Elkins, dated October 4, 1999, regarding LJM 2
13. Memorandum from Kirkland & Ellis, Counsel to LJM 2, dated October 11, 1999
14. Services Agreements Between Enron and LJM 1 and LJM 2
15. LJM 2 Co-Investment L.P. Presentation Related to Private Placement Memorandum (draft)
16. Memoranda from Jordan Mintz Relating to LJM, as follows:
 - Summary of Proposed Private Placement Memorandum for LJM 3, dated December 7, 2000 (Such equity fund never closed);
 - LJM Approval Process—Transaction Substantiation, dated March 8, 2001— including Enron's current version of the LJM Approval Sheet (Provides instructive background);
 - Memorandum to Andy Fastow, regarding Related Party Proxy Disclosures, dated April 6, 2001;

Mr. Richard A. Steinwurtzel
Re: Related Party Transaction
Page 3

- Memorandum to Messrs. Baxter, Metts, and Causey, regarding Disclosure Issues With Respect to Proposed Sale of Enron Wind to LJM, dated April 12, 2001;
 - Draft of Proposed Proxy Disclosure for Sale of Enron Wind to LJM 2
17. Copy of the "Conflicts" Section of Enron's Code of Ethics (2000)
18. Two Articles Regarding Enron
- Article in Worth Magazine of the 50 Best CEO's in the Country
 - Article in Bloomberg Markets, "Inside Enron"

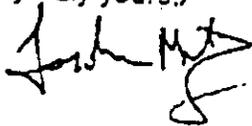
I will continue to review my files to determine whether there are any additional documents that may be helpful.

Based on our conversation yesterday--and now with your having the opportunity to review these documents, I believe you should have a fairly complete picture of the issues we are wrestling with. Obviously, as you pursue your "due diligence", you should not hesitate to call me with any additional questions that you may have or request, if available, any additional documentation that you think may be helpful; in turn, I am hopeful that you will be able to complete your review in the next two weeks (and, of course, we can continue our dialogue during that time). It may then be appropriate for me to visit with you in your offices sometime in late May/early June to discuss "where we are" and "where we are headed".

In closing, I very much appreciate your guidance, Richard, on this very significant matter. I will do what ever you need in terms of insuring that you have all relevant information and resources to conclude your work. I take great comfort in being able to call upon your counsel in this instance.

As usual, I may be reached at 713-853-7897. My email address is jordan.mintz@enron.com. Please do not hesitate to contact me.

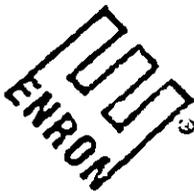
Very truly yours,



Enclosures

Cc (w/o encl.): Alan S. Kaden
Fried, Frank, Harris, Shriver & Jacobson

MIN 000240



May 21, 2001

Jordan H. Mintz
Vice President and
General Counsel
Enron Global Finance

Enron Corp.
1400 Smith Street
Houston, TX 77002-7351
713-853-7857
Fax 713-646-3229
jordan.mintz@enron.com

PERSONAL AND CONFIDENTIAL

VIA FEDERAL EXPRESS

Mr Richard A. Steinwurtzel
Mr. James H. Schropp
Fried, Frank, Harris, Shriver & Jacobson
1001 Pennsylvania Avenue N.W., Suite 800
Washington, DC 20004-2505

RE: Restructuring of the LJM Private Equity Fund

Dear Richard and Jim:

As we discussed last Wednesday, May 16th, we are proceeding with the proposal to restructure the LJM partnership(s) so as to fit within the safe-harbor (from disclosure) under Regulation S-K, Item 404 - Instructions 8.B (the "less than 10% limited partner interest Safe-Harbor"). In that regard, we are working with our counsel, Vinson & Elkins, and that of LJM's, Kirkland & Ellis, to get comfortable with our interpretation of the Safe-Harbor and that the restructuring is accomplished in a fashion that satisfies such safe-harbor. We are targeting this Friday, May 25th, as the date to reach these conclusions. As we discussed, I would appreciate your involvement as a "second pair of eyes" in this effort.

To that end, I have enclosed copies of the limited partnership agreement of LJM2 Capital Management, L.P., the general partner of the investment partnership - LJM2 Co-Investment, L.P., and the limited partnership agreement of LJM2 Co-Investment L.P. I would appreciate your review of the application of the Safe-Harbor to our proposal to restructure these partnerships. In particular, the general partner interest of Enron's Senior Officer would be converted to a less than 10% limited partnership interest - probably at the investment partnership level, and the current general partner interest would be assumed by a current Enron executive (but not a Section 16 officer) who, likely, would leave the employ of Enron. We can discuss in greater detail these specifics during our call set for this Wednesday.

In the interim, should you have questions or comments, please do not hesitate to contact me at 713-853-7897. I appreciate your continued assistance.

Very truly yours,

Enclosures (two sets)

Cc w/o enclosures: Alan Kaden

Endless possibilities.™

MIN 000241

Fried, Frank, Harris, Shriver & Jacobson
1001 Pennsylvania Avenue, NW, Suite 200
Washington, DC 20004-2535
Tel: 202.639.7000
Fax: 202.639.7003 (4) (8)
www.ffhs.com

Direct Phone: 202.639.7073
Direct Email: Alan.Kaden@ffhsj.com

CONFIDENTIAL & PRIVILEGED
FROM COUNSEL

May 22, 2001

Enron Global Finance
c/o Enron Corporation
1400 Smith Street
Houston, Texas 77002-7361

**FRIED
FRAN
HARR
SHRIV
JACOB**

Attn: Jordan H. Mintz, Vice President
& General Counsel

Re: Enron Global Finance

Dear Jordan:

In accordance with the District of Columbia's Code of Professional Responsibility, we are obligated to set forth the terms and scope of the recent retention of our firm's services by Enron Global Finance and/or Enron Corporation (collectively, "Enron Global"). Although this letter will, therefore, seem a bit formalistic, please be assured that we are delighted to be of assistance.

Based on our discussions to date, we understand that we will act as Enron Global's special counsel in a matter involving disclosure and other securities related advice. This matter, and the services that you have asked us to provide in connection with it, are discrete and limited, and you and we agree that we should not, in the course of such representation, need to obtain or use confidential information about Enron Global or render advice to Enron Global

A Partnership
including
Professional
Corporations

New York
Washington
Los Angeles
London

0000

MIN 000271

Enron Global Finance

May 22, 2001

Page 2

except in connection with this matter, unless we are specifically requested and agree to do so.

Our fees are based on the actual time spent on the matter involved by the attorneys in the firm. Each attorney, whether an associate or a partner, has a fixed rate at which his or her time is charged. That rate is fixed by the firm, taking into consideration the individual's professional expertise and other relevant factors.

Our hourly rates currently range from \$245 to \$420 for an associate attorney. Richard Steinwurtzel, the partner who will be primarily responsible for this matter, has a billing rate of \$620. (The foregoing information is, of course, provided to you on a confidential basis.) These rates are revised from time to time; additionally, associates "graduate" to the next seniority class effective September 1, and their rates are adjusted accordingly at that time. Richard will have primary responsibility for your matter, with assistance from senior and junior associates and in consultation with other partners, as he deems appropriate.

Ancillary services and expenses, such as photocopying, telecommunications, messenger and delivery services, computer legal research, and database searches, outside experts or consultants, word processing, secretarial and other support staff overtime, travel and other expenses incurred for the benefit of the client, are billed separately from time charges, based on actual use, at our cost. Travel expenses include, as applicable, mileage, airfare, lodging, meal expenses, local travel and similar expenses. Our policy regarding time spent traveling on behalf of a client is to charge the travel time to the client on whose behalf we are traveling, unless the attorney uses the travel time to work on another billable matter, in which case the time is billed to that matter. Billing for ancillary services and expenses may lag the rendering or use of those services by several months because of delays in the receipt of third-party bills and the posting of accounts.

The time charges set forth above are not absolutes to which we adhere without analysis of the time that has been spent. They serve as "benchmarks" which ordinarily are followed. Each month, however, before bills are submitted, a review is performed to assess the nature and quality of the services performed for the client.

Enron Global Finance

May 22, 2001

Page 3

It is our practice to try to discuss statements with our clients, and to explain the services covered to the client's satisfaction. In our view, good legal service requires that our clients not only receive outstanding legal work, but also that they feel comfortable in discussing our fees. We will bill on a monthly basis and will expect payment within 30 days of the date of the invoice.

There is always the possibility that we may be called upon by other clients, present or future, to act in an adverse position to Enron Global. As a matter of good professional and business relations, the firm may decline such representations. Nonetheless, because we cannot predict what situations may arise, or involving whom, you agree that our law firm will remain free, notwithstanding our representation of you in the matter described above or in other matters and whether or not during the course of our representation of you, to represent any present or future client of our law firm with interests adverse to you in any matter (except in litigation in which you and such other client may be adverse parties), so long as such matter is not specifically related to the matters in which we are representing you, and does not require us to utilize confidential information that we have learned from you while working on your behalf.

I hope you find the discussion above to be comprehensive and helpful, and that you will let me know if you have any questions.

MTN 000273

Enron Global Finance

May 22, 2001

Page 4

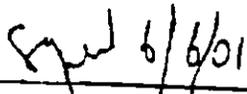
Please sign the original and enclosed copy of this letter. After you have done so, please retain the original for your files, and return the signed copy to me.

Sincerely,

FRIED, FRANK, HARRIS, SHRIVER
& JACOBSON

By: 

ACCEPTED AND AGREED:

By:  6/6/01
Name:

[Title:]

Date: _____]

MIN 000274

May 23, 2001

TO: James H. Schropp
FROM: James P. Baetzhold
RE: Enron Related Party Transactions

You have asked that I review various documents received from Enron Corp., an Oregon corporation ("Enron"), relating to transactions between Enron and certain parties related to Enron, in particular LJM Cayman, L.P. ("LJM1") and LJM2 Co-Investment, L.P. ("LJM2," and together with LJM1, the "Partnerships"). This memorandum sets forth a brief overview of (i) the structure, ownership and purposes of the Partnerships, (ii) Enron's policies and procedures regarding transactions with the Partnerships, (iii) Oregon law with respect corporate directors and officers, and (iv) transactions between Enron and the Partnerships disclosed in Enron's filings with the SEC.

**FRIED
FRANK
HARRIS
SHRIVE**

I. Structure, Ownership and Purposes of the Partnerships

- LJM1 and LJM2 are private equity funds formed as alternative, optional sources of private equity for Enron to manage its investment portfolio risk, funds flow, and financial flexibility.
- The Partnerships engage in acquiring or investing in energy and communications-related investments, primarily involving either assets Enron has decided to sell or risk management activities intended to limit Enron's exposure to price and value fluctuations with respect to various assets.
- Certain internal Enron documents describe the Partnerships as assisting Enron in its equity portfolio syndication activity.
- Andrew Fastow, an Executive Vice President and Chief Financial Officer of Enron, is the managing member of the general partner of LJM1 and the general partner of LJM2.

- Other Enron officers with interests in the Partnerships are Michael Kopper, a Managing Director of Enron, and Ben Glisan, Jr., a Vice President of Enron.
- Michael Kopper negotiates on behalf of the Partnerships when entering into transactions with Enron. The Partnerships pay a portion of his compensation to reflect time spent on Partnership matters.
- Limited partners in the Partnerships can remove the General Partner with or without cause.
- Under Services Agreements, the Partnerships reimburse Enron for administrative and support services provided by Enron.
- Summary Chart

| | LJM1 | LJM2 |
|--------------------------------|---|---|
| Formal Name | LJM Cayman, L.P. | LJM2 Co-Investment, L.P. |
| Date Formed | June 30, 1999 | October 20, 1999 |
| Size | \$16 million | \$200+ million |
| General Partner ("GP") | LJM Partners, L.P. | LJM2 Capital Management, L.P. |
| General Partner of GP ("GP2") | | LJM2 Capital Management, LLC |
| Managing Member of GP2 | | Andrew Fastow |
| Manager | LJM Management, L.P. | LJM2 Capital Management, L.P. |
| Limited Partners | Qualified investors – public and corporate pension funds, insurance companies, commercial banks and investment companies or funds | Qualified investors – public and corporate pension funds, insurance companies, commercial banks and investment companies or funds |
| GP Contribution | | 1% of total capital contributions |
| Carried Interest | | 20% |
| Management Fee | | 2% of Limited Partners' capital commitments during commitment period, 2% of invested capital thereafter |
| Commitment Period | | Three years |
| Partnership Advisory Committee | | Comprised of Limited Partner representatives; provides independent review of decisions made by General Partner in situations where the General Partner believes a conflict of interest exists |

- See Exhibit A for additional information prepared by Enron regarding the structure, ownership and purposes of the Partnerships.

II. Enron's Policies and Procedures Regarding Transactions with the Partnerships

- Enron's Board of Directors has specified the following basic policies and procedures for transactions between Enron and the Partnerships:
 - Enron and the Partnerships are not obligated to one another to transact;
 - Enron's Chief Accounting Officer (Rick Causey) and Chief Risk Officer (Rick Buy) review and approve the terms of all transactions;
 - The Board's Audit and Compliance Committee annually reviews all transactions completed during the past year and makes any recommendations they deem appropriate; and
 - The Board annually determines that Andrew Fastow's controlling position at the Partnerships and his involvement as a counterparty to Enron do not adversely affect the best interests of Enron.
- For a description of all procedures and controls, see Exhibit B, Related Party Transactions – LJM 2000, Internal Policies and Procedures (February 2001).
- See also Exhibit C, Memorandum dated March 8, 2001 from Jordan Mintz to Rick Buy and Rick Causey re "LJM Approval Process – Transaction Substantiation."
 - The March 8, 2001 memorandum refers to the "LJM Approval Sheet" and "Issues Checklist," which are attached hereto as Exhibit D.
 - The March 8, 2001 memorandum also refers to Enron's Code of Ethics; the section of the Code of Ethics addressing conflicts of interest is attached hereto as Exhibit E.

III. Oregon Law Regarding Corporate Directors and Officers

- The general standard of conduct for directors and officers of Oregon corporations requires that directors and officers discharge their duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances and in a manner the director or officer reasonably

believes to be in the best interests of the corporation. See Or. Rev. Stat. §§ 60.357, 60.377 (1999).

- Oregon's Private Corporations law defines a "conflict of interest transaction" as a transaction with the corporation in which a *director* of the corporation has a direct or indirect interest. See Or. Rev. Stat. § 60.361 (1999).
- The law provides that a conflict of interest transaction is not voidable by the corporation solely because of the director's interest in the transaction if any one of the following is true:
 - (a) the material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board of directors and the board of directors or committee authorized, approved or ratified the transaction;
 - (b) the material facts of the transaction and the director's interest were disclosed or known to the shareholders entitled to vote and they authorized, approved or ratified the transaction; or
 - (c) the transaction was fair to the corporation.

Or. Rev. Stat. § 60.361 (1999).

- Transactions with a corporation in which an *officer* of the corporation has an interest are not considered conflict of interest transactions and do not require approval or ratification by the board of directors or any committee thereof.
- See Exhibit F, Or. Rev. Stat. §§ 60.357 - 60.384 (1999).

IV. Transactions Between Enron and the Partnerships

- The chart at Exhibit G summarizes transactions between Enron and the Partnerships, as disclosed in Enron's filings with the SEC. The information in the chart is based primarily on disclosures made in Enron's proxy statements for 2000 and 2001, which disclosures are summary in nature. To detail each transaction individually, we would need to review the "LJM Approval Sheet" and "Issues Checklist" for each.
- Additional summary charts prepared by Enron are included as Exhibit H.

• The following recent disclosures made by Enron are included as Exhibit I:

- 2000 Proxy Statement, March 28, 2000, pp. 26-27
- Form 8-K, February 26, 2001, FN 16, pp. 56-57, 33-37
- 2001 Proxy Statement, March 27, 2001, p. 27
- Form 10-K, April 2, 2001, FN 16, pp. 48-49, 38-40
- Form 10-Q, May 14, 2001, FN 8, pp. 14-15

List of Exhibits

| | |
|-----------|---|
| Exhibit A | Information prepared by Enron regarding the structure, ownership and purposes of LJM1 and LJM2 - presented at: October 11, 1999 Finance Committee Meeting |
| Exhibit B | Related Party Transactions - LJM 2000, Internal Policies and Procedures (February 2001) |
| Exhibit C | Memorandum dated March 8, 2001 from Jordan Mintz to Rick Bay and Rick Causey re LJM Approval Process - Transaction Substantiation |
| Exhibit D | LJM Approval Sheet and Issues Checklist |
| Exhibit E | Enron Code of Ethics, "Conflicts of Interests, Investments, and Outside Business Interests of Officers and Directors" |
| Exhibit F | Or. Rev. Stat. §§ 60.357 - 60.384 (1999) |
| Exhibit G | Transactions Between Enron and LJM1 or LJM2 (prepared by FFHSJ) |
| Exhibit H | LJM Investment Activity 1999; LJM Investment 2000 Activity with Enron (prepared by Enron) |
| Exhibit I | Recent Enron SEC Disclosure <ul style="list-style-type: none"> • 2000 Proxy Statement, March 28, 2000, pp. 26-27 • Form 8-K, February 26, 2001, FN 16, pp. 56-57, 33-37 • 2001 Proxy Statement, March 27, 2001, p. 27 • Form 10-K, April 2, 2001, FN 16, pp. 48-49, 38-40 • Form 10-Q, May 14, 2001, FN 8, pp. 14-15 |

MIN 000262

June 4, 2001

TO: Richard A. Steinwurtzel
James H. Schropp
Lanae Holbrook

FROM: James P. Baetzhold

FILE: 94485-0002

RE: Enron Proxy Disclosure

**FRIED
FRANK
HARRIS
SHRIVER &
JACOBSON**

This memorandum identifies issues relating to whether Enron Corp. ("Enron") must disclose in its 2002 proxy statement one or more transactions that it entered into in 2001 with related parties (the "LJM Partnerships") controlled by Enron's chief financial officer. (Enron's 10-Q for the first quarter of 2001 states that Enron entered into "transactions" with the LJM Partnerships during the first quarter.) We understand that by June 2001, an individual (other than the CFO) who has worked on LJM Partnership matters will leave Enron's employ and establish a private equity fund that will merge with the LJM Partnerships. In connection with these transactions, the CFO will sell his interest in and otherwise end his involvement with the LJM Partnerships. We assume that Enron will disclose this restructuring and the termination of the CFO's relationship with the LJM Partnerships.

I. Disclosure Requirement

A. Item 7 of Schedule 14A requires that registrants disclose in their proxy statements certain information regarding directors and executive officers, including the information required by Item 404(a) of Regulation S-K.

B. Item 404(a) of Regulation S-K provides as follows:

Describe briefly any transaction, or series of similar transactions, since the beginning of the registrant's last fiscal year, or any currently proposed transaction, or series of similar transactions, to which the registrant or any of its subsidiaries was or is to be a party, in which the amount involved exceeds \$60,000 and in which any [director or executive officer of the registrant] had, or will have, a direct or indirect material interest, naming such person and indicating the person's relationship to the registrant,

A Partnership
Including
Professional
Corporations

MIN 000251

the nature of such person's interest in the transaction(s), the amount of such transaction(s) and, where practicable, the amount of such person's interest in the transaction(s).

II. Analysis

A. Timing. The CFO's planned sale of his interest in the LJM Partnerships does not appear of itself to free Enron from the obligation to disclose transactions entered into with the LJM Partnerships prior to such sale, if the CFO's interest in those transactions was material.

1. Item 404(a) refers to transactions to which the registrant "was or is to be a party" and in which any director or officer "had, or will have, a direct or indirect material interest" (emphasis added).

2. Even if the CFO sells his interest in the LJM Partnerships as presently planned, he will have had, as managing member of the general partner of the LJM Partnerships, an interest in the transactions in question at the time they were entered into. If that interest was material, the plain language of Item 404(a) appears to require disclosure of such transactions.

(a) Item 404 as initially adopted in December 1982 included the phrase "had, or will have, a direct or indirect material interest." Neither the proposing release (Release No. 33-6416) nor the adopting release (Release No. 33-6441) indicates whether disclosure is required in the event that the relationship giving rise to the disclosure obligation (here, the CFO's interest in the LJM Partnerships) is terminated after the transactions are entered into.

(b) The SEC's Telephone Interpretations do not provide any guidance directly on point, although two interpretations address similar timing issues.

(i) In Telephone Interpretation 41 regarding Regulation S-K, the staff was asked whether disclosure was required of a transaction that occurred since the beginning of the fiscal year but prior to the date a particular person became a five percent shareholder. The staff advised that disclosure was required if the transaction (a) was continuing (such as through the on-going receipt of payments) on and/or after the date the person became a five percent shareholder or (b) resulted in the person becoming a five percent shareholder. The staff also noted that disclosure would not be

required if the transaction concluded before the person became a five percent shareholder.

- (ii) In Telephone Interpretation 42 regarding Regulation S-K, a retiring director provided consulting services to an issuer through an entity of which the director was sole shareholder. The transaction was excludable under Item 404(b) pursuant to Instruction 4 to that paragraph, which states that no information need be provided in a proxy for any director whose term of office will not extend beyond the meeting to which the statement relates. Because the transaction exceeded \$60,000, counsel asked whether Item 404(a) disclosure, which does not contain a similar instruction, would be required. The staff stated that such disclosure would be required because the relationship between the issuer and the consulting entity was not "solely a business relationship that did not afford the director any special benefits." The staff noted that the relationship could be viewed as doing business with the director personally through the director's company, rather than doing business with a company where the director happened to be an officer or shareholder.

B. Materiality. If the CFO's interest in the transactions was not material, and assuming that Enron fully discloses the unwinding of the CFO's interest in the LJM Partnerships, disclosure in the 2002 proxy statement would not be required.

1. Instruction 1 to Item 404(a) provides that the materiality of any interest is to be determined on the basis of the significance of the information to investors in light of all the circumstances of the particular case. Among the factors to be considered in determining the significance of the information to investors are:
 - (a) the importance of the interest to the person having the interest;
 - (b) the relationship of the parties to the transaction with each other; and
 - (c) the amount involved in the transaction.
2. Instruction 4 to Item 404(a) provides that the amount of the interest of any person specified in paragraphs (a) (1) through (4)

of Item 404 shall be computed without regard to the amount of the profit or loss involved in the transaction.

3. Issues

- (a) Can the CFO be said to have had no material interest in the transactions if he has received no distributions related to the transactions?
- (i) Because the central concern of Item 404(a) is ensuring that corporations do not enter into related party transactions that favor insiders at the expense of shareholders, an argument can be made that the parties' interests at the time of the transaction should be taken into account. An insider's determination after a transaction has been effected to forego distributions related to that transaction does not ensure that the transaction was entered into at arms length.
 - (ii) Note that Instruction 4 to Item 404(a) provides that the amount of the interest of the CFO shall be computed without regard to the amount of the profit or loss involved in the transaction. Pursuant to this instruction, any return of capital or distribution of profits received by the CFO in connection with the transactions would not factor into the determination of his interest in the transactions. The CFO's willingness to forego distributions, therefore (or the LJM Partnerships' "clawback" of such distributions), would not appear to be relevant to the determination of the CFO's interest in the transactions.
 - (iii) In the past has Enron decided not to disclose in its proxy statement certain transactions on the basis that the CFO had not received distributions relating to those transactions?
- (b) If significance is placed upon the fact that the CFO receives no distributions, would the CFO nevertheless be "compensated" for the transactions through the sale of his interest in the LJM Partnerships? Would such compensation be material to the CFO? If yes, Item 404(a) would appear to require disclosure in the proxy statement.

- (c) If the absence of distributions relating to the transactions does not determine the question of the importance of the transactions to the CFO, how should that question be answered?
- (i) A review of SEC releases and no-action letters yielded no specific guidance as to how to measure "the importance of the interest to the person having the interest" in the context of Item 404(a).
 - (ii) In the auditor independence context, the SEC in the past has determined the materiality of a financial interest by reference to the net worth of the interest holder. If Enron were to adopt this approach, it might look at the CFO's ownership interest in the partnerships, the amount of each transaction and the CFO's net worth to determine materiality.
 - (1) For example, if the CFO's ownership interest in the LJM Partnerships is 50% and the amount of a particular transaction is \$5 million, the CFO's interest would be deemed to be \$2.5 million. If that amount constitutes more than five or ten percent of the CFO's net worth, the CFO's interest in the transaction would be material.
 - (2) Because the transactions with the LJM Partnerships may involve notional amounts that do not represent the amounts exchanged by the parties, determination of the amounts involved in the transactions might be difficult.
- (d) In connection with Enron's 10-Q for the first quarter of 2001, was a specific determination made that the transactions referred to therein were material to the CFO?
- (e) Do the relationships among Enron, the CFO and the LJM Partnerships render disclosure generally advisable except where the importance of the transactions to the CFO and the amounts involved in the transactions are minimal?

Forsyth, Darlene C.

From: "Schropp, James H." <SchroJa@ffhsj.com>@ENRON
[IMCEANOTES--+22Schropp+2C+20James+20H+2E+22+20
+3CSchroJa+40ffhsj+2Eccm+3E+40ENRON@ENRON.com]
Sent: Monday, July 02, 2001 11:32 AM
To: Mintz, Jordan
Subject: RE: Related Party Issues

Hope the silence does not signify the receipt of bad news from the Banks.

Give me a call (202 639-7110) if there's any desire or need for follow up on this. Jim

-----Original Message-----

From: Jordan.Mintz@enron.com [mailto:Jordan.Mintz@enron.com]
Sent: Friday, June 08, 2001 4:56 PM
To: SchroJa@ffhsj.com
Subject: RE: Related Party Issues

Thanks, Jim. I am headed to London this weekend and will think further about your points. After I return (probably by midweek--unless our Banks kick us before then!!), I will contact you to set-up a time to discuss in greater detail. In the interim, I very much appreciate your responsiveness.

Jordan

-----Original Message-----

From: "Schropp, James H." <SchroJa@ffhsj.com>@ENRON
[mailto:IMCEANOTES--+22Schropp+2C+20James+20H+2E+22+20+3CSchroJa+40ffhsj+2Eccm+3E+40ENRON@ENRON.com]

Sent: Friday, June 08, 2001 3:21 PM
To: Mintz, Jordan
Subject: Related Party Issues

- > PRIVILEGED AND CONFIDENTIAL
- > COMMUNICATION FROM COUNSEL
- >
- > From the standpoint of your objectives, which we understand to be the
- > prompt termination of "related party" involvement in future LJM or similar
- > transactions with the least onerous disclosure obligations

for the
2002
> proxy statement, we believe the approach outlined in your
June 5, 2001
> memorandum offers a very reasonable approach. There are
several
things we
> would recommend in order to ensure achievement of the goals:
>
> 1. As your memorandum points out, LJM transactions
prior to
> termination will continue to be reported in the Company's 10-
Q
filings,
> and the termination of the transactions will also be publicly
disclosed.
> Prior 10-Q disclosure appeared to leave some informational
gaps,
which
> were noted by those who commented on the Company's filings.
We want
to
> emphasize that we are not in a position to evaluate whether
material
> information was omitted from the prior statements, and have
not done
so.
> However, from the standpoint of closing the discussion of
these
matters
> once and for all, we would consider supplementing the prior
disclosures,
> where it is possible to do so, especially on such points as
the
purpose of
> the specific transactions entered into and the "bottom-line"
financial
> impact on the Company and the LJM partners. There are
several
possible
> approaches that can be taken to such disclosure, which we
will not
explore
> at this time. An appropriate place and time for such
disclosure
would
> appear to be within the statements made by the Company at the
time of
> termination, at which time the information could be put
forward as
part of
> a final summation. If termination occurs, as you anticipate,
in the
> second quarter, the disclosure vehicle could be the 10-Q for
that
quarter.
> The description of the termination could then be summarized
or
repeated.

> as necessary or appropriate, in the 2002 proxy statement.
>
>
2. Prior disclosure has been to the effect that
'management' has
> found the terms of the LJM transactions 'reasonable' and the
Board
> annually reviews the transactions. The description of these
procedures
> appears to leave certain questions unanswered, including what
members
of
> management reviewed the transactions and what did they do in
connection
> with that review (and, equally important, what does the
documentary
record
> of that review reflect). what did the Board do or find when
it
reviewed
> the transactions, and why was the approval not obtained at
the Board
> level. It appears to us advisable to close off the avenues
of
potential
> attack these issues represent. We would recommend that you
consider
> addressing these issues through the Audit Committee of the
Board;
> alternatively, a special committee of the Board could be
appointed,
but we
> believe the subject matter fits comfortably within the
traditional
> jurisdiction of an audit committee. We recommend that the
Committee,
as
> part of its review, include a review of the fairness of the
terms of
the
> transactions to the Company, as well as a review of the
substance of
the
> final, 'wrap-up' disclosures to be made by the Company. The
Committee's
> findings should be based on a full documentary record, which
can be
> prepared by the Company's management or outside disclosure
counsel, as
> appropriate. A short report can be provided by the Committee
to the
full
> Board.
>
>
3. There may be certain collateral issues that should
also be
raised
> before and considered by the Committee. One issue that
suggests
itself to

> US is whether there has been, or is likely to be, any adverse impact on

> the Company's commercial banking relationships by reason of the fact that

> a lender is the principal (and perhaps only) limited partner in the LJM

> partnerships. In other words, the Committee should be able to receive

> assurances, or otherwise assure itself; that the lending relationship

> remains independent of the investment activity, and that a potential

> adverse result in the latter arena will not have any adverse fallout on

> the former. Our premise is that there will or may be future involvement

> in investment activity by the lending bank(s), in which case ongoing or

> periodic review by the Committee, such as on an annual basis, may be

> appropriate. If future involvement by lenders is not anticipated, the

> review may be confined to assuring the absence of any impact as a result

> of the past transactions.

>

> We would be pleased to discuss these ideas, and any others you may

> wish to raise, at your convenience. As we mentioned in our prior

> conversation, the familiarity we have gained with the matter and

issues,

> while still incomplete, would make it feasible for us to serve as an

> independent counsel to the Audit Committee (or other reviewing body).

We

> would anticipate that the Company's management and outside counsel would

> carry the burden of presenting these matters to the Committee, but it

> would, we believe, also be advisable to provide the Committee asked to

> approve and conclude these matters with a source of independent

counsel

> and advice.

Confidentiality Notice: The information contained in this e-

mail and
any attachments may be legally privileged and confidential. If
you are
not an intended recipient, you are hereby notified that any
dissemination, distribution or copying of this e-mail is
strictly
prohibited. If you have received this e-mail in error, please
notify
the sender and permanently delete the e-mail and any
attachments
immediately. You should not retain, copy or use this e-mail or
any
attachment for any purpose, nor disclose all or any part of the
contents
to any other person. Thank you.

Confidentiality Notice: The information contained in this e-mail
and any attachments may be legally privileged and confidential.
If you are not an intended recipient, you are hereby notified that
any dissemination, distribution or copying of this e-mail is
strictly prohibited. If you have received this e-mail in error,
please notify the sender and permanently delete the e-mail and any
attachments immediately. You should not retain, copy or use this
e-mail or any attachment for any purpose, nor disclose all or any
part of the contents to any other person. Thank you.