U.S. SENATE COMMITTEE ON

Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

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Opening Statement of Sen. Chuck Grassley, Chairman, Committee on Finance
Hearing, “Enron: The Joint Tax Committee’s Investigative Report”

You are about to witness a shocking event in the history of American corporate tax policy and financial accounting. We are going to have the veil torn off the world of tax shelters and manipulation of accounting. The report reads like a conspiracy novel, with some of the nation’s finest banks, accounting firms and attorneys working together to prop up the biggest corporate farce of this century. Enron was a house of cards – and the cards were put together by these schemes that we will hear about today.

The Joint Tax Committee report provides us a wealth information. Much of this information has never been seen before – not only by the public but also the IRS and other government agencies. It includes tax return information, opinion letters from law firms, internal documents, accounting firm correspondence, shelter promotional material, and most importantly, internal Enron documents laying out how the scheme of deception plays out. Not only will we gain a fuller understanding of tax shelters and accounting gimmicks, but we are provided with the complete story of the people and the professionals working behind the scene to make it happen. The Joint Tax Committee report names names and doesn’t pull punches in telling us about the law firms, accounting shops and investments bankers that were promoting and aiding Enron in its activities.

The conclusion is very troubling. “Show Me the Money!”is the catch phrase on an internal Enron document for one shelter. It is clear that that’s what it’s all about. Money, money, money. Money above honesty in financial accounting and tax return compliance. Money above professional and business ethics. Money above common sense. Money, money, money. I’m reminded that back in the 1980s there was a popular phrase that came from Wall Street. The phrase was “Greed is good. Greed cuts through and clarifies.” The irony is that, in this case, greed obscured and hid the real substance of the business of Enron. The substance is that there wasn’t much substance. All of the artifices were designed to make something appear real that was not real.

Enron viewed its tax shop’s goal in line with this general goal. That is, the tax shop was designed and managed with the objective of non-compliance with its responsibilities under the tax code. Instead Enron viewed the tax shop as a profit center where complexity was an ally and bending the rules a partner in a search for more paper gains. In addition to bending the rules there appears to be a culture of wining and dining amongst a small community of people that helps to drive these deals. One small but telling example is the Bankers Trust, one of the participants in this dance of shelters, takes Enron’s director of tax research for what was termed the Potomac Capital Investment Corporation Conference. The details can be found starting on B-203 of the report.

Let me tell you what this conference consists of: fly to Boca Raton, and Sunday night is Casino Night, then starting on Monday morning it’s your choice of golf, tennis, fishing, then a golf clinic and finally a reception dinner cruise. The next day the real work starts with your choice of golf, tennis, fishing, a leisurely lunch and finally a reception dinner. To wind down on the last day is more golf or tennis. No amount of lipstick is going to make that pig pretty.

The Joint Committee report describes in detail the structures used by Enron to avoid tax and inflate earnings. Many of these schemes are not well-known, and their publication today could provide a road map for others to follow. So let me be clear: today, February the 13, 2003, will be the effective date for any legislation that we offer to shut down these tax schemes or anything like them. Today's date will not move – it will not slip. Senator Baucus and I are unified on that point. I don't care if it takes five years to get the legislation passed, the date will hold. So to all you lobbyists sitting out in the crowd today, write it down. If a company does an Enron deal after today, don't come in here whining that we aren't being fair. You are on notice, as are the lawyers, accountants, and investment bankers that profit so handsomely from these deals.

In addition to Enron's tax and accounting, the Joint Tax report gives equal time to the important issues of executive compensation and employee benefits. It goes from bad to worse. I find it stunning that a company that was a Fortune top 10 company was wholly incapable of answering simple answers of how much top executives got paid. Further, the Enron board seems unaware of its most basic responsibilities and duties of protecting the shareholders. In addition, the Joint Tax report provides new details of the jaw-dropping amount of executive compensation and benefits.

It doesn't pass the smell test that Enron had 200 executives – each of whom was being paid over a million dollars while they ran the company to bankruptcy – leaving thousands of dedicated employees to land high and dry. These employees helplessly watched their retirement savings go down the drain when the company's stock tanked from more than $90 a share in 2000 to 34 cents a share in January 2002.

Again, we benefit from Joint Tax providing an enormous amount of documents detailing the executive compensation and employee benefit issues.

Finally, Joint Tax has much to say of findings and recommendations from its work. Joint Tax also raises serious concerns about the ability of the IRS to ever find out about these transactions. These findings and recommendations deserve serious consideration and will inform the Finance Committee as it compares its current corporate tax shelter legislation against the abuses listed in this report.

Let me make one last point. Lindy Paull sits before us today, the last time as chief of staff of the Joint Tax Committee. It is a tribute to her that she is going out with a report that will cause great shockwaves felt all down K Street. I want to thank you, Lindy, for all your dedication and hard work not only at the Joint Tax Committee but also previously here on the Finance Committee. Your dedication and knowledge will be greatly missed.

I also recognize that your staff has spent nearly a year on this report and have for the last few weeks been at it day and night preparing for this hearing. These men and women who served on this project have done so at great personal sacrifice. The travel and demands of this task have kept them away from their loved ones. They have continued to meet the needs of Congress while at the same time pursuing one of the ugliest and most complex financial disasters of recent time.

I would ask for members' indulgence while I take a moment to name the dedicated staff primarily responsible for the investigation: Mary Schmitt, Sam Olchyk, Carolyn Smith, Ray Beeman, Nikole Clark, Robert Gotwald, Brian Meighan, David Noren, Cecily Rock, Carol Sayegh, Ron Schultz and Allison Wielobob. In addition, thank you to the Government Printing Office for getting this major report to us in time for today's hearing. Thank you all very much for a job well done. You have given us a very sobering report about corporate tax practice and executive compensation in this country.