UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE DELPHI CORP. SECURITIES LITIGATION	MASTER FILE NO. 1: 05-CV-2637 (NRB)
This Document Relates to:	JURY TRIAL DEMANDED
ALL ACTIONS	

CONSOLIDATED CLASS ACTION COMPLAINT

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1. Court-appointed Lead Plaintiffs, the Teachers' Retirement System of Oklahoma, the Public Employees' Retirement System of Mississippi, Raiffeisen Kapitalanlage-Gesellschaft m.b.H and Stichting Pensioenfonds ABP (collectively "Lead Plaintiffs"), bring this federal securities law class action complaint ("Complaint") on behalf of themselves and all other persons and entities, other than Defendants and their affiliates as specified in ¶¶23-70 below, who purchased or acquired publicly traded shares, bonds or notes of Delphi Corp. ("Delphi" or the "Company") and securities issued by Delphi Trust I and Delphi Trust II, as defined below, between March 7, 2000 and March 3, 2005 (the "Class Period," as defined more fully below), based on the misrepresentations and material omissions asserted herein, and were injured thereby.

2. Lead Plaintiffs bring this Consolidated Class Action Complaint against Delphi; the Company's Trusts ("Trust I" and "Trust II"); certain of Delphi's former officers, namely its former President, Chief Executive Officer and Chairman of the Board, J.T. Battenberg III ("Battenberg"); its former Vice Chairman, Chief Financial Officer and member of the Board of Directors Allen Dawes ("Dawes"), its former Chief Accounting Officer and Controller Paul R. Free ("Free"), its Vice Chairman and Chief Technology Officer, Donald Runkle ("Runkle"); its acting Chief Financial Officer and Chief Accounting Officer and Controller John D. Sheehan ("Sheehan"); its former Vice President of Treasury, Mergers and Acquisitions John G. Blahnik ("Blahnik"); members of the Company's Audit Committee, namely, Robert H. Brust ("Brust"), Oscar De Paula Bernardes Neto ("Neto"), Cynthia A. Niekamp ("Niekamp"), John D. Opie ("Opie"), Thomas H. Wyman ("Wyman"); certain of the Company's other former and current Directors, including Virgis W. Colbert ("Colbert"), David N. Farr ("Farr"), Dr. Bernd Gottschalk ("Gottschalk"), Shoichiro Irimajiri ("Irimajiri"), J. Michael Losh ("Losh"), Susan A.

McLaughlin ("McLaughlin"), Harry J. Pearce ("Pearce"), Roger S. Penske ("Penske"), John F. Smith, Jr. ("Smith"), Patricia Sueltz ("Sueltz"); its outside auditing firm, Deloitte & Touche LLP ("Deloitte"); certain investment banks that participated in the Company's debt and preferred securities offerings during the Class Period, namely Banc of America Securities LLC ("BAS"), Barclays Capital Inc. ("Barclays"), Bear, Stearns & Co. Incorporated ("Bear Stearns"), Citigroup Global Markets Inc. ("Citigroup"), Credit Suisse First Boston Corporation ("Credit Suisse"), Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"), Morgan Stanley & Co. Incorporated ("Morgan Stanley"), UBS Securities LLC ("UBS"), Wachovia Capital Markets, LLC ("Wachovia"); and certain third parties that participated in sham transactions with the Company intended to manipulate the Company's financial statements, namely BBK, Ltd. ("BBK"), Setech, Inc. ("Setech") and JPMorgan Chase & Co. (as successor to Bank One ("Bank One").

3.Lead Plaintiffs allege the following upon information and belief, except as to those allegations concerning Lead Plaintiffs, which are alleged upon personal belief. Lead Plaintiffs' information and belief is based upon, among other things, their investigation regarding Delphi and other Defendants, including, without limitation: (a) review and analysis of filings made by Delphi, Trust I and Trust II with the United States Securities and Exchange Commission ("SEC"); (b) interviews with former Delphi employees, and current and former employees of entities with which Delphi engaged in transactions during the Class Period; (c) review and analysis of internal Delphi documents; (d) review and analysis of press releases, public statements, news articles and other publications disseminated by or concerning the automotive industry, Delphi, other Defendants, including Defendants Battenberg, Dawes, Free, Runkle, Sheehan, and Blahnik and Deloitte; (e) review and analysis of transcripts of Delphi's conference

calls; (f) review and analysis of securities analysts' reports concerning Delphi; and (g) other publicly available information concerning Delphi and other Defendants.

4. Lead Plaintiffs believe that further substantial evidentiary support will exist for the allegations in this Complaint after a reasonable opportunity for discovery. Many of the facts supporting the allegations contained herein are known only to Defendants or are exclusively within their custody and control.

I. SUMMARY OF CLAIMS

5. This is a case about a new company that was determined to show it could survive as a stand-alone business after a highly publicized separation from its corporate parent; a group of unscrupulous executives who turned to fraud when they concluded that telling the truth about the company's business performance would imperil their jobs and bonuses; third party vendors who knowingly participated in hundreds of millions of dollars' worth of sham transactions intended to disguise the company's financial difficulties; and the gatekeepers – the auditors, audit committee, and board of directors – who recklessly disregarded the fraud that was there for them to find if they had only bothered to look. As explained herein, that company was Delphi, and the fraud it orchestrated was among the most egregious in the recent wave of corporate meltdowns -- sparking criminal and regulatory investigations, inflicting billions of dollars of losses on Delphi's unsuspecting investors, and bringing this once heralded business to the brink of bankruptcy.

6. From the moment it was spun off from its long-time parent General Motors in 1999, automotive parts supplier Delphi faced significant competitive and economic pressures as a stand-alone enterprise. As was ultimately revealed, Delphi did not fare well in that environment. For years, however, the Company chose to keep that fact to itself and instead concocted a broad and complex scheme to lie about its financial results and defraud the investing public.

7. Much of the scheme was carried out internally, as senior Delphi executives instructed subordinates to violate basic accounting rules by, among other things, "gaming" how and when revenue and expenses would be recognized. But the fraud could not have succeeded, or achieved the magnitude it did, without the direct participation of third parties who were all too willing to engage in sham transactions intended to falsify Delphi's reported financial results. These sham transactions -- typically a purported "purchase" of Delphi assets with an undisclosed obligation by Delphi to buy those very same assets back <u>after</u> the proceeds of the "sale" had boosted Delphi's results for the pertinent period – were particularly vital to the fraudulent scheme because they took place early in the Class Period, when the Company was under greatest pressure to show that it was a viable and growing business. Unfortunately for Delphi's investors, those who were charged with ensuring that Delphi was reporting its financial results fairly and accurately – the Company's auditors, audit committee, and board of directors – recklessly abdicated their responsibilities to the investing public by turning a blind eye to what was there, just beneath the surface, if they had only chosen to look.

8. Having employed the fraudulent scheme to inflate its financial results (and hence its stock price) in the critical early years of its existence, the Company responded to the growing national concern about corporate fraud and passage of the Sarbanes Oxley Act in 2002, by slowly weaning itself off of the most egregious aspects of the scheme. It also began to dole out bits of bad news (couched in terms of industry "headwinds", massive restructurings, and the like) which, in fits and starts, slowly siphoned off much of the artificial inflation that had been pumped into the stock in the early part of the Class Period. Unfortunately for Defendants, their misconduct came back to haunt them when, in July 2004, the SEC began an investigation of Delphi. The SEC did so after receiving a tip concerning possible accounting chicanery at Delphi

-- not from any of the Company's inert gatekeepers, but rather from a source outside the Company.

9. While the Company initially downplayed the SEC's investigation, by March 2005, it was compelled to concede that all of the financial statements it had issued since becoming a public company had been materially false and misleading, and that it would need to issue restated financial results. The stock, which had traded as high as $21.69 during the Class Period, fell to $6 and below as the market learned the extent of Delphi's past financial chicanery. Set forth below is a chart summarizing major aspects of the restatement eventually filed in June 2005:

	2003 Original	**2003 Restated**	**2002 Original**	**2002 Restated**	**2001 Original**	**2001 Restated**	**2000 Original**	**2000 Restated**
Net Sales	28,096	28,077	27,427	27,641	26,088	26,302	29,139	29,224
Net Income (loss)	(56)	(10)	342	318	(396)	(428)	1002	817
Earnings (Loss) per share – basic	$(0.10)	(.02)	0.61	0.57	(0.71)	(0.76)	1.78	1.46
Retained Earnings	1,241	997	1,454	n/a	1,343	1,003	1869	n/a

10. The fraud claims alleged herein, brought pursuant to the Securities Exchange Act of 1934 ("Exchange Act"), are asserted against those Defendants who directly participated in the fraudulent scheme (Delphi, the Officer Defendants, Setech, BBK, and Bank One), as well as those Defendants who were reckless in not discovering the fraud (Deloitte and the Audit Committee) and the "control persons" who failed to supervise the Company and Officer Defendants (the Director Defendants). In addition, this complaint asserts <u>non-fraud</u> claims, pursuant to the Securities Act of 1933 ("Securities Act"), which relate to certain securities offerings made pursuant to

registration statements filed by Delphi. Those claims, as to which Lead Plaintiffs expressly disclaim reliance on any allegation of fraud made herein, are brought against Delphi, the Officer Defendants, the Director Defendants, Deloitte, and the banks that underwrote those offerings.

II. JURISDICTION AND VENUE

11. Certain claims asserted herein arise under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. §§ 78j(b), 78(r) and 78t(a), and the rules and regulations promulgated thereunder, including SEC Rule 10b-5, 17 C.F.R. § 240.10b-5. Certain other claims asserted herein arise under Sections 11, 12(a)(2) and 15 of the Securities Act of 1933 (the "Securities Act"), 15 U.S.C. §§ 77k, 77l(a)(2) and 77o.

12. This Court has jurisdiction over the subject matter of this action pursuant to Section 27 of the Exchange Act, 15 U.S.C. §§ 78aa, Section 22 of the Securities Act, 15 U.S.C. §§ 77v, and 28 U.S.C. § 1331, because this is a civil action arising under the laws of the United States.

13. Venue is proper in this district pursuant to Section 27 of the Exchange Act, 15 U.S.C. §§ 78aa and Section 22 of the Securities Act, 15 U.S.C. §§ 77v. Many of the acts and transactions that constitute the violations of law complained of herein, including the dissemination to the public of materially false and misleading statements, occurred in this District.

14. In connection with the acts alleged in the Complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the United States mails, interstate telephone communications and the facilities of national securities exchanges.

III. PARTIES

A. Lead Plaintiffs

15. Teachers' Retirement System of Oklahoma ("OTRS") is a public pension fund established for the benefit of the current and retired employees of Oklahoma's local school districts, career technology schools, and public colleges and universities. OTRS provides retirement benefits to thousands of members and their beneficiaries. OTRS has over $7 billion in assets under management. As set forth in the certification attached as Exhibit 1, OTRS purchased common stock of Delphi during the Class Period and suffered losses as result of the federal securities law violations alleged herein.

16. Public Employees' Retirement System of Mississippi ("MS PERS") is a pension fund for the benefit of the current and retired public employees of the State of Mississippi. MS PERS has approximately $16 billion in total assets under management and is responsible for the retirement income of employees of the state, including current and retired employees of the state, public school districts, municipalities, counties, community colleges, state universities and such other public entities as libraries and water districts. MS PERS provides benefits to over 60,000 retirees, and future benefits to more than 250,000 current and former public employees. As set forth in the certification attached as Exhibit 2, MS PERS purchased common stock of Delphi during the Class Period and suffered losses as a result of the federal securities law violations alleged herein.

17. Raiffeisen Kapitalanlage-Gesellschaft m.b.H. ("Raiffeisen") is a Vienna, Austria based mutual fund manager with more than $40 billion in assets under management. As set forth in the certification attached as Exhibit 3, Raiffeisen purchased common stock of Delphi during the Class Period and suffered losses as result of the federal securities law violations alleged herein.

18. Stichting Pensioenfonds ABP ("ABP") is an entity established under the laws of the Kingdom of the Netherlands. ABP is the pension fund for public employees in the governmental and educational sectors in the Netherlands. With assets amounting to nearly €150 billion, ABP is one of the three largest public pension funds in the world. Its assets represent around thirty-five percent of total Dutch pension fund assets, and its client base totals some 2.2 million participants and retirees (e.g., civil servants, educators, university employees, the police and firemen). ABP maintains its office and principal place of business at Oude Lindestraat 70, Postbus 2889, 6401 DL Heerlen, The Netherlands. ABP also maintains an office and conducts significant operations in the United States at 666 Third Avenue, 2nd Floor, New York, NY 10017. As set forth in the certification attached as Exhibit 4, ABP purchased over shares of Delphi common stock during the Class Period in reliance on Defendants' public statements and omissions, and suffered losses as result of the federal securities law violations alleged herein.

19. On June 27, 2005, the Honorable Naomi Reice Buchwald, United Stated District Judge for the Southern District of New York, appointed OTRS, MS PERS, Raiffeisen and ABP as Lead Plaintiffs for this litigation.

B. Additional Named Plaintiffs

20. The Oklahoma Law Enforcement Retirement System ("OLERS") is a public pension fund established to provide retirement and medical benefits to members and their survivors for members of the law enforcement profession in Oklahoma. OLERS purchased shares of Delphi during the Class Period and suffered a loss as a result of the federal securities law violations alleged herein. OLERS has joined in this Action as a Named Plaintiff and proposed Class Representative.

21. Norman Rosencrantz purchased shares of Delphi Trust I 8.25% Cumulative Trust Preferred securities during the Class Period and suffered damages as a result of the federal

securities law violations alleged herein. Rosencrantz has joined in this Action as a Named Plaintiff and proposed Class Representative.

22. Ronald Lee Wasserman, Sr. purchased Delphi Corporation 6.5% Bonds issued during the Class Period and suffered damages as a result of the federal securities law violations alleged herein. Wasserman has joined in this Action as a Named Plaintiff and proposed Class Representative.

23. Naomi Raphael purchased shares of Delphi during the Class Period and suffered a loss as a result of the federal securities law violations alleged herein. Raphael has joined in this Action as a Named Plaintiff and proposed Class Representative.

C. The Defendants

1. The Company and Its Trusts

24. Delphi Corp. (formerly Delphi Automotive Systems) is the largest auto parts supplier in the world. As the leading global supplier of vehicle electronics, transportation components, integrated systems and modules, and other electronic technology, Delphi's technologies are present in more than 75 million vehicles on the road worldwide as well as in communication, computer, consumer electronic, energy and medical applications. Delphi was incorporated in Delaware in 1998 and spun-off from General Motors Corp. ("GM") in 1999. The Company has its headquarters in Troy, Michigan, and has regional headquarters in Paris, France, Tokyo, Japan, and São Paulo, Brazil. During the Class Period, Delphi's shares traded on the New York Stock Exchange under the symbol "DPH."

25. Delphi Trust I is a Delaware trust established by an August 25, 2003 Declaration of Trust among Delphi, as Sponsor, and the following Trustees: Bank One Delaware, Inc. as "Delaware Trustee," and Defendant Battenberg and Dawes as "Regular Trustees." Delphi created the Trust to buy 8.25% Junior Subordinated Notes from Delphi, due October 15, 2033,

and to sell Delphi-guaranteed 8.25% Cumulative Trust Preferred Securities ("Trust I Notes") to the public. According to the Declaration of Trust, Delphi Trust I was "established by the Sponsor and the Trustees for the purposes of (i) issuing preferred securities … representing undivided beneficial interests in the assets of the Trust in exchange for cash, (ii) issuing and selling common securities . . . representing undivided beneficial interests in the assets of the Trust to the Sponsor in exchange for cash, [and] (iii) owning subordinated debt securities of the Sponsor." On September 3, 2003, Delphi (as registrant) and Delphi Trust I, along with Delphi Trusts II, III and IV, filed a registration statement with the SEC on Form S-3 ("2003 S-3") for up to $1.5 billion in debt securities fully and unconditionally guaranteed by Delphi. In the 2003 S-3, Delphi stated: "Each of the trusts is a newly-formed special purpose entity, has no operating history or independent operations and is not engaged in and does not propose to engage in any activity other than its holding as trust assets our junior subordinated notes and the issuing of the trust preferred securities." Delphi added: "We formed Delphi Trust I, II, II and IV, Delaware Statutory trusts, to raise capital for us by: [i] issuing trust preferred securities under this prospectus; and [ii] investing the proceeds from the sale of the trust preferred securities in our junior subordinated notes." The Trust I Notes were issued on or about October 21, 2003 ("the "Trust I Offering") pursuant to the 2003 S-3, prospectus filed on October 21, 2003 under 424(b)(5) filed on October 2, 2003 (collectively, the "Trust I Offering Materials").

26. Delphi Trust II is a Delaware trust established by an August 25, 2003 Declaration of Trust among Delphi, as Sponsor, and the following Trustees: Bank One Delaware, Inc. as "Delaware Trustee," and Defendant Battenberg and Dawes as "Regular Trustees." Like Delphi Trust I, Delphi Trust II was "established by the Sponsor and the Trustees for the purposes of (i) issuing preferred securities … representing undivided beneficial interests in the assets of the

Trust in exchange for cash, (ii) issuing and selling common securities . . . representing undivided beneficial interests in the assets of the Trust to the Sponsor in exchange for cash, [and] (iii) owning subordinated debt securities of the Sponsor." On or about November 21, 2003, pursuant to the 2003 S-3, Delphi Trust II issued $150 million of Adjustable Rate Trust Preferred Securities (6.197% initial rate) ("Trust II Notes"), guaranteed by defendant Delphi. The Trust II Notes were issued ("the "Trust II Offering") pursuant to the 2003 S-3 and a prospectus supplement under Rule 424(b)(5), filed on November 14, 2003 (collectively, the "Trust II Offering Materials").

2. The Officer Defendants

27. Defendant Battenberg is the former President, Chief Executive Officer and Chairman of the Board of Delphi. Battenberg's career in the auto industry began in 1961 as a student at the GM Institute (now the Kettering Institute). Over the course of his career, Battenberg has held numerous positions at GM and Delphi. In 1992, Battenberg was appointed Vice President and Group Executive of GM's Automotive Component Group Worldwide ("ACG"), the GM department eventually spun-off as Delphi. In 1995, he was elected President of Delphi Automotive System (formerly ACG) and, in 1999, he was named to lead the initial public offering ("IPO") and eventual spin-off of Delphi. At the time of the IPO, Battenberg was also named Delphi's President, CEO and Chairman. Battenberg served as Delphi's President from 1999 until January 7, 2005, when Rodney O'Neal was named President and COO. Battenberg served as Delphi's CEO and Chairman until succeeded by Robert S. Miller on July 1, 2005. Battenberg's retirement was announced on February 23, 2005, ten days before Delphi admitted to pervasive accounting manipulations dating back to the Company's IPO. Battenberg signed the Company's Forms 10-K405 for the fiscal years ending December 31, 1999 ("Fiscal Year 1999"), December 31, 2000 ("Fiscal Year 2000") and December 31, 2001 ("Fiscal Year

2001"). He also signed the Company's Forms 10-K for the fiscal years ending December 31, 2002 ("Fiscal Year 2002") and December 31, 2003 ("Fiscal Year 2003"). Pursuant to Sections 302 and 906 of the Sarbanes Oxley Act of 2002 ("Sarbanes Oxley"), Battenberg certified the accuracy of the Company's financial statements for Fiscal Years 2002 and 2003, each quarter of 2003 and the first two quarters of 2004. In addition, Defendant Battenberg also signed the registration statement for Delphi's June 5, 2001 and July 25, 2003 debt offerings, as well as Delphi's October 21, 2003 and November 21, 2003 offerings.

28. Defendant Dawes served as the Company's Vice Chairman, Chief Financial Officer and a member of the Board of Directors at all times relevant hereto. Dawes was named CFO and Vice Chairman in August 1998 and a Director in January 2000. He served in these positions until March 4, 2005, when Dawes was forced to resign in the midst of Delphi's accounting scandal and after the Audit Committee expressed a loss of confidence in him. While Vice Chairman and CFO, Dawes reported to Battenberg and had several people reporting directly to him, including John P. Arle, Vice President of Mergers and Acquisitions; John G. Blahnik, Vice President and Treasurer; and Peter H. Janak, Vice President and Chief Information Officer. Prior to serving as Delphi Vice Chairman and CFO, Dawes worked at GM for eighteen years. Dawes signed the Company's Forms 10-K405 for Fiscal Years 1999, 2000 and 2001. He also signed the Company's Forms 10-K for Fiscal Years 2002 and 2003, and certified the accuracy of the Company's financial statements for these periods. Pursuant to Sections 302 and 906 of Sarbanes Oxley, Dawes certified the accuracy of the Company's financial statements for Fiscal Years 2002 and 2003, the third quarter of 2002, each quarter of 2003 and the first two quarters of 2004. Dawes also signed the registration statements for Delphi's June 5, 2001 and

July 25, 2003 debt offerings, as well as Delphi's October 21, 2003 and November 21, 2003 offerings.

29. Defendant Free served as Delphi's first Chief Accounting Officer and Controller from the Company's IPO in 1999 until June 6, 2002. At that time, he was appointed as Executive Director of Delphi's Delco Electronic Systems Division, a position he held until his resignation from Delphi on March 4, 2005. According to a press release published by Delphi on March 14, 2002, "Free was deeply involved in establishing the accounting systems and processes necessary to enable Delphi to operate as an independent company." Free also served in several capacities in the St. Louis, Missouri and New York, New York offices of Defendant Deloitte between 1979-1984 and 1988-1994. He was a practice fellow at the Financial Accounting Standards Board ("FASB"), chief financial officer of a multinational specialty chemical company, and an operations executive for a privately owned commercial refrigeration manufacturing company. Free is also a Certified Public Accountant, licensed in Missouri. Free signed the Company's Forms 10-K405 for Fiscal Years 1999, 2000 and 2001. Free also signed each of the Company's 10-Q quarterly reports from the first quarter of 2000 through the first quarter of 2002. Defendant Free also signed the registration statement for Delphi's June 5, 2001 debt offering.

30. Defendant Runkle was named Delphi's Vice Chairman and Chief Technology Officer on January 1, 2003. Prior to that, starting in January 2000, he served as Delphi's Executive Vice President and President of Delphi's Dynamics & Propulsion Division. He was head of Delphi's engineering and manufacturing task teams and a member of the Delphi Board of Directors. Runkle also previously served as President of Delphi Energy & Engine Management Systems, and General Manager of Delphi Energy & Engine Management Systems.

Runkle signed the Company's Forms 10-K405 for Fiscal Years 1999, 2000 and 2001 and the Company's Forms 10-K for Fiscal Years 2002 and 2003. Defendant Runkle also signed the registration statement for Delphi's July 25, 2003 debt offering, as well as Delphi's for October 21, 2003 and November 21, 2003 offerings.

31. Defendant Sheehan is acting Chief Financial Officer and Chief Accounting Officer and Controller of Delphi Corporation. He was named to this position on March 4, 2005, following the departure of Defendant Free. In this position, Sheehan oversees Delphi's finance functions, including treasury, tax, mergers and acquisitions, internal and external reporting, internal controls, budgeting, forecasting and financial planning and analysis. In July 2002, Sheehan joined Delphi as Chief Accounting Officer and Controller, with responsibility for all of Delphi's regulatory reporting functions, budgeting and overall financial accounting processes. Prior to joining Delphi, Sheehan worked at KPMG LLP, serving in numerous positions both in the United States and overseas. Sheehan is a licensed certified public accountant in Michigan and Connecticut. Sheehan is a member of the American Institute of Certified Public Accountants. Sheehan signed each of the Company's Forms 10-K for Fiscal Years 2002 and 2003 and the Company's Forms 10-Q for the quarters ending June 30, 2002, March 31, 2003, June 30, 2003, October 16, 2003, March 31, 2004 and September 3, 2004. Defendant Sheehan also signed the registration statement for Delphi's July 25, 2003 debt offering, as well as for Delphi's October 21, 2003 and November 14, 2003 offerings.

32. Defendant Blahnik served as Delphi's Vice President of Treasury, Mergers and Acquisitions until March 2005, when he was demoted in connection with Delphi's unfolding accounting scandal. On June 9, 2005, Blahnik was forced to resign from Delphi. Blahnik joined GM in 1978 and occupied various roles in both GM's and then Delphi's finance

departments. Prior to Delphi's spin-off from GM, Blahnik served as Delphi's executive director of finance. He was named treasurer of Delphi in August 1998. In 2002, he was named Delphi's Vice President of Treasury, Acting Chief Accounting Officer and Controller and in December 2003, assumed the position of Vice President of Treasury, Mergers, Acquisitions and New Markets. Blahnik reported directly to Dawes throughout the Class Period.

33. Defendants Battenberg, Dawes, Free, Runkle, Sheehan, and Blahnik are referred to collectively herein as the "Officer Defendants."

34. It is appropriate to treat the Officer Defendants as a group for pleading purposes and to presume that the false, misleading, and incomplete information conveyed in the Company's public filings, press releases, and other publications, as alleged herein, are the collective actions of this narrowly defined group of Defendants identified above. Each of the above officers of Delphi, by virtue of their high-level positions within the Company, directly participated in the management of the Company, was directly involved in the day-to-day operations of the Company at the highest levels and was privy to confidential proprietary information concerning the Company and its business, operations, products, growth, financial statements, and financial condition, as alleged herein. Said Defendants were involved in drafting, producing, reviewing and/or disseminating the false and misleading statements and information alleged herein, were aware or recklessly disregarded that the false and misleading statements were being issued regarding the Company, and approved or ratified these statements, in violation of the federal securities laws.

35. As officers and controlling persons of a publicly-held company whose common stock was, and is, registered with the SEC pursuant to the Exchange Act, traded on the NYSE, and governed by the provisions of the federal securities laws, the Officer Defendants each had a

duty to disseminate promptly, accurate and truthful information with respect to the Company's financial condition and performance, growth, operations, financial statements, business, products, markets, management, earnings and present and future business prospects, and to correct any previously-issued statements that had become materially misleading or untrue, so that the market price of the Company's publicly-traded securities would be based upon truthful and accurate information. The Officer Defendants' misrepresentations and omissions during the Class Period violated these specific requirements and obligations.

36. The Officer Defendants participated in the drafting, preparation, and/or approval of the various public and shareholder and investor reports and other communications complained of herein and were aware of, or recklessly disregarded, the misstatements contained therein and omissions therefrom, and were aware of their materially false and misleading nature. Because of Board membership and/or executive and managerial positions with Delphi, each of the Officer Defendants had access to the adverse, undisclosed information about the Company's improper accounting and manipulative transactions, as well as the materiality of the inflated earnings per share, cash flow and income generated by these practices during the Class Period as particularized herein and knew (or recklessly disregarded) that these adverse facts rendered the positive representations made by or about Delphi's financial performance false and misleading.

37. The Officer Defendants, because of their positions of control and authority as officers and/or directors of the Company, were able to and did control the content of the various SEC filings, press releases and other public statements pertaining to the Company during the Class Period. Each Officer Defendant was provided with copies of the documents alleged herein to be misleading prior to or shortly after their issuance and/or had the ability and/or opportunity to prevent their issuance or cause them to be corrected. Accordingly, each of the Officer

Defendants is responsible for the accuracy of the public reports and releases detailed herein and is, therefore, primarily liable for the representations contained therein.

3. The Director Defendants

38. Defendant Brust is a member of Delphi's Board of Directors (the "Board of Directors") and signed the Company's November 26, 2002 registration statement on Form S-3 in connection with the July 25, 2003 offering and the Company's September 3, 2003 registration statement on Form S-3 in connection with the October 21, 2003 and November 21, 2003 offerings. Brust also signed the Company's Form 10-K405 for Fiscal Year 2001 and the Company's Forms 10-K for Fiscal Years 2002 and 2003. Brust became a member of Delphi's Board of Directors in 2001. Brust served on the Audit Committee of Delphi's Board of Directors (the "Audit Committee") from 2001 through 2003, serving as its Chairman in 2002 and 2003.

39. Defendant Wyman was a member of the Board of Directors and served as the Lead Independent Director at all times relevant until May 1, 2002. Wyman signed the Company's March 3, 1999 registration statement on Form S-3 and the Company's March 25, 1999 registration statement on form S-3/A in connection with the June 5, 2001 offering. He also signed the Company's Forms 10-K405 for Fiscal Years 1999, 2000 and 2001. Wyman served on the Audit Committee from 1999 through 2001.

40. Defendant Neto is a member of the Board of Directors and signed the Company's March 3, 1999 registration statement on Form S-3 and the Company's March 25, 1999 registration statement on Form S-3/A in connection with the June 5, 2001 offering. He also signed the Company's November 26, 2002 registration statement on Form S-3 in connection with the July 25, 2003 offering and the September 3, 2003 registration statement on Form S-3 in connection with the October 21, 2003 and November 21, 2003 offerings. In addition, Neto

signed the Company's Forms 10-K405 for Fiscal Years 1999, 2000 and 2001 and the Company's Forms 10-K for Fiscal Years 2002 and 2003. Neto served on the Audit Committee at all relevant times.

41. Defendant Opie is a member of the Board of Directors and signed the Company's March 3, 1999 registration statement on Form S-3 and the Company's March 25, 1999 registration statement on Form S-3/A in connection with the June 5, 2001 offering. Opie also signed the Company's November 26, 2002 registration statement on Form S-3 in connection with the July 25, 2003 offering and the Company's September 3, 2003 registration statement on Form S-3 in connection with the October 21, 2003 and November 21, 2003 offerings. In addition, Opie signed the Company's Forms 10-K405 for Fiscal Years 1999, 2000 and 2001 and the Company's Forms 10-K for Fiscal Years 2002 and 2003. Opie was a member of the Audit Committee at all relevant times, serving as its Chairman from 1999 through 2001.

42. Defendant Niekamp joined the Board of Directors in 2003 and signed the Company's 10-K for Fiscal Year 2003. Niekamp also served was a member of the Audit Committee in 2003.

43. Defendant McLaughlin was a member of the Delphi Board of Directors and signed the Company's March 3, 1999 registration statement on Form S-3 and the Company's March 25, 1999 registration statement on Form S-3 in connection with the July 25, 2003 Offering. She also signed the Company's Forms 10-K405 for Fiscal Years 1999, 2000 and 2001 and the Company's Forms 10-K for Fiscal Years 2002 and 2003. McLaughlin was also a member of the Audit Committee.

44. Defendants Brust, Wyman, Neto, Opie, and Niekamp and McLaughlin are referred to collectively herein as the "Audit Committee Defendants."

45. Defendant Smith was a member of the Board of Directors during 1998 and 1999. Smith signed the Company's March 3, 1999 registration statement on Form S-3 and the Company's March 25, 1999 registration statement on Form S-3/A in connection with the June 5, 2001 Offering.

46. Defendant Pearce was a member of the Board of Directors during 1998 and 1999. Pearce signed the Company's March 3, 1999 registration statement on Form S-3 and the Company's March 25, 1999 registration statement on Form S-3/A in connection with the June 5, 2001 Offering. Pearce has been associated with General Motors since 1985 and was named a Director of Delphi Automotive Systems in October 1998.

47. Defendant Penske was a member of the Delphi Board of Directors from 1999 until 2004. Penske currently serves as a Senior Advisor to Delphi's Board of Directors. Penske signed the Company's March 3, 1999 registration statement on Form S-3 and the Company's March 25, 1999 registration statement on Form S-3/A in connection with the June 5, 2001 Offering. He also signed the Company's November 26, 2002 Form S-3 Registration Statement in connection with the July 25, 2003 Offering and the Company's September 3, 2003 Form S-3 registration statement in connection with the October 21, 2003 and November 21, 2003 Offerings. In addition, Penske signed the Company's Forms 10-K405 for Fiscal Years 1999, 2000 and 2001 and the Company's Forms 10-K for Fiscal Years 2002 and 2003.

48. Defendant Sueltz was a member of the Board of Directors from 2000 until December 1, 2003. Sueltz signed the Company's November 26, 2002 registration statement on Form S-3 in connection with the July 25, 2003 Offering and the Company's September 3, 2003

registration statement on Form S-3 in connection with the October 21, 2003 and November 21, 2003 Offerings. Sueltz also signed the Company's Form 10-K405 for Fiscal Year 2000 and 2001 and the Company's Form 10-K for Fiscal Year 2002.

49. Defendant Losh was a member of the Board of Directors in 1998 and 1999. Losh signed the Company's March 3, 1999 registration statement on form S-3 in connection with the June 5, 2001 Offering. Losh was associated with General Motors since 1964 and was named a Director of Delphi Automotive Systems in October 1998.

50. Defendant Colbert has been a member of the Board of Directors since 1999. Colbert signed the Company's March 3, 1999 registration statement on Form S-3 and the Company's March 25, 1999 registration statement on Form S-3/A in connection with the June 5, 2001 Offering. Colbert also signed the Company's November 26, 2002 registration statement on Form S-3 in connection with the July 25, 2003 Offering and the Company's September 3, 2003 registration statement on Form S-3 in connection with the October 21, 2003 and November 21, 2003 Offerings. In addition, Colbert signed the Company's Forms 10-K405 for Fiscal Years 1999, 2000 and 2001 and the Company's Forms 10-K for Fiscal Years 2002 and 2003.

51. Defendant Farr has been a member of the Board of Directors since 2002. He signed the Company's November 26, 2002 registration statement on Form S-3 in connection with the July 25, 2003 Offering and the Company's September 3, 2003 registration statement on Form S-3 in connection with the October 21, 2003 and November 21, 2003 Offerings. Farr also signed the Company's Forms 10-K Fiscal Years 2002 and 2003.

52. Defendant Irimajiri has been member of the Board of Directors since 1999. Irimajiri signed the Company's November 26, 2002 registration statement on Form S-3 in connection with the July 25, 2003 Offering and the Company's September 3, 2003 registration

statement on Form S-3 in connection with the October 21, 2003 and November 21, 2003 Offerings. Irimajiri also signed the Company's Forms 10-K405 for Fiscal Years 2000 and 2001 and the Company's Forms 10-K for Fiscal Years 2002 and 2003.

53. Defendant Gottschalk has been a member of the Board of Directors since 2000. He signed the Company's November 26, 2002 registration statement on Form S-3 in connection with the July 25, 2003 Offering and the Company's September 3, 2003 Registration Statement on Form S-3 in connection with the October 21, 2003 and November 21, 2003 Offerings. Gottschalk also signed the Company's Forms 10-K405 for Fiscal Year 2000 and 2001 and the Company's Forms 10-K for Fiscal Years 2002 and 2003.

54. Together, Defendants Smith, Pearce, McLaughlin, Penske, Sueltz, Losh, Colbert, Farr, Irimajiri, Gottschalk and the Audit Committee Defendants are referred to collectively herein as the "Director Defendants."

4. Underwriter Defendants

i. Delphi Corporation Bond Offering June 5, 2001 (6.550%)

55. Defendant Bear, Stearns & Co. Incorporated ("Bear Stearns") is a national investment firm that provides securities underwriting, financial advisory services and equity research services. Its global headquarters are located at 383 Madison Avenue, New York, NY. Bear Stearns was a joint bookrunning manager of the offering issued on June 5, 2001 (the "June 2001 Offering"). It sold and distributed Delphi notes to the investing public pursuant to the registration statement and prospectus filed with the SEC in connection with the offering (together, the "June 2001 Offering Materials"). As part of its duties as an underwriter, Bear Stearns was required to conduct, prior to the offering, a reasonable investigation of the Company to ensure that the statements contained in the June 2001 Offering Materials contained no misstatement or omission of material fact. Pursuant to its underwriting agreement with Delphi,

Bear Stearns purchased and agreed to sell to the investing public $175,000,000 in bond notes in connection with the Offering.

56. Defendant Credit Suisse First Boston Corporation ("Credit Suisse") is a national investment firm that provides securities underwriting, financial advisory services and equity research services. Its global headquarters are located at 11 Madison Avenue, New York, NY. Credit Suisse was a joint bookrunning manager of the June 2001 Offering. It sold and distributed Delphi bond notes to the investing public pursuant to the June 2001 Offering Materials. As part of its duties as an underwriter, Credit Suisse was required to conduct, prior to the offering, a reasonable investigation of the Company to ensure that the statements in the June 2001 Offering Materials contained no misstatement or omission of material fact. Pursuant to its underwriting agreement with Delphi, Credit Suisse purchased and agreed to sell to the investing public $175,000,000 in bond notes in connection with the Offering.

ii. Delphi Corporation Bond Offering July 25, 2003 (6.500%)

57. Defendant Barclays Capital Inc. ("Barclays") is a national investment firm that provides securities underwriting, financial advisory services and equity research services. Its global headquarters are located at 5 The North Colonnade, Canary Wharf, London E14 4BB, United Kingdom. Barclays was a joint bookrunning manager of the Delphi corporate bond offering issued on July 25, 2003 (the "July 2003 Offering"). It sold and distributed Delphi bond notes to the investing public pursuant to the Registration Statement and a Prospectus filed with the SEC in connection with the offering ("July 2003 Offering Materials"). As part of its duties as an underwriter, Barclays was required to conduct, prior to the offering, a reasonable investigation of the Company to ensure that the statements in the July 2003 Offering Materials contained no misstatement or omission of material fact. Pursuant to its underwriting agreement

with Delphi, Barclays purchased and agreed to sell $175,000,000 in bond notes in connection with the July 2003 Offering.

58. Defendant Citigroup Global Markets Inc. ("Citigroup") is a national investment firm that provides securities underwriting, financial advisory services and equity research services. Its global headquarters are located at 388 Greenwich Street, New York, NY. Citigroup was a joint bookrunning manager of the offering issued on July 25, 2003. It sold and distributed Delphi notes to the investing public pursuant to the Registration Statement and a Prospectus filed with the SEC in connection with the offering. As part of its duties as an underwriter, Citigroup was required to conduct, prior to the offering, a reasonable investigation of the Company to ensure that the statements in the July 2003 Offering Materials contained no misstatement or omission of material fact. Pursuant to its underwriting agreement with Delphi, Citigroup purchased and agreed to sell $175,000,000 in bond notes in connection with the July 2003 Offering.

59. Defendant Banc of America Securities LLC ("BAS") is a national investment firm that provides securities underwriting, financial advisory services and equity research services. Its global headquarters are located at 9 W. 57th Street, New York, NY. BAS was a joint bookrunning manager of the offering issued on July 25, 2003. It sold and distributed Delphi bond notes to the investing public pursuant to the Registration Statement and a Prospectus filed with the SEC in connection with the offering. As part of its duties as an underwriter, BAS was required to conduct, prior to the offering, a reasonable investigation of the Company to ensure that the statements in the July 2003 Offering Materials contained no misstatement or omission of material fact. Pursuant to its underwriting agreement with Delphi,

BAS purchased and agreed to sell $75,000,000 in bond notes in connection with the July 25, 2003 Offering.

iii. Delphi Trust I Offering October 21, 2003 (8.25%)

60. Defendant Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch") is a national investment firm that provides securities underwriting, financial advisory services and equity research services. Its global headquarters are located at 4 World Financial Center, New York, NY. Merrill Lynch was the lead underwriter of the Delphi Trust I Offering issued on October 21, 2003. It sold and distributed Delphi Trust I preferred securities to the investing public pursuant to the Registration Statement and a Prospectus filed with the SEC in connection with the offering. As part of its duties as an underwriter, Merrill Lynch was required to conduct, prior to the offering, a reasonable investigation of the Company to ensure that the statements in the Trust I Offering Materials contained no misstatement or omission of material fact. Pursuant to its underwriting agreement with Delphi, Merrill Lynch purchased and agreed to sell 1,987,500 preferred securities in connection with the Trust I Offering.

61. Defendant Morgan Stanley & Co. Incorporated ("Morgan Stanley") is a national investment firm that provides securities underwriting, financial advisory services and equity research services. Its global headquarters are located at 1585 Broadway, New York, NY. Morgan Stanley was a co-lead underwriter of the Delphi Trust I Offering issued on October 21, 2003. It sold and distributed Delphi Trust I preferred securities to the investing public pursuant to the Registration Statement and a Prospectus filed with the SEC in connection with the offering. As part of its duties as an underwriter, Morgan Stanley was required to conduct, prior to the offering, a reasonable investigation of the Company to ensure that the statements in the Trust I Offering Materials contained no misstatement or omission of material fact. Pursuant to

its underwriting agreement with Delphi, Morgan Stanley purchased and agreed to sell 1,812,500 preferred securities in connection with the Trust I offering.

62. Defendant UBS Securities LLC ("UBS") is a national investment firm that provides securities underwriting, financial advisory services and equity research services. Its global headquarters are located at 1285 Avenue of the Americas, New York, NY. UBS was a co-lead underwriter of the Delphi Trust I Offering issued on October 21, 2003. It sold and distributed Delphi Trust I preferred securities to the investing public pursuant to the Registration Statement and a Prospectus filed with the SEC in connection with the offering. As part of its duties as an underwriter, UBS was required to conduct, prior to the offering, a reasonable investigation of the Company to ensure that the statements in the Trust I Offering Materials contained no misstatement or omission of material fact. Pursuant to its underwriting agreement with Delphi, UBS purchased and agreed to sell 1,812,500 preferred securities in connection with the Trust I offering.

63. Defendant Wachovia Capital Markets, LLC ("Wachovia") is a national investment firm that provides securities underwriting, financial advisory services and equity research services. Its global headquarters are located at Riverfront Plaza, 901 East Byrd Street, Richmond, Virginia. Wachovia was a co-lead underwriter of the Delphi Trust I Offering issued on October 21, 2003. It sold and distributed Delphi Trust I preferred securities to the investing public pursuant to the Registration Statement and a Prospectus filed with the SEC in connection with the offering. As part of its duties as an underwriter, Wachovia was required to conduct, prior to the offering, a reasonable investigation of the Company to ensure that the statements in the Trust I Offering Materials contained no misstatement or omission of material fact. Pursuant

to its underwriting agreement with Delphi, Wachovia purchased and agreed to sell 1,812,500 preferred securities in connection with the Trust I Offering.

iv. Delphi Trust II Offering November 11, 2003 (6.197%)

64. Defendant Citigroup was a lead underwriter of the Delphi Trust II Offering. It sold and distributed Delphi Trust II preferred securities to the investing public pursuant to the Registration Statement and a Prospectus filed with the SEC in connection with the offering. As part of its duties as an underwriter, Citigroup was required to conduct, prior to the offering, a reasonable investigation of the Company to ensure that the statements in the Trust II Offering Materials contained no misstatement or omission of material fact. Pursuant to its underwriting agreement with Delphi, Wachovia purchased and agreed to sell 52,500 preferred securities in connection with the Trust II Offering.

65. Defendant Merrill Lynch was a lead underwriter of the Delphi Trust II Offering. It sold and distributed Delphi Trust II preferred securities to the investing public pursuant to the Registration Statement and a Prospectus filed with the SEC in connection with the offering. As part of its duties as an underwriter, Merrill Lynch was required to conduct, prior to the offering, a reasonable investigation of the Company to ensure that the statements in the Trust II Offering Materials contained no misstatement or omission of material fact. Pursuant to its underwriting agreement with Delphi, Wachovia purchased and agreed to sell 52,500 preferred securities in connection with the Delphi Trust II offering.

66. Together, Bear Stearns, Credit Suisse, Barclays, Citigroup, Morgan Stanley, BAS, Merrill Lynch, UBS and Wachovia are collectively referred to as the “Underwriter Defendants.”

5. Auditor Defendant

67. Defendant Deloitte & Touche LLP ("Deloitte") is a Delaware limited liability partnership headquartered in New York. Deloitte was directly involved in auditing Delphi and its affiliated and subsidiary companies and played an integral part in the conduct, acts and omissions described below. At all times relevant to this action, Deloitte provided auditing services to Delphi, including without limitation conducting audits of the Company's year-end financial statements and review of its quarterly reports. In connection therewith, Delphi issued unqualified audit reports for Fiscal Years 1999, 2000, 2001, 2002 and 2003. In addition, Deloitte signed consent letters for the incorporation by reference of the following audit reports appearing in Delphi's Forms 10-K and 10-K405: February 9, 1999 for Fiscal Year 1999; January 16, 2001 for Fiscal Year 2000; January 16, 2002 for Fiscal Year 2002; January 16, 2003 for Fiscal Year 2002; and January 26, 2004 for Fiscal Year 2003.

D. Additional Third-Party Defendants

68. BBK, Ltd. ("BBK") is an international business consulting firm that specializes in corporate renewal, operations improvement and turnaround management. It helps businesses recover from challenging circumstances to remain viable business entities. Since its formation in 1984, BBK has worked closely with businesses in the automotive and manufacturing sectors, including Delphi, GM, Visteon Corp., Toyota Motor Corp. and DaimlerChrysler. According to its website, BBK claims that it holds a dominant and privileged vantage point and position in the area of automotive turnaround services and supply chain consulting. In April 2005, B.N. Bahadur, BBK's founder and CEO, confirmed that Delphi is a long-standing BBK. Bahadur and William G. Diehl, BBK's Chief Operating Officer, are responsible for managing BBK's business relationship with Delphi. BBK is headquartered in Southfield, Michigan. As described above,

BBK served as a counter-party to various of Delphi's inventory disposal transactions during the Class Period.

69. Setech, Inc. ("Setech"), located in Murfreesboro, Tennessee, is a provider of integrated supply and inventory management services. It offers customers outsourcing of maintenance, repair and operations ("MRO"), supply procurement and management. SETC de Mexico, a subsidiary of Setech, also specializes in MRO and conducts Setech's business with the Mexican operations of Setech's existing clients, including Delphi. Setech bills itself as a "pure" integrator – a "neutral" third party providing management MRO services at a nominal fee. It touts that its approach "reduces excess inventory on hand." Setech also states on its website that "[t]ransfer of actual ownership of the complete maintenance, repair and operations support inventory directly to Setech is optional but encouraged. Most of our clients have chosen this option and have immediately realized savings in cash flow, budgets, balance sheets and earnings statements. The improved flexibility in the finance and planning areas can be dramatic." As described above, Setech served as a counter-party to various of Delphi's indirect material disposal transactions during the Class Period.

70. JPMorgan Chase & Co. is the successor-in-interest to Bank One Corporation ("Bank One") which was, at all relevant times during the Class Period, a bank holding company headquartered in Chicago, Illinois. Bank One operated the Bank One Automotive Group, which was based in Detroit, Michigan from prior to the start of the Class Period through April 2002. In December 2000, the Bank One Automotive Group entered into a $200 million transaction with Delphi that, as set forth below in greater detail, amounted to a financing transaction secured by Delphi's inventory of precious metals. Bank One has produced documents to the SEC in connection with the SEC investigation of Delphi. On July 1, 2004, Bank One merged with

JPMorgan Chase & Co., and ceased to exist as an independent entity. JPMorgan is named as a defendant herein as the successor-in-interest to Bank One.

E. Relevant Non-Parties

71. General Motors Corp. ("GM") is the world's largest automaker. Founded in 1908, GM has manufacturing operations in 32 countries and its vehicles are sold around the world. GM's well known brands include Buick, Cadillac, Chevrolet, GMC, HUMMER, Opel, Pontiac, Saab and Saturn. GM is the former corporate parent of Defendant Delphi. As described below, GM served as a counter-party to certain transactions for which Delphi engaged in improper accounting.

72. Electronic Data Systems ("EDS") is a Delaware corporation listed on both the NYSE and London Stock Exchange. It was formerly a division of GM, having been spun off from GM in 1996. EDS provides information technology and business process outsourcing services to clients in the automotive, manufacturing, financial services, healthcare, communications, energy, transportation, consumer and retail industries. In its 2004 Annual Report on Form 10-K, filed March 24, 2005, EDS announced that in July 2004, it had reported a transaction with Delphi to the SEC. Two months later, Delphi reported receiving a formal SEC order of investigation into payments made and credits given by EDS to Delphi during 2000 and 2001, as well as certain payments made by Delphi to EDS for system implementation services in 2002 and early 2003. Lead Plaintiffs' investigation to date has confirmed that EDS's bills to Delphi totaled approximately $350 million annually, making Delphi one of EDS's biggest clients. As described below, EDS served as a counter-party to certain transactions for which Delphi engaged in improper accounting.

IV. CLASS ACTION ALLEGATIONS

73. Lead Plaintiffs bring this action on their own behalf and as a class action pursuant to Rule 23(a) and Rule 23(b)(3) of the Federal Rules of Civil Procedure on behalf of a class (the "Class") consisting of: all persons and entities who purchased or otherwise acquired publicly traded securities of Delphi, including securities issued by Delphi Trust I and Delphi Trust II, during the period beginning March 7, 2000 through and including March 3, 2005, and who were injured thereby, including all persons and entities who acquired shares of Delphi common stock and preferred stock in the secondary market and all persons or entities who acquired debt securities of Delphi in the secondary market or pursuant to a registration statement. Excluded from the Class are: (i) Defendants; (ii) members of the family of each Officer Defendant and Director Defendant; (iii) any entity in which any Defendant has a controlling interest; (iv) officers, directors and partners of Delphi, Setech, BBK, JPMorgan, Deloitte, the Underwater Defendants and their subsidiaries and affiliates; (v) the legal representatives, heirs, successors or assigns of any such excluded party.

74. Throughout the Class Period, shares of Delphi common stock were traded actively on the NYSE, and Delphi debt securities were traded on the NYSE and on the Luxembourg Stock Exchange, both of which are efficient markets. The members of the Class, as purchasers of debt and common and preferred stock securities, are so numerous that joinder of all members is impracticable. While the exact number of Class members may only be determined by through appropriate discovery, Lead Plaintiffs believe that Class members number in the thousands. As of May 31, 2005, there were approximately 561,418,059 shares of Delphi common stock issued and outstanding during the Class Period. There were also approximately $2 billion of debt securities issued by Delphi, through the Underwriter Defendants, during the Class Period.

75. Lead Plaintiffs' and Named Plaintiffs' claims are typical of the claims of the members of the Class. Plaintiffs and other members of the Class acquired their Delphi common stock, preferred stock, and/or debt securities pursuant to registration statements or on the open market, and sustained damages as a result of Defendants' wrongful conduct complained of herein.

76. Lead Plaintiffs will fairly and adequately protect the interests of the other members of the Class and have retained counsel competent and experienced in class action securities litigation.

77. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Because the damages suffered by individual class members may be relatively small, the expense and burden of individual litigation make it virtually impossible for Class members individually to seek redress for the wrongful conduct alleged herein.

78. Common questions of law and fact exist as to all members of the Class and predominate over any questions affecting individual members of the Class. Among the common questions of law and fact common to the Class are:

79. Whether the federal law securities laws were violated by Defendants' acts as alleged herein;

80. Whether Deloitte's unqualified reports issued on Delphi's financial statements during the Class Period materially misstated that Deloitte's audits thereon were conducted in accordance with generally accepted auditing standards ("GAAS");

81. With respect to the claims arising under § 10(b) of the Exchange Act, whether Defendants named in those claims acted with scienter;

82. Whether the market prices of Delphi's publicly traded securities during the Class Period were artificially inflated due to the material omissions and misrepresentations complained of herein; and

83. Whether the members of the Class have sustained damages and, if so, the appropriate measure thereof.

84. In addition to the common questions of law or fact, there are certain undisputed material facts that pertain to the claims of all class members. Among those undisputed facts are the following:

85. Delphi has admitted issuing false and misleading statements during the Class Period;

86. Delphi has admitted that its false and misleading statements during the Class Period were material; and

87. Delphi has admitted that the financial statements included in registration statements and prospectus supplements filed during the Class Period contained material misstatements or omitted to state material information.

88. The names and addresses of the record owners of Delphi's publicly traded securities, purchased or acquired during the Class Period, are available from the Company's transfer agent (s) and/or from the Underwriter Defendants. Notice may be provided to such record owners via first class mail using techniques and a form of notice similar to those customarily used in class actions.

V. <u>BACKGROUND</u>

A. Delphi Is Launched As A Public Company

89. During the late 1990s, GM, facing increasing foreign competition and decreasing market-share, sought to improve its efficiencies and reduce its costs by spinning off Delphi, its

vertically integrated component parts manufacturer. Known within GM as the Automotive Components Group, Delphi had slowly transitioned from a completely integrated GM division to a semi-autonomous wholly-owned subsidiary of GM that also supplied components and parts to other auto-makers.

90. Delphi's vertical integration came at a cost to GM. Like GM, Delphi was saddled with expensive union contracts. As of late 1999, Delphi employed about 203,000 people, of whom approximately 95% were unionized. Where non-union workers earned approximately $10 an hour, Delphi's workers were paid twice that under GM union contracts. Thus, Delphi's manufacturing costs were substantially greater that its competitors.

91. In spinning off Delphi, GM wanted to transform itself from a "complacent and non-competitive company into a more stream-lined, more agile organization," according to *The New York Times*, May 25, 1999. Rather than getting 80% of its components from Delphi, GM projected enormous savings in seeking more competitive pricing from other suppliers. Once severed from GM, Delphi could, in turn, renegotiate more favorable union contracts, minimize its union work force, and be able to market itself freely to GM's direct competitors.

92. GM began its divestiture of Delphi in February 1999, by selling 17.8% of Delphi in an initial public offering. Delphi's opening price was $17. In May 1999, GM completed the divestiture by giving its shareholders seventy Delphi shares for every one hundred shares of GM stock owned. At the time of its spin-off, Delphi, with revenues of $28 billion, was the largest supplier of automotive parts in the world on both a gross sales and market capitalization basis. The Company immediately became a Fortune 25 company.

93. At the time of the spin-off, the stock market was riding the telecom and internet high. For fiscal year 1999, Delphi enjoyed a healthy balance sheet as a result of the strong

economy, demand for GM's high-profit SUVs, and because its pension plans were being largely funded by the soaring stock market. At the time of the IPO, Delphi presented an optimistic long-term business plan of gradual reduction of its reliance on GM as its primary customer so that, by 2002, other vehicle manufacturers would account for at least 50% of its net sales. Indeed, Defendant Battenberg proclaimed at the time of the spin-off that by 2002, he wanted Delphi's earnings per share to grow more than 10 percent a year.

94. According to a December 27, 1999 article in *Automotive News*, shortly after the spin-off Defendant Battenberg built a cabinet of "top lieutenants" to create "more collaboration among the company's core business units and a greater responsiveness to customer and market demands." This cadre of lieutenants included Defendants Dawes (appointed as CFO), Runkle (appointed as Executive Vice President), and Defendant O'Neal (appointed as COO). Battenberg, Dawes and Runkle were also appointed as the only executive officers on Delphi's board of directors.

95. Each of Delphi's senior executives had personal stakes in Delphi's success. Under Delphi's Annual Incentive Plan, senior executives were rewarded with bonuses based on the Company's performance in certain metrics including, "return on assets, return on net assets, asset turnover, return on equity, return on capital, market price appreciation of [Delphi's] common stock, economic value added, total stockholder return, net income, pre-tax income, earnings per share, operating profit margin, net income margin, sales margin, cash flow, market share, inventory turnover, sales growth, capacity utilization, increase in customer base, environmental health and safety, diversity and/or quality." Under this incentive plan, based on Delphi's (false) reported financial results in its first fiscal year as a stand-alone company (1999), Battenberg received a $2.2 million annual bonus on top of his $1.2 million salary; Runkle

received a $650,000 bonus on top of his $581,000 salary; Dawes received a $635,000 bonus on top of his $506,000 salary; and O'Neal received a $660,000 bonus on top of his $426,000 salary.

96. Delphi's maintenance of key financial indicators was also important to securing favorable credit ratings and thereby ensure more affordable financing. Delphi's operations relied on financing since production cycles often spanned several years, with the final account settled at the end of the cycle. As a result, ensuring that its financial indicators were (or at least appeared) sound was critical to fulfilling its business plan. One of the most critical financial indicators repeatedly touted by the Company and the Officer Defendants – and tracked by Wall Street analysts – was Delphi's "operating cash flow." Every press release issued by the Company during the Class Period emphasized (often in the headline) Delphi's purported "track record" of "strong" cash flow, and how that cash flow enabled Delphi to weather what Battenberg called "head winds" of tough economic times.

B. Delphi Encounters Severe Obstacles As The Market Collapses, But Posts Improving Performance And Positive Earnings

97. Coming out of the spin-off, Delphi was highly dependent on GM. Over its last several years as a GM division, Delphi had garnered close to 80% of its revenue from GM, and thus the business' financial results directly corresponded to the number of vehicles GM produced in any given year and any changes in GM's fortunes.

98. After its spin-off, it was critical for Delphi to grow its non-GM business since most-favored nation contractual provisions with GM created at the time of the spin-off were to expire in 2001. For example, pursuant to the Supply Agreement between Delphi and GM, GM had to offer Delphi the "right of last refusal" for new initiatives until 2001. This meant that Delphi was given the opportunity to provide a more competitive price on the lowest bid that GM obtained from competing suppliers.

99. Based on this arrangement, analysts expected Delphi sales to GM to decline significantly over the coming years and thus, like cash flow, Delphi's ability to grow non-GM business became one of the major variables that both investors and analysts tracked to predict Delphi's revenue and earnings, and to gauge its financial condition. As Kenneth A. Blaschke, a BT Alex. Brown analyst, reported on March 25, 1999, "of concern to investors is whether Delphi can build its non-GM revenue faster than it loses its GM revenue base."

100. BT Alex. Brown's Blaschke estimated that "Delphi is likely to lose about $500 million in sales annually over the next five years, from its current $22.3 billion in sales to GM, as GM seeks to reduce its dependence on Delphi." Similarly, on March 9, 1999, Donaldson, Lufkin & Jenrette ("DLJ") analyst Wendy Beale Needham reported that DLJ estimated that Delphi's sales to GM would decline to "about $19.5 billion in 2003 [from its current $22.3 billion]."

101. Cutting costs, increasing efficiencies, and making itself more competitive with other suppliers were critical to growth. Delphi's pension and post-retirement health benefit costs were an important component of costs. After the spin-off, Delphi retained pension obligations and Other Post-Retirement Employee Benefits ("OPEB"), which consisted primarily of retiree medical obligations, for all employees who retired after January 1, 1999, while GM retained responsibility for pension obligations and OPEB for those who retired before that date. As of December 31, 1999, Delphi's underfunded pension obligation was approximately $1.9 billion, and its OPEB obligation was approximately $5.4 billion, totaling $7.3 billion. This figure included $1.6 billion that Delphi was likely to owe GM because of the way the spin-off from GM was structured.

102. Delphi's separation agreement from GM called for Delphi to make additional payments to GM if the number of U.S. hourly employees who retired before January 1, 1999

turned out to be higher than originally assumed in the Separation Agreement. During 1999, the "handoff" date between GM and Delphi changed from January 1, 1999 to January 1, 2000, which caused GM to assume responsibility for a larger number of retirees. The change in the handoff date thereby increased the amount of money that Delphi owed to GM for pension benefits.

103. In 2000, Delphi's business plan began to unravel. First, the stock market collapse precipitated a downturn in the economy. This, in turn, led to a decline in the production of cars by GM. In 2000 alone, GM cut production capacity by 400,000 vehicles, over 5% of its North American and European production capacity. In December 2000, GM announced that it would produce 15% fewer cars and trucks than it did in the first quarter of 1999. Indeed, in the first quarter of 2001, GM produced over 275,000 fewer cars and trucks in North America than it did in the first quarter of 1999, a decline of more than 18%. The decline in auto production widely impacted the various businesses that support auto manufacturers. For example, sales for the packaging of auto parts sold by companies like Delphi declined between 15-20% in late 2000 as a result of the industry slow down.

104. Further, the production and sale of light vehicles in North America had peaked; conditions and dynamics in the aftermarket were poor; the heavy duty truck market had sharply weakened; and the value of the Euro was weak, which had a significant negative impact on companies (like GM and Delphi) with exposure in Europe. Additionally, investors believed that the auto industry had collapsed and that there was fundamental long term deterioration in return on capital.

105. Production declines by automakers threatened increased inventories at Delphi's various plants, which in turn would inflate Delphi's carrying costs for inventories and further

deflate Delphi's income. By the fall of 2000, the souring economy, reduced production, and declining stock market, all pointed to a terrible year at Delphi.

106. The industry downturn continued into 2001 and the U.S. auto market continued its decline. Indeed, facing poor sales, GM discontinued its venerable Oldsmobile division. As a result, sales trended further downward, production cuts materialized and inventory build-ups started to occur.

107. Despite the collapsing economy in 2000, 2001, and 2002, Delphi surprised analysts and investors during these years by reporting profitable quarters. In every quarter after the IPO until the second quarter of 2002, except for restructuring write-downs and the impact of September 11, 2001, Delphi was able to meet or exceed analyst expectations for pro forma earnings per share ("EPS") within pennies:

	1999	2000	2001	2002	2003
Analyst Consensus	$1.90	$1.90	$0.40	$0.91	$0.62
As Reported	$1.91	$1.94	$0.40	$0.92	$0.62

108. Hiding the true source of its profitability, its financial manipulations, Delphi's profitability was attributed to greater efficiencies and cost cutting methods that allegedly were resulting in greater margins and reduced costs. For example, in the third quarter of 2000, while GM was reporting production cuts and layoffs, Defendant Dawes announced that "[w]e continue to see improved margins in our operations as we aggressively manage our portfolio." According to Delphi's quarterly report for the third quarter of 2000, "For seven consecutive years, we have achieved our financial performance objectives…. Our continued cost reduction efforts and lean manufacturing initiatives again improved our gross margin and operating income in the third quarter…. Net sales for the third quarter of 2000 were $6.6 billion compared to $6.8 billion in 1999." This was exactly the sort of news that analysts wanted to hear.

109. On October 11, 2000, Robert W. Baird analyst David Leiker reiterated his firm's "Market Outperform" rating for Delphi, noting increased operating income, improved operating margins, and stating that the Company was "well positioned for when investors return to the sector." Also on October 11, 2000, First Union analyst Philip Fricke upgraded Delphi to a "Strong Buy," commenting that Delphi "continues to deliver on all expectations." He based his recommendation on improved gross, operating and net margins, as well as increased sales. He noted that "[t]oday's announcement was the seventh consecutive quarter that Delphi met or exceeded investor expectations," and added that "[p]romises are being kept."

110. Indeed, Delphi was able to report increased gross margins for 2000 of 15.1%, compared to 14.2% in 1999, and attributed this improvement to "continuing cost reduction efforts and lean manufacturing initiatives that are being implemented in response to industry pricing pressure and aggressive inventory management."

111. Having claimed to have met or exceeded performance expectations in these years, Delphi's senior executives were handsomely rewarded. For Fiscal Year 2000, Defendant Battenberg received an annual bonus of $2.6 million above his salary of $1.387 million; Defendant Runkle received an annual bonus of $1.17 million over his annual salary of $800,000; Defendant Dawes received a $1.1 million bonus over his annual salary of $700,000; and Defendant O'Neal received an annual bonus of $950,000 over his annual salary of $600,000.

112. In 2001, Delphi was beset with a massive restructuring that drained cash flow. In addition, revenues were affected by the events of September 11, 2001. Yet, Delphi, in other respects, appeared able to report continued cost cutting, profitability, and prospects for growth. For example, for the third quarter of 2001, despite market declines and restructuring charges, Delphi reported earnings per share of $0.05 and operating cash flow of $111 million. According

to Defendant Dawes, "[t]he flexibility inherent in the Delphi Manufacturing System, combined with key business initiatives, helped Delphi meet our customer commitments while also protecting our results for the quarter." Dawes added that "[g]iven the uncertain market, ***Delphi is increasingly focused on improving cash flow***. Actions include: trimming structural costs in line with demand; efficiently managing working capital; limiting capital expenditures; and accelerating global restructuring plans. These steps allowed us to materially improve our cash flow, reduce our breakeven level and stabilize third quarter earnings." (Emphasis added).

113. Thus, to the market, Delphi was doing remarkably well, particularly given the industry circumstances, and was still generating earnings and steady positive cash flow. Analysts commenting on Delphi in 2001, exalted the Company's fine performance under difficult conditions and, based on Delphi's reported financials, encouraged investors to buy or hold Delphi stock. On July 19, 2001, for example, Charles Brady of Credit Lyonnais credited Delphi's management with cost-cutting to reduce SG&A expenses, and blamed market conditions for the Company's diminished earnings. He concluded his report by stating: "Delphi's recent stock performance has been exceptional. Year to date, Delphi stock price has appreciated 51% and in turn, has reached our 12-month price target." On October 18, 2001, Wachovia Securities analyst Jon Rogers maintained his firm's "buy" rating for Delphi despite the Company missing his earnings estimate. He stressed that the restructuring undertaken in early 2001, would pay benefits and noted: "DPH's management team is one of the best in the industry – its vision has not changed."

114. In short, while many expected Delphi to suffer due to numerous adverse market factors, including declining demand from GM, a weakening Euro, and weakening aftermarket sales, Delphi repeatedly surprised analysts and the investing public with a remarkable sequence

of reported financial results. This was particularly so when, in the years immediately following Delphi's emergence as an independent publicly traded company, Delphi assured the market that these results were the product of management's efforts and talents and, of course, management was generously rewarded.

115. As described in Section VI below, however, Delphi's financial disclosures were, in reality, elaborate lies designed to hide systemic and growing problems, and enrich management while hoping that somehow, someday, Delphi's problems would be resolved and the Company actually attain its claimed successes. These hopes were not to be realized. As later revealed, however, these results were substantially overstated. On June 30, 2005, Delphi restated its reported financial results for Fiscal Years 2002 and 2003, and selected financial data for Fiscal Years 2000 and 2001 (including retained earnings at December 31, 2001), in its Form 10-K for the year ended December 31, 2004 (the "Restatement").

116. One consequence of "robbing Peter" to overstate income in the early years of the Class Period, was Delphi's subsequent need to "pay Paul" and understate its performance in the later years of the Class Period—*i.e.*, the years from which the income had been pulled forward. Thus, having made a bed of falsehoods, at the end of the day, Delphi was forced to lie in it publicly, or risk revealing its long-standing fraud on the investing public.

VI. THE FRAUDULENT SCHEME

117. Lead Plaintiffs describe below how Delphi, the Officer Defendants, Setech, BBK and Bank One engaged in acts, practices, and a course of business that operated as a fraud on the investing public. To summarize briefly here, by participating in a series of multi-million dollar transactions disguised to appear as something other than what the participants knew to be true, each of these Defendants played a direct role in a scheme whereby Delphi presented the

investing public with a materially false and misleading picture of the Company's cash flow, earnings, debt and/or inventory for the Fiscal Years 1999, 2000 and 2001.

118. As noted in ¶¶ 23-36 above, Delphi and the Officer Defendants understood that the market, and particularly analysts, closely scrutinized discrete elements of the Company's financial statements to gauge whether it was succeeding as a new, stand-alone enterprise. Among the pieces of financial information most scrutinized in its early years were the Company's cash flow, earnings, debt load and inventory. As described more fully below, when it became clear to the Officer Defendants and others at Delphi that the results of the Company's operations would, if fairly reported, sharply disappoint the market, Delphi and the Officer Defendants embarked on a scheme to falsify those results. While much of the fraud could be and was accomplished internally – for example, through the Company's manipulation of when credits, expenses and obligations were recognized (see ¶¶ 155-187 below) – Delphi and the Officer Defendants understood that they could not complete the false portrait they wished to paint for the market without the direct and integral participation of certain third parties willing to engage in subterfuge on the Company's (and their own) behalf – parties that would, among other artifices, purport to "buy" swaths of Delphi's problematic inventory for enormous sums of money, but with an obligation by Delphi to buy the inventory back once the manipulations for the affected financial reporting period had been completed. The parties directly participating in this scheme included Defendants Setech, BBK and Bank One.

A. Delphi Improperly Disguises Financing Transactions As Sales Of Inventory And Indirect Materials

119. During the Class Period, Delphi knowingly gave the investing public a misleadingly positive impression of its financial performance by creating the appearance of income and cash flow-generating sales that were in reality disguised loans. Specifically, in 1999,

2000 and 2001, Delphi entered into a series of transactions in which the Company purported to transfer certain of its assets – classified as inventory or "indirect materials" (defined below) – to third parties in exchange for hundreds of millions of dollars, with an associated obligation to buy back these very same assets. Rather than disclosing these transactions as the off-balance sheet financings that they actually were, Delphi falsely presented the proceeds of these loans as though they were the product of asset sales in the ordinary course of business.

120. GAAP Statement of Financial Standard No. 49 ("SFAS 49") provides that where, as here, a company concludes "a transaction in which [it] sells and agrees to repurchase inventory with the repurchase price equal to the original sale price plus carrying and financial costs," that transaction is a product ***financing*** transaction, not a sale or any other sort of income or cash flow-generating asset transfer. SFAS 49 further provides that a company that agrees to repurchase the inventory "shall record a liability at the time the proceeds are received from the other entity" and "***shall not record the transaction as a sale and not remove the covered product from its balance sheet***."

121. Despite the fact that it had committed to reacquire the inventory and indirect materials it had transferred to other parties, Delphi failed to record the transactions as financings, improperly removed the assets it was obligated to repurchase from its balance sheet, and improperly recorded income and cash flow from the transactions as though the underlying assets had been sold for profit. In accounting for these loans as sales of inventory and indirect materials, rather than as the financing transactions that they actually were, Delphi materially misrepresented its financial condition in several critical ways:

a. First, Delphi recorded the proceeds of these financing transactions as income and cash flow from operating activities, which had the effect of

inflating the Company's cash from operations, net income and earnings. Such income and cash flow-generating events are typically understood by the market to be the result of a company's core operations and imply – falsely in this case – that such income and cash flow will be available in the future.

b. Second, by failing to treat the arrangements as financing transactions, Delphi gave the investing public the false impression that it was less leveraged than it actually was—*i.e.*, the Company understated its debt obligations by avoiding to record the proceeds of the financings as liabilities on its balance sheet. Increases in a company's debt burden of the sort that Delphi should have reported in connection with these off-balance sheet financings are understood negatively by the market, adversely impacting a company's credit rating and raising questions about its ability to generate future income.

c. Finally, beyond the income, cash flow and balance sheet distortions just discussed, the transactions gave the misleading impression that Delphi was efficiently and effectively managing its excess assets and inventories because they removed indirect materials and inventory from its balance sheet.

122. As discussed more fully below, the Company admitted to fraudulently accounting for the following financing transactions in violation of GAAP:

a. $145 million in financing transactions with Setech;

b. $89 million in financing transactions with BBK;

c. $200 million in financing transactions with Bank One; and

d. $7 million in financing transactions to an unidentified third party.

1. Delphi Disguises Loans from Setech as Sales of Indirect Materials

123. In 1999 and 2000, Delphi improperly recorded $145 million dollars in financing transactions with Setech as income from sales of indirect materials. "Indirect materials" refers to materials used in production, but that do not end up as part of the finished product. In the Restatement, Delphi admitted:

> In 1999 and 2000, Delphi improperly recorded asset dispositions, in a series of transactions, amounting to approximately $145 million of indirect materials to an [unidentified] indirect material management company. . . The transactions should not have been accounted for as asset dispositions but rather as financing transactions, principally because Delphi had an obligation to repurchase such materials.

124. Lead Plaintiffs' investigation has revealed that Setech is the unidentified indirect material management company with which Delphi engaged in the sham $145 million sale. As set forth below, former Setech employees have confirmed that the transactions between Delphi and Setech were financing transactions not sales, and have provided significant evidence to Lead Plaintiffs regarding the impropriety of the accounting for those transactions.

125. Indeed, Confidential Source ("CS 1") stated that it was understood by all parties that the inventory would be repurchased by Delphi. CS 1, a current manager at Setech, was involved in the early discussions and initial presentations that Setech made to Delphi regarding their indirect material and integrated supply services at Delphi's facility in Kokomo, Indiana. CS 1 was also involved in the front end contract negotiations between Delphi and Setech. At the time that the Setech – Delphi contract was negotiated and implemented, CS 1 held a marketing and sales position at Setech.

126. CS 1 explained that it was a financing arrangement, because, for Delphi, the deal was that "***it was borrowed money that you've got to repay, and the collateral is the inventory***." (Emphasis Added). With respect to the buy-back agreement, CS 1 described the contracts as self-explanatory. He stated, "[y]ou take the contracts, the terms are explicit. You take the buy-back agreements, and the terms are explicit in it." In sum, CS 1 said "[o]ur contract was very open and clear" and the transaction was "pretty open and shut."

127. Similarly, CS 2 stated that Setech handled the Delphi contract as a financing transaction. CS 2 has worked for Setech for almost two decades. CS 2 was responsible for significant aspects of the contract between Delphi and Setech. Having worked directly with Delphi, CS 2 confirmed that the financing nature of the transaction was known by all the parties and that it was clearly understood that Delphi would repurchase the inventory. CS 2 explained that the terms of the contract with Delphi were governed by a Supplier Planning Document, known as an "SPD," and that the SPD obligated Delphi to repurchase the inventory. CS 2 stated that, pursuant to the SPD, Setech acquired a total of $145 million of inventory items from Delphi with a buy-back agreement and, in return, Delphi received $145 million in cash.

128. Significantly, CS 2 explained that Delphi entered into this financing transaction with Setech because it needed capital. CS 2 stated:

> At the time that Delphi and General Motors had their falling out, so to speak, that's about the time that Delphi was looking for some capital.
>
> If you look at the day that Delphi and General Motors split, the day after that, would be the day that we actually wrote a check to Delphi.

129. CS 2 explained that Delphi was "able to use the $145 million that we gave them right away. They did not have to keep it in escrow or in some kind of account sitting off to the side for the re-procurement of this inventory. And the money came from our bank."

130. Former Delphi employees have also provided significant details regarding the Setech and Delphi transactions. For instance, CS 3 explained that he observed improper inventory accounting transactions, including with Setech, while at Delphi. CS 3 was a senior manager for Delphi through most of the Class Period and had significant responsibilities pertaining to manufacturing, materials and asset management issues for Delphi's Energy & Chassis Division. One of CS 3's responsibilities was to resolve the Company's inventory problems and, in particular, its indirect materials inventory problems. In this regard, CS 3 dealt directly with and participated in – along with corporate purchasing personnel – the "sale" of millions of dollars of indirect inventory to Setech.

131. CS 3 explained that, "[w]hen they spun off Delphi, they didn't scrap the material, they kept it on the books as inventory when in fact it wasn't inventory, either direct or indirect." CS 3 tried to help "put together an organization that could get control of an out of control inventory and an out of control manufacturing process." According to CS 3, however, he was unable to address the Company's inventory problems because Delphi's approach to the problem involved improper accounting. As CS 3 stated, "there is a right way and a wrong way to do business and they weren't doing it the right way."

132. Specifically, CS 3 stated that, in October 2000, he, along with several Delphi corporate purchasing personnel, participated in the sale of millions of dollars of indirect materials to Setech. CS 3 stated that, under the terms of these sales, Delphi was required to buy back the inventory from Setech. He further stated that the purpose of the transactions was to get the inventory off Delphi's books.

133. According to CS 3, Delphi needed to get the inventory off its books because it was worthless scrap. For instance, he explained that, while he was at the Electronics & Safety Division:

> [I] was staring down the gun barrel of probably 25-30 millions of dollars of scrap that was being booked as inventory when it was garbage that had been intentionally put on the books. When I talked to the finance guys because I got them by the throat down there, and I said I'm going to kill somebody. They said oh no, it came from on high. They said to book it this way. I said bullshit this is garbage. I can't use it. It's scrap. I was being told by one guy that we had containers full of high priced scrap sitting down there that everyone had put on the books as good inventory. I was absolutely beside myself when I found it and I went stomping back up to Kokomo and I was not a happy camper.

134. After discovering that the inventory was worthless, CS 3 explained that he wanted to remove it from the books:

> I said I want to scrap it and they had a stroke because when you scrap material it comes off your bottom line. They should have done that before they spun off. They should have scrapped all the scrap out and they never did. Of course, they are not going to sit there and eat the bullet for 10-15 million worth of scrap in one week.

135. Ultimately, CS 3 stated that he handled millions of dollars of indirect material at Delphi's Electronics & Safety Division by "grabb[ing] a couple of weasels down from [Delphi headquarters in] Troy, from [Delphi's] purchasing side, and we worked together a deal with Setech. This was a back room deal. I told Setech, you buy this stuff, get it off my books and I will buy it back from you."

136. CS 3 described a similar instance where Delphi engaged in a transaction to get millions of dollars of obsolete, worthless inventory maintained at Delphi's facilities in Mexico off the Company's books. CS 3 stated that, upon discovering the obsolete inventory in the Mexico facilities, "[he] was flabbergasted" because it was

> millions of dollars worth of stuff that wasn't going to go anywhere but in a landfill eventually. It consisted of very expensive electronic stuff manufactured by Delphi that was on the books as finished inventory. It was carried on the books as good inventory but it never was. In fact, it was junk to be very blunt about it.

137. After learning this, CS 3 confronted Delphi's financial personnel. According to CS 3, the financial personnel told him that they were directed to record the worthless, obsolete inventory on the books as valuable inventory "by financial people in Troy and in division headquarters." In fact, CS 3 said that John Rotko, the Head of Indirect Materials for Electronics & Safety in Mexico, "flat out told me that he was ordered to do so" by division headquarters and the financial team in Troy. At this time, Delphi's financial team included, among others, Defendants Dawes and Free.

138. CS 3 then explained that he wanted the worthless inventory off his Division's books. Thus, according to CS 3:

> We sat down and I cut a deal in 48 hours and I dragged these guys down to Mexico, got in a back room and cut a deal and had to buy back a little over a million bucks worth of inventory to get it off my books. Then we started to peddle more shit back from the other plants. We had a lot in Kokomo and a lot in the other plants we could get rid of and get off the books, sell back to these people, get the cash and at least get the inventory relief and get the cash. This consisted of indirect material and direct material.

139. CS 3 also described his experience at Delphi's Energy & Chassis Division, when Delphi corporate purchasing personnel pressured him to sell indirect materials to Setech:

> Purchasing people like Ray Campbell [Delphi's Vice President of Global Purchasing at the time] and his staff came in constantly and tried to get me to peddle the shit to Setech. They used to come creeping into the plant and tried to sweettalk me into doing it and I'd say get out. And finally they stopped doing it because it became so apparent we were more successful than they could ever be from both a cost and inventory level.

140. CS 3 stated that he left Delphi after a confrontation with the Company's manufacturing and financial leadership regarding the Company's fraudulent inventory accounting practices.

141. Similarly, CS 4, a former GM and Delphi employee who was involved in logistics for Delphi's Electronics and Safety Division until 2004, also confirmed that Delphi sold indirect materials to Setech during 1999 and 2000, in order to get the inventory off of Delphi's books.

142. Specifically, CS 4 stated that Setech purchased approximately $15 million of indirect materials from Delphi's six Electronics & Safety facilities located in Reynosa, Mexico. He said that Setech also purchased indirect materials from Delphi's Electronics & Safety facility located in Kokomo, Indiana. In total, CS 4 believes that, based on his experience and knowledge from working at Delphi, the Electronics & Safety Division accounted for approximately $30 million of Setech's $145 million worth of indirect material purchases.

143. Further, CS 4 stated that the Electronics & Safety Division's treatment of indirect materials was highly regarded and considered a "success" within the Company. In fact, CS 4 explained that Delphi had a corporate-wide program where personnel and management from the other divisions in the Company were sent to the Electronics & Safety Division to see how they disposed of their indirect materials and to learn from their methods. In particular, CS 4 recalled that Alison Jones, a divisional Production Control & Logistics Director, came to Mexico to observe and learn from the program's success. CS 4 also stated that Mark Lorenz, Delphi's Vice-President of Operations and Logistics, who reported to both Defendant Battenberg and Mark Weber, Delphi's Executive Vice-President of Operations, Human Resources and Corporate Affairs, sent out a Company-wide memo regarding the indirect materials disposal program.

144. As later acknowledged in the Restatement, by improperly accounting for these financing transactions with Setech, Delphi artificially inflated its pre-tax income by approximately $60 million in 1999 and $16 million in 2000. In addition, the Company's inventory was understated by $78 million in 1999 and $17 million in 2000. Also, the Company's liabilities were understated by $138 million in 1999 and $33 million in 2000.

2. Delphi Disguises Financing Transactions as Inventory Sales

145. Similarly, in 2000 and 2001, Delphi improperly accounted for almost $300 million in financing transactions with three third parties as dispositions of inventory. In the Restatement, Delphi admitted:

> In 2000 and 2001, Delphi entered into several transactions, in each case improperly recording the transaction as a disposal of inventory to [an unidentified] third party and repurchasing the same inventories in subsequent periods. Each of these transactions should have been accounted for as a financing transaction, not a disposal. Specifically, in the fourth quarter of 2000, Delphi entered into transactions, one for approximately $70 million, a second to a different third party for approximately $200 million, and a third, also with a different third party, for approximately $7 million. . . . In the first and fourth quarters of 2001, Delphi disposed of $10 million and $9 million, respectively of inventory at book value.

146. Delphi has declined to identify those third parties but, in the course of their investigation, Lead Plaintiffs have to date identified the counterparties for $289 million of the $296 million in bogus transactions: BBK and BankOne.

i. Bogus Sales to BBK

147. Delphi's purported sales of inventory to BBK included:

a. A "sale" for approximately $70 million in the fourth quarter of 2000;

b. A "sale" of $10 million in the first quarter of 2001; and

c. A "sale" of $9 million in the fourth quarter of 2001.

148. Delphi carried out each of these three improper inventory transactions with BBK by recording an account receivable for the purchase price of the inventory, and then allowing BBK to settle the account receivable by using cash received through financing arranged by Delphi.

149. As set forth below, former BBK employees have confirmed the financing nature of the transactions between Delphi and BBK, and have provided significant evidence to Lead Plaintiffs regarding the impropriety of the accounting for those transactions.

150. According to CS 5, a BBK consultant from 2001 to 2003 who had previously worked for GM for over thirty years, these types of transactions are "done in order to move things off the books for a short period of time, and then bring them back on the books when cash flow improved." CS 5 explained that these types of transactions are focused on timing: "It's always a timed deal. It's always a deal where some time is bought or some strategic negotiating time with the union or you get some number of people off their books of whatever they have to do to remain viable on financial terms on their books." In describing these types of transactions generally, which he confirmed had occurred between BBK and GM, CS 5 said:

> To me, those were mostly parking, you buy things, you sit on it, and then you transfer them back to them at some margins to BBK. BBK worked on pretty thin margins. They had set up some warehouses to store excess inventory, or in some cases, they will pick up the goods and services, pay for them at a given price and [the company] will buy them back from them.

151. These transactions were arranged and handled for Delphi by Defendant Dawes and members of Delphi's Treasury Department, including, among others, Defendant Blahnik, who reported to Dawes as well as Defendants Free and Battenberg. CS 6 confirmed that Dawes was directly involved in the transactions between Delphi and BBK. CS 6 worked in the senior executive offices of BBK during the early part of the Class Period, assisting in the preparation of

reports and presentations for senior management. CS 6 stated that Dawes "had a very close working relationship" with Bahadur and BBK's Chief Financial Officer William Diehl and that they met on a regularly scheduled bi-monthly basis to discuss the BBK - Delphi engagements.

ii. Bogus Sales to Bank One and an Unidentified Third Party

152. In December 2000, Delphi disguised a loan for $200 million from Bank One as a sale of precious metals from its inventory. As noted above, in its Restatement Delphi admitted that it improperly recorded this transaction as a sale instead of a financing transaction, since it had agreed to buy back those assets at a later time. In fact, within weeks of the close of the quarter in which the positive income and cash flow effects of the sham loan from Bank One were recorded, Delphi ***did*** buy back the assets. By then, of course, this transaction had improperly enabled Delphi to record $100 million in extra pre-tax income – substantially inflating publicly reported figure – which, according to former Delphi employees, was the desired effect. By structuring this transaction so Delphi could obtain this $200 million benefit before year-end, only to unwind it one month later at the outset of the following fiscal year, these Defendants' intent to manipulate Delphi's financial reporting is self-evident. CS 7, a former GM employee who worked in the division that was spun-off as Delphi, stated that the precious metals transactions with Bank One "were done to try to generate cash flow from off balance sheet financing."

153. As admitted in its Restatement, Delphi also fraudulently accounted for another loan in 2000 – a loan of approximately $7 million from an unidentified third party as a sale of inventory. Lead Plaintiffs' investigation as to the identity of that third party and the precise nature of that transaction continues.

154. By improperly recording both the $200 million precious metals transaction and the $7 million inventory transaction as sales in 2000, Delphi was able to recognize LIFO inventory gains that increased its pre-tax income for 2000 by approximately $100 million.

Delphi was thus able to report record cash flow from operations of $268 million for 2000. This was viewed as a significant accomplishment for Delphi because, at this time, the rest of the auto industry was suffering from production cuts and lay-offs. As subsequently admitted by Delphi, however, this achievement was reached only through bogus transactions and fraudulent accounting. In actuality, Delphi's cash flow from operations was only $68 million, which is $200 million – or 75% – less than originally reported.

B. Delphi Violates GAAP and Creates the Appearance of Income Through its Dealings with GM

155. While the foregoing scheme among Delphi, the Officer Defendants, Setech, BBK and Bank One enabled Delphi to report materially false financial results in the critical early years of Delphi's existence, as a stand alone company, other prongs of the scheme were also significant. In order to artificially inflate its income further still, for example, Delphi fraudulently accounted for over $260 million in transactions with GM by alternatively (i) deferring expenses that should have been recognized immediately, and (ii) immediately recognizing credits that should have been deferred. In so doing, Delphi manipulated the timing of its expense recognition, thereby materially understating its expenses and overstating its income. Accordingly, at a critical point early in its life as a stand-alone company, Delphi's improper accounting for its transactions with GM made the Company appear significantly more profitable than it actually was.

156. According to its Restatement, Delphi's improper accounting for its transactions with GM included the following:

a. Delphi improperly classified and recorded a $202 million cash payment to GM to settle a warranty claim as an adjustment to post-retirement obligations in the fourth quarter of 2000;

b. Delphi prematurely recognized $30 million and $20 million in warranty credits received from GM in 2001 as a reduction to expenses in 2001 and 2002, respectively; and

c. Delphi improperly failed to record a $10 million warranty obligation in the first quarter of 2003.

157. As discussed below and more fully in ¶¶ 499-502 below, Delphi's accounting for each of these transactions violated basic GAAP principles. Its impact on Delphi's financial reporting was significant; in total, by fraudulently accounting for these transactions with GM, Delphi overstated its pre-tax income by $202 million in 2000; $30 million in 2001; and $20 million in 2002.

1. Delphi's Improper Classification of Warranty Expenses

158. In the third quarter of 2000, Delphi paid GM $237 million in cash as settlement of warranty claims. This payment arose out of a dispute between Delphi and GM over which company was responsible for warranty or recall costs associated with Delphi-produced parts. After lengthy negotiations and an agreement that an outside mediator would review the parties' settlement, Delphi agreed to pay GM $237 million to cover the still-contested warranty issues.

159. Former GM and Delphi employees confirm that warranty issues were hotly contested between the two companies around the time of Delphi's spin-off. According to CS 8, "prior to the Delphi spin-off, there were significant disagreements between GM and Delphi as they related to warranty costs associated with recalls relating to defective airbags and powerlocks manufactured by Delphi Automotive Interiors." CS 8 worked for GM and then Delphi for three decades before retiring during the Class Period. While employed by Delphi, CS 8 worked extensively on corporate, merger and acquisition matters. CS 8 further stated that "the companies were engaged in discussions and negotiations concerning these financial issues at the

time that Delphi was formed," and that, it is CS 8's understanding, "the ultimate resolution of these issues was handled at the highest financial levels involving the CFOs of both companies," which included Defendant Dawes.

160. GAAP (FASB Concept No. 6) required that these payments be accounted for as a settlement of warranty claims and expensed in 2000. As Delphi admitted in its Restatement:

> Delphi improperly accounted for $202 million cash payments made to its former parent in calendar year 2000 as a pension settlement agreement. The payment should have been accounted for as a settlement of warranty claims and should have been expensed or charged against the warranty accrual in 2000 rather than reflected as an adjustment to post-retirement obligations and amortized over future periods.

161. In other words, Delphi should have immediately recorded the full amount of this payment as an expense. Despite this clear requirement, Delphi failed to immediately recognize this expense. Rather, as later conceded in the Restatement, Delphi violated GAAP by improperly classifying $202 million – or 85% – of this cash payment as an adjustment to post-retirement obligations in order to defer the expense by amortizing this amount over several future periods and reduce the unwanted adverse effect on the 2000 financial results.

162. In addition, by improperly classifying this warranty expense as an adjustment to its post-retirement obligations, Delphi was able to reduce its post-retirement liabilities by $202 million on its balance sheet. As discussed above in ¶ 101-102, Delphi had substantial unfunded pension liabilities. The market had a favorable view of Delphi paying down its pension liability, since doing so appeared to remove a form of risk from Delphi's balance sheet and cleared the way for cash to be used for purposes other than pension fund contributions.

2. Delphi's Premature Recognition of Warranty Credits

163. In late 2001, Delphi again sought to exploit the opportunity to artificially inflate its income presented by the warranty dispute with GM. As set forth in ¶ 156 above, Delphi and

GM had referred the warranty dispute to an outside mediator. Ultimately, the outside mediator determined that Delphi had overpaid GM by $85 million to settle the warranty claims. As a result, GM provided Delphi with $85 million in credits.

164. Under GAAP Statement of Financial Accounting Standard No. 5 ("SFAS 5"), Delphi was required to recognize these credits as a reduction to warranty obligations when utilized. In other words, Delphi was only permitted to use these credits as a reduction to expenses against actual warranty claims when such claims occurred. Nevertheless, as Delphi has now admitted, it improperly recorded $30 million of the $85 million in credits – or 35% – immediately as a reduction to expenses in violation of GAAP, thereby immediately understating its expenses and overstating its income.

165. By immediately recording these warranty credits, Delphi improperly reduced expenses based on claims that had not yet occurred, which resulted in an increase to income. The financial impact was a $30 million income overstatement in 2001 and a $20 million income overstatement in 2002.

3. Delphi's Failure to Recognize a Warranty Obligation to GM

166. In addition, Delphi failed to recognize a $10 million warranty obligation to GM in the first quarter of 2003. GAAP provides that warranty obligations shall be accrued, and therefore, an expense recognized, when they are probable and estimable. In violation of GAAP, Delphi did not recognize this warranty expense even though its obligation to GM was probable and estimable. As Delphi has since admitted in the Restatement, "Delphi should have recognized a $10 million warranty obligation to its former parent in the first quarter of 2003."

167. The financial impact of Delphi failing to recognize this warranty obligation was to overstate its 2003 pre-tax income by $10 million. In conjunction with the other 1Q 2003

transactions discussed in ¶ 385 below, the $10 million overstatement allowed Delphi to beat analysts' earnings estimates in the first quarter of 2003 by one penny.

168. Having thus manipulated the accounting treatment for its dealings with GM in order to create the false appearance of income, Delphi continued its cover-up in 2003. As a further result of the machinations described in ¶¶ 155-165 Delphi artificially inflated income in the earlier years of the Class Period to the detriment of later years. Specifically, by (i) deferring warranty expenses that should have been recognized immediately and (ii) immediately recognizing credits that should have been deferred, Delphi was, by 2003, left with substantial expenses without any credits to offset them. In other words, as a result of its earlier manipulations, Delphi faced the prospect of ***understating*** income in 2003. Put another way, Delphi and the Officer Defendants had a choice: (i) lie in the bed of deceit they had created and understate income for 2003, or (ii) reveal its fraud. As is now evident, Delphi chose to conceal its fraud – a choice perhaps facilitated by the fact that, even by understating income in the later periods, Delphi nonetheless just met consensus analyst estimates.

C. Delphi's Improper Accounting For Transactions With The Company's Suppliers

169. In order to even further artificially inflate its income, Delphi fraudulently accounted for nearly $110 million in transactions with various service suppliers during the Class Period. Specifically, throughout the Class Period, Delphi (i) prematurely recognized credits; (ii) improperly deferred recognition of expenses; and (iii) improperly failed to recognize obligations in transactions with its suppliers. Simply put, Delphi inflated its income by gaming when it would and would not recognize income and expenses. As set forth below, Delphi has since admitted in the Restatement that its accounting for these transactions violated GAAP.

170. Delphi created the false appearance of more than $86 million in retained earnings at December 31, 2001 by prematurely recognizing the cost savings provided by rebates, credits and other lump sum payments received from third party suppliers. Delphi did this by recognizing substantial "savings" on purchases of goods and services that had not yet occurred.

171. Under GAAP (FASB Concept No. 5, ¶ 83), the benefit of rebates, credits and similar payment arrangements can only be recorded when realized, realizable and earned. GAAP provides that rebates can be recognized only when the products are actually purchased and/or the related services are actually performed. Delphi, however, disregarded this principle and fraudulently recognized the benefits offered by rebates and credits immediately, rather than at the time of contractual performance as required by GAAP. Indeed, the Company admitted in its Restatement that it improperly accounted for rebate payments and credits received from Company service providers:

> Delphi did not recognize certain liabilities or appropriately defer recognition of payments and credits that were received in conjunction with agreements for future information technology services. In addition, the investigation identified other rebate transactions occurring between 1999 and 2004 in which the payments and credits received by Delphi from suppliers were tied to agreements for the provision of future services or products, and for which Delphi recognized the payment or credit when received rather than as the services were performed or products were purchased.

172. Specifically, as set forth below, Delphi has admitted that it improperly recognized rebates and credits received from at least three separate suppliers, including the following:

a. $19.5 million in rebate credits received from one of the Company's technology service providers as a reduction of expense when received;

b. $26 million in rebate credits as a reduction of expenses when received from EDS, one of the Company's primary information technology service providers in the third quarters of 2000 and 2001; and

c. $20 million rebate from EDS as income in the fourth quarter of 2001.

1. Delphi's Improper Recognition of Rebate Credits from an Unnamed Technology Service Provider

173. Delphi artificially inflated its income in 2000 and 2001 by improperly recording $19.5 million in rebate credits received from one of its technology service providers. Delphi achieved this result in two ways. First, Delphi prematurely recorded $16 million of the credits as income from January 2000 through August 2001. Second, Delphi improperly recorded the $3.5 million balance of the credits as a reduction to expenses in the second quarter of 2001.

174. Although Delphi did not disclose the identity of this particular information technology service provider, Delphi admitted in its December 8, 2004 Form 8-K that its accounting for these rebate credits was improper, and that the "credits should have been recognized over the related contract periods, which are from 2000 through 2007." In sum, Delphi overstated its pre-tax income for Fiscal Years 2000 and 2001 by fraudulently recording $19.5 million in rebate credits when received instead of recognizing the credits when earned over the seven years provided for under the contract.

2. Delphi's Improper Accounting of Rebates Received from EDS

175. Delphi admitted in its Restatement that it improperly recognized in 2000 and 2001 nearly $50 million of rebates and rebate credits that it received from EDS. Specifically, Delphi improperly accounted for $26 million in credits and $20 million rebates. EDS offered substantial cost savings and price concessions to Delphi in order to effectively compete for contracts. These cost savings were typically offered in the form of rebates, credits and similar payment discounts.

As CS 9 explained, in order to win contracts, EDS had to offer Delphi "big price concessions" or Delphi would go to another supplier. CS 9 worked for GM and then Delphi for over three decades. CS 9 served as a senior technical officer who reported to Defendant Dawes and was actively involved in the master service agreement negotiations between Delphi and EDS.

176. The cost savings offered by EDS were not sufficient for Delphi's purposes, however, because the benefits could not be recognized immediately. For this reason, Delphi's finance department, including Defendants Free and Dawes, insisted that the rebates be recognized up-front as opposed to when actually earned in subsequent periods. Indeed, CS 9 stated that Delphi's finance department was "pretty clear that they wanted the upfront payments from EDS" because "the whole issue was the timing of those savings. We were a young start-up company and ***[we were] looking for numbers***." (Emphasis Added).

177. First, with respect to the credits, Delphi artificially inflated its income by improperly recognizing approximately $26 million in rebate credits received from EDS as a reduction of expenses when received, rather than as the Company actually earned the credits over the course of the contract's performance. Specifically, Delphi fraudulently reduced its expenses, which resulted in an increase to the Company's income, by $8 million in the third quarter of 2000 and $18 million in third quarter of 2001.

178. Delphi admitted in its Restatement that it improperly recognized these credits from EDS and that "each credit was received in conjunction with an agreement for future information technology services and therefore should have been recognized ratably over the life of the related service agreement." According to the terms of the service agreements, Delphi should have recognized the $8 million in credits ratably over 3.5 years, meaning Delphi should have reduced its expenses by $571,000 per quarter for fourteen quarters (from the first quarter of

2001 through the second quarter of 2004), instead of reducing its expenses by all $8 million in one quarter. Similarly, Delphi should have recognized the $18 million in credits ratably over 6.25 years, meaning Delphi should have reduced its expenses by $720,000 per quarter for twenty-five quarters (from the fourth quarter of 2001 through the fourth quarter of 2007), instead of reducing its expenses by all $18 million in one quarter.

179. Second, Delphi has also admitted that it fraudulently recorded a $20 million rebate as income at the time it was received from EDS in the fourth quarter of 2001. At the time that Delphi recorded the $20 million rebate, Delphi had just entered into a transaction agreement with EDS and, consequently, the rebate had not been earned as Delphi had neither received nor paid for any services or products from EDS. Accordingly, Delphi should not have treated the payment as income.

180. In the Restatement, Delphi admitted that it improperly recognized the rebate as income, conceding that, "the $20 million pre-tax payment should have been recorded as a liability when received in the fourth quarter of 2001 and that this liability should have been reduced as payments were made to EDS pursuant to a services agreement entered into at the time the payment was received." In fact, according to the terms of the service agreement, Delphi should have recorded a $20 million liability in the fourth quarter of 2001; reduced it by a total of $11 million pre-tax (or $1 million per quarter) over the period from January 2002 through September 30, 2004, and had a $9 million liability remaining on its books at September 30, 2004.

181. CS 9, a former Delphi senior manager who was involved in Delphi's contract negotiations with EDS, confirmed that Delphi's improper recognition of rebates and credits from EDS were well known to and directed by the defendants. According to CS 9, all of the EDS transactions involved upfront payments and slower cost reduction terms in the later years of the

agreements. As he explained, all of Delphi's accounting for its EDS rebate transactions was handled in the finance department by Defendants Dawes and Free and their staff. CS 9 stated that, in terms of the payments, credits and rebates between Delphi and EDS, nothing was ever done without the full knowledge of all concerned at Delphi, including Dawes and Delphi's Chief Information Officer Pete Janak, who reported to Dawes.

182. In terms of specific rebates and credits, CS 9 has stated that the $20 million rebate transaction in 2001 related to the desktop agreement (which was executed on February 1, 2001 to enhance Delphi's worldwide desktop technology and messaging environment agreement) and/or the LAN (local area network) agreement, both of which were among the largest transaction agreements between EDS and Delphi.

3. Delphi's Improper Accounting for Implementation Services Rendered by EDS

183. Delphi also fraudulently accounted for approximately $22 million in payments made to EDS for system implementation services rendered in 2002. GAAP (FASB Concept No. 6) requires that these costs be recognized as an expense at the time the services are rendered. Delphi has admitted to improperly deferring recognition of approximately $22 million of expenses for services rendered in 2002, conceding in the Restatement that, "[t]hese payments should have been recorded as expense when services were rendered, rather than deferred and recorded as an expense in later periods."

184. The financial reporting impact of improperly deferring these expenses was to artificially inflate its 2002 net income by approximately $22 million. Defendants Dawes and Free were aware of this misconduct because, as explained by CS 9, Dawes, Free and the finance department handled all accounting aspects of the EDS transactions.

D. Delphi's Improper Accounting for Obligations and Adjustments

185. Delphi also artificially inflated its pre-tax income by failing to accrue for obligations and recording adjustments in the wrong period. Under GAAP (FASB Concept No. 6), a company must record the financial effects of transactions or events in the periods in which those transactions or events occur rather than only in the periods in which cash is received or paid. In addition, SFAS 5 also requires that a company accrue for a loss contingency when it is probable and estimable.

186. By failing to accrue obligations and recording adjustments in the wrong period, Delphi overstated its retained earnings by $29 million in 2001, and overstated its pre-tax income by $14 million in 2002 and by $34 million in 2003.

187. In addition, Delphi failed to recognize an obligation of approximately $1.8 million pre-tax to an unknown technology service provider. Delphi has not revealed the identity of this information technology service provider, but has admitted that its accounting for this obligation was improper. In its Restatement, the Company stated that "the obligation and the related expense should have been recognized as incurred in the second, third and fourth quarters of 2001, which would have reduced pre-tax income in those quarters."

E. Delphi Misleads the Investing Public Regarding its Use of Credit Facilities

188. Delphi also misled the investing public regarding the extent to which it had drawn upon credit facilities in Europe. Since its separation from GM and its inception as a stand-alone entity, Delphi had maintained certain credit facilities in Europe that it used as a source of short-term liquidity. As Delphi admitted in the Restatement, "the Company did not accurately disclose the extent of its use of these sources of financing. This inaccuracy was known to Company personnel."

189. The degree of Delphi's nondisclosure of the extent to which it had drawn upon these European facilities is staggering. Specifically, and as the Company has admitted, Delphi failed to disclose its use of this source of financing in 1999, 2000, and the subsequent fourteen consecutive quarters. The Company's undisclosed use of these facilities met or exceeded $300 million in nine of these fourteen quarters, and never fell below $187 million. The precise amount of the non-disclosure is presented on a quarterly basis in Section VIII below.

F. Delphi's Understatement of its Inventory Balances

190. Delphi also fraudulently accounted for its direct materials by understating the value of its direct materials inventory on a monthly, quarterly and yearly basis.

191. According to CS 4, a former GM and Delphi employee who was involved in logistics for Delphi's Electronics and Safety Division until 2004, schemes to understate inventory levels were a constant feature during his employment at Delphi in Mexico. CS 4 stated that at the end of every month there was always a crunch to ensure lower inventories:

> Receipts were delayed, schedules were pushed out with little or no notice, trucking companies were told to hold shipments and [not] to bring them in. This activity happened almost every month and there was a major push at the end of each quarter and at the end of the fiscal year.

192. CS 4 said that this activity was designed to lower inventory levels and, thus, materially misstated the Company's inventory. CS 4 explained that he received this mandate "verbally, in voice-mails, phone calls, in a weekly scheduled teleconference between Corporate and the plant materials employees every Wednesday, which was called a 'cash call.'"

193. CS 4 provided specific examples of how Delphi understated its inventories. In particular, CS 4 explained that Delphi understated inventories by (i) intentionally failing to record high-dollar supplies as inventory, and (ii) intentionally delaying delivery of inventory:

a. Delphi understated inventory by not recording receipt of high-dollar inventory supplies. Specifically, when Delphi received supplies, management instructed the receiving personnel not to record them. Thus, Delphi had the inventory in their facility, but had no records evidencing Delphi's receipt of the materials. Ultimately, the inventory was entered on the books – or "received" – after the close of the particular reporting period (e.g. month, quarter or year). CS 4 said that Delphi's receiving records highlight this scheme as they document the repeated non-activity before the end of the reporting period followed by an "explosion of millions of dollars of inventory" after the close of the reporting period.

b. Delphi also understated inventory by intentionally delaying delivery from freight holders by instructing them to hold on to their inventory deliveries. CS 4 stated that Dan Renick, Delphi's Director of Plant Production Control and Logistics, who reported to Rick Birch, Delphi's Global Director of Production Control and Logistics, instructed Delphi logistics employees to have freight forwarders hold the freight and not send it on to the receiving plant despite the fact that the material had already been ordered and that a Just-In-Time (JIT) was sent for replenishment. As an example, CS 4 relayed that "instead of having a freight forwarder deliver the freight from the Pacific Rim and having it delivered to the Milwaukee facility, [Mr. Renick] would have the folks at Milwaukee direct the freight forwarder to hold the freight in Chicago and not send it in to the plant."

194. CS 4 explained that such inventory manipulations were the result of inventory level targets and commitments that divisional management made to Delphi Corporate. Specifically, CS 4 stated that Mr. Renick made commitments to Rick Birch, Delphi's Global Director of Production Control and Logistics, and Mark Lorenz, Delphi's Vice-President of Operations and Logistics, that he would achieve certain inventory levels.

195. A May 3, 2004 internal Delphi document entitled Audit Report: Energy & Chassis Divisional Production, Control & Logistics (the "May 2004 Audit Report") from Derek Kolano, Director of Delphi Corporate Audit Services to William Elia, Director of Production, Control and Logistics of Delphi's Energy & Chassis Systems confirms these improper inventory records and recording practices.

196. The May 2004 Audit Report sets forth the results of a risk-based audit conducted by Delphi's Corporate Audit Services of Delphi's Energy & Chasis divisional Production Control & Logistics (PC&L), located in Troy, which is responsible for establishing business practices, policies, and procedures for each of the manufacturing sites within the division. "[T]he Audit focused on high and medium risk areas, which primarily included inventory, logistics, central order processing, direct ship operations, and material master data." According to the Report, one of the areas that the audit determined needed to be improved was the receipt of materials. In sum, the Report determined it was necessary for Delphi to "[r]ecord receipt of material in a timely manner."

197. Specifically, the "Audit Observations and Management Action Plans" Section of the Report identifies the problems with how Delphi was recording the receipt of materials and outlines how such received materials should be recorded on a going-forward basis. In particular, the Report makes clear that Delphi consistently failed to record materials received as inventory

in a timely fashion, and discusses the financial reporting impact of this failure. The Report specifically notes instances "where material was delivered to the plant prior to year-end but not recorded until January." After testing receipts from "near th[is] cut-off period," the Report states that Delphi concluded that, for approximately 80% of the receipts, "title had transferred to Delphi in 2003 yet items were not recorded in inventory until 2004." Further, the Report makes clear that the failure to timely record inventory will render Delphi's disclosures misleading:

> Observation:
>
> Material received at the manufacturing sites is not consistently recorded in the inventory records in a timely manner.
>
> Effect:
>
> If goods are not received into the inventory system when the title has transferred to Delphi, financial statements may be ***misstated or not prepared in accordance with GAAP***. (Emphasis added.)

198. The May 2004 Audit Report was sent to Defendants Battenberg, Dawes, and Sheehan, as well as John Arle, Delphi's Vice-President of Corporate Audit Services; Rick Birch, Delphi's Global Director of Production Control and Logistics; Rajib Chakravarty, Manager of Internal Controls of Delphi's Energy & Chassis Systems; Joseph Gumina, Director of Worldwide Finance of Delphi's Energy & Chassis Systems; Guy Hachey, Vice President of Delphi and President of Delphi's Energy & Chassis Systems; Mark Lorenz, Delphi's Vice-President of Operations and Logistics; Rodney O'Neal, President of Delphi's Dynamics, Propulsion, Thermal & Interior Sector; and Mark Weber, Executive Vice-President of Operations, Human Resource Management and Corporate Affairs.

199. The May 2004 Audit Report was also provided to Deloitte on or about May 3, 2004. Thus, by at least May 3, 2004, Deloitte knew that Delphi was understating its inventory and violating GAAP as a result of its failure to consistently record materials in inventory.

G. Delphi's Manipulation of Environmental Reserves

200. Lead Plaintiffs' investigation has also revealed that Delphi violated GAAP in ways not discussed in the Restatement. For example, Delphi manipulated its reserves for environmental remediation activities in order to report earnings in line with analyst expectations. Specifically, Delphi inflated its reported income by failing to establish appropriate environmental reserves, and by reversing environmental reserves that had been properly established.

201. According to CS 10, a former financial manager of integrated services at Delphi with responsibility for environmental reserve reporting, Defendant Free personally threatened him with dismissal for establishing environmental reserves that would interfere with Delphi's ability to meet analyst expectations. In late 1999, CS 10 made $1 million of reserve adjustments related to two separate facilities at the direction of the Company's Chief Environmental Officer and the chief environmental officer's legal counsel. After making the adjustments, CS 10 was called to the office of Defendant Free, who inquired how CS 10 liked working for Delphi. CS 10 replied that he liked working at Delphi very much. Defendant Free threatened CS 10, stating: "You are not going to be working at Delphi very much longer if you continue to make environmental reserve adjustments that weren't part of the corporate plan."

202. According to CS 10, Defendant Free went on to explain that the environmental reserve adjustments would prevent Delphi from achieving Wall Street's estimates and targets. CS 10 made no further environmental reserve adjustments after his meeting with Free, but noted that the environmental reserves he had established were reversed by unknown persons in the controller's office – i.e., Defendant Free's department.

203. Delphi Consistently Meets and Beats Wall Street's Expectations By Means of its Fraudulent Accounting Practices

204. By engaging in such extensive and pervasive accounting manipulations, Delphi was able to artificially inflate its earnings and ***always*** meet or exceed Wall Street's expectations during the Class Period. Indeed, as set forth in the table below, Delphi met or exceeded its quarterly and year-end analyst EPS expectations for the first nineteen financial reporting periods of its existence as an independent publicly traded company:

Comparison of Delphi's Reported EPS v. Wall Street Analysts' Expectations

Reporting Period	**Analyst Consensus Expectations**	**Delphi's EPS As Reported***	**Difference**
1999			
Q4 1999	$0.46	$0.48	Exceeded by $0.02
1999 Year End	$1.90	$1.91	Exceeded by $0.01
2000			
Q1 2000	$0.56	$0.57	Exceeded by $0.01
Q2 2000	$0.75	$0.75	Met Expectations
Q3 2000	$0.26	$0.26	Met Expectations
Q4 2000	$0.32	$0.36	Exceeded by $0.04
2000 Year End	$1.90	$1.94	Exceeded by $0.04
2001			
Q1 2001	($0.05)	($0.04)	Exceeded by $0.01
Q2 2001	$0.29	$0.29	Met Expectations
Q3 2001	$0.05	$0.05	Met Expectations
Q4 2001	$0.10	$0.10	Met Expectations
2001 Year End	$0.40	$0.40	Met Expectations
2002			
Q1 2002	$0.21	$0.22	Exceeded by $0.01
Q2 2002	$0.39	$0.39	Met Expectations
Q3 2002	$0.08	$0.10	Exceeded by $0.02
Q4 2002	$0.20	$0.21	Exceeded by $0.01
2002 Year End	$0.91	$0.92	Exceeded by $0.01
2003			
Q1 2003	$0.22	$0.23	Exceeded by $0.01
Q2 2003	$0.16	$0.16	Met Expectations
Q3 2003	$0.01	$0.01	Met Expectations
Q4 2003	$0.21	$0.23	Exceeded by $0.02
2003 Year End	$.062	$0.62	Met Expectations
2004			
Q1 2004	$0.20	$0.22	Exceeded by $0.02

* In accordance with conventions adhered to by analysts covering Delphi, and as originally reported by Delphi, the above numbers are presented on a pro-forma basis.

VII. THE FRAUD BEGINS TO COME TO LIGHT

205. Delphi's fraudulent accounting practices and use of fictitious transactions to improve its financials went undetected by investors for years, and even the Company's series of disclosures over the past year (including the Restatement) has yet to illuminate the full nature and extent of the fraud. The first public acknowledgement that something might be amiss with Delphi's accounting came on September 29, 2004, when Delphi announced that the SEC had served a subpoena on Delphi in July 2004 seeking information about certain transactions between Delphi and its suppliers of information technology services, including EDS. According to Delphi's September 29, 2004 press release, filed with the SEC on a Form 8-K:

> In late July 2004, [Delphi] received a subpoena from the [SEC] requesting information regarding the Company's agreements with Electronic Data Systems Corporation ("EDS"), a long time supplier of information technology services to the Company. In August 2004, the Company received a copy of the formal order of investigation from the Commission indicating that the staff of the Commission (the "Staff") had commenced a non-public fact-finding inquiry regarding transactions between Delphi and EDS, including the accounting treatment of payments made and credits given by EDS to Delphi during 2000 and 2001, and certain payments made by Delphi to EDS for system implementation services in 2002 and in early 2003. The Staff has subsequently advised that they are also reviewing the accounting treatment of payments received by Delphi and from other suppliers of information technology services. The payments and credits the SEC has identified involve $46 million Delphi received from EDS in 2000 and 2001, and $3.5 million Delphi received from another information technology provider in 2001. The amount Delphi paid to EDS in 2002 and in early 2003 for system implementation services was $40.5 million. The Company is reviewing the accounting for these and other transactions, including contracts for information technology services and products from the same and other periods. There can be no assurance that the Staff will not expand the scope of their review. The Company is fully cooperating with the Staff's requests for information. Until the Staff's investigation and our review is complete, we are not able to predict the potential effect they will have on Delphi.

206. On October 18, 2004, Delphi filed a Form 8-K publishing its quarterly financial information, but failed to file its quarterly report on Form 10-Q. The Company explained that the reason for its not filing a Form 10-Q to report its quarterly financial information was an internal investigation by the Company's Audit Committee precipitated by the SEC's investigation. According to the October 18, 2004 8-K:

> Deloitte & Touche LLP ("Deloitte"), the Company's independent registered public accounting firm, has informed us that due to the ongoing status of an internal review by the Audit Committee of the Board of Directors into the accounting treatment accorded to certain transactions with suppliers, including those for information technology services, it has not completed its review of the unaudited Consolidated Financial Statements included herein for the three and nine months ended September 30, 2004. The internal review was initiated in response to an investigation commenced by the staff of the Securities and Exchange Commission that was disclosed on a Form 8-K filed on September 29, 2004. Additional information regarding the nature and status of both the SEC investigation and the Audit Committee's internal review is contained in the Exhibit to this Form 8-K.

207. On December 8, 2004, Delphi revealed further information regarding the Audit Committee's review of the transactions identified in the SEC's ongoing investigation, and disclosed that the Audit Committee had hired outside counsel and PriceWaterhouseCoopers ("PWC") to conduct its review. Delphi's December 8, 2004 press release, acknowledged that this review had uncovered significant accounting irregularities and internal control issues relating to the transactions and reported the following regarding those transactions:

> • Delphi's pre-tax income in the fourth quarter of 2001 reflected a $20 million payment from EDS. It is the preliminary conclusion of the review that the $20 million pre-tax payment should have been recorded as a liability when received in the fourth quarter of 2001, and that this liability should have been reduced as payments were made to EDS pursuant to a services agreement entered into at the time the payment was received. The impact of this treatment would be to increase expense by $20 million pre-tax in the fourth quarter of 2001 and to lower expense by a total of $11 million pre-tax over the period from January 2002

through September 30, 2004. Additionally, at September 30, 2004 Delphi would have a remaining liability of $9 million.

> • Delphi recognized credits received from EDS (approximately $26 million pre-tax: $8 million of which was recognized in the third quarter of 2000, and $18 million of which was recognized in the third quarter of 2001) as a reduction of expense when received. It is the preliminary conclusion of the review that each credit was received in conjunction with an agreement for future information technology services and therefore should have been recognized ratably over the life of the related service agreement. The preliminary conclusion is that recognition of the $8 million credit should have been recognized ratably over 3.5 years from the first quarter of 2001 through the second quarter of 2004, and the $18 million credit should have been recognized ratably over 6.25 years from the fourth quarter of 2001 through the fourth quarter of 2007.
>
> • Delphi recognized credits received from another technology service provider (approximately $19.5 million pre-tax: $16 million of which was recognized in income from January 2000 through August 2001, and $3.5 million of which was recognized in the second quarter of 2001) as a reduction of expense when received. The preliminary conclusion of the review is that these credits should have been recognized over the related contract periods, which are from 2000 through 2007.
>
> • Delphi did not recognize an obligation of approximately $1.8 million pre-tax to a technology service provider. The preliminary conclusion of the review is that the obligation and the related expense should have been recognized as incurred in the second, third and fourth quarters of 2001, which would have reduced pre-tax income in those quarters.

208. On February 23, 2005, Defendant Battenberg, who had served as CEO and chairman of Delphi since its spin-off from GM in 1999, announced that he would retire from Delphi. Delphi did not name a successor and disclosed that it had appointed a committee of directors and hired a recruiting firm to search for Battenberg's successor.

209. On March 3, 2005, barely a week after Battenberg announced his resignation, Delphi's Audit Committee released the preliminary findings of the internal investigation launched in September 2004. These preliminary findings pointed to widespread accounting

irregularities in Delphi's transactions dating back to 1999, requiring the Company to restate its financial statements.

210. On the following day, March 4, 2005, Delphi filed a Form 8-K with the SEC, signed by Defendant Sheehan, in which it confirmed the need to restate its financial statements:

> **ITEM 4.02 NON-RELIANCE ON PREVIOUSLY ISSUED FINANCIAL STATEMENTS OR A RELATED AUDIT REPORT OR COMPLETED INTERIM REVIEW**
>
> [A]s a result of its ongoing internal investigation, indicate that certain prior transactions involving the receipt of rebates, credits or other lump-sum payments from suppliers ("Rebate Transactions") and off-balance sheet financing of certain indirect materials and inventory were accounted for improperly. Based upon information to date, the Company believes that the improper accounting for off-balance sheet financing transactions in 2000 resulted in the Company overstating cash flow from operations, determined in accordance with generally accepted accounting principles (GAAP), for that year by approximately $200 million and that the improper accounting for Rebate Transactions in 2001 resulted in the Company overstating pre-tax income under GAAP for that year by approximately $61 million. In addition the Company is still evaluating the impact of adjustments to the Company's financial statements for other periods that will be required to be reflected as the Company unwinds the improper accounting of the transactions identified below.

211. The March 4, 2005 Form 8-K added:

> Although the Company is still evaluating additional transactions, the magnitude of the errors and the preliminary conclusions reached to date with respect to the transactions under review led the Audit Committee to conclude that ***the audited financial statements and related independent auditors' reports for 2001 and subsequent periods as a result of the unwinding of the improperly recorded transactions, should no longer be relied upon and a restatement will be required.*** As emphasized below, the internal investigation is not complete and although the findings described below have been preliminary discussed with the Company's auditors, Deloitte & Touche LLP, the findings have not been the subject of a review or audit by Deloitte & Touche LLP. Moreover, additional transactions are under examination, and it is possible that the review will determine that they were not properly recorded and that previously issued financial statements

for other periods may require additional corrections. (Emphasis added.)

212. In addition, the March 4, 2005 Form 8-K revealed a slew of accounting manipulations that Delphi had engaged in since 1999. According to the press release:

a. Delphi had inflated its cash flow from operations and earnings from 1999 to 2001 by $446.5 million and $166 million, respectively.

b. In the fourth quarter of 2000, Delphi inflated its cash flow from operations by over 80% by prematurely recognizing income from technology contracts and rebates where it should have spread them over the lifetime of the contract. In addition, Delphi improperly capitalized expenses over time, rather than recognizing them immediately, and boosted cash flow from operations and pre-tax earnings by claiming it sold assets and inventory that it had actually agreed to buy back later;

c. Delphi admitted that, in a series of transactions from 1999 to 2001, it sold inventory, precious metals and other assets to unnamed companies and recorded operating cash flow and in some cases, earnings. In one instance, $200 million of precious metals that Delphi said it sold in 2000 were repurchased the following year; under GAAP, those transactions should have been recorded as financing. In 1999 and for parts of 2000 and 2001, Delphi improperly recorded the sale of unwanted materials to a third party, which boosted Delphi's pretax income by $60 million in 1999 and $116 million in 2000. According to the Audit Committee's investigation, these sales were questionable because Delphi was obligated to buy the materials back;

d. In 2001, the Company improperly accounted for rebates given to customers to win future business, which inflated pretax income in 2001 by approximately $61 million. Delphi had recognized the payment or credit all at once, rather than amortizing it over several quarters. As a consequence of this overstatement, the Company later under-reported pretax income a total of $44 million in 2002, 2003 and the first three quarters of 2004. In 2002, the Company overstated its pre-tax income of $529 million by $23 million by deferring software expenses from 2002 until 2003.

213. The Audit Committee also revealed that it had met with supervisory employees and members of management who were involved with or knew about the transactions at issue "to evaluate the conduct and knowledge of these individuals, and to consider after carefully evaluating all of the findings of the investigation and the level of cooperation, what personnel changes or other steps, if any should be taken to strengthen the Company's internal controls and procedures over financial reporting and disclosure controls and procedures to prevent the future occurrences of similar errors."

214. Concurrent with this announcement and acknowledgment that it had met with culpable persons with knowledge or supervisory responsibility over these accounting manipulations and improper transactions, the Audit Committee announced the resignation of Defendant Dawes, Delphi's CFO and Vice-Chairman, because the Audit Committee "had expressed a loss of confidence in him." Delphi's chief accountant and controller, Defendant Free was also dismissed, and Defendant Blahnik, Vice President of Treasury, Mergers and Acquisitions, was demoted.

215. On March 5, 2005, Fitch downgraded Delphi's debt-rating to junk status. The revelation that Delphi had inflated its earnings and operating cash flow since 1999 sent Delphi's stock plummeting. Delphi's stock price plunged from $6.48 on March 3, 2005 to $5.15 on March 7, 2005 -- a drop of over 20% in two trading days.

216. On March 22, 2005, the Company disclosed that it was reviewing additional transactions, including one in which Delphi may have improperly accounted for a $237 million payment to GM in 2000. The payment was for a mixture of warranty and retiree expenses. Delphi may have booked more of the payment as retiree expenses so that it could amortize the payment over time. The portion of the payment booked as a warranty expense would have had to be recorded as an expense immediately. The Audit Committee cautioned that investors should not rely on any of Delphi's financial statements for the previous four years and that these financial statements would have to be restated.

217. On March 30, 2005 the Detroit office of the Federal Bureau of Investigation confirmed that, together with the U.S. Postal Inspection Service, it had initiated a criminal investigation into Delphi's accounting.

218. On April 8, 2005, GM disclosed that it had received a subpoena for records related to Delphi transactions and that it had turned over unspecified documents to the SEC. BBK Ltd., later revealed to be a key partner with Delphi in orchestrating the fictitious inventory sales, disclosed that it too had been subpoenaed by the SEC and had furnished information.

219. On May 17, 2005, Delphi announced that two lower- and mid-level finance executives had resigned and a vice president was demoted in connection with the Company's ongoing probe of improper accounting transactions. Atul Pasricha, Vice President and Executive Director of Business Lines, was demoted to a non-officer position. In response to this

disclosure, Delphi shares fell another 29 cents, or 7.6 percent, to $3.51 on the New York Stock Exchange.

220. On June 8, 2005, Delphi announced the resignation of Defendant Blahnik, as well as the Company's current treasurer Pam Geller. On June 30, 2005, Delphi filed the Restatement (as defined in ¶ 115 above, as well as Form 10-Q/A amended Quarterly Reports for the three month periods ending March 31, 2004 and June 30, 2004, in which it restated its financial statements for those periods. In its Restatement, Delphi again admitted that its past years' financial statements were unreliable, stating:

> Delphi is the subject of an ongoing investigation by the Staff of the Securities Exchange Commission ("SEC") and other federal authorities involving Delphi's accounting for and disclosure of a number of transactions. The transactions include rebates or other lump-sum payments received from suppliers, certain off-balance sheet financings of indirect materials and inventory, and the payment in 2000 of $237 million in cash, and the subsequent receipt in 2001 of $85 million in credits, as a result of certain settlements between Delphi and its former parent company, General Motors. *Delphi's Audit Committee has completed its internal investigation of these transactions and concluded that many were accounted for improperly.* (Emphasis added.)

221. Elaborating on its fraud, the Company admitted that it:

> … inaccurately disclosed to credit ratings agencies, analysts and the Board of Directors the amount of sales of accounts receivable from 1999 until year-end 2004…. [W]e also determined that our disclosure of operating cash flow measured on a non-GAAP basis as set forth in our earnings releases for the first and second quarters of 2003 were inaccurate. Specifically, we overstated this measure of operating cash flow by $30 million in the first quarter of 2003 and understated the measure by the same amount in the second quarter of 2003.

222. In the MD&A section of its 2004 10-K, Delphi further admitted that its fraudulent transactions not only affected its financial statements for the years in which they happened, but also for subsequent years as those transactions were wound-up:

> Subsequent to the issuance of Delphi's consolidated financial statements for the years ended December 31, 2003 and 2002, and following an internal investigation conducted by the Audit Committee of its Board of Directors, ***Delphi management determined that its originally issued financial statements for those periods required restatement to correct the accounting for a number of transactions recorded in prior years.*** Such transactions included (i) rebates, credits and other lump sum payments from suppliers; (ii) disposition of indirect material and other inventories; (iii) warranty settlements with Delphi's former parent company; and (iv) certain other transactions. (Emphasis added.)

223. The Company also admitted that its internal controls were fatally inadequate, stating:

> Delphi is subject to stringent disclosure standards, and accounting, corporate governance and other securities regulations, including compliance with Section 404 of the Sarbanes-Oxley Act of 2002 ("Section 404"), as well as the listing standards of the New York Stock Exchange. Delphi management's assessment pursuant to Section 404 determined that Delphi had not maintained effective internal controls over financial reporting at December 31, 2004. In addition, management concluded that during such periods, Delphi's disclosure controls and procedures were also ineffective. Delphi has undertaken and is continuing to take actions to address material weaknesses in its internal controls over financial reporting and the deficiencies in its disclosure controls and procedures.

224. The Restatement purports to correct dozens of false and misleading figures from the Company's past filings. Among the categories it restated in its Consolidated Statements of Operations for the years ending December 31, 2002 and December 31, 2003 were: Net Sales, Sales to GM and affiliates, sales to other customers, operating expenses, cost of sales, SG&A, depreciation and amortization, operating income, interest expense, other income, income (loss) before income tax, minority interest, and equity income, income tax benefit (expense), net income (loss), basic and diluted earnings (loss) per share.

	2004	2003 Original	2003 Restated	2002 Original	2002 Restated	2001 Original	2001 Restated	2000 Original	2000 Restated
Net Sales	28,622	28,096	28,077	27,427	27,641	26,088	26,302	29,139	29,224

	2004	2003 Original	2003 Restated	2002 Original	2002 Restated	2001 Original	2001 Restated	2000 Original	2000 Restated
Net Income (loss)	(4,753)	(56)	(10)	342	318	(396)	(428)	1002	817
Earnings (Loss) per share – basic	($8.47)	$(0.10)	(.02)	0.61	0.57	(0.71)	(0.76)	1.78	1.46
Retained Earnings	(3913)	1,241	997	1,454	n/a	1,343	1,003	1869	n/a

225. Among the categories in its Consolidated Balance Sheets for the year ending December 31, 2003, Delphi restated: cash and cash equivalents, accounts receivable (from GM and other customers), inventories (productive material, work-in-process and supplies, and finished goods), total assets, long-term assets (property, deferred income taxes, goodwill, other intangible assets, and other long-term assets. Correspondingly, it restated its current liabilities (notes payable and long-term debt, accounts payable, accrued liabilities), total liabilities, long-term liabilities (long-term debt, post-retirement benefits other than pensions), minority interest, additional paid-in capital, retained earnings, minimum pension liability, accumulated comprehensive loss, and total stockholders' equity.)

226. The Restatement also restated the following metrics in its Consolidated Statements of Cash Flows for Fiscal Years 2002 and 2003: cash and cash equivalents at beginning of period, cash flows provided by (used in) operating activities, cash flows used in investing activities, cash flows provided by (used in) financing activities, net (decrease) increase in cash and cash equivalents, cash and cash equivalents at end of period.

VIII. FALSE AND MISLEADING STATEMENTS

227. In regular press releases and in periodic filings with the SEC, Delphi and the Office Defendants and Deloitte collectively made hundreds of material false and misleading statements during the Class Period. Set forth chronologically below, these statements were false and misleading not only because they misstated Delphi's financial results, but also because they

provided wholly false explanations to support the Company's improperly reported results, and failed to disclose that Delphi was engaging in a set of fraudulent accounting practices that rendered its financial reporting wholly unreliable. Moreover, as the Class Period progressed, Delphi was forced to live with the consequences of its earlier lies, the same accounting tricks on which Delphi relied to boost its early Class Period results unwound and caused its later Class Period results to suffer.

228. On February 9, 2000, Delphi filed its Form 10-K for the year ended December 31, 1999 (the "1999 10-K"), which was signed by Defendant Battenberg. The 1999 10-K reported operating income of $1.7 billion and net income of $1 billion based on total net sales of $29 billion. In addition, the 1999 10-K reported:

a. Non-GM net sales of $6.9 billion;

b. Net cash used in operating activities of $1.2 billion;

c. Net inventories of $1.7 billion excluding inventories acquired through acquisition;

d. Notes payable and current portion of long-term debt of $117 million;

e. Total current liabilities of $6.8 billion;

f. Cash flow provided by financing activities of $2.9 billion; and

g. Total operating expenses of $27.5 billion.

229. The statements set forth in ¶ 228 above, were each false and misleading when made because, as described above, Delphi's reported financial results violated GAAP and materially ***overstated*** net income, operating income, earnings per share, cash flow from operating activities, total net sales and non-GM net sales, and materially ***understated*** inventory, notes

payable and current portion of long-term debt total current liabilities, total expenses, and cash flow from financing activities.

230. Specifically, net income, operating income and earnings per share were materially overstated by, among other things, (i) improper accounting for rebates, credits and other lump sum payments from third-party vendors (*see* Section VI. C.1-2, supra); (ii) disguising financing transactions as sales of indirect materials (*see* Section VI.A, A.1, supra), and (iii) failure to record obligations and failure to recognize adjustments and accruals in the proper period (*see* Section VI. D, supra).

231. Further, by disguising financing transactions as sales of indirect materials (*see* Section VI.A, supra), Delphi distorted its financial results as follows:

a. Materially overstated total net sales and non-GM net sales;

b. Materially overstated cash flow from operations;

c. Materially understated cash flow from financing;

d. Materially understated inventory;

e. Materially understated current liabilities; and

f. Materially understated notes payable and current portion of long-term debt.

232. Analysts reacted positively to Delphi's disclosures regarding Delphi's 1999 financials. For example, on March 8, 2000, Credit Lyonnais Securities analyst Charles Brady initiated coverage of Delphi with a "Buy" rating, explaining that, "Since achieving its independence from GM, DPH has managed to meet or exceed all stated 1999 goals as well as Wall Street expectations. This is true with respect to non-GM revenue growth, earnings growth,

and cash flows. In our view, however, DPH's current market valuation does not appear to reflect this performance or the growth potential that lies ahead."

A. First Quarter 2000

233. On April 12, 2000, Delphi issued an earnings release, announcing its financial results for the quarter ended March 31, 2000 (the "1Q 2000 Press Release"). The 1Q 2000 Press Release was headlined "Delphi Automotive Systems Earnings Increase 13 Percent To $322 Million in First Quarter 2000, Sales to Customers Other than GM Soar a Record 30 Percent – Highlighting Success of Customer Diversification Efforts." The 1Q 2000 Press Release reported that "[o]n a pro forma basis, earnings per share for the period were $0.57, compared to $0.50 per share in the first quarter last year." And in what would be a theme repeated in every press release during the Class Period, Delphi boasted that "***operating cash flow*** in the first quarter was $495 million, building upon Delphi's strong 1999 performance ***in this key financial measure***." (Emphasis added.)

234. On April 12, 2000, Delphi also filed its Form 10-Q for the quarter ended March 31, 2000 (the "1Q 2000 10-Q"), which was signed by Defendant Free. The 1Q 2000 10-Q reiterated the financial results reported in the 1Q 2000 Press Release. The 1Q 2000 10-Q reported operating income of $466 million and net income of $290 million based on total net sales of $7.8 billion. In addition, the 1Q 2000 10-Q reported:

a. Non-GM net sales of $2.2 billion;

b. Net cash used in operating activities of $520 million;

c. Inventories, net of $1.8 billion, which represented a $71 million decline in net inventories during the quarter excluding inventories acquired through acquisition;

d. Notes payable and current portion of long-term debt of $1.3 billion;

e. Total current liabilities of $6.9 billion;

f. Cash flow from financing activities of $1.1 billion; and

g. Total operating expenses of $7.3 billion.

235. On April 12, 2000, Delphi also hosted an earnings conference call to discuss its financial results for the first quarter (the "1Q 2000 Conference Call"). During the conference call, Defendant Dawes reiterated the Company's financial results as disclosed in the 1Q 2000 Press Release and 1Q 2000 10-Q. Defendant Dawes also praised the Company's first quarter performance, stating:

> [W]e feel very good about Delphi's future from a number of standpoints. We've now reported five quarters in a row of solid earnings results, solid cash flow, you know we're establishing a record of consistency as we highlighted at the top. So the basic fundamentals of the business, we think we've proven, are running very well.

236. The statements set forth in ¶¶ 233-235 above were each materially false and misleading when made because, as described above, Delphi's reported financial results violated GAAP and materially ***overstated*** net income, operating income, earnings per share, cash flow from operating activities, total net sales and non-GM net sales, and materially ***understated*** inventory, notes payable and current portion of long-term debt total current liabilities, total expenses, and cash flow from financing activities.

237. Specifically, net income, operating income and earnings per share were materially overstated by, among other things, (i) improper accounting for rebates, credits and other lump sum payments from third-party vendors (*see* Section VI.C.1-2, supra); (ii) disguising financing transactions as sales of inventory and indirect materials (*see* Section VI.A.1, A.2, A.2.ii, supra), and (iii) failure to record obligations and to recognize adjustments and accruals in the proper period (*see* Section VI.D, supra).

238. Further, by disguising financing transactions as sales of inventory and indirect materials (*see* Section VI.A.1, A.2, A.2.ii, supra), Delphi distorted its financial results as follows:

a. Materially overstated total net sales and non-GM net sales;

b. Materially overstated cash flow from operations;

c. Materially understated cash flow from financing;

d. Materially understated inventory;

e. Materially understated current liabilities; and

f. Materially understated notes payable and current portion of long-term debt.

239. Analysts reacted positively to Delphi's disclosures regarding the first quarter of 2000. For example, Morgan Stanley analyst Stephen Girsky commended Delphi's performance, noting that "[q]uarterly results were strong and continue to support our bullish investment case," and reiterated his "strong buy" recommendation. Further, Girsky stated, "Non-GM revenue continues to grow as a percent of total revenues, cash flow remained strong and operating margins were better than expected."

240. In response to the false and misleading statements in Delphi's 1Q 2000 Press Release, 1Q 2000 10-Q and 1Q 2000 Conference Call**,** Delphi's stock price rose nearly 10% to $19.50 on April 13, 2000 and nearly 20% to $21.13 on April 18, 2000 from $17.81 on April 11, 2000.

B. Second Quarter 2000

241. On July 17, 2000, Delphi published its earnings release for the quarter ending June 30, 2000 ("2Q 2000 Press Release"). According to the 2Q 2000 Press Release, Delphi had second quarter earnings of "$424 million, or $0.75 per share, in line with analyst consensus

estimates." The release stated that "strong cash flow from operations generated $455 million in the second quarter" and that:

> For the first half of the year Delphi is on track to meet 2000 financial targets. Earnings for the first six months of 2000 rose 10 percent, excluding a one-time charge of $32 million in the first quarter, versus 1999 levels. Operating cash flow totaled $950 million, well on track for meeting the $1.5-$2.0 billion 2000 target.

242. In the 2Q 2000 Press Release, Defendant Dawes boasted that "[s]tructural cost reductions helped us achieve year-over-year net income improvements in every quarter since our independence. In addition, new business bookings in excess of $5 billion indicate top-line growth and margin improvements in future years."

243. On July 17, 2000, Delphi also filed its quarterly report with the SEC for the quarter ended June 30, 2000 ("2Q 2000 10-Q"), which was signed by Defendant Free. In its 2Q 2000 10-Q, Delphi reported operating income of $683 million and net income of $424 million. In the MD&A section of the 2Q 2000 10-Q, Delphi boasted that these earnings represented a 7.6% increase compared to the same reporting period in the previous year. Further, for the six months ended June 30, 2000, the 2Q 2000 10-Q reported operating income of $1.15 billion and net income of $714 million.

244. In addition, in its 2Q 2000 10-Q, Delphi reported:

a. Total net sales of $7.8 billion;

b. Non-GM net sales of $2.2 billion;

c. Net cash used in operating activities of $266 million;

d. Inventories, net of $1.8 billion, which represented a $66 million decline in net inventories during the quarter, excluding inventories acquired through acquisition;

e. Notes payable and current portion of long-term debt of $1.4 billion;

f. Total current liabilities of $7.3 billion;

g. Net cash provided by financing activities of $996 million; and

h. Total operating expenses of $7.1 billion.

245. On July 17, 2000, Delphi also conducted an earnings conference call to discuss the Company's financial results for the second quarter (the "2Q 2000 Conference Call"). During the 2Q 2000 Conference Call, Defendant Dawes reiterated the financial results reported in the 2Q 2000 Press Release and the 2Q 2000 10-Q. In doing so, Dawes commented that "cash flow remain[ed] quite strong" and that earnings per share were "up exactly 10 percent over the first sixth months of the year."

246. The statements set forth in ¶¶ 241-245 above, were each false and misleading when made because, as described above, Delphi's reported financial results violated GAAP and materially ***overstated*** net income, operating income, earnings per share, cash flow from operating activities, total net sales and non-GM net sales, and materially ***understated*** inventory, notes payable and current portion of long-term debt, total current liabilities, total expenses, and cash flow from financing activities.

247. Specifically, net income, operating income and earnings per share were materially overstated by, among other things, (i) improper accounting for rebates, credits and other lump sum payments from third-party vendors (*see* Section VI.C.1-2, supra); (ii) disguising financing transactions as sales of inventory and indirect materials (*see* Section VI.A.1, A.2, A.2ii, supra), and (iii) failure to record obligations and failure to recognize adjustments and accruals in the proper period (*see* Section VI.D, supra).

248. Further, by disguising financing transactions as sales of inventory and indirect materials (*see* Section VI.A.1, supra), Delphi distorted its financial results as follows:

a. Materially overstated total net sales and non-GM net sales;

b. Materially overstated cash flow from operating activities;

c. Materially understated cash flow from financing;

d. Materially understated inventory;

e. Materially understated notes payable and current portion of long-term debt; and

f. Materially understated total current liabilities.

249. Delphi's statement that its "manufacturing operations and engineering product teams have made improvements in inventory turns" was also false and misleading when made because the reported improvements in Delphi's inventory turns were the result of the Company's improper accounting for financing transactions as sales of inventory and indirect materials.

250. Analysts responded positively to Delphi's financial results for the second quarter 2000. On July 17, 2000, Robert W. Baird analyst David Leiker maintained his firm's "Market Outperform" rating for Delphi, emphasizing the Company's "cost-reduction efforts" and its increased revenues, operating income, and EPS. On July 18, 2000, Raymond James analyst Greg Salchow recommended the Company as "strong buy," noting:

> Based on the company exceeding our expectations and stronger-than-anticipated improvements in Delphi's D&P segment, we are increasing our 2000 and 2001 EPS estimate slightly from $2.10 and $2.26 to $2.11 and $2.27, respectively.
>
> Despite six consecutive quarters of meeting or exceeding analyst expectations, we believe Delphi remains undervalued.

251. Similarly, on July 24, 2000, Donaldson, Lufkin & Jenrette analyst Wendy Beale Needham praised Delphi, stating:

> We believe Delphi is a core holding in the automotive sector. With its market leading positions in many products, particularly in the fast-growing automotive electronics sector, strong cash flow, solid balance sheet and growing business backlog, Delphi is well positioned, in our view, to dominate its sector for years to come. We expect earnings to grow about 11% annually over the long term. At its current valuation of just 7.4 times our 2000 EPS forecast, Delphi is a compelling value, we believe.

252. In response to Delphi's reported financial results for the second quarter, Delphi's stock rose from $15.38 on July 14, 2000 to $15.94 on July 19, 2000.

C. Third Quarter 2000

253. On October 11, 2000, Delphi issued an earnings release, announcing its financial results for the quarter ended September 30, 2000 (the "3Q 2000 Press Release"). The 3Q 2000 Press Release was headlined "Delphi Earnings Increase 9 Percent to $148 Million in Third Quarter – Year-over-Year Margin Improvement every Quarter since IPO – Mobile MultiMedia Product Line Sales up 777% Over Prior Year." In 3Q 2000 Press Release, Delphi reported third quarter earnings of "$148 million, or $0.26 earnings per share, in line with analyst consensus estimates. This represents a 9 percent increase in earnings over the same period last year."

254. In the 3Q 2000 Press Release, Defendant Battenberg commented on the Company's positive performance, stating:

> Today's results mark the seventh consecutive quarter since our IPO that we have achieved solid financial performance. We continue to deliver on the targets established at our independence to produce long-term value for our shareholders. We remain focused on targets of 5 percent net income margin by the end of 2002, year-over-year non-GM sales growth of more than 10 percent and return on net assets of 12.5 percent, while generating operating cash flow of $1.5-2.0 billion per year.

255. On October 11, 2000 Delphi also filed its Form 10-Q for the quarter ended September 30, 2000 (the "3Q 2000 10-Q"), which was signed by Defendant Free. The 3Q

2000 10-Q reiterated the financial results reported in the 3Q 2000 Press Release and reported operating income of $230 million and net income of $148 million. In the MD&A section of the 3Q 2000 10-Q, Delphi stated that "[n]et income totaled $148 million for the third quarter of 2000 compared to $136 million for the third quarter of 1999. This represents a 9% increase over 1999." For the nine months ended September 30, 2000, Delphi reported in its 3Q 2000 10-Q operating income of $1.38 billion and net income of $862 million. In addition, in its 3Q 2000 10-Q, Delphi reported:

a. Total net sales of $6.6 billion and non-GM net sales of $2.0 billion;

b. Net cash provided by operating activities of $226 million;

c. Inventories, net of $2.0 billion;

d. Notes payable and current portion of long-term debt of $1.2 billion;

e. Total current liabilities of $7.0 billion;

f. Net cash provided by financing activities of $789 million;

g. Total operating expenses of $6.4 billion; and

h. Post-retirement benefits other than pensions of $4.4 billion.

256. The statements set forth in ¶¶ 253-255 above, were each false and misleading when made because, as described above, Delphi's reported financial results violated GAAP and materially ***overstated*** net income, operating income, earnings per share, cash flow from operating activities, total net sales and non-GM net sales, and materially ***understated*** inventory, notes payable and current portion of long-term debt, total current liabilities, total expenses, cash flow from financing activities and post-retirement benefits other than pensions.

257. Specifically, net income, operating income and earnings per share were materially overstated by, among other things, (i) improper accounting for rebates, credits and other lump

sum payments from third-party vendors (*see* Section VI.C.1-2, supra); (ii) disguising financing transactions as sales of inventory and indirect materials (*see* Section VI.A, A.1, A.1ii, supra), (iii) failure to record obligations and failure to recognize adjustments and accruals in the proper period (*see* Section VI.D, supra) and (iv) improper classification and deferral of $202 million of expenses related to warranty obligations to GM (*see* Section VI.D.1, supra).

258. Further, by disguising financing transactions as sales of inventory and indirect materials (*see* Section VI.A.1, A.2ii, supra), Delphi distorted its financial results as follows:

a. Materially overstated total net sales and non-GM net sales;

b. Materially overstated cash flow from operating activities;

c. Materially understated cash flow from financing;

d. Materially understated inventory;

e. Materially understated notes payable and current portion of long-term debt; and

f. Materially understated total current liabilities.

259. In addition, by improperly classifying a $202 million warranty settlement payment to GM as an adjustment to post-retirement obligations, Delphi materially understated its post-retirement benefit obligation and warranty expenses.

260. Delphi's false and misleading statements with regard to its 3Q 2000 financials had their intended effect on analysts. For example, PNC Advisors analyst James Fessel stated: "Given Delphi's proven ability to meet or beat expectations, strong operating cash flow, and the possibility of a major share repurchase announcement, we believe that the shares are undervalued at the current price."

261. In addition, PaineWebber analyst Gregory Kagay commented on October 12, 2000 that Delphi "posted favorable results in the quarter, despite facing many of the same cross currents that have generated numerous earnings realignments at other companies in the sector over the past few weeks." He went on to surmise that despite negative trends such as "expected and continued pressure from the weak euro and weak volumes at GM," Delphi "continues to post improving operating performance in the current environment, and it continues to present evidence that its longer term position . . . is becoming increasing[ly] entrenched." Similarly, Morgan Stanley Dean Witter analyst Stephen Girsky noted on October 11, 2000 that "Delphi's cash flow was healthy in the seasonally weak quarter."

262. On October 17, 2000, Wasserstein Perella Securities, Inc. analyst Mark Sylvester rated Delphi a "strong buy" and commented:

> We continue to believe that Delphi shares warrant a premium valuation compared to its peers, particularly as it continues to generate huge cash flow (we project $1.8 billion for 2000, on the heels of 1999's $2.5 billion), maintain its financial flexibility ($4.5 billion of debt capacity, according to the company) and meet earnings and cash flow expectations.

263. Likewise, on October 23, 2000, Solomon Smith Barney analyst Mathew Stover commented on the strength of the Company's balance sheet as disclosed, observing that Delphi's "Rock Solid Balance Sheet Provides Ballast in a Frothy Sea." In particular, Stover explained that Delphi's "most differentiating feature is the strength of [its] balance sheet" and noted the Company's manageable debt levels.

264. In response to Delphi's reported financial results for the third quarter, Delphi's stock rose 6% from $13.88 on October 10, 2000 to $14.75 on October 11, 2000, and still higher to $14.88 on October 14, 2000.

D. Fourth Quarter and Year-End 2000

265. On January 17, 2000, Delphi issued an earnings release, announcing its financial results for the quarter and year ended December 31, 2000 (the "Year-End 2000 Press Release"). The Year-End 2000 Press Release announced: "Delphi Earns $200 Million on Revenues of $6.9 Billion in Fourth Quarter of 2000 – Sales to Non-GM Customers Hits Record $8.5 Billion in 2000 – Full Year Operating Cash Flow Exceeds $1.6 Billion." In its Year-End 2000 Press Release, Delphi announced fourth quarter earnings of "$200 million, or $0.36 EPS, on sales of $6.9 billion, exceeding industry analysts' consensus estimates of $0.32." For the year, Delphi reported $1.1 billion in net income, $1.6 billion in operating cash flow, and $1.94 earnings per share.

266. In the Year-End 2000 Press Release, Battenberg touted management's agile response to adverse market conditions stating: "[w]e were successful in moderating the impact of the rapid fourth quarter order decline through aggressive inventory management, workforce adjustments and other cost reduction initiatives."

267. On February 8, 2001, Delphi filed on Form 10-K405 its annual report for Fiscal Year 2000 ("2000 10-K"), signed by, among others, Defendants Battenberg, Dawes, Runkle and Free. The 2000 10-K reiterated the Company's financial results reported in the Year-End 2000 Press Release, including that, for the year ended December 31, 2000, operating income was $1.7 billion and net income was $1.1 billion on total net sales of $29.1 billion.

268. In addition, in its 2000 10-K, Delphi reported:

a. Non-GM net sales of $8.5 billion;

b. Net cash provided by operating activities of $268 million;

c. Inventories, net of $1.7 billion;

d. Notes payable and current portion of long-term debt of $1.6 billion;

e. Total current liabilities of $6.2 billion;

f. Net cash provided by financing activities of $1.1 billion;

g. Total operating expenses of $27.4 billion;

h. Post-retirement benefits other than pensions of $4.6 billion; and

i. Non-GM accounts receivable of $2.1 billion.

269. In addition, the MD&A section of the 2000 10-K stated with respect to Delphi's 2000 net income:

> Net income for 2000 totaled $1,062 million compared to $1,083 million for 1999. Excluding [one-time charges] our net income margin of 3.8% expanded from our 1999 margin of 3.7% as a result of ***aggressive inventory management***, implementation of lean manufacturing initiatives and other cost reduction initiatives. (Emphasis added.)

270. The statements set forth in ¶¶ 265-269 above, were each false and misleading when made because, as described above, Delphi's reported financial results violated GAAP and materially ***overstated*** net income, operating income, earnings per share, cash flow from operating activities, total net sales, non-GM net sales and non-GM accounts receivable, and materially ***understated*** inventory, notes payable and current portion of long-term debt, total current liabilities, total expenses, net cash provided by financing activities and post-retirement benefits other than pensions.

271. Specifically, net income, operating income and earnings per share were materially overstated by, among other things, Delphi's (i) disguising financing transactions as sales of inventory and indirect materials, including without limitation a $145 million financing transaction with Setech, a $70 million financing transaction with BBK, a $200 million financing transaction with Bank One, and a $7 million financing transaction with an unknown third party (*see* Section VI.A, supra); (ii) improper accounting for rebates, credits and other

lump sum payments from third-party vendors, including without limitation improper recognition of $16 million in credits received from an unnamed technology services provider (*see* Section VI.C.1-2, supra); (iii) failure to record obligations and failure to recognize adjustments and accruals in the proper period (*see* Section VI.D, supra); and (iv) improper classification and deferral of $202 million of expenses related to warranty obligations to GM (*see* Section VI.B.1, supra).

272. Further, by disguising financing transactions as sales of inventory and indirect materials (*see* Section VI.A, supra), Delphi distorted its financial results by:

a. Materially overstating total net sales and non-GM net sales;

b. Materially overstating cash flow from operating activities;

c. Materially overstating accounts receivable;

d. Materially understating cash flow from financing;

e. Materially understating inventories, net;

f. Materially understating notes payable and current portion of long-term debt; and

g. Materially understated total current liabilities.

273. In addition, by improperly classifying a $202 million warranty settlement payment to GM as an adjustment to post-retirement obligations, Delphi materially understated its post-retirement benefit obligation.

274. Specifically, based on the Restatement, the Company's originally reported net income for Fiscal Year 2000 was overstated by ***$245 million, or 30%***, and its GAAP earnings per share on a fully diluted basis were overstated by ***$0.43 or 30%.***

275. The market responded favorably to Delphi's year-end financial disclosures. On January 17, 2001, Credit Lyonnais analyst Charles Brady reiterated his firm's "buy" rating for Delphi. He noted that the Company had a "healthy" balance sheet and that it exceeded consensus estimates for quarterly and yearly EPS. He also stated that Delphi's improved net profit margin "was quite an achievement considering the sudden fourth quarter production schedule changes," adding that "this is clearly indicative of management's ability to react quickly through optimizing capacity and inventory management."

276. Salomon Smith Barney analyst Mathew Stover reiterated his previous assessment of Delphi's financial performance, declaring that "[c]ash flow and balance sheet remain rock solid providing flexibility in a transitional operating environment." Morgan Stanley Dean Witter analyst Stephen Girsky noted similarly that "[c]ash flow was strong in a weak quarter plagued with declining vehicle production."

277. Despite widespread difficulties within the automotive sector, Delphi's reported year-end financial results resulted in the Company's stock price remaining firmly within the (artificially inflated) range of $14.00 to $15.00.

278. In addition, the 2000 10-K contained an unqualified audit opinion signed by Deloitte, which stated that it had audited Delphi's financial statements in conformity with GAAS and that:

> In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of Delphi as of December 31, 2000 and 1999 and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2000, in conformity with accounting principles generally accepted in the United States of America.

279. Deloitte's statements in the above paragraph relating to the 2000 audit were false and materially misleading because Deloitte had not conducted its audit in accordance with GAAS and because Delphi's financial statements were not prepared in conformity with GAAP.

E. Mid-Quarter Guidance – March 29, 2001

280. On March 29, 2001, Delphi gave downward guidance for the first quarter of 2001 in connection with a major restructuring plan that included a $400 million charge against earnings. In the same announcement, the Company touted other "separate" initiatives it claimed would increase productivity. Specifically, it highlighted the following efforts:

> - Utilizing web-based systems for procurement, logistics and inventory management to obtain greater savings in inventory and production support; and
>
> - Eliminating warehouses and other inventory storage and distribution points for greater value chain efficiency.

281. Defendant Dawes added that "[t]he actions outlined today should improve our ability to rebound decisively in more favorable automotive market conditions."

282. Delphi's announcement was false and misleading when made because it failed to state that the Company's restructuring charge would be applied against earnings that were materially overstated in violation of GAAP by, among other things, Delphi's (i) improper accounting for rebates, credits and other lump sum payments from third-party vendors (*see* Section VI.C.1-2, supra); (ii) disguising financing transactions as sales of inventory and indirect materials (*see* Section VI.A, supra); (iii) failure to record obligations and failure to recognize adjustments and accruals in the proper period (*see* Section VI.D, supra); (iv) improper classification and deferral of $202 million of expenses related to warranty obligations to GM (*see* Section VI.B.1, supra); and (v) improperly recognizing warranty credits received from GM as a reduction to expenses (*see* Section VI.B.2, supra).

283. In addition, Delphi's announcement was false and misleading because it failed to disclose that the Company's reduced inventories and costs associated with inventories were the result of the Company's improper accounting for financing transactions as sales of inventory and indirect materials, in violation of GAAP (*see* Section VI.A *supra*).

284. On March 30, 2001, Credit Lyonnais analysts Charles Brady and Joseph C. Amaturo revised their firm's quarterly earnings estimate downward from $0.20 to breakeven and maintained its "buy" rating for Delphi. Prudential analysts Michael Bruynesteyn and John Tomlinson also revised their firm's earnings estimates downward for the first quarter of 2001 from $0.17 to $(0.03). Nevertheless, they continued to rate Delphi a "hold" and stressed that the Company's restructuring represented an "opportunity."

F. First Quarter 2001

285. On April 19, 2001, Delphi issued an earnings release, announcing its financial results for the quarter ended March 31, 2001 (the "1Q 2001 Press Release"), reporting "$2 million of operating income and a consolidated net loss of $25 million, or $0.04 loss per share, excluding the impact of global restructuring and impairment charges announced on March 29, 2001. . . . Analyst consensus for the quarter as reported on First Call was $0.05 loss per share."

286. In the 1Q 2001 Press Release, Defendant Dawes stated that "[i]n spite of breakeven operating results, Delphi generated $102 million of operating cash flow during the period."

287. On April 19, 2001, Delphi also filed its Form 10-Q for the quarter ended March 31, 2001 (the "1Q 2001 10-Q"), which was signed by Defendant Free. In its 1Q 2001 10-Q, Delphi reiterated the financial results reported in the 1Q 2001 Press Release, and stated that "[i]n the opinion of management, all adjustments, consisting of only normal recurring items, which are necessary for a fair presentation have been included."

288. In addition, the 1Q 2001 10-Q reported:

a. Net sales of $6.5 billion and non-GM sales of $2.2 billion;

b. Operating loss of $597 million;

c. Total operating expenses of $7.1 billion;

d. Non-GM accounts receivable of $2.0 billion;

e. Inventories, net of $1.7 billion;

f. Notes payable and current portion of long-term debt of $1.5 billion;

g. Post-retirement benefits other than pensions of $4.7 billion.

h. Total current liabilities of $6.5 billion; and

i. Net cash provided by financing activities of $146 million;

289. In the Commitments and Contingencies Section of the 1Q 2001 10-Q, Delphi discussed possible future warranty claims against the Company and noted that "[w]e settled certain pre-Separation warranty claims with General Motors . . . in September 2000."

290. The statements set forth in ¶¶ 285-289 above, were each false and misleading when made because, as described above, Delphi's reported financial results violated GAAP and materially ***overstated*** net income, earnings per share, operating income, total net sales, non-GM net sales and non-GM accounts receivable, and materially ***understated*** inventory, notes payable and current portion of long-term debt, total current liabilities, total expenses, cash flow from financing activities and post-retirement benefits other than pensions.

291. Specifically, net income, earnings per share and operating income were materially overstated by, among other things, Delphi's (i) improper accounting for rebates, credits and other lump sum payments from third-party vendors (*see* Section VI.C.1-2, supra); (ii) disguising financing transactions as sales of inventory and indirect materials (*see* Section VI.A,

supra); (iii) failure to record obligations and failure to recognize adjustments and accruals in the proper period (*see* Section VI.D, supra); (iv) improper classification and deferral of $202 million of expenses related to warranty obligations to GM (*see* Section VI.B.1, supra); and (v) improperly recognizing warranty credits received from GM as a reduction to expenses (*see* Section VI.B.2, supra).

292. By disguising financing transactions as sales of inventory and indirect materials (*see* Section VI.A, supra), Delphi distorted its financial results as follows:

a. Materially overstated total net sales and non-GM net sales;

b. Materially overstated accounts receivable;

c. Materially understated cash flow from financing;

d. Materially understated inventory;

e. Materially understated current liabilities; and

f. Materially understated notes payable and current portion of long-term debt.

293. Delphi's statement that it settled pre-Separation warranty claims with GM in September 2000 was false and misleading because it failed to disclose that Delphi had improperly classified and accounted for the $202 million payment to settle these warranty claims as an adjustment to post-retirement obligations in violation of GAAP. Moreover, Delphi failed to disclose that by improperly classifying the warranty settlement payment to GM as an adjustment to post-retirement obligations, Delphi materially understated its post-retirement benefit obligation.

294. In its 1Q 2001 Press Release, the Company reported net liquidity at March 31, 2001 of $(2.7) billion. This was false and misleading because, as Delphi has since admitted, it

did not disclose certain factoring facilities as sources of short-term liquidity in its non-GAAP measures of net liquidity. Specifically, in the 1Q 2001 Press Release, it understated its negative liquidity by $334 million or 11.1%.

295. In addition, by improperly classifying a $202 million warranty settlement payment to GM as an adjustment to post-retirement obligations, Delphi materially understated its post-retirement benefit obligation.

296. The market responded positively to Delphi's reported financial results. On April 19, 2001 Salmon Smith Barney analyst Matthew Stover maintained the firm's "attractive rating on Delphi with $18 price target" and noted that the "[b]alance sheet remains solid." Similarly, on April 19, 2001, Charles Brady of Credit Lyonnais reported that Delphi's earnings were "modestly better" than expectations for the first quarter and maintained his firm's "buy" rating for Delphi. In addition, on April 20, 2001, Credit Suisse First Boston analyst Wendy Beale Needham stated "[w]e maintain our 'Strong Buy' rating. Delphi's business plan is on track. The company is progressing on its strategy to streamline its portfolio."

297. In response to Delphi's reported year-end financial results, Delphi's stock price remained firmly within the (artificially inflated) range of $14.00 to $15.00.

G. Delphi Corporation Bond Offering June 5, 2001 (6.550%)

298. On or about June 5, 2001, Delphi issued $500 million of 6.55% notes due 2006 ("June 2001 Offering"). In connection with the June 2001 Offering, Delphi filed with the SEC a Form S-3 registration statement dated March 3, 1999, and filed prospectus supplements pursuant to Rule 424(b)(5) on April 19, 2001, April 30, 2001, May 25, 2001 and June 4, 2001 (collectively, the "June 2001 Registration Statement").

299. The June 2001 Registration Statement was signed by, among others, Defendants Battenberg, Dawes, and Free.

300. Bear Stearns and CSFB acted as the Joint Bookrunners of the offering.

301. The June 2001 Registration Statement incorporated numerous false and misleading statements by reference, including the:

a. Annual Report on Form 10-K for the year ended December 31, 2000;

b. Quarterly Report on Form 10-Q for the quarter ended March 31, 2001;

c. Proxy Statement dated March 16, 2001; and

d. Current Report on Form 8-K filed May 31, 2001.

302. Deloitte's audit opinion included in Delphi's Annual Report on Form 10-K for the year ended December 31, 2000.

303. Deloitte gave its written consent to incorporation of its audit report on Delphi's 2000 annual financial statements into the June 2001 Registration Statements.

304. In Exhibit 99 to the May 31, 2001 8-K, Delphi claimed the following among its "Investment Highlights":

a. It had "in excess of $29 billion" in revenue for 2000;

b. It was "growing its non-GM business at 10% + per annum combined with a solid base of future GM business;"

c. Its "[o]perating cash flow continues to be healthy despite industry slowdown;"

d. It had a "Strong Balance Sheet."

e. For 2000, Delphi claimed sales of $29.1 billion; operating income of $1.7 billion; net income of $1.1 billion; EPS of $1.94; and operating cash flow of $1.6 billion.

305. For the reasons set forth in detail in ¶¶ 270-279, 290-293 above, the June Registration Statement was materially false and misleading.

H. Second Quarter 2001

306. On July 18, 2001, Delphi issued an earnings release, announcing its financial results for the quarter ended June 30, 2001 (the "2Q 2001 Press Release"). The 2Q 2001 Press Release reported "second quarter net income of $164 million, or $0.29 per share, in line with First Call consensus estimates."

307. On July 18, 2001, Delphi filed its Form 10-Q for the quarter ended June 30, 2001 (the "2Q 2001 10-Q"), which was signed by Defendant Free. The 2Q 2001 10-Q reiterated the financial results reported in the 2Q 2001 Press Release. The 2Q 2001 10-Q also reported a net loss of $265 million for the six months ended June 30, 2001.

308. In addition, the 2Q 2001 10-Q reported:

a. Total net sales of $6.9 billion;

b. Non-GM net sales of $2.2 billion;

c. Operating income of $303 million;

d. Total operating expenses of $6.6 billion;

e. Inventories, net of $1.8 billion;

f. Notes payable and current portion of long-term debt of $1.3 billion;

g. Total current liabilities of $6.5 billion;

h. Post-retirement benefits other than pensions of $4.8 billion; and

i. Net cash provided by financing activities of $121 million.

309. In the MD&A section of the 2Q 2001 10-Q, Delphi noted that:

> [N]et cash provided by financing activities was $0.1 billion and $1.0 billion for the six months ended June 30, 2001 and 2000, respectively. Cash provided by financing activities during the first

> six months of 2001 represented the net proceeds from the $500 million public debt offering partially offset by repayments of uncommitted lines of credit and commercial paper. The cash provided by financing activities for the first six months of 2000 included borrowings under our commercial paper program used to funs pension contributions and to make advances to GM for pension and other post-retirement obligations.

310. On July 18, 2001, the Company also hosted an earnings conference to discuss its financial results for the second quarter (the "2Q 2001 Conference Call"). On the 2Q 2001 Conference Call, Defendant Dawes reiterated the Company's financial results as reported in the 2Q 2001 Press Release and the 2Q 2001 10-Q. During the call, Defendant Dawes praised the Company's results for the quarter, stating that it was "some real solid improvement" as compared to the first quarter and "clearly demonstrates we got good traction on our cost reduction efforts."

311. The statements set forth in ¶¶ 306-310 above, were each false and misleading when made because, as described above, Delphi's reported financial results violated GAAP and materially ***overstated*** net income, earnings per share, operating income, total net sales and non-GM net sales, and materially ***understated*** inventory, notes payable and current portion of long-term debt total current liabilities, total expenses, cash flow from financing activities and post-retirement benefits other than pensions.

312. Specifically, net income, earnings per share and operating income were materially overstated by, among other things, Delphi's (i) improper accounting for rebates, credits and other lump sum payments from third-party vendors (*see* Section VI.C, supra); (ii) disguising financing transactions as sales of inventory and indirect materials (*see* Section VI.A, supra); (iii) failure to record obligations and failure to recognize adjustments and accruals in the proper period (*see* Section VI.D, supra); (iv) improper classification and deferral of $202 million of expenses related to warranty obligations to GM (*see* Section VI.B, supra); (v) improperly

recognizing warranty credits received from GM as a reduction to expenses (*see* Section VI.B, supra); and (vi) failure to recognize an obligation to an unidentified information technology provider (*see* Section VI.C, supra).

313. By disguising financing transactions as sales of inventory and indirect materials (*see* Section VI.A, supra), Delphi distorted its financial results as follows:

a. Materially overstated total net sales and non-GM net sales;

b. Materially overstated cash flow from financing;

c. Materially understated inventory;

d. Materially understated current liabilities; and

e. Materially understated notes payable and current portion of long-term debt.

314. Further, Delphi's statements regarding its net cash provided by financing activities was false and misleading because it failed to disclose that its net cash from financing activities was materially understated for the quarter and six months ended June 30, 2001 and for the six months ended June 30, 2000 (as discussed in ¶ 244 above), due to the Company's improper accounting for financing transactions as sales.

315. In its 2Q 2001 Press Release, the Company reported net liquidity at June 30, 2001 of $(2.7) billion. This was false and misleading because, as Delphi has since admitted, it did not disclose certain factoring facilities as sources of short-term liquidity in its non-GAAP measures of net liquidity. Specifically, in the 2Q 2001 Press Release, it understated its negative liquidity by $374 million or 12.2%.

316. In addition, by improperly classifying a $202 million warranty settlement payment to GM as an adjustment to post-retirement obligations, Delphi materially understated its post-retirement benefit obligation.

317. On July 19, 2001, in response to Delphi's reported second quarter results, Raymond James analyst Greg L. Sachow stated, "[w]e have adjusted our fourth quarter EPS estimate higher based on indications of stronger profitability levels than originally expected. Overall, we are adjusting our 2001 EPS to $0.67 from $0.66, and increasing our 2002 EPS estimate $1.34 from $1.30."

318. Similarly, on July 19, 2001, CSFB analyst Wendy Needham stated, "Delphi was a strong cash generator in the quarter, with operating cash flow of $312 million excluding $92 million in cash restructuring charge."

319. In response to Delphi's reported financial results, Delphi's stock price remained firmly within the artificially inflated range of $16.00 to $17.00.

I. Third Quarter 2001

320. On October 16, 2001, Delphi issued an earnings release, announcing its financial results for the quarter ended September 30, 2001 (the "3Q 2001 Press Release"). The headline for the 3Q 2001 Press Release announced: "Delphi Earns $0.05 Per Share and Generates $111 Million of Operating Cash Flow in Third Quarter - Positive Progress Reducing Breakeven -- Despite Weaker Revenue - Lean Manufacturing Helps Delphi Uphold Customer Commitments." The 3Q 2001 Press Release reported "net income of $26 million, or $0.05 per share, in line with First Call consensus estimates."

321. In commenting on the Company's financial results for the third quarter, Defendant Dawes explained: "The flexibility inherent in the Delphi Manufacturing System, combined with key business initiatives, helped Delphi meet our customer commitments while

also protecting our results for the quarter." Dawes added that "[g]iven the uncertain market, Delphi is increasingly focused on improving cash flow. Actions include: trimming structural costs in line with demand; efficiently managing working capital; limiting capital expenditures; and accelerating global restructuring plans. These steps allowed us to materially improve our cash flow, reduce our breakeven level and stabilize third quarter earnings."

322. On October 16, 2001, Delphi filed its Form 10-Q for the quarter ended September 30, 2001 (the "3Q 2001 10-Q"), which was signed by Defendant Free. In its 3Q 2001 10-Q, Delphi reiterated the financial results reported in the 3Q 2001 Press Release. Delphi also reported operating income of $81 million and, for the nine months ended September 30, 2001, an operating loss of $213 million and net loss of $239 million based on total net sales of $19.7 billion for the nine-month period.

323. In addition, the 3Q 2001 10-Q reported:

a. Net sales of $6.2 billion and non-GM net sales of $2.0 billion;

b. Net inventories of $1.8 billion;

c. Notes payable and current portion of long-term debt of $1.4 billion;

d. Total current liabilities of $6.5 billion;

e. Cash flow provided by financing activities of $213 million;

f. Total operating expenses of $6.1 billion; and

g. Post-retirement benefits other than pensions of $4.9 billion.

324. In the MD&A section of the 3Q 2001 10-Q, Delphi stated: "Consolidated net sales for the third quarter of 2001 were $6.2 billion compared to $6.6 billion for the same period of 2000." The Company explained this decline as follows:

> Consolidated net sales were moderately impacted by the September terrorist attacks. In addition, sales were affected by

> ongoing softening of U.S. and European aftermarket demand and year over year weaknesses in the euro. Net sales to GM declined by $0.4 billion, principally due to reduced vehicle production volumes in North America and our ongoing elimination of marginally profitable and unprofitable product lines.

325. The statements set forth above, were each false and misleading when made because, as described above, Delphi's reported financial results violated GAAP and materially ***overstated*** net income, earnings per share, operating income, net sales and non-GM net sales, and materially ***understated*** inventory, notes payable and current portion of long-term debt total current liabilities, total expenses, cash flow from financing activities and post-retirement benefits other than pensions.

326. Specifically, net income, earnings per share and operating income were materially overstated by, among other things, Delphi's (i) improper accounting for rebates, credits and other lump sum payments from third-party vendors (*see* Section VI, supra); (ii) disguising financing transactions as sales of inventory and indirect materials (*see* Section VI, supra); (iii) failure to record obligations and failure to recognize adjustments and accruals in the proper period (*see* Section VI, supra); (iv) improper classification and deferral of $202 million of expenses related to warranty obligations to GM (*see* Section VI, supra); and (v) improperly recognizing warranty credits received from GM as a reduction to expenses (*see* Section VI, supra); and (vi) failure to recognize an obligation to an unidentified information technology provider (*see* Section VI, supra).

327. By disguising financing transactions as sales of inventory and indirect materials (*see* Section VI, supra), Delphi distorted its financial results as follows:

a. Materially overstated net sales and non-GM net sales;

b. Materially understated cash flow from financing;

c. Materially understated inventory;

d. Materially understated current liabilities; and

e. Materially understated notes payable and current portion of long-term debt.

328. In its 3Q 2001 Press Release, the Company reported net liquidity at September 30, 2001 of $(2.8) billion. This was false and misleading because, as Delphi has since admitted, it did not disclose certain factoring facilities as sources of short-term liquidity in its non-GAAP measures of net liquidity. Specifically, in the 3Q 2001 Press Release, it understated its negative liquidity by $301 million or 9.8%.

329. In addition, by improperly classifying a $202 million warranty settlement payment to GM as an adjustment to post-retirement obligations, Delphi materially understated its post-retirement benefit obligation.

330. On October 16, 2001, in response to Delphi's reported financial results for the third quarter 2001, Salomon Smith Barney analyst Matthew Stover "maintain[ed] [an] 'Outperform' rating on Delphi with a $15 price target" and noted that "Delphi benefited from relative production stability at GM and the impact of cost reduction measures." Similarly, on October 16, 2001, Robert W. Baird analyst David Leiker maintained his firm's "market perform" rating for Delphi, noting that the Company's reported earnings were in line with First Call consensus. And on October 16, 2001, a Morgan Stanley analyst stated, "Operating cash flow came in at $111 million, substantially higher than previous guidance of $25 million. Operating cash flow last year was $161 million."

J. Fourth Quarter / Year End 2001

331. On January 17, 2002, Delphi issued an earnings release, announcing its financial results for the quarter and year ended December 31, 2001 (the "Year-End 2001 Press Release"). The Year-End 2001 Press Release was headlined "Delphi Reports Ongoing

Earnings of $55 Million on Revenues of $6.4 Billion in Q4." The Year-End 2001 Press Release reported that "net income for the quarter totaled $55 million, or $0.10 per share….matching industry analysts' estimates as reported on Thomson First Call. On a GAAP basis, which does not exclude the impact of special charges, Delphi reported a net loss of $131 million during the quarter." The Company also touted its "strong operating cash flow" in the fourth quarter.

332. In commenting on the Company's performance, Defendant Battenberg stated:

> In the fourth quarter of 2001, we continued to take action to differentiate our performance from the remainder of the automotive supplier segment. While faced with declining customer production levels, recessionary economics and the impact of extraordinary national events, we've steadily implemented our strategies to transform our company by streamlining our portfolio, rationalizing excess capacity and reducing operating costs.

333. On February 12, 2002, Delphi filed a Form 10-K405 for Fiscal Year 2001 (the "2001 10-K"), which was signed by, among others, Defendants Battenberg, Dawes, Runkle and Free. The 2001 10-K reiterated the financial results as reported in the Year-End 2001 Press Release. For the year, the 10-K reported an operating loss of $284 million and yearly net loss of $370 million, based on total net sales of $26.1 billion.

a. In addition, the 2001 10-K reported:

b. Net sales of $26.1 billion and non-GM net sales of $8.5 billion;

c. Net inventories of $1.6 billion;

d. Notes payable and current portion of long-term debt of $1.3 billion;

e. Total current liabilities of $5.9 billion;

f. Net cash provided by financing activities of $13 million;

g. Total operating expenses of $26.4 billion;

h. Non-GM accounts receivable of $1.8 billion; and

i. Post-retirement benefits other than pensions of $4.7 billion.

334. In addition, the MD&A section of the 2001 10-K stated with respect to Delphi's 2000 net income:

> Net income for 2000 totaled $1,062 million compared to $1,083 million for 1999. Excluding [one-time charges] our net income margin of 3.8% expanded from our 1999 margin of 3.7% as a result of ***aggressive inventory management***, implementation of lean manufacturing initiatives and other cost reduction initiatives. (Emphasis added.)

335. The statements set forth in ¶¶ 331-334 above, were each false and misleading when made because, as described above, Delphi's reported financial results violated GAAP and materially ***overstated*** net income, earnings per share, operating income, net sales and non-GM net sales, and materially ***understated*** inventory, notes payable and current portion of long-term debt total current liabilities, total expenses, cash flow from financing activities, accounts receivable and post-retirement benefits other than pensions.

336. Specifically, net income, earnings per share and operating income were materially overstated by, among other things, (i) improper accounting for rebates, credits and other lump sum payments from third-party vendors, including, without limitation, improperly accounting for a $20 million rebate received from EDS; $18 million in credits received from EDS and $16 million in credits received from an unidentified IT provider (*see* Section VI.C.1, supra); (ii) disguising financing transactions as sales of inventory and indirect materials, including, without limitation, improperly treating $19 million in financing transactions with BBK as sales; (*see* Section VI.A.2.1, supra); (iii) failure to record obligations and failure to recognize adjustments and accruals in the proper period (*see* Section VI.D, supra); (iv) improper classification and deferral of $202 million of expenses related to warranty obligations to GM (*see* Section VI.B.3, supra); (v) improperly recognizing warranty credits received from GM as

a reduction to expenses (*see* Section VI.B.2, supra); and (vi) failure to recognize an obligation to an unidentified information technology provider (*see* Section VI.C.1, supra).

337. By disguising financing transactions as sales of inventory and indirect materials (*see* Section VI.A.2, supra), Delphi distorted its financial results as follows:

a. Materially overstated net sales and non-GM net sales;

b. Materially understated cash flow from financing;

c. Materially understated inventory;

d. Materially understated current liabilities;

e. Materially understated accounts receivable; and

f. Materially understated notes payable and current portion of long-term debt.

338. In addition, by improperly classifying a $202 million warranty settlement payment to GM as an adjustment to post-retirement obligations, Delphi materially understated its post-retirement benefit obligation.

339. Defendant Battenberg's statement claiming that Delphi had "steadily implemented our strategies to transform our company by streamlining our portfolio, rationalizing excess capacity and reducing operating costs" was false and misleading because Battenberg failed to disclose that operating costs were materially understated due to (i) Delphi's improper accounting for credits received from in connection with warranty obligations; and (ii) the improper deferral of expenses relating to Delphi's purchase of "system implementation services."

340. Specifically, based on the Restatement, the Company's originally reported net loss for the year ended December 31, 2001 was understated by ***$58 million, or 13.6%*** and its loss per share on a diluted basis was understated by ***$(0.10), or 13.2%.***

341. Further, Delphi has provided specific information regarding its retained earnings at December 31, 2001. Indeed, the Company has since admitted that, based on the following pre-tax components of its fraudulent scheme, its 2001 pre-tax retained earnings were overstated by $431 million ($265 million net of tax):

a. $86 million for improper recognition of payments and credits and failure to recognize liabilities associated with contracts for future information technology services;

b. $50 million for fictitious sales of indirect materials and inventories that should have been accounted for as financing activities;

c. $225 million for prematurely reducing expenses as a result of credits received from GM relating to warranty obligations;

d. $29 million for improperly recognizing obligations before they accrued and recording adjustments in the improper period; and

e. $41 million in other miscellaneous adjustments.

342. In its 4Q 2001 Press Release, the Company reported net liquidity at December 31, 2001 of $(2.6) billion. This was false and misleading because, as Delphi has since admitted, it did not disclose certain factoring facilities as sources of short-term liquidity in its non-GAAP measures of net liquidity. Specifically, in the 4Q 2001 Press Release, it understated its negative liquidity by $193 million or 6.9%.

343. Delphi's 2001 10-K contained an unqualified audit opinion signed by Deloitte, which stated that it had audited Delphi's financial statements in conformity with GAAS and that:

> In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of Delphi as of December 31, 2001 and 2000 and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2001, in conformity with accounting principles generally accepted in the United States of America.

344. Deloitte's statements in the above paragraph relating to the 2000 audit were false and materially misleading because Deloitte had not conducted its audit in accordance with GAAS and because Delphi's financial statements were not prepared in conformity with GAAP.

345. In response to the false and misleading statements in Delphi's Year-End 2001 Press Release and 2001 10-K, Delphi's stock steadily increased by 11% from $14.11 on February 11, 2002 to $14.75 on February 13, 2002 to $15.49 on February 21, 2002, and, even higher, to $16.39 on February 26, 2002.

K. First Quarter 2002

346. On April 17, 2002, Delphi published an earnings release announcing its financial results for the quarter ended March 31, 2002 (the "1Q 2002 Press Release"). The headline for the earnings release stated: "Delphi Announces Improved First Quarter 2002 Financial Results - Reports the First Quarter-Over-Quarter Sales Increase in Seven Quarters - Initiates New Restructuring Plan and Charge to Earnings - Operating Cash Flow Remains Strong" According to the 1Q 2002 Press Release, Delphi reported:

> [P]ro forma first quarter earnings of $123 million, up from a pro forma loss of $20 million in Q1 2001…. Earnings per share for the quarter was $0.22 compared to analyst consensus as reported on First Call of $0.21 per share. On a GAAP basis, including the impact of special charges taken in the quarter, Delphi reported a

> loss of $51 million or $(0.09) per share versus a loss of $429 million or $(0.77) per share in Q1 2001.

347. On April 17, 2002, Delphi also filed its Form 10-Q for the quarter ended March 31, 2002 (the "1Q 2002 10-Q"), which was signed by Defendant Free. The 1Q 2002 10-Q reiterated the GAAP financial results reported in the 1Q 2002 Press Release. In addition, the 1Q 2002 10-Q reported operating loss of $32 million and operating expenses of $6.7 billion.

348. The statements referenced in ¶¶ 346-347 above were each materially false and misleading when made because, as described above, Delphi's reported financials violated GAAP and materially understated net loss, operating loss, loss per share, and operating expenses.

349. Specifically, net loss, operating loss, loss per share, and operating expenses were all understated by, among other things, (i) improperly deferring recognition of payments made for system implementation services; (see Section VI.C.3 supra); and (ii) improperly recording warranty credits as a reduction of expenses in 2002 rather than in later periods, when they were to be utilized (see Section VI.B.2 supra);

350. Net loss, operating loss, and loss per share, were all also understated by Delphi's improper failure to accrue for obligations at the end of the accounting period in which they were incurred (see Section VI.B.3 supra).

351. On April 17, 2002, Delphi hosted a conference call to discuss its first quarter 2002 earnings (the "1Q 2002 Conference Call"). Commenting upon Delphi's first quarter earnings, Defendant Dawes stated that Delphi was able "to report results of about $123 million profit which was up $143 million from pro forma results last year versus revenue increase of about $153 million. So the bottom line is that we are able to bring the revenue increases to the bottom line."

352. These statements were false and misleading when CFO Dawes made them because: Delphi's 1Q 2002 reported net loss was understated by (i) the improper deferral of expenses relating to Delphi's purchase of "system implementation services" (*see* Section VI.C.3, supra), and (ii) Delphi's failure to record certain obligations incurred and to make certain accounting adjustments in the proper accounting period (*see* Section VI.D, supra).

353. In its 1Q 2002 Press Release, the Company also reported net liquidity at March 31, 2002 of $(2.6) billion. This was false and misleading because, as Delphi has since admitted, it did not disclose certain factoring facilities as sources of short-term liquidity in its non-GAAP measures of net liquidity. Specifically, in the 1Q 2002 Press Release, it understated its negative liquidity by $187 million or 6.7 %.

354. On April 18, 2002, Credit Lyonnais analysts Charles Brady and Joseph Amaturo raised their firm's rating for Delphi from "hold" to "add," citing, among other things, the Company's strong earnings.

L. Second Quarter 2002

355. As described more fully in Section XIII below, beginning in or about mid-2002, the Company began to trickle bad news out to the market, through reports of declining earnings, reduced guidance, and massive restructuring costs, with concomitant adverse effects on its stock price. Having become increasingly unable (or by virtue of passage of the Sarbanes Oxley Act in July 2002, disinclined) to engage in the same magnitude of accounting gimmickry as in prior periods, Delphi began to condition the market to expect leaner quarters going forward – "guidance" that was, ironically, driven in large part by the fact that the Company had improperly pulled forward earnings from the latter part of the Class Period in order to boost its report results in its early years as a stand-alone company. That said, the Company sought to put a facially positive spin on its struggling business model, continued to

disseminate its fraudulent results from past reporting periods, and failed to disclose that its "success" to date as a stand-alone public company was attained primarily through elaborate fraudulent accounting. And while the degree of financial statement manipulations decreased going forward, the Company's reported financial results for much of the balance of the Class Period were nonetheless infected with vestiges of the fraud.

356. On July 17, 2002, Delphi published an earnings release, announcing its financial results for the quarter ended June 30, 2002 (the "2Q 2002 Press Release"), as well as its Form 10-Q for the quarter ended June 30, 2002, which was signed by Defendant Sheehan (the "2Q 2002 10-Q"). Among other false statements, the 2Q 2002 Press Release and 2Q 2002 10-Q reiterated the false financial results for prior periods. The Company also reported on its ongoing $262 million (pre-tax) restructuring effort, and cautioned investors that the outlook for future reporting periods should be tempered due to, among other things, the Company's anticipation that the "Delphi content per vehicle" was trending downward.

357. For the six months ended June 30, 2002, the 2Q 2002 10-Q reported operating income of $350 million, net income of $169 million, earnings per share of $0.30, and operating expenses of $13.7 billion. These statements were each materially false and misleading when made because, as described above, Delphi's reported financials violated GAAP and materially ***overstated*** net income, operating income and earnings per share, and materially ***understated*** operating expenses.

358. Specifically, net income, operating income and earnings per share were all ***overstated***, and operating expenses were ***understated*** by, among other things, (i) improperly deferring recognition of payments made for system implementation services; (see Section

VI.C.3 supra); and (ii) improperly recording warranty credits as a reduction of expenses in 2002 rather than in later periods, when they were to be utilized (see Section VI.B.2 supra);

359. Net income, operating income, and earnings per share, were all also overstated by Delphi's improper failure to accrue for obligations at the end of the accounting period in which they were incurred (see Section VI.D supra).

360. In its 2Q 2002 Press Release, the Company reported net liquidity at June 30, 2002 of $(2.9) billion. This was false and misleading because, as Delphi has since admitted, it did not disclose certain factoring facilities as sources of short-term liquidity in its non-GAAP measures of net liquidity. Specifically, in the 2Q 2002 Press Release, it understated its negative liquidity by $313 million or 9.7 %.

361. On July 17, 2002, analyst David Leiker of Robert W. Baird reiterated his firm's "market perform" rating, noting that the Company had met earnings consensus estimates. Leiker reported an increase in net debt of $300 million for the quarter and $200 million for the year.

362. As described more fully in Section XIII below, beginning in mid-2002 the Company began to trickle bad news out to the market, through deflated earnings and with concomitant adverse effects on its stock price. Having become unable (or by virtue of Sarbanes-Oxley, disinclined) to engage in the same magnitude of accounting gimmickry as in prior periods, Delphi began to condition the market to expect leaner quarters going forward -- "guidance" that was, ironically, driven in large part by the fact that the Company had improperly pulled forward earnings from the latter part of the Class Period to boost its report results in its early years as a stand-alone company.

363. As more fully described in Section XIII below, after the Company issued the 2Q 2002 Press Release, Delphi's stock price declined.

M. Third Quarter 2002

364. The third quarter of 2002 was the first quarter in which SEC filings were governed by the Sarbanes Oxley Act. Under Sarbanes Oxley, Delphi, like all publicly traded companies, had to comply with more stringent reporting obligations, including certifications from its CEO and CFO attesting to the accuracy of its reporting of financial information and the soundness of its internal controls. Faced with this heightened regulatory scrutiny, Delphi sought to present an appearance of conservatism and regulatory compliance, and it apparently curtailed its most egregious fraudulent practices. Nevertheless, the Company's quarterly and annual filings in the post-Sarbanes Oxley era continued to contain substantial, materially false and misleading statements because Delphi and other Defendants elected to wind-up rather than own up to their longstanding fraudulent schemes.

365. On October 16, 2002, Delphi issued a press release announcing its financial results for the quarter ended September 30, 2002 (the "3Q 2002 Press Release"), and its Form 10-Q for the quarter ended September 30, 2002 (the "3Q 2002 10-Q"). Among other false statements, the 3Q 2002 Press Release and 3Q 2002 10-Q reiterated false financial results for prior periods. The Company also reported on its ongoing restructuring effort and, further, cautioned investors that due to, among other things, "industry headwinds", the Company expected "the difficult market conditions experienced in the first three quarters of 2002 to persist in the fourth quarter …." .

366. The 3Q 2002 Press Release also reported that the Company's quarterly operating income was $125 million and its operating expenses were $6.3 billion. For the nine months

ending September 30, 2002, the Company reported operating income of $475 million, net income of $223 million, earnings per share of $0.40 and operating expenses of $20 billion.

367. The statements referenced in ¶¶ 364-366 above were each materially false and misleading when made because, as described above, Delphi's reported financials violated GAAP and materially ***overstated*** net income, operating income, earnings per share, and materially ***understated*** operating expenses.

368. Specifically, net income, operating income, and earnings per share were all ***overstated***, and operating expenses were ***understated*** by, among other things, (i) improperly deferring recognition of payments made for system implementation services; (see Section VI.C.3 supra); and (ii) improperly recording warranty credits as a reduction of expenses in 2002 rather than in later periods, when they were to be utilized (see Section VI.B.2 supra);

369. Net income, operating income, and earnings per share, were all also overstated by Delphi's improper failure to accrue for obligations at the end of the accounting period in which they were incurred (see Section VI.D supra).

370. In its 3Q 2002 Press Release, the Company reported net liquidity at September 30, 2002 of $(2.7) billion. This was false and misleading because, as Delphi has since admitted, it did not disclose certain factoring facilities as sources of short-term liquidity in its non-GAAP measures of net liquidity. Specifically, in the 3Q 2002 Press Release, it understated its negative liquidity by $290 million or 9.5 %.

371. The 3Q 2002 10-Q was signed by Defendants Sheehan, Battenberg and Dawes. Battenberg and Dawes also submitted Certification of Principal Executive Officer and Certification of Principal Financial Officer, respectively (collectively referred to as the

"Officer Certifications"). In their Officer Certifications, Battenberg and Dawes, respectively, certified that:

> I, [Battenberg/Dawes], certify that:
>
> 1. I have reviewed this quarterly report on Form 10-Q of Delphi Corporation;
>
> 2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;
>
> 3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;
>
> 4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and we have:
>
> a) designed such disclosure controls and procedures to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;
>
> b) evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and
>
> c) presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
>
> 5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):

> a) all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and
>
> b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and
>
> The registrant's other certifying officers and I have indicated in this quarterly report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

372. The 3Q 2002 10-Q also contained as exhibits sworn certifications by Battenberg and Dawes, as required by the Sarbanes-Oxley Act. In these sworn certifications, both Defendants Dawes and Battenberg again certified that "[t]he information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company."

373. As more fully explained in Section XIII below, after the Company issued its 3Q 2002 Press Release, Delphi's stock price declined due to the partial corrective disclosures in that release.

N. Fourth Quarter/Year-End 2002

374. On January 17, 2003, Delphi issued a press release announcing its financial results for the quarter and Fiscal Year 2002 (the "Year-End 2002 Press Release"), and on February 18, 2003, Delphi filed its Form 10-K for Fiscal Year 2002 (the "2002 10-K"), which reiterated the reported information in the Full Year 2002 Press Release. In addition, the 2002 10-K reported the following results for 2002:

a. Operating income of $690 million;

b. Net income of $343 million;

c. Earnings per share of $0.61; and

d. Total operating expenses of $26.7 billion.

375. The statements referenced above were each materially false and misleading when made because, as described above, Delphi's reported financials violated GAAP and materially ***overstated*** net income, operating income, earnings per share, and materially ***understated*** operating expenses.

376. Specifically, net income, operating income, and earnings per share were all ***overstated***, and operating expenses were ***understated*** by, among other things, (i) improperly deferring recognition of payments made for system implementation services; (see Section VI.C.3 supra); and (ii) improperly recording warranty credits as a reduction of expenses in 2002 rather than in later periods, when they were to be utilized (see Section VI.B.2 supra);

377. Net income, operating income, and earnings per share, were all also overstated by Delphi's improper failure to accrue for obligations at the end of the accounting period in which they were incurred (see Section VI.D supra).

378. Indeed, Delphi admitted that, for the year-ended December 31, 2002, based on the following components of its fraudulent scheme, its income was overstated by $59 million:

a. $22 million for improperly capitalizing system implementation services;

b. $20 million for prematurely reducing expenses as a result of credits received from GM relating to warranty obligations;

c. $14 million for improperly recognizing obligations before they accrued and recording adjustments in the improper period; and

d. $19 million in other improper adjustments.

379. In its Year-End 2002 Press Release, the Company reported net liquidity at December 31, 2002 of $(2.4) billion. This was false and misleading because, as Delphi has admitted, it did not disclose certain factoring facilities as sources of short-term liquidity in its non-GAAP measures of net liquidity. Specifically, in the Year-End 2002 Press Release, it understated its negative liquidity by $ 300 million or 11.1 %.

380. As set forth in the table below, the Company has since admitted that the impact, including all adjustments (i.e., related tax effects of $35 million), of Delphi's improper accounting of expenses for system implementation services; warranty obligation credits; and accruals and other adjustments (i) overstated the Company's operating income, net income and earnings per share; and (ii) understated the Company's operating expenses by the following amounts:

	Originally Reported	Restated	Overstated/ (Understated)
Operating Expenses	$26.7 billion	$27 billion	$(266) million
Operating Income	$690 million	$638 million	$52 million
Net Income	$343 million	$318 million	$25 million

381. The 2002 10-K was signed by, among others, Defendants Sheehan, Battenberg, Dawes and Runkle. In addition, both Battenberg and Dawes submitted Officer Certifications, which certified, *inter alia,* that the 2002 10-K accurately portrayed the Company's financial condition and that each had inspected the Company's internal controls and found them to be effective. As required by the Sarbanes-Oxley Act of 2002, Battenberg and Dawes also signed certifications (the "Sarbanes-Oxley Certifications") attached to the 2002 10-K, which asserted that the 10-K accurately presented, "in all material respects, the financial condition and results of operations of the Company."

382. The 2002 Form 10-K also contained an unqualified audit opinion by Deloitte, which was signed on January 16, 2003 and represented that it had audited Delphi's financial statements in conformity with GAAS and that:

> In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of Delphi as of December 31, 2002 and 2001 and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2002, in conformity with accounting principles generally accepted in the United States of America.

383. Deloitte's statements in the above paragraph relating to the 2002 audit were false and materially misleading because Deloitte had not conducted its audit in accordance with GAAS and because Delphi's financial statements were not prepared in conformity with GAAP

384. As more fully explained in Section XIII below, after the Company issued its 2002 Year-End Press Release and 2002 10-K, Delphi's stock price declined due to the partial corrective disclosures in those documents.

O. First Quarter 2003

385. On April 16, 2003, Delphi issued a press release announcing its financial results for the quarter ended March 31, 2003 (the "1Q 2003 Press Release"), and its Form 10-Q for the quarter ended March 31, 2003 (the "1Q 2003 10-Q"). Among other false statements, the 1Q 2003 Press Release and 1Q 2003 10-Q re-reported Delphi's previously issued financial results for the quarter ended March 31, 2002 and the year ended December 31, 2002. In fact, the 1Q 2003 10-Q specifically instructed that "this report should be read in conjunction with our 2002 Annual Report on Form 10-K."

386. The 1Q 2003 10-Q was signed by Defendants Sheehan, Battenberg, and Dawes. In addition, Battenberg and Dawes submitted both Officer Certifications and the Sarbanes-Oxley Certifications, which certified, *inter alia,* that the 1Q 2003 10-Q accurately portrayed

the Company's financial condition and that each had inspected the Company's internal controls and found them to be effective.

387. The statements referenced above were each false and misleading because, as described above, Delphi's financial results reported materially overstated net income and earnings per share in violation of GAAP. Specifically, the results were inflated by the Company's admitted (i) failure to recognize a $10 million warranty obligation to GM; and (ii) improper accounting for accruals and other adjustments. These components of Delphi's fraudulent scheme served to overstate the Company's income by $19 million, or 17.6 % for the quarter.

388. In its 1Q 2003 Press Release, the Company reported net liquidity at March 31, 2003 of $(2.0) billion excluding off-balance sheet sales of accounts receivable. This was false and misleading because, as Delphi has admitted, it did not disclose certain factoring facilities as sources of short-term liquidity in its non-GAAP measures of net liquidity. Specifically, in the 1Q 2003 Press Release, it understated its negative liquidity by $974 million or 33 %.

389. Lastly, Delphi's statements regarding its previously reported financial results for first quarter of 2002 were false and misleading. Indeed, as explained above, the statements regarding Delphi's first quarter 2002 financial results were false and misleading when initially made. Delphi re-reported those results without disclosing their false and misleading nature. Accordingly, these statements were false and misleading for the same reasons set forth above.

390. Significantly, Delphi also touted "its track record of solid cash flow generation" – a record that had of course been built largely through the fraudulent manipulations described herein.

391. Analysts responded positively to the Company's unusually bullish comments for the first quarter and its continued misrepresentations regarding its current and historical financial results. For example, on April 21, 2003, JP Morgan issued an analyst report which stated:

> Overall, our outlook on Delphi is improving. We were pleased with Delphi's first quarter operating results, reported last week (4/16). And we were impressed that the company did not guide down earnings expectations for the second quarter, as we had expected.

392. As more fully explained in Section XIII below, after the Company issued its 1Q 2003 Press Release, Delphi's stock price declined due to the partial corrective disclosures in that release.

393. After the Company issued its extremely positive 1Q 2003 Press Release and 1Q 2003 10-Q, Delphi's stock price trended up over the ensuing weeks. It would not be long, however, before Delphi was constrained to concede to the market that its bullishness was not warranted.

P. Delphi Revises Its Earnings Estimates Downward for the 2003 Second Quarter

394. On June 12, 2003, Delphi issued a press release revising its earnings outlook downward for the quarter ended June 30, 2003 (the "2Q 2003 Earnings Revision Press Release"). The 2Q 2003 Earnings Revision Press Release reported that,

> [T]he company has revised its earnings outlook for Q2 2003, attributing the reduced forecast to a combination of events that include weakness in market demand and production volumes – notably suspended operations at General Motors' Oklahoma City facility – as well as an adverse legal judgment and timing of portfolio-related actions such as facility closures and employee separations.

395. Defendant Dawes further explained, "[t]he collective effect of these events during the current quarter will drive earnings below previous guidance."

396. The statements in the 2Q 2003 Earnings Revision Press Release were false and misleading because, as set forth in above, Delphi failed to disclose the negative impact that the unwinding of the Company's prior fraudulent accounting was having on its second quarter 2003 financial results.

397. As more fully explained in Section XIII below, after the Company issued its 2Q 2003 Earnings Revision Press Release, Delphi's stock price declined due to the partial corrective disclosures in that release.

398. As more fully explained in Section XIII below, after the Company issued its 2Q 2003 Earnings Revision Press Release, Delphi's stock price declined due to the partial corrective disclosures in that release. Indeed, on the next trading day, the price of Delphi stock declined over 10% on over three times typical trading volume.

Q. Second Quarter 2003

399. On July 17, 2003, Delphi issued a press release announcing its financial results for the quarter ended June 30, 2003 (the "2Q 2003 Press Release"), which stated that the Company had met the reduced expectations announced a month earlier.

400. On July 17, 2003, Delphi filed its Form 10-Q for the quarter ended June 30, 2003 (the "2Q 2003 10-Q"). The 2Q 2003 10-Q reiterated Delphi's financial results as reported in the 2Q 2003 Press Release and represented that "in the opinion of management, all adjustments, consisting of only normal recurring items, which are necessary for a fair presentation have been included."

401. The 2Q 2003 10-Q also re-reported its previously issued financial results for the three and six months ended June 30, 2002 and the year ended December 31, 2002. In fact, the

2Q 2003 10-Q specifically instructed that "this report should be read in conjunction with our 2002 Annual Report on Form 10-K."

402. The 2Q 2003 10-Q was signed by Defendants Sheehan, Battenberg, and Dawes. In addition, Battenberg and Dawes submitted both Officer Certifications and the Sarbanes-Oxley Certifications, which certified, *inter alia,* that the 2Q 2003 10-Q accurately portrayed the Company's financial condition and that each had inspected the Company's internal controls and found them to be effective.

403. The statements referenced in above were each false and misleading because, as described above, the fraudulent transactions in earlier periods materially misstated the Company's financial results. Specifically, the results were misstated by the Company's admitted (i) premature recognition of rebate income; (ii) improper accounting of payments made to and credits received from GM for warranty and pension obligations (iii) improper accounting for accruals and other adjustments; and (iv) off-balance sheet financing transactions involving indirect materials. Indeed, Delphi's second quarter 2003 financial results reflected the Company's earlier fraudulent accounting practices.

404. In its 2Q 2003 Press Release, the Company reported net liquidity at June 30, 2003 of $(1.9) billion excluding off-balance sheet sales of accounts receivable. This was false and misleading because, as Delphi has admitted, it did not disclose certain factoring facilities as sources of short-term liquidity in its non-GAAP measures of net liquidity. Specifically, in the 2Q 2003 Press Release, it understated its negative liquidity by $980 million or 34 %.

405. Delphi's statements regarding it previously reported financial results for the three and six months ended June 30, 2002 and Fiscal Year 2002 were false and misleading. Indeed, as explained above, the statements regarding Delphi's financial results for these periods were

false and misleading when initially made. Delphi re-reported those results without disclosing their false and misleading nature. Accordingly, these statements were false and misleading for the same reasons set forth above.

406. In the 2Q 2003 Press Release, Battenberg commented:

> Although we experienced a number of unusual items concurrently in the quarter -- most notably an adverse legal judgment, timing of portfolio actions and general weakness in market demand and production volumes -- we met the targets we set for ourselves within the context of these events while keeping our operating performance on track.
>
> While the pattern of production levels is impacting the second half of the Year, we remain confident that Delphi will meet our CY2003 guidance and is on the right path for future growth and profitability.

407. The reasons given by Battenburg for the Company's struggles were false and misleading because they omitted to disclose that the Company's results for the second quarter had been adversely affected by Delphi's fraudulent accounting earlier in the Class Period, namely, by the scheme whereby the Company had improperly pulled forward to earlier periods within the Class Period earnings that should not have been recognized in this quarter.

408. As more fully explained in Section XIII below, after the Company issued its 2Q 2003 Press Release, Delphi's stock price declined due to the partial corrective disclosures in that release.

R. Delphi Corporation Bond Offering July 25, 2003 (6.500%)

409. On or about July 25, 2003, Delphi issued $500 million of 6.55% notes due 2013 (the "July 2003 Offering"). In connection with the July 2003 Offering, Delphi filed with the SEC a Form S-3 registration statement dated November 26, 2002, and filed a prospectus on December 16, 2002 and prospectus supplements pursuant to Rule 424(b)(5) on July 22, 2003 and July 23, 2003 (collectively, the "July 2003 Registration Statement").

410. The July Registration Statement was signed by, among others, Defendants Battenberg, Dawes, Runkle and Sheehan.

411. Defendants Barclays, Citigroup and BAS served as the Joint Bookrunners of the July 2003 Offering.

412. The July 2003 Registration Statement incorporated by reference the following documents:

a. Annual Report on Form 10-K for the year ended December 31, 2002;

b. Quarterly Reports on Form 10-Q for the quarters ended March 31 and June 30, 2003;

c. Current Reports on Forms 8-K including Reports dated January 17, 2003 and June 12, 2003; and

d. Deloitte's audit opinion included in Delphi's Annual Report on Form 10-K for the year ended December 31, 2002.

413. Deloitte gave its written consent to incorporation of its audit report on Delphi's 2002 annual financial statements into the July 2003 Registration Statement.

414. The July 2003 Registration Statement included Delphi's materially false and misleading financial results for Fiscal Years 2000, 2001 and 2002, including, among other financial data:

a. For Fiscal Year 2000:

i. Net sales of $29.1 billion;

ii. Operating income of $1.7 billion;

iii. Net income of $1.1 billion;

iv. Cash provided by operating activities $268 million; and

v. Cash provided by financing activities $1.1 billion.

b. For Fiscal Year 2001:

i. Net Sales of $26.1 billion;

ii. Operating loss of $284 million;

iii. Net loss of $370 million;

iv. Net cash provided by operating activities of $1.4 billion; and

v. Net cash provided by financing activities of $13 million.

c. For Fiscal Year 2002:

i. Operating income of $690 million;

ii. Net income of $343 million; and

iii. Net cash used in financing activities of $791 million.

415. For the reasons set forth above, the July 2003 Registration Statement was materially false and misleading.

S. Third Quarter 2003

416. On October 16, 2003, Delphi issued a press release announcing its financial results for the quarter ended September 30, 2003 (the "3Q 2003 Press Release"), which reported another massive restructuring charge (this one quantified at over a half-billion dollars (pre-tax)). Delphi attributed the charge to employee and production line costs and said that "[e]xcluding the charge, the company reported net income of $3 million during the quarter, in line with guidance and First Call consensus."

417. In the 3Q 2003 Press Release, the Company reported net liquidity at September 30, 2003 of $(2.5) billion excluding off-balance sheet sales of accounts receivable. This was false and misleading because, as Delphi has admitted, it did not disclose certain factoring facilities as sources of short-term liquidity in its non-GAAP measures of net liquidity.

Specifically, in the 3Q 2003 Press Release, it understated its negative liquidity by $770 million or 27.8 %.

418. Also on October 16, 2003, the Company filed its 10-Q Quarterly Report (the "3Q 2003 10-Q"), signed by Defendant Sheehan. The 3Q 2003 10-Q reiterated Delphi's financial results as reported in the 3Q 2003 Press Release.

419. The 3Q 2003 10-Q also reiterated the company's financial performance for the three month and nine month periods ending September 30, 2002, as presented in the 3Q 2002 10-Q, and relied on these prior reported figures for comparison with the third quarter of 2003. The 3Q 2003 10-Q states: "[T]his report should be read in conjunction with our consolidated financial statements and notes thereto included in our Annual Report on Form 10-K filed with the Securities and Exchange Commission."

420. The 3Q 2003 10-Q was signed by Defendants Sheehan, Battenberg, and Dawes. In addition, Battenberg and Dawes submitted both Officer Certifications and the Sarbanes-Oxley Certifications, which certified, *inter alia,* that the 3Q 2003 10-Q accurately portrayed the Company's financial condition and that each had inspected the Company's internal controls and found them to be effective.

421. The statements referenced above were each false and misleading because, as described above, they materially misstated the Company's financial results by continuing to conceal and failing to account for the improper accounting for Delphi's fraudulent transactions in earlier periods. Specifically, the results were misstated by the Company's earlier admitted (i) premature recognition of rebate income; (ii) improper accounting of payments made to and credits received from GM for warranty and pension obligations (iii) improper accounting for

accruals and other adjustments; and (iv) off-balance sheet financing transactions involving indirect materials.

422. As Delphi has admitted, the third quarter financial results were materially false and misleading because they reflected the Company's surreptitious attempt to unwind its earlier fraud, rather than disclose it.

423. As more fully explained in Section XIII below, after the Company issued its 3Q 2003 Press Release and 3Q 2003 10-Q, Delphi's stock price declined due to the partial corrective disclosures in those documents.

T. Delphi Trust I Offering October 21, 2003 (8.25 %)

424. On or about October 21, 2003, Defendant Delphi Trust I issued $250 million of 8.25% trust preferred securities, guaranteed by Defendant Delphi (the "Trust I Offering"). In connection with the Trust I Offering, Delphi filed with the SEC a Form S-3 registration statement dated September 3, 2003, and filed prospectus supplement pursuant to Rule 424(b)(5) on October 21, 2003 (collectively, the "September 2003 Registration Statement").

425. The September 2003 Registration Statement was signed by, among others, Defendants Battenberg, Dawes, Runkle and Sheehan.

426. Defendants Merrill, Lynch, Pierce, Fenner & Smith acted as representative underwriter for the offering. Other underwriters included Defendants Morgan Stanley & Co., Inc., UBS Securities LLC, Wachovia Capital Markets, LLC, Banc of America Securities LLC, Comerica Securities, Inc., and Deutsche Bank Securities Inc.

427. The September 2003 Registration Statement incorporated numerous false and misleading statements by reference, including the:

a. Annual Report on Form 10-K for the year ended December 31, 2002;

b. Quarterly Reports on Form 10-Q for the quarters ended March 31 and June 30, 2003; and

c. Current Reports on Forms 8-K including Reports dated January 17, 2003 and June 12, 2003.

428. In the October 22, 2003 prospectus supplement, Delphi stated that its net sales for 2002 were $27.4 billion and its net income for 2002 was $343 million.

429. As stated above, the 2002 10-K reported the following results for 2002:

a. Operating income of $690 million; and

b. Earnings per share of $0.61; and

c. Operating expenses of $26.7 billion.

430. For the reasons set forth in detail above, the above statements, the 2002 10-K, the Quarterly Reports for the quarters ended March 31 and June 30, 2003, the September 2003 Registration Statement, and the October 22, 2003 prospectus supplement were materially false and misleading.

U. Delphi Trust II Offering November 11, 2003 (6.197%)

431. On or about November 14, 2003, Defendant Delphi Trust II issued $150 million of adjustable rate (6.197% initial rate) trust preferred securities, guaranteed by Defendant Delphi (the "Trust II Offering"). The Company filed a Preliminary Prospectus Supplement pursuant to Rule 424(b)(5) on November 17, 2003 for 150,000 adjustable rate trust referred securities, with a liquidation amount of $1000 per security (the "Delphi Trust II Offering").

432. The September 2003 Registration Statement was signed by, among others, Defendants Battenberg, Dawes, Runkle and Sheehan.

433. Defendants Citigroup and Merrill Lynch were joint representatives of the Trust II Offering. Other underwriters included Defendants Credit Suisse First Boston, JPMorgan, Morgan Stanley, and UBS Investment Bank.

434. The September 2003 Registration Statement incorporated numerous false and misleading statements by reference, including the:

a. Annual Report on Form 10-K for the year ended December 31, 2002;

b. Quarterly Reports on Form 10-Q for the quarters ended March 31 and June 30, 2003; and

c. Current Reports on Form 8-K dated January 17, 2003, May 9, 2003, May 23, 2003, June 12, 2003, and July 25, 2003.

435. In the November 14, 2003 prospectus supplement, Delphi repeated that its net sales for 2002 were $27.4 billion and its net income for 2002 was $343 million.

436. As stated above, the 2002 10-K reported the following results for 2002:

a. Operating income of $690 million;

b. Earnings per share of $0.61; and

c. Operating expenses of $26.7 billion.

437. Delphi has since admitted that, for Fiscal Year 2002, based on the following components of its fraudulent scheme, its income was overstated by $75 million:

a. $22 million for improperly capitalizing system implementation services;

b. $20 million for prematurely reducing expenses as a result of credits received from GM relating to warranty obligations;

c. $14 million for improperly recognizing obligations before they accrued and recording adjustments in the improper period; and

d. $19 million in other improper adjustments.

438. The statements referenced in above were each materially false and misleading when made because, as described above, Delphi's reported financials violated GAAP and materially ***overstated*** net income, operating income, earnings per share, and materially ***understated*** operating expenses.

439. Specifically, net income, operating income, and earnings per share were all ***overstated***, and operating expenses were ***understated*** by, among other things, (i) improperly deferring recognition of payments made for system implementation services; (see Section VI.C.3 supra); and (ii) improperly recording warranty credits as a reduction of expenses in 2002 rather than in later periods, when they were to be utilized (see Section VI.B.2 supra);

440. Net income, operating income, and earnings per share, were all also overstated by Delphi's improper failure to accrue for obligations at the end of the accounting period in which they were incurred.

441. For the reasons set forth in detail above, the 2002 10-K, the Quarterly Reports for the quarters ended March 31 and June 30, 2003, the September 2003 Registration Statement and the November 14, 2003 prospectus were materially false and misleading.

V. Fourth Quarter/Full Year 2003

442. On January 20, 2004, Delphi issued a press release, announcing the Company's financial results for the quarter and Fiscal Year 2003 (the "Year-End 2003 Press Release"), and on January 28, 2004, the Company filed its 10-K Annual Report for Fiscal Year 2003 (the "2003 10-K"). The 2003 10-K was signed by, among others, Defendants Battenberg, Dawes, Runkle and Sheehan.

443. Rather than disclose Delphi's earlier fraudulent accounting practices, the Year-End 2003 Press Release and 2003 10-K instead touted the Company's consistent growth since

its inception and its ability to execute long-term strategy and, further, disseminated anew false financial results for prior reporting periods. The filings also failed to disclose that the Company's reported performance for the fourth quarter and Fiscal Year 2003 had been adversely affected because the Company had improperly pulled earnings forward to earlier periods in the Class Period.

444. These filings were each false and misleading because, as described above, they materially misstated the Company's financial results by continuing to conceal and failing to account for the improper accounting for Delphi's fraudulent transactions in earlier periods. Specifically, the results were misstated by the Company's earlier admitted (i) premature recognition of rebate income; (ii) improper accounting of payments made to and credits received from GM for warranty and pension obligations (iii) improper accounting for accruals and other adjustments; and (iv) improperly omitted financing transactions involving indirect materials.

445. Moreover, as Delphi has admitted, the 2003 10-K financial results were materially false and misleading because they reflected the Company's surreptitious attempt to unwind its earlier fraud, rather than disclose it.

446. In addition, in the 2003 10-K Company reported a change in its inventory accounting from LIFO to FIFO method, stating in pertinent part:

> The FIFO value of inventories valued at LIFO amounted to approximately $633 million and $725 million at December 31, 2001 and 2000, respectively. The effect of the LIFO method of accounting was to increase operating income by $41 million in 2001, including the $7 million effect of deflation. The effect of the LIFO method of accounting was to increase Delphi's 2000 operating income by $96 million, net of the effect of inflation of $34 million…..

447. This statement was materially false and misleading because it omitted to disclose facts necessary to make it not false and misleading, namely, that the Company's fraudulent inventory disposal transactions in 2000, described above, created the Company's LIFO liquidation gains for that year, and artificially inflated increased its 2000 operating income for that year.

448. Finally, the Company reported net liquidity at December 31, 2003 of $(2.4) billion excluding off-balance sheet sales of accounts receivable. This was false and misleading because, as Delphi has admitted, it did not disclose certain factoring facilities as sources of short-term liquidity in its non-GAAP measures of net liquidity. Specifically, it understated its negative liquidity by $215 million or 8.4 %.

449. Battenberg and Dawes submitted both Officer Certifications and the Sarbanes-Oxley Certifications, which certified, *inter alia,* that the 2003 10-K accurately portrayed the Company's financial condition and that each had inspected the Company's internal controls and found them to be effective.

450. The 2003 10-K also contained an unqualified audit opinion signed by Deloitte on January 26, 2004, which stated that it had audited Delphi's financial statements in conformity with GAAS and that:

> In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of Delphi as of December 31, 2003 and 2002 and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2003, in conformity with accounting principles generally accepted in the United States of America.

451. Deloitte's statements in the above paragraph relating to the 2003 audit were false and materially misleading because Deloitte had not conducted its audit in accordance with GAAS and because Delphi's financial statements were not prepared in conformity with GAAP.

W. First Quarter 2004

452. On April 16, 2004, Delphi issued a press release announcing its financial results for the quarter ended March 31, 2004 (the "1Q 2004 Press Release"), as well as its 10-Q Quarterly Report (the "1Q 2004 10-Q"). In the release, Defendant Dawes touted the Company's past history of performance, saying, "Once again, Delphi extended its <u>track record</u> for strong cash generation…." (Emphasis added.)

453. The filings also re-reported Delphi's previously issued financial results for the quarter ended March 31, 2003, and the year ended December 31, 2003. In fact, the MD&A section states: "The following management's discussion and analysis of financial condition and results of operations (MD&A") should be read in conjunction with the MD&A included in our Annual Report on Form 10-K for the year ended December 31, 2003."

454. The 1Q 2004 10-Q was signed by Defendant Sheehan. In addition, Defendants Battenberg and Dawes submitted both Officer Certifications and the Sarbanes-Oxley Certifications, which certified, *inter alia,* that the 1Q 2004 10-Q accurately portrayed the Company's financial condition and that each had inspected the Company's internal controls and found them to be effective.

455. The statements referenced above were each false and misleading because, as described above, they materially misstated the Company's financial results by continuing to conceal and failing to account for the improper accounting for Delphi's fraudulent transactions in earlier periods. Nowhere in its 1Q 2004 Press Release or 1Q 2004 10-Q does Delphi disclose that its results for the quarter were affected by frauds it had committed in earlier periods. Specifically, its results were misstated by the Company's earlier admitted (i) premature recognition of rebate income; (ii) improper accounting of payments made to and credits received from GM for warranty and pension obligations (iii) improper accounting for

accruals and other adjustments; and (iv) off-balance sheet financing transactions involving indirect materials.

X. Second Quarter 2004

456. On July 16, 2004, Delphi issued a press release announcing its financial results for the quarter ended June 30, 2004 (the "2Q 2004 Press Release"), as well as its Form 10-Q for the quarter ending June 30, 2004 (the "2Q 2004 10-Q"). In the release, Defendant Dawes again stressed the Company's historic performance, saying "Delphi maintained its track record of strong operating cash flow generation, demonstrating our operational strength…." (Emphasis added.)

457. The 2Q 2004 10-Q also re-reported its previously issued financial results for the quarter and six month-period ended June 30, 2003, as well as the year ended December 31, 2003. In fact, the MD&A section states: "The following management's discussion and analysis of financial condition and results of operations (MD&A") should be read in conjunction with the MD&A included in our Annual Report on Form 10-K for the year ended December 31, 2003."

458. The 2Q 2004 10-Q was signed by Defendant Sheehan. In addition, on July 16, 2004, Battenberg and Dawes submitted both Officer Certifications and the Sarbanes-Oxley Certifications, which certified, *inter alia,* that the 2Q 2004 10-Q accurately portrayed the Company's financial condition and that each had inspected the Company's internal controls and found them to be effective.

459. The statements referenced above were each false and misleading because, as described above, they materially misstated the Company's financial results by continuing to conceal and failing to account for the improper accounting for Delphi's fraudulent transactions in earlier periods. Nowhere in its 2Q 2004 Press Release or 2Q 2004 10-Q does Delphi

disclose that its results for the quarter were affected by frauds it had committed in earlier periods. Specifically, its results were misstated by the Company's earlier admitted (i) premature recognition of rebate income; (ii) improper accounting of payments made to and credits received from GM for warranty and pension obligations (iii) improper accounting for accruals and other adjustments; and (iv) off-balance sheet financing transactions involving indirect materials.

460. In its 2Q 2004 Press Release, the Company reported net liquidity at June 30, 2004 of $ (2.3) billion excluding off-balance sheet sales of accounts receivable. This was false and misleading because, as Delphi has admitted, it did not disclose certain factoring facilities as sources of short-term liquidity in its non-GAAP measures of net liquidity. Specifically, in the 2Q 2004 Press Release, it understated its negative liquidity by $571 million or 19.9%.

Y. Third Quarter and Fourth Quarter 2004

461. Between September 29, 2004 and the close of the Class Period, Delphi was presented with several opportunities to level with investors about its earlier accounting manipulations. Facing scrutiny by the SEC for its IT rebate accounting chicanery, Delphi should have disclosed publicly the full extent of its accounting irregularities. Nevertheless, despite knowing that grave troubles were just beyond the horizon, Delphi carefully orchestrated a series of press releases intended to reassure investors. The result was that its stock price remained at inflated levels through the remainder of 2004 and the rest of the Class Period.

462. On September 29, 2004, Delphi filed a Form 8-K Current Report (the "September 2004 8-K"), signed by Defendant Sheehan, announcing, in pertinent part:

> In late July 2004, Delphi Corporation (the "Company") received a subpoena from the Securities Exchange Commission (the "Commission") requesting information regarding the Company's

> agreements with Electronic Data Systems Corporation ("EDS"), a long time supplier of information technology services to the Company. In August 2004, the Company received a copy of the formal order of investigation from the Commission indicating that the staff of the Commission ("the Staff") had commenced a non-public fact-finding inquiry regarding transactions between Delphi and EDS, including the accounting treatment of payments made and credits given by EDS to Delphi during 2000 and 2001, and certain payments made and credits given by EDS to Delphi during 2000 and 2001, and certain payments made by Delphi to EDS for system implementation services in 2002 and in early 2003. The Staff has subsequently advised that they are also reviewing the accounting treatment of payments received by Delphi from other suppliers of information technology services….

463. This statement was materially false and misleading because it omitted to state facts necessary to make it not materially false and misleading. Specifically, the Company omitted to disclose the full extent of its fraudulent accounting for transactions with EDS and other suppliers of information technology, as explained in detail above in Section VI. Moreover, Delphi failed to disclose in the September 2004 8-K its other improper and fraudulent activities, as explained in detail above in Section VI.

464. Moreover, the Company sought to assuage investors by falsely stating at the end of the release that "[u]ntil the Staff's investigation and our review are complete, we are not able to predict the potential effect they will have on Delphi." This statement was false because the Company and Officer Defendants knew full well that their practice of engaging in accounting manipulations in order to mislead investors about Delphi's financial results had been discovered and would inevitably be more fully illuminated.

465. On October 5, 2004, the Company issued a press release (the "October 5, 2004 Press Release") which revised downward its guidance for the third quarter that had just closed the week before. By attributing the reduced guidance to certain operational challenges, the Company's release was false and misleading because it did not disclose that those "challenges"

were in fact attributable in large part to the Company's fraudulent accounting earlier in the Class Period.

466. After the Company issued the October 5, 2004 Press Release, Delphi's stock price declined almost 10% over the next two weeks, on higher than usual trading volume, due to the partial corrective disclosures in that release.

467. On October 18, 2004, Delphi filed an 8-K Current Report, (the "October 18, 2004 Press Release"), signed by Defendant Sheehan, which noted that the Company had met the revised earnings guidance announced two weeks earlier.

468. Defendant Battenberg stated, "As we discussed on Oct. 5, the third quarter was a more challenging environment than we experienced in the first half of 2004, with increased commodity pressures, low production volumes, product launch issues and lower attrition…." Defendant Dawes referred to "near-term headwinds" that posed challenges for the Company

469. Also on October 18, 2004, the Company filed a separate 8-K Current Report (the "October 2004 Financial Release") containing financial and other information for the three and nine months ended September 30, 2004. The Company reiterated the financial results set forth in the October 18, 2004 Press Release, and explained that it was filing the October 18, 2004 Financial Release instead of a quarterly report on Form 10-Q because:

> The interim financial statements contained in a Form 10-Q are required to have been reviewed by an independent registered public accounting firm pursuant to Rule 10-01(d) of the Securities and Exchange Commission's Regulation S-X. Deloitte & Touche LLP ("Deloitte"), the Company's independent registered public accounting firm, has informed us that due to the ongoing status of an internal review by the Audit Committee of the Board of Directors into the accounting treatment accorded to certain transactions with suppliers, including those for information technology services, it has not completed its review of the unaudited Consolidated Financial Statements included herein for the three and nine months ended September 30, 2004. The internal

> review was initiated in response to an investigation commenced by the staff of the Securities and Exchange Commission that was disclosed on a Form 8-K filed on September 29, 2004….
>
> The Company has therefore determined to file financial and other information for the third quarter without the review having been completed. The Company is making this filing on Form 8-K in order to provide information to the investing public about the third quarter while the investigation continues….
>
> The Company has not included the disclosure relating to "Controls and Procedures" in this Form 8-K which would normally be found under Part I, Item 4 of a Form 10-Q because, due to the ongoing investigation, the evaluation of such controls and procedures is ongoing. Additionally, the Company has not provided any of the certifications, which would be required in the filing of a Form 10-Q.

470. The foregoing statements by Delphi on October 18, 2004 were materially false and misleading because they omitted to state facts necessary to make them not materially false and misleading. Specifically, the Company omitted to disclose the full extent of its fraudulent accounting for transactions with EDS and other suppliers of information technology, as explained in detail in Section VI. above. Moreover, Delphi failed to disclose its other improper and fraudulent activities, as explained in detail in Section VI. above.

471. On November 10, 2004, the Company filed a Form NT 10-Q, Notification of Late Filing of Form 10-Q (the "November 2004 NT 10-Q"). In the November 2004 NT 10-Q, the Company reiterated that it was unable to file a 10-Q quarterly report for the third quarter of 2004 based on the ongoing status of the SEC's investigation into its transactions with EDS, the Audit Committee's investigation, and Defendant Deloitte's inability to complete its review of the Company's unaudited financial statements for the quarter.

472. Delphi's November 2004 NT 10-Q was materially false and misleading because it omitted to state facts necessary to make it not materially false and misleading. Specifically, Delphi omitted to disclose the full extent of its fraudulent accounting for transactions with EDS

and other suppliers of information technology, as explained in detail Section VI above. Moreover, Delphi failed to disclose its other improper and fraudulent activities, as explained in detail in Section VI above.

473. Throughout the third and fourth quarters of 2004, Delphi successfully prevented the investing public from learning the full extent of the fraudulent scheme by issuing the foregoing Forms 8-K.

IX. DELPHI'S FRAUDULENT ACCOUNTING

A. Delphi's Financial Statements Failed to Comply with GAAP and SEC Regulations Prohibiting False and Misleading Public Filings

474. GAAP are those principles recognized by the accounting profession as the conventions, rules, and procedures necessary to define accepted accounting practices at a particular time. Those principles are the official standards accepted by the SEC and promulgated in part by the American Institute of Certified Public Accountants ("AICPA"), a private professional association, through three successor groups it established: the Committee on Accounting Procedure; the Accounting Principles Board (the "Board"), and the Financial Accounting Standards Board (the "FASB") with the permission of the SEC (Accounting Series Release 150).

475. The SEC requires that public companies prepare their financial statements in accordance with GAAP. As set forth in SEC Rule 4-01(a) of SEC Regulation S-X, "[f]inancial statements filed with the [SEC] which are not prepared in accordance with [GAAP] will be presumed to be misleading or inaccurate." 17 C.F.R. § 210.4-01(a)(1). Regulation S-X requires that interim financial statements must also comply with GAAP, with the exception that interim financial statements need not include disclosure which would be duplicative of disclosures accompanying annual financial statements. 17 C.F.R. § 210 10-01(a). Management

is responsible for preparing financial statements that conform with GAAP. As noted by AICPA auditing standards ("AU"), § 110.02:

> Financial statements are management's responsibility … [M]anagement is responsible for adopting sound accounting policies and for establishing and maintaining internal controls that will, among other things, record, process, summarize, and report transactions (as well as events and conditions) consistent with management's assertions embodied in the financial statements. The entity's transactions and the related assets, liabilities and equity are within the direct knowledge and control of management… Thus, the fair presentation of financial statements in conformity with Generally Accepted Accounting Principles is an implicit and integral part of management's responsibility.

476. The SEC also regulates statements by companies "that can reasonably be expected to reach investors and the trading markets, whoever the intended primary audience." SEC Release No. 33-6504, 3 Fed. Sec. L. Rep. (CCH) 23,120, at 17,095-3, 17 C.F.R. § 241.20560 (Jan. 13, 1984). Under SEC regulations, the management of a public company has a duty "to make full and prompt announcements of material facts regarding the company's financial condition." SEC Release No. 34-8995, 3 Fed. Sec. L. Rep. (CCH) 23,120A, at 17,095, 17 C.F.R. § 241.8995 (Oct. 15, 1970). The SEC has emphasized that "[i]nvestors have legitimate expectations that public companies are making, and will continue to make, prompt disclosure of significant corporate developments." SEC Release No. 18271, [1981-1982 Transfer Binder] Fed. Sec. L. Rep. (CCH) 83,049, at 84,618 (Nov. 19, 1981).

477. In Securities Act Release No. 6349 (Sept. 8, 1981), the SEC stated that:

> [I]t is the responsibility of management to identify and address those key variables and other qualitative and quantitative factors which are peculiar to and necessary for an understanding and evaluation of the individual company.

478. In Accounting Series Release 173, the SEC reiterated the duty of management to present a true representation of a company's operations:

> [I]t is important that the overall impression created by the financial statements be consistent with the business realities of the company's financial position and operations.

479. Item 7 of Form 10-K and Item 2 of Form 10-Q, Management's Discussion and Analysis of Financial Condition and Results of Operations, require the issuer to furnish information required by Item 303 of Regulation S-K [17 C.F.R. § 229.303].

480. On May 18, 1989, the SEC issued an interpretive release (Securities Act Release No. 6835 -May 18, 1989) which stated, in relevant part:

> The MD&A requirements are intended to provide, in one section of a filing, material historical and prospective textual disclosure enabling investors and other users to assess the financial condition and results of operations of the registrant, with particular emphasis on the registrant's prospects for the future. As the Concept Release states:
>
> The Commission has long recognized the need for a narrative explanation of the financial statements, because a numerical presentation and brief accompanying footnotes alone may be insufficient for an investor to judge the quality of earnings and the likelihood that past performance is indicative of future performance. MD&A is intended to give the investor an opportunity to look at the company through the eyes of management by providing both a short and long term analysis of the business of the company. The Item asks management to discuss the dynamics of the business and to analyze the financials.

481. The SEC has thus stated, "[i]t is the responsibility of management to identify and address those key variables and other qualitative and quantitative factors which are peculiar to and necessary for an understanding and evaluation of the individual company."

482. SEC Staff Accounting Bulletin No. 101 ("SAB 101"), Revenue Recognition in Financial Statements, drawing from Regulation S-K, Article 303, and Financial Reporting Release No. 36, also reiterated the importance of the MD&A in financial statements:

> Management's Discussion & Analysis (MD&A) requires a discussion of liquidity, capital resources, results of operations and other information necessary to obtain an understanding of a

> registrant's financial condition, changes in financial condition and results of operations. This includes unusual or infrequent transactions, known trends, or uncertainties that have had, or might reasonably be expected to have, a favorable or unfavorable material effect on revenue, operating income or net income and the relationship between revenue and the costs of the revenue. Changes in revenue should not be evaluated solely in terms of volume and price changes, but should also include an analysis of the reasons and factors contributing to the increase or decrease. The Commission stated in Financial Reporting Release (FRR) 36 that ***MD&A should "give investors an opportunity to look at the registrant through the eyes of management by providing a historical and prospective analysis of the registrant's financial condition and results of operations, with a particular emphasis on the registrant's prospects for the future."*** (Emphasis added; footnotes omitted.)

483. Delphi's accounting during the Class Period violated fundamental principles of GAAP and the disclosures by management contained in its financial statements were misleading and failed to comply with the SEC regulations identified above.

484. As set forth more fully below, Delphi's accounting violated the following fundamental principles of GAAP:

a. The principle that financial reporting should provide information that is useful to present and potential investors and creditors and other users in making rational investment, credit and similar decisions. (FASB Statement of Financial Accounting Concepts "FASCON" No. 1).

b. The principle that financial reporting should provide information about the economic resources of an enterprise, the claims to those resources, and the effects of transactions, events, and circumstances that change resources and claims to those resources. (FASCON No. 1).

c. The principle that financial reporting should provide information about an enterprise's financial performance during a certain time period. Investors

and creditors often use information about the past to help in assessing the prospects of an enterprise. Thus, although investment and credit decisions reflect investors' expectations about future enterprise performance, those expectations are commonly based at least partly on evaluations of past enterprise performance. (FASCON No. 1).

d. The principle that interim financial reporting should be based upon the same accounting principles and practices used to prepare annual financial statements. (APB No. 28, **&**10).

e. The principle that the quality of reliability and, in particular, of representational faithfulness leaves no room for accounting representations that subordinate substance to form. (FASCON No. 2).

f. The principle that information should be reliable as well as relevant is a notion that is central to accounting. (FASCON No. 2).

g. The principle of completeness, which means that nothing is left out of the information that may be necessary to insure that it validly represents underlying events and conditions. (FASCON No. 2).

h. The principle that conservatism be used as a prudent reaction to uncertainty to try to ensure that uncertainties and risks inherent in business situations are adequately considered. The best way to avoid injury to investors is to try to ensure that what is reported represents what it purports to represent. (FASCON No. 2).

i. The principle that revenue should not be recognized until it is realized or realizable and earned. (FASCON No. 5).

j. The principle that gains should not be accrued without sufficient certainty of their collectibility. (FASCON No. 5)

k. The principle that a full set of financial statements should show cash flows during the period. (FASCON No. 5).

l. The principle that the statement of cash flows directly or indirectly reflects an entity's cash receipts classified by major sources and its cash payments classified by major uses during a period, including cash flow information about its operating, financing, and investing activities. (FASCON No. 5).

m. The principle that expenses have to be matched with revenues as long as it is reasonable to do so. (FASCON No. 6).

485. In violating these basic requirements of GAAP, along with more specific principles listed below, and in issuing, or omitting material information from its MD&A disclosures, Delphi's internal controls were wholly lacking. As admitted by Delphi's Audit Committee, the Company was completely deficient in internal controls which could have prevented the accounting manipulations and machinations that inflated Delphi's financial results. Delphi's Audit Committee identified the following critical failings in Delphi's internal controls during the Class Period:

a. "Insufficient numbers of personnel having appropriate knowledge, experience and training in the application of GAAP at the divisional level, and insufficient personnel at the Company's headquarters to provide effective oversight and review of financial transactions;"

b. "Ineffective or inadequate accounting policies to ensure the proper and consistent application of GAAP throughout the organization;"

c. “Ineffective or inadequate controls over the administration and related accounting treatment for contracts;” and

d. “An ineffective ‘tone’ within the organization related to the discouragement, prevention or detection of management override, as well as inadequate emphasis on thorough and proper analysis of accounts and financial transactions.”

486. These gross deficiencies in internal controls over Delphi’s accounting revealed by the Audit Committee allowed Delphi’s management to intentionally and willfully distort Delphi’s financial results through the following accounting manipulations and fraudulent transactions:

a. inflating Delphi’s earnings by immediately recognizing rebates and credits received from suppliers in the periods in which these payments were received rather than over the period during which the services were performed or products purchased;

b. improperly deferring the recording of the expense for payments made for system implementation services with the effect that Delphi’s expenses were materially understated and earnings materially overstated in 2002;

c. inflating cash flow from operating activities and income through the fictitious “sales” of assets and inventories to, among others, Defendants Setech, BBK, Bank One, with which Delphi, through related transactions, had reciprocal, and undisclosed, arrangements to repurchase the same assets and inventories;

d. misclassifying a $202 million dollar payment to GM in 2000 as an adjustment for post-retirement obligations, which could be amortized over time, deferring expenses, when in fact the payment was for warranty liabilities that should have been immediately expensed, as well as accelerating recognition of substantial portions of an $85 million warranty credit received from GM in 2001 and 2002, instead of recognizing those credits when utilized. The effect of these accounting manipulations was to artificially inflate Delphi's earnings between 2000 and 2002; and

e. improperly failing to accrue for obligations and recording adjustments in the wrong period in the amount of $69 million, during the Class Period, thus inflating Delphi's EPS.

487. Each of these accounting manipulations had the immediate effect of boosting Delphi's earnings and EPS and misleading investors about the true financial performance of Delphi. Moreover, as set forth below, each of the accounting manipulations identified above involved departures from fundamental principles of GAAP.

1. Delphi's Failure to Maintain Adequate Internal Controls Violated SEC Regulations

488. Delphi's Audit Committee investigation revealed that during the Class Period, Delphi's internal controls were fraught with material weaknesses that were wholly insufficient to ensure that Delphi's accounting was conducted in compliance with GAAP. Yet, in each of Delphi's Forms 10-K filed with the SEC during the Class Period, Delphi's senior managers certified that they had reviewed Delphi's internal controls and that these controls were adequate. For example, in a signed statement set forth in the 2000 Form 10-K, filed with the

SEC on February 9, 2001, Defendants Battenberg, Dawes, and Free signed the following statement regarding the effectiveness of Delphi's internal controls:

> The Board of Directors, through the Audit Committee (composed entirely of outside Directors) is responsible for assuring that management fulfills its responsibilities in the preparation of the consolidated financial statements. The Audit Committee selects the independent auditors and reviews the scope of the audits and the accounting principles being applied in financial reporting. ***The independent auditors, representatives of management, and the General Auditor meet regularly (separately and jointly) with the Audit Committee to review the activities of each, to ensure that each is properly discharging its responsibilities, and to assess the effectiveness of internal control. It is management's conclusion that internal control at December 31, 2000 provides reasonable assurance that the books and records reflect the transactions of Delphi and that the businesses comply with established policies and procedures.*** To ensure complete independence, Deloitte & Touche LLP has full and free access to meet with the Audit Committee, without management representatives present, to discuss the results of the audit, the adequacy of internal control, and the quality of financial reporting. (Emphasis added.)

489. Defendants Battenberg, Dawes, and Free signed the following statement regarding the effectiveness of Delphi's internal controls and Deloitte's access and review of Delphi's financial results in Delphi's 2001 Form 10-K, filed with the SEC on February 12, 2002 (emphasis added):

> The Board of Directors, through the Audit Committee (composed entirely of outside Directors) is responsible for assuring that management fulfills its responsibilities in the preparation of the consolidated financial statements. The Audit Committee selects the independent auditors and reviews the scope of the audits and the accounting principles being applied in financial reporting. The independent auditors, representatives of management, and the General Auditor meet regularly (separately and jointly) with the Audit Committee to review the activities of each, to ensure that each is properly discharging its responsibilities, and to assess the effectiveness of internal control. ***Each quarter, the Audit Committee meets with management and privately with the independent auditors in advance of the public release of operating results, and filing of annual or quarterly reports with the Securities and Exchange Commission. It is management's***

> ***conclusion that internal control at December 31, 2001 provides reasonable assurance that the books and records reflect the transactions of Delphi and that the businesses comply with established policies and procedures.*** To ensure complete independence, Deloitte & Touche LLP has full and free access to meet with the Audit Committee, without management representatives present, to discuss the results of the audit, the adequacy of internal control, and the quality of financial reporting. (Emphasis added.)

490. In a signed statement set forth in Item 8 of the 2002 10-K, Defendants Battenberg, Dawes, and Sheehan signed the following statement regarding the effectiveness of Delphi's internal controls and Deloitte's access and review of Delphi's financial results (emphasis added):

> The Board of Directors, through the Audit Committee (composed entirely of independent Directors) is responsible for assuring that management fulfills its responsibilities in the preparation of the consolidated financial statements. The Audit Committee selects the independent auditors (subject to shareholder ratification) and reviews the scope of the audits and the accounting principles being applied in financial reporting. ***The independent auditors, representatives of management, and the Vice President of Audit Services and Corporate Auditor meet regularly (separately and jointly) with the Audit Committee to review the activities of each, to ensure that each is properly discharging its responsibilities, to review any significant findings or recommendations, and to assess the effectiveness of internal controls. Each quarter, the Audit Committee meets with management and privately with the independent auditors in advance of the public release of operating results, and filing of annual and quarterly reports with the Securities and Exchange Commission. It is management's conclusion that internal controls at December 31, 2002 provide reasonable assurance that the books and records reflect the transactions of Delphi and that the businesses comply with established policies and procedures.*** To ensure complete independence, Deloitte & Touche LLP has full and free access to meet with the Audit Committee, without management representatives present, to discuss the results of the audit, the adequacy of internal control, and the quality of financial reporting. (Emphasis added.)

491. Each of these statements by Defendants Battenberg, Dawes, Free and Sheehan were materially false and misleading because, as confirmed by the Audit Committee's investigation in connection with the Restatement, Delphi's internal controls were, in fact, wholly lacking and essentially non-existent. Thus, in representing to shareholders that they had conducted a review of internal controls and assessed them to "provide reasonable assurance that the books and records reflect transactions of Delphi and that the businesses comply with established policies and procedures," these Defendants made either knowingly false or were made in reckless disregard of their truth, as any review of Delphi's internal controls should have revealed severe deficiencies in Delphi's internal controls.

492. As noted by AU § 110.02:

> [M]anagement is responsible for adopting sound accounting policies and for establishing and maintaining internal controls that will, among other things, record, process, summarize, and report transactions (as well as events and conditions) consistent with management's assertions embodied in the financial statements . . . the fair presentation of financial statements in conformity with Generally Accepted Accounting Principles is an implicit and integral part of management's responsibility.

493. In failing to establish and maintain adequate internal controls, Delphi's management created an environment that allowed them to easily control the improper accounting for certain transactions and to fraudulently create others in order to manipulate the Company's earnings.

2. Delphi's Accounting For IT service provider and non-IT supplier rebates

494. During the Class Period, as described more fully above, Delphi artificially inflated its income and earnings by prematurely recording payments and credits received, and failing to receive liabilities, in connection with service contracts it maintained with information technology service providers. In addition, during the Class Period, Delphi manipulated its

income and earnings by improperly accounting for rebate payments and credits received from its inventory suppliers.

495. Delphi's accounting for IT service supplier and non-IT supplier rebates violated two basic principles of GAAP: "matching" and "proper revenue recognition." GAAP's "matching principle" is described in FASCON No. 6 and requires that associated revenues and expenses be recorded in the same period.

496. The "revenue recognition principle" is described in FASCON No. 5. GAAP's revenue recognition principle requires companies to record revenue when realized or realizable and earned, not when cash is received. According to FASCON No. 5, paragraph 83(b):

> An entity's revenue-earning activities involve delivering or producing goods, rendering services, or other activities that constitute its ongoing major or central operations, and revenues are considered to have been earned when the entity has substantially accomplished what it must do to be entitled to the benefits represented by the revenues. [Footnotes omitted].

497. SEC Staff Accounting Bulletin No. 101, affirms the application of the matching principle and revenue recognition principles to financial statements filed with the SEC. Statement of Accounting Standards ("FAS") No. 5, *Accounting for Contingencies*, states in paragraph 17, that "contingencies that might result in gains usually are not reflected in the accounts," and that "adequate disclosure shall be made for contingencies that might result in gains, but care shall be exercised to avoid misleading implications as to the likelihood of realization."

498. Delphi's accounting for IT service suppler and non-IT supplier rebates violated FASCON No. 6, FASCON No. 5 and FAS No. 5 because in both types of transactions, Delphi improperly accelerated the recognition of income from payments and/or credits by recognizing

these payments when received rather than over the period during which the services for which these payments and/or credits were performed or products purchased.

499. With respect to liabilities incurred relating to Delphi's IT service provider contracts, Delphi failed to accrue for these liabilities during the periods in which the service relating to these liabilities was performed. FAS 5 requires that an expense be recorded when it is probable that an expense has been incurred and when the amount can be reasonably estimated.

500. Delphi's accounting for IT service suppler and non-IT supplier rebates also violated the GAAP requirements that revenue should not be recognized unless it is "collectible." Under basic GAAP guidelines, when collectibility of revenue cannot be reasonably assured, revenue recognition should be deferred until actual receipt of the payment. *See* APB Opinion No. 10. FASCON No. 5 states that if "collectibility of assets received for product, services, or other assets is doubtful, revenues and gains may be recognized on the basis of cash received." Similarly, under Accounting Research Bulletin ("ARB") No. 43, a profit may not be realized unless circumstances as such that the collection of the sale price is reasonably assured.

501. In violation of these basic GAAP provisions governing the collectibility of revenues, Delphi recognized income from credits against future services where there was no reasonable assurance that these credits would ever be earned.

502. The net effect of these accounting manipulations was to boost income and earnings prior to December 31, 2001 to the detriment of reduced earnings in subsequent years. As such, Delphi's originally reported pre-tax income for Fiscal Year 2001 and prior periods

was inflated by approximately $86 million over the actual restated amounts, while its pre-tax income in 2002 and 2003 was understated by $15 and $8 million respectively.

3. Warranty Settlements and Pension Obligations

503. Delphi's admitted misclassification of a $202 million warranty expense as a pension obligation in the fourth quarter of 2000 was fraudulent and clearly designed to understate Delphi's expenses, thus inflating income, for Fiscal Year 2000. Had Delphi properly recorded the $202 million payment to GM for what it was – a settlement of a warranty claim and ***not*** a payment under a pension settlement agreement – GAAP's matching principle set forth in FASCON No. 6 would have required that the payment be recognized immediately rather than as deferred and amortized over time.

504. By intentionally misclassifying this payment, however, Delphi spread the expense out over future periods instead of immediately recognizing the bulk of the expense in 2000. The effect of Delphi's accounting manipulation was to overstate income in 2000 by $202 million. Had Delphi properly recognized the $202 million payment as a warranty expense, Delphi would have had to record an immediate expense, thus reducing pre-tax income by this amount.

505. Delphi has also admitted to receiving $85 million in warranty credits from GM in 2001, substantial portions of which were improperly recorded as a reduction in expenses in 2001 and 2002. In this case, Delphi violated the matching principle by improperly using the credits to reduce expenses for warranty obligations that had yet to be incurred. Under GAAP's matching principle, set forth in FASCON No. 6, these credits should have been recognized only when the corresponding warranty obligations were utilized. By intentionally recognizing substantial portions of the $85 million credit as a reduction in expenses in 2001 and 2002, Delphi was able to inflate its income substantially for 2001 and 2002.

506. In the first quarter of 2003, Delphi failed to recognize a $10 million warranty obligation to GM. Under GAAP, pursuant to FAS 5, ¶ 8, an estimated loss shall be accrued by a charge to income when available information indicates that it is probable that a liability has been incurred at the date of the financial statement and the loss can be reasonably estimated. As with Delphi's other GAAP violations, Delphi's failure to accrue for this expense, when it was probable and estimable, in the first quarter of 2003 allowed it to inflate its income in that quarter by $10 million.

4. Improperly Deferring Expenses from System Implementation Services

507. Delphi has admitted to improperly deferring the recording of expenses for payments made for system implementation services in 2002. Of the total payments of $40.5 million for system implementation services paid in 2002, Delphi improperly deferred the recognition of $22 million of this amount that should have been immediately recorded as expense in fiscal year 2002.

508. As with Delphi's other failures to record expenses when incurred, such as its failure to record its $10 million warranty obligation to GM in Q1 2003, Delphi's failure to record its system implementation expenses also violated FAS No. 5. Pursuant to this principle, Delphi was required to record a loss (or expense) when it is probable that the expense has been incurred and when the loss can be reasonably estimated.

509. In addition to violating the clear requirements of FAS No. 5, Delphi's failure to record the expenses for its system implementation services also violated the specific GAAP applicable to software implementation expenses, namely EITF 97-13: *Accounting for Costs Incurred in Connection with a Consulting Contract or an Internal Project that Combines Business Process Reengineering and Information Technology Transformation,* and Statement

of Position ("SOP") 98-1, *Accounting for the Costs of Computer Software Developed or Obtained for Internal Use.*

510. Under EITF 97-13, the cost of business process reengineering activities, whether done internally or by third parties, is to be expensed "as incurred." The rule also applies "when the business process reengineering activities are part of a project to acquire, develop, or implement internal-use software." SOP 98-1 provides explicit guidelines on how costs associated with computer software developed or obtained for internal use should be recorded and in what circumstances such expenses may be capitalized. It specifically states that such costs should be expensed "when incurred."

511. In this case, Delphi clearly incurred a system implementation expense of $22 million in 2002, but rather than recognize this expense immediately, elected to boost its pre-tax income by failing to record the expense when it was incurred. The effect of Delphi's improper deferral of expenses was to artificially inflate Delphi's pre-tax income in 2002 by $22 million. Delphi finally recognized the expense in 2003 thereby artificially reducing its pre-tax income by $22 million.

5. Indirect material dispositions/asset dispositions

512. Between 1999 and 2002, Delphi improperly recorded income from the disposal of inventories and indirect materials transactions that were nothing more than financing arrangements which served to inflate Delphi's income and earnings and cash from operating activities while also artificially reducing assets and inventories that Delphi carried on its balance sheet. In sum, as explained more fully in Section VI, Delphi entered into illicit agreements with BBK, Bank One and Setech, among others, wherein Delphi sold unneeded, obsolete, or excess indirect materials (such as raw materials and metals) or inventory to these companies with an agreement that Delphi would repurchase these inventories or materials at a

later date. The money that Delphi received for these purported dispositions was falsely recorded as income from operating activities, which inflated Delphi's net income during the time period while the removal of these indirect materials and inventory from Delphi's balance sheet created the perception that the Company was efficiently and effectively managing excess assets and inventories.

513. In 2000 and 2001, Delphi aggressively pushed efforts aimed at reducing its inventories. In fact, Delphi's 2000 10-K touted that Delphi's gross margin improved to 15.1% in 2000 compared to 14.2% in 1999. According to Delphi's MD&A Section, "the improvement reflects the results of our continuing cost reduction efforts and lean manufacturing initiatives that are being implemented in response to industry pricing pressures and ***aggressive inventory management***." (Emphasis added.)

514. Delphi's disclosure, or lack thereof, violated the SEC's requirement under Item 303 of Regulation S-K [17 C.F.R. § 229.303] that a Company's Form 10-K (Item 7) and Form 10-Q (Item 2) "provide such other information that the registrant believes to be necessary to an understanding of its financial condition, changes in financial condition and results of operations." As noted above, the MD&A requirements are intended to provide, in one section of a filing, material historical and prospective textual disclosure enabling investors and other users to assess the financial condition and results of operations of the registrant, with particular emphasis on the registrant's prospects for the future.

515. Delphi's MD&A nonetheless failed to disclose that much of its cost reduction efforts and inventory management was the result of financing arrangements that only temporarily removed Delphi's assets and inventories from Delphi's balance sheets. Nowhere did Delphi disclose that it had a corresponding obligation to repurchase these assets and

inventories at later dates, and that these arrangements were nothing more than financing arrangements secured by the inventory and assets that were purportedly "sold."

516. In addition, Delphi violated the SEC's MD&A disclosure requirements by failing to disclose the substance of its inventory disposal and asset disposal transactions. Delphi's accounting for these transactions were flagrant violations of GAAP and point to an intentional effort on the part of Delphi's management to inflate earnings and deflate inventories and assets.

517. GAAP, specifically FASCON No. 2, prohibits accounting representations that subordinate substance over form. Moreover, FASCON No. 2 requires that financial reporting be reliable in that it represents what it purports to represent and that nothing should be left out of the information that may be necessary to insure that it validly represents underlying events and conditions.

518. In addition to these general principles, FAS 49 provides specific criteria for determining when an arrangement involving the sale of inventory is, in substance, a financing arrangement. It states, "a product financing arrangement is a transaction in which an enterprise sells and agrees to repurchase inventory with the repurchase price equal to the original sale price plus carrying and financial costs, or other similar transactions." Under this standard, "if a sponsor sells a product to another entity and, in a related transaction, agrees to repurchase the product . . . the sponsor shall record a liability at the time the proceeds are received from other entity to the extent that the product is covered by the financing arrangement. ***The sponsor shall not record the transaction as a sale and not remove the covered product from its balance sheet***." FAS No. 49 at ¶ 8 (emphasis added.).

519. Despite these explicit GAAP requirements, Delphi recorded a $200 million sale of precious metals to Bank One in the fourth quarter of 2000, and repurchased these materials in

January 2001. As stated above, this transaction had the desired effect of boosting Delphi's 2000 earnings and operating cash flow.

520. Again in the fourth quarter of 2000, Delphi engaged in a transaction similar to the Bank One transaction. In this deal, Delphi recorded a $70 million sale of inventory to BBK, with which it had pre-arranged to buy-back the inventory at a later date. BBK was also a counter-party to a $10 million fictitious inventory sale in the first quarter of 2001, and a $9 million sale in the fourth quarter of 2001. Like the Bank One transaction, the BBK transactions allowed Delphi to manipulate its financials to appear more profitable, to eliminate inventory from its balance sheets, and to obtain additional cash from financing activities without alerting the securities markets to its increased debt load.

521. A third company, Setech, also entered into deals with Delphi that permitted the Company to remove approximately $145 million in unwanted assets from its books and to inflate its cash flows from operating activities. As explained above, the two companies agreed that Delphi would buy back the "indirect materials" at a later date, with Setech receiving a premium for its services. The sham nature of these apparent "sales" is further supported by accounts of former Delphi employees, who indicated that the value of the goods transferred from Delphi to Setech bore little relation to the cash amounts that Setech paid to Delphi.

522. As a result of the fraudulent transactions with Bank One BBK, and Setech, Delphi violated the provisions of FAS No. 95, *Statement of Cash Flows*, which requires that a statement of cash flows report the cash effects during a period of an enterprise's operations, its investing transactions, and its financing transactions. FAS No. 95 further states that borrowing money and repaying amounts borrowed are financing activities.

523. Delphi has admitted that it improperly accounted for the transactions with Bank One BBK, and Setech as asset dispositions when they should have been accounted for as financing transactions. As the result, Delphi overstated cash flows from operations and understated cash flows from financing in 1999 and 2000 by $138 million and $233 million, respectively, and understated cash flows from operations and overstated cash flows from financing in 2001 by $200 million.

524. Delphi's fraudulent inventory disposition transactions, as explained above, also enabled the Company to recognize $100 million in "paper" income from Last-In-First-Out ("LIFO") gains in the fourth quarter of 2000. To explain, the book value of inventories used in the manufacturing process are deducted from revenue as the cost of sales of producing that revenue. Where identical inventory is used over time to manufacture the same product, and the cost of the inventory has increased over time, LIFO accounting requires that the cost of sales be determined by the newer, more expensive, inventory. That is, the cost of the last inventory purchased by the manufacturer is used to determine the cost of sales. Delphi's fraudulent inventory dispositions in the fourth quarter of 2000 allowed the Company to reduce inventory levels enough so that it was able to recognize a gain of over $100 million in the fourth quarter of 2000 from improved margins resulting from lower priced, older inventories being used to determine cost of sales. As a result, pre-tax income for the fourth quarter was inflated by over $107 million from the combination of a fictitious asset sale and a resultant LIFO gain.

6. Delphi Failed to Write-off Obsolete Inventory

525. With regard to Delphi's restatement adjustments relating to the improper indirect material dispositions, the Company admitted that in 2002 and 2003, they repurchased the indirect materials purported to be sold, and a portion of the material repurchased was immediately written-off. Based on Lead Plaintiffs' investigation and interviews with former

Delphi employees, it has been revealed that the inventory and materials that were the subject of the undocumented financing arrangements were primarily obsolete inventories. Delphi violated GAAP by not properly writing down the value of the inventory to their proper market value beginning in 1999. Under ARB 43, Chapter 4, Statement 5:

> [I]n accounting for inventories, a loss should be recognized whenever the utility of goods is impaired by damage, deterioration, obsolescence, changes in price levels, or other causes. The measurement of such losses is accomplished by applying the rule of pricing inventories at cost or market, whichever is lower. This provides a practical means of measuring utility and thereby determining the amount of the loss to be recognized and accounted for in the current period.

526. Delphi purposefully disposed of obsolete inventory through staged financing transactions to avoid having to take a charge to its current expenses for this obsolete inventory. Instead of recording the fraudulent dispositions of the materials and inventories, Delphi should have written off obsolete materials of up to $145 million in 1999 and 2000 and inventories of up to $277 million in the fourth quarter of 2000 and in 2001, as well as any additional obsolete inventories not subject to the staged financing agreements uncovered through the investigation and restatement.

7. Omitted Period-end Accruals and other out of Period Adjustments

527. Delphi's Restatement identified obligations that were not properly accrued for at the end of an accounting period, and other accounting adjustments that were not recorded in the proper period.

528. The omission or improper recording of these transactions was a clear violation of FASCON No. 6, which requires that expenses and/or losses be recorded in the same period as the associated revenue. GAAP requires that expenses be recorded in the same period in which the income from the service or product that resulted in the expense is recorded. Additionally,

Delphi violated FAS No. 5, which requires that an expense be recorded when it is probable that a loss contingency has been incurred and when the amount can be reasonably estimated.

529. These omitted or improper adjustments overstated originally reported pre-tax income by $14 million and $34 million in 2002 and 2003, respectively.

530. Delphi restated its financial statements for Fiscal Years 2002, 2003 and the first and second quarters of 2004, in addition to its originally reported retained earnings from December 2001. This constitutes an admission that the financial statements issued for each of these periods, as described above, were false and that the overstatements of income were material. GAAP provides that financial statements should only be restated in limited circumstances; that is, when there is a change in the reporting entity, there is a change in accounting principles used, or to correct an error in previously issued financial statements. Accounting Principles Board ("APB") No. 20. Delphi's restatement was not due to a change in reporting entity or a change in accounting principles, but rather to correct errors in previously issued financial statements. Therefore, the restatement is an admission by Delphi that its previously issued financial results and its public statements regarding those results were materially false.

B. Deloitte Recklessly Certified that Delphi's Financial Statements Complied with GAAP

531. Deloitte was Delphi's "independent auditor" during the Class Period and in accordance with GAAS, was charged with the responsibility of opining upon whether or not Delphi prepared its financial statements in accordance with GAAP. As set forth below, however, Delphi's financial statements, as evidenced by Delphi's restatement, failed to comply with GAAP in many respects. Moreover, as Delphi has admitted, during the Class Period, it failed to maintain even minimal internal controls to ensure that its accounting complied with

GAAP. Thus, in certifying that Delphi's financial statements during the Class Period fairly represented Delphi's financial condition and results of operations in conformity with GAAP, Deloitte knowingly or recklessly ignored material internal control deficiencies at Delphi, which should have alerted it to the fact that Delphi's financial reporting practices violated GAAP and its financial statements were materially false and misleading.

532. Deloitte is a worldwide firm of certified public accountants, auditors and consultants which provides a variety of accounting, auditing, and consulting services. Deloitte served as Delphi's independent auditor and principal accounting firm prior to, and during, the Class Period. Deloitte acted in these capacities pursuant to the terms of contracts it had with Delphi that, among other things, required Deloitte to audit Delphi's financial statements in accordance with GAAS, and to report the results of those audits (and quarterly reviews) to Delphi, its Board of Directors, its Audit Committee, and the members of the investing public, including Lead Plaintiffs and the members of the Class.

533. Deloitte was engaged by Delphi to provide independent accounting, business consulting and auditing services to Delphi and gave Delphi accounting advice and consultation regarding Delphi's annual and quarterly reports which were filed with the SEC and publicly distributed. Deloitte, by virtue of its position as independent accountant and auditor of Delphi, had access to the files and key employees of the Company at all relevant times. As a result of the auditing and other services it provided to Delphi, Deloitte personnel were frequently present at Delphi's corporate headquarters throughout each year, and had continual access to and knowledge of Delphi's confidential internal corporate, financial, operating, and business information, and had the opportunity to observe and review the Company's business and

accounting practices, and to test the Company's internal accounting information and publicly reported financial statements as well as the Company's internal controls and structures.

534. For this service to Delphi, and for numerous other non-audit services, Deloitte was highly compensated. Deloitte earned $ 9.2 million in auditing fees (and $2.1 million in other fees) for fiscal year 2003, $7.8 million in auditing fees (and $3.2 million in other fees) for fiscal year 2002, $6.7 million in audit fees (and $20 million in other fees) for fiscal year 2001, and $6.6 million in auditing fees (and $50.8 million in other fees) for fiscal year 2000. Thus, from 2000 through 2003, Deloitte was paid at least $30.3 million in auditing fees alone. While huge, those fees paled in comparison to the $76.1 million that Deloitte's parent collected for non-auditing fees, including fees from consulting arrangements, from fiscal year 2000 to 2003.

535. An auditor is required to perform its audits in accordance with GAAS. The AICPA's Auditing Standards Board has also developed Statements on Auditing Standards, which serve as "interpretations of generally accepted auditing standards." AU § 100 states:

> The objective of the ordinary audit of financial statements by the independent auditor is the expression of an opinion on the fairness with which they present, in all material respects, financial position, results of operations, and its cash flows in conformity with generally accepted accounting principles. The auditor's report is the medium through which he expresses his opinion or, if circumstances require, disclaims an opinion. In either case, he states whether his audit has been made in accordance with generally accepted auditing standards. These standards require him to state whether, in his opinion, the financial statements are presented in conformity with generally accepted accounting principles and to identify those circumstances in which such principles have not been consistently observed in the preparation of the financial statements of the current period in relation to those of the preceding period.

536. When an auditor represents that a company's financial statements conform in all material respects with GAAP, the auditor "indicates [his] belief that the financial statements taken as a whole are not materially misstated." AU § 312. Indeed, "[f]inancial statements are

materially misstated when they contain misstatements whose effect, individually or in the aggregate, is important enough to cause them not to be presented fairly, in all material respects, in conformity with [GAAP]." AU § 312.

537. Despite the numerous GAAP violations evident in Delphi's financial statements during the Class Period, Deloitte issued unqualified opinions, representing that the Delphi financial statements were presented fairly, in all material respects, and in accordance with GAAP for each of the years ended December 31, 1999 to December 31, 2003.

538. Deloitte's audit Report, dated January 16, 2001, reporting on Delphi's Financial Statements as of and for the year ending December 31, 2000, was filed with the SEC on February 8, 2001. In its audit report regarding Delphi's 2000 financial statements, Deloitte stated:

> We have audited the accompanying consolidated balance sheets of Delphi Automotive Systems Corporation ("Delphi"), as of December 31, 2000 and 1999, and the related consolidated statements of operations, of stockholders' equity (deficit), and of cash flows for each of the three years in the period ended December 31, 2000. These financial statements are the responsibility of the management of Delphi. Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion. In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of Delphi as of December 31, 2000 and 1999 and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2000, in conformity with

> accounting principles generally accepted in the United States of America.

539. In Deloitte's audit report dated January 16, 2002, also included in the 2001 10-K . Deloitte stated:

> We have audited the accompanying consolidated balance sheets of Delphi Automotive Systems Corporation ("Delphi"), as of December 31, 2001 and 2000, and the related consolidated statements of income, stockholders' equity, and cash flows for each of the three years in the period ended December 31, 2001. These financial statements are the responsibility of the management of Delphi. Our responsibility is to express an opinion on these financial statements based on our audits.
>
> We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.
>
> In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of Delphi as of December 31, 2001 and 2000 and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2001, in conformity with accounting principles generally accepted in the United States of America. Deloitte's audit report dated March 1, 2002, reporting on Delphi's financial statements as of and for the years ending December 31, 2000 and December 31, 2001, was filed with the SEC on March 29, 2002.

540. Deloitte's audit report dated January 16, 2003, reporting on Delphi's financial statements as of and for the years ending December 31, 2001 and December 31, 2002, was filed with the SEC on February 18, 2003. In its audit report regarding Delphi's 2002 financials, Deloitte stated:

> We have audited the accompanying consolidated balance sheets of Delphi Corporation ("Delphi"), as of December 31, 2002 and 2001, and the related consolidated statements of income, stockholders' equity, and cash flows for each of the three years in the period ended December 31, 2002. These financial statements are the responsibility of the management of Delphi. Our responsibility is to express an opinion on these financial statements based on our audits.
>
> We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.
>
> In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of Delphi as of December 31, 2002 and 2001 and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2002, in conformity with accounting principles generally accepted in the United States of America.

541. Deloitte's audit report dated January 26, 2004, reporting on Delphi's financial statements as of and for the years ending December 31, 2002 and December 31, 2003, and included in Delphi's 2003 10-K stated:

> We have audited the accompanying consolidated balance sheets of Delphi Corporation ("Delphi") as of December 31, 2003 and 2002, and the related consolidated statements of operations, stockholders' equity, and cash flows for each of the three years in the period ended December 31, 2003. Our audits also included the financial statement schedule listed in the Index at Item 15. These financial statements and financial statement schedule are the responsibility of the management of Delphi. Our responsibility is to express an opinion on these financial statements and financial statement schedule based on our audits.
>
> We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those

> standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.
>
> In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of Delphi as of December 31, 2003 and 2002 and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2003, in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, such financial statement schedule, when considered in relation to the basic consolidated financial statements of Delphi taken as a whole, presents fairly, in all material respects, the information set forth therein.
>
> As discussed in Note 1 to the consolidated financial statements, in 2003 Delphi changed its method of determining the cost of certain inventories from the last-in, first-out method to the first-in, first-out method. The consolidated financial statements presented for 2002 and 2001 have been adjusted to give retroactive effect to the change.

542. In issuing unqualified audit opinions on Delphi's financial statements despite Delphi's consistent GAAP violations throughout the Class Period, Deloitte either acted knowingly, or was reckless, in failing to comply with the professional standards dictated by GAAS (AU § 150) including:

a. General Standard No. 1, which requires an audit be performed by a person or persons having adequate technical training and proficiency as an auditor;

b. General Standard No.2, that requires that an auditor possess an independence in mental attitude in all matters related to the assignment;

c. General Standard No. 3, which requires that due professional care is to be exercised in the performance of the audit and the preparation of the report;

d. Standard of Field Work No. 1, which requires that the auditor's work be adequately planned and audit staff properly supervised;

e. Standard of Field Work No. 2, which requires the auditor gain a sufficient understanding of internal controls in order to plan the audit, including accounting, financial and managerial controls, to determine whether reliance thereon is justified, and if such controls are not reliable, to expand the nature and scope of the auditing procedures to be applied;

f. Standard of Field Work No. 3, which requires sufficient competent evidential matter is to be obtained through inspection, observation, inquiries, and confirmations to afford a reasonable basis for an opinion regarding the financial statements under audit;

g. Standard of Reporting No. 1 which requires an audit report to state whether the financial statements are presented in accordance with GAAP;

h. Standard of Reporting No. 3 which requires informative disclosures in the financial statements are to be regarded as reasonably adequate unless otherwise stated in the report; and

i. Standard of Reporting No. 4 which requires that, when an opinion on the financial statements as a whole cannot be expressed, the reasons therefore must be stated.

543. Delphi's has admitted that its financial statements during the Class Period did not comply with GAAP. Indeed, the June Restatement establishes a pervasive dereliction by the

Delphi's management in complying with the basic requirements of GAAP. Therefore, Deloitte's unqualified opinions during the Class Period, stating that Delphi's financial statements did comply with GAAP, were simply false and violations of GAAS Standard of Reporting No. 1. As shown below, Deloitte's failure to detect Delphi's rampant accounting manipulations can only be the product of severe recklessness as to whether Delphi's financial statements complied with GAAP, or a total disregard of its duty to perform a proper audit of the Company's financial statements.

544. Delphi failed to take any reasonable steps to ensure that its audit opinion was accurate. Deloitte failed to consider the sufficiency of Delphi's internal controls, did not take notice of red flags that warned of potential problems with Delphi's accounting, and failed to plan its audits and review necessary evidential matter to detect instances of fraud. For these severely reckless and/or knowing failures, Deloitte violated the securities laws.

1. Deloitte's Utter Failure to Assess the Sufficiency of Delphi's Internal Controls Rendered its Unqualified Audits Severely Reckless

545. Delphi's Audit Committee investigated Delphi's internal controls as part of its investigation into Delphi's fraudulent accounting practices and concluded that, during the Class Period, Delphi's internal controls were rife with "material weaknesses." The Audit Committee concluded that:

> The Company's controls over the selection and application of GAAP are ineffective as a result of insufficient resources and technical accounting expertise within the organization to resolve accounting matters in a timely manner. Furthermore, accounting for transactions is performed across multiple business units and functions that are not adequately staffed or are staffed with individuals that do not have the appropriate level of GAAP knowledge.

546. In addition, the Audit Committee stated that during the Class Period:

> The Company's accounting policies were inadequate or insufficiently comprehensive to ensure proper and consistent application throughout the organization and did not have effective controls related to the administration and accounting for contracts. In particular, the Company does not have adequate controls to identify and analyze the terms and conditions, both written and unwritten, of new contracts, or procedures to identify, analyze, and properly record the impact of amendments, supplement letters, or other agreements related to existing contracts.

547. Most damning was the Audit Committee's conclusion that Delphi's management did not set an effective "tone" within the organization "related to the discouragement, prevention or detection of management override, as well as inadequate emphasis on thorough and proper analysis of accounts and financial transactions."

548. This lack of internal controls at Delphi is evidenced by the blatant and obvious accounting manipulations that were rampant at the Company during the Class Period. For example, Delphi's senior management were able to blatantly misclassify a $237 million warranty payment to GM as an adjustment a pension obligation to circumvent the immediate reduction to income rather than record a warranty expense. The millions of dollars in expenses that Delphi failed to accrue, improper deferrals of expenses, and improper income recognition, through various schemes, further underscore the lack of controls over Delphi's accounting.

549. Indeed, Delphi management's ability to manipulate inventory through fictitious asset and inventory disposal transactions and record millions of dollars in illusory income evidences further deficiencies in internal controls at Delphi and the ease with which senior management was able to circumvent what little internal controls existed. A simple review of the contracts underlying these disposal transactions would have revealed that the accounting for these transactions was entirely manipulative.

550. Deloitte's reckless indifference to Delphi's utter lack of internal controls violated GAAS. Under GAAS, an independent auditor is obligated to gain a sufficient understanding of

an entity's internal control structure in order to adequately plan the audit and to determine the nature, timing and extent of tests to be performed. *See* AU § 150.02. In all audits, the auditor should perform procedures to obtain a sufficient understanding of three elements of an entity's internal control structure: the control environment, the accounting system, and control procedures. AU § 319.02. The control environment, which includes management's integrity and ethical values, is the foundation of internal control and provides discipline, structure and sets the tone of an organization. After obtaining an understanding of an entity's internal control structure, the auditor must assess the entity's control risk. AU § 319.02. The control risk is the risk that a material misstatement in an assertion by management contained in a company's financial statements will not be prevented or detected on a timely basis by an entity's internal control structure policies or procedures. AU §319.29. The ultimate purpose of assessing control risk is to aid the auditor in evaluating the risk that material misstatements exist in the financial statements. AU § 319.61.

551. Under AU § 722.10, the auditor needs to have sufficient knowledge of a client's internal control as it relates to the preparation of both annual and interim financial information to: identify types of potential material misstatements in the interim information and consider the likelihood of their occurrence, select inquiries and procedures that will provide a basis for reporting whether material modifications should be made for the information to conform with GAAP.

552. Deloitte failed to adequately test internal controls at Delphi. This prevented it from having a sufficient knowledge of Delphi's internal controls to allow Deloitte to assess the likelihood and type of potential misstatement in the interim financial statements. Additionally, Deloitte failed to develop and perform adequate analytical procedures and inquiries (AU

Section 722.13) designed to identify the need for material modifications to the interim financial statements.

553. It is apparent from the conclusions by Delphi's Audit Committee that any scrutiny of Delphi's internal controls would have revealed that such controls were wholly lacking at the Company. Yet, Deloitte, in the course of auditing Delphi's 1999 through 2003 financial statements, knowingly or recklessly disregarded weaknesses and deficiencies in Delphi's internal control structure. Had Deloitte complied with GAAS, it should have discovered that there were (a) insufficient numbers of personnel having appropriate knowledge, experience and training in the application of GAAP at the divisional level, and insufficient personnel at the Company's headquarters to provide effective oversight and review of financial transactions; (b) ineffective or inadequate accounting policies to ensure the proper and consistent application of GAAP throughout the organization; (c) ineffective or inadequate controls over the administration and related accounting treatment for contracts; and (d) ineffective "tone" within the organization related to the discouragement, prevention or detection of management override, as well as (e) inadequate emphasis on thorough and proper analysis of accounts and financial transactions.

2. Numerous "Red Flags" Should Have Alerted Deloitte to Delphi's False and Misleading Financial Statements

554. Had Deloitte conducted its audits in accordance with GAAS, it would have discovered that Delphi's financial statements were materially false and misleading and failed to comply with GAAP. AU Section 316 requires auditors to consider and evaluate the risks that a company's audited financial statements are free of material misstatements, whether by fraud or by error, and identifies various "red flags" that the auditors need to consider in determining audit risk relating to misstatements arising from fraudulent reporting. In addition to the lack of

internal controls, described above, other red flags, should have alerted Deloitte to the potential of material misstatement arising from fraudulent financial reporting at the Company: These red flags included:

a. Management compensation incentives specifically tied to the Company' financial metrics and huge annual bonuses for achieving these measures of success;

b. Delphi's publicized adoption of an "aggressive inventory management" program in 2000 and other cost-cutting initiatives that allowed Delphi to meet earnings estimates in the face of a declining economy;

c. A failure of Delphi's management to display and communicate an appropriate attitude regarding internal controls and the financial reporting process;

d. The lack of effective accounting, information technology, or internal auditing staff;

e. Large transactions not in the ordinary course of business, such as Delphi's inventory and asset disposal transactions with Setech, BBK and Bank One, all of which were reversed in relatively short periods of time (as short as one month) that contributed a significant portion of Delphi's quarterly income and helped meet earnings estimates;

f. Intentional misapplication of accounting principles in connection with an entity, GM, where the same Deloitte office audited both ends of the transaction, but saw different accounting treatment applied to the parties treatment of the transaction.

555. Each of these red flags should have alerted Deloitte to Delphi's fraudulent accounting practices.

556. Delphi's senior executives received huge bonuses, usually more than 100% of their annual income if the Company met or exceeded certain targeted financial metrics, including levels of earnings, earnings per share, operating income and numerous other metrics. The strong incentive for Delphi's management to meet or exceed these goals at all costs, and Delphi's consistent ability to meet earnings targets, should have served as a red flag to Deloitte to scrutinize the accounting supporting these indicators. This was particularly true because, from at least 2000 onwards, the auto industry was in decline and Delphi was facing a number of hurdles, which are described in detail above, that should have made it difficult or impossible for management to obtain the full compensation called for under the plan. Management's unwavering ability to do so is a substantial red flag.

557. Delphi's public filings and earnings reports touted new "aggressive" inventory management initiatives and other cost-cutting efforts that were allowing Delphi to meet financial targets despite a slowing economy. As revealed by Lead Plaintiffs' investigation and the restatement, much of this so-called aggressive inventory management and cost-cutting was achieved through fraudulent transactions—in which inventories were temporarily disposed—manipulating the receipt and recording of inventories, and by failing to accrue expenses in the proper reporting periods, or in some cases, at all. These transactions, involving hundreds of millions of dollars with counterparties BBK and Setech, all were reversed within a relatively short period of time (usually less than a year). The number and significance of these transactions, and the fact that they were quickly reversed, served as a substantial red flag to Deloitte that there were issues in Delphi's accounting.

558. Significantly, at the very end of the fourth quarter of 2000, Delphi engaged in a enormous, illicit inventory disposal with Bank One involving precious metals that had the

effect more than quadrupling Delphi's cash flows from operations for the 4th Quarter (from $68 million to $268 million) and also allowed Delphi to reduce inventory levels such that it was able to recognize a LIFO liquidation gain in pre-tax operating income of $100 million. Moreover, this transaction was reversed only a few weeks into the new reporting period, during a time when Deloitte's audit of the Delphi's 2000 financials should have been ongoing. This rapid reversal of an enormous transaction that had a profound impact on significant reporting metrics was a huge red flag that should have put Deloitte on notice that there were problems with Delphi's accounting. Deloitte should have inquired into this transaction, and considered the implementation of Delphi's inventory management program, and in doing so it would have discovered that Delphi was engaged in fictitious "sale" transactions with numerous companies that were designed to merely move inventory off books while inflating income.

559. Deloitte's reckless failure to uncover Delphi's fraudulent inventory manipulation schemes is underscored by internal audit reports conducted by the Company that pointed to inventory manipulation at Delphi's factories in June 2004. The existence of highly negative interal audit reports in a critical area of Delphi's business was a substantial red flag. In auditing Delphi's financial statements, Deloitte should have reviewed evidence of any internal audits of Delphi's aggressive inventory management initiatives and absent such internal audits, inquired into the details of the program.

560. The Restatement concluded that there was an ineffective "tone" at the top regarding internal controls at Delphi. Lead Plaintiffs' investigation revealed that members of Delphi's finance department were routinely told by Defendant Dawes and Battenberg to find ways to make the numbers work. Other employees were specifically prohibited from taking reserves or booking costs that were not within the annual budget. Interviews with Delphi

finance personnel by Deloitte should have uncovered such concerns, or could have tested the adequacy of the training and supervision of the finance staff.

561. Delphi's transactions with GM also highlighted certain red flags that deserved additional scrutiny. GM was Delphi's former parent and Delphi's senior executives were all former GM employees with strong ties to that company. Delphi's payment to General Motors in the fall of 2000 of $237 million was a significant expense, critical to the Company's bottom line, and which Deloitte should have scrutinized to ensure proper accounting for the transaction. As we now know, Delphi fraudulently misclassified the transaction as a payment for pension obligations, recorded with almost no immediate income statement effect, rather than merely as a current charge for warranty obligations. Had Deloitte applied any scrutiny to Delphi's transactions with GM, it would have discovered Delphi's fraudulent accounting for this transaction.

562. This issue is particularly revealing since the same Deloitte office that audited Delphi also audited GM. GM had accounted for the payment differently than Delphi. The fact that two parties to a transaction were accounting for it in different manners, and both were audited by the same Deloitte office, should have been a substantial red flag to Deloitte that something was improper with Delphi's accounting.

3. Deloitte Failed to Adequately Plan its Audit

563. Under GAAS, it is inherent in the planning process to have sufficient knowledge of the Company, the industry, the environment, areas of audit exposure, weaknesses in internal control and various other important matters in order to properly plan the audit. GAAS (AU § 311) states that auditor should:

a. Obtain a level of knowledge of the entity's business that will enable him to plan and perform his audit in accordance with generally accepted

auditing standards. That level of knowledge should enable him to obtain an understanding of the events, transactions, and practices that, in his judgment, may have a significant effect on the financial statements. . . Knowledge of the entity's business helps the auditor in identifying areas that may need special consideration;

b. Assess conditions under which accounting data are produced, processed, reviewed, and accumulated within the organization;

c. Evaluate the reasonableness of estimates;

d. Evaluate the reasonableness of management representations; and

e. Make judgments about the appropriateness of the accounting principles applied and the adequacy of disclosures.

564. Moreover, the auditor is required to design the audit with professional skepticism (AU § 230) in order to provide reasonable assurance of detecting errors, material misstatements (AU § 312) or fraud (AU § 316).

565. Deloitte failed to comply with GAAS as it failed to design its audit plan to provide reasonable assurance of detecting material errors as required by AU § 312. Deloitte was required under GAAS to obtain knowledge of Delphi's business, to apply analytical procedures and to assess the risk of material misstatement in planning for its audit.

566. Deloitte failed to consider or overlooked the existence of the red flags identified herein, and other risk factors, or failed to properly design or modify its planned audit procedures to mitigate those risks. Despite these obvious issues, Deloitte failed to develop an adequate strategy for the conduct and scope of the audit of the Company's inventory, warranty reserves, separation obligations to GM, and other accrued expenses.

567. Deloitte audited Delphi's financial statements and provided tax, consulting, and other services prior to and during the Class Period, for which it was paid handsomely, and had a thorough knowledge of the Company's financial history, accounting practices, internal controls, and business operations. Despite this intimate familiarity with Delphi's business practices, in auditing Delphi's financial statements, Deloitte either knowingly or recklessly failed to:

a. Identify areas that needed special consideration (such as transactions with GM, a former parent, out of the ordinary transactions that generated significant income for the company, and aggressive initiatives adopted by the Company) or identify such areas and audited them in a manner which was so deficient that it amounted to no audit at all, while making audit judgments that no reasonable auditor would have made if confronted with the same facts;

b. Assess the conditions under which accounting data was produced, processed, reviewed, and accumulated within the organization or assess such conditions and made audit judgments based upon said assessment that no reasonable auditor would have made if confronted with the same facts;

c. Evaluate the reasonableness of estimates and management's representations (such as its estimates of contingent losses and its representations regarding the nature of the Company's revenues, its related-party transactions, and its significant risks and uncertainties) or

evaluated them in a manner which was so deficient that it amounted to no evaluation at all; and

d. Judge the appropriateness of the accounting principles applied and the adequacy of disclosures in the Company's financial statements (such as those required by FASB Statement No. 5, APB Opinion No. 28, SOP 94-6, and FASB Statement No. 57), or did so and arrived at judgments that no reasonable auditor would have arrived at if confronted with the same facts.

568. GAAS (AU § 311) states that audit planning involves developing an overall strategy for the expected conduct and scope of the audit. Accordingly, GAAS recognizes that the nature, extent, and timing of audit planning may vary with the size and complexity of the company, experience with the company, and knowledge of the company's business. In this regard, GAAS (AU § 311) provides that in planning the audit, the auditor should prepare a written audit program (or set of written audit programs) for every audit and that this audit program should set forth in reasonable detail the audit procedures that the auditor believes are necessary to accomplish the objectives of the audit. GAAS further states that, in developing the program, the auditor should be guided by the results of the planning considerations and procedures and, as the audit progresses, changed conditions may make it necessary to modify planned audit procedures.

569. In preparing this audit program, GAAS provides that the auditor should consider, among other things (AU § 311):

a. Matters relating to the entity's business and the industry in which it operates;

b. The entity's accounting policies and procedures;

c. The methods used by the entity to process significant accounting information;

d. Planned assessed level of control risk;

e. Preliminary judgment about materiality levels for audit purposes;

f. Financial statement items likely to require adjustment; and

g. Conditions that may require extension or modification of audit tests.

570. Had Deloitte properly planned its audit, it would have identified areas in which Delphi's internal control protocols were deficient and the areas of Delphi's accounting which were subject to manipulation. Delphi's management was able to use numerous one-time transactions which were not in the ordinary course, such as the installation of software in 2002, the sale of raw materials in 2000, a warranty payment in 2000, together with repeated transactions with entities such as BBK, Setech and Bank One which were also not in the ordinary course, as a means to manipulate revenues. Deloitte's failure to adequately plan its audits under GAAS in order to asses the materiality of these one-time transactions on Delphi's income or EPS, was severely reckless and represented an extreme departure from the ordinary care required of an auditor by AU §230.

4. Failure to Obtain Competent Evidential Matter

571. Deloitte violated Standard of Field Work No. 3, which requires sufficient competent evidential matter to be obtained through inspection, observation, inquiries and confirmations to afford a reasonable basis for an opinion regarding the financial statements under audit. GAAS provides that accounting data alone is insufficient to support an opinion on financial statements. Before rendering an opinion on financial statements, the auditor must obtain sufficient, competent "evidential matter" to afford a reasonable basis for the opinion. "Evidential matter" consists of the underlying accounting data and all corroborating

information available to the auditor. (AU § 326.) Corroborating evidential matter includes both documentation obtained during the field work (e.g., checks, invoices, contracts, and independent confirmations) and information obtained from inquiry, observation, inspection and physical examination. (AU § 326).

572. Management's representations are not a valid substitute for the application of audit procedures to form a reasonable basis for an auditor's opinion of financial statements (AU § 333). Evidential matter that can be obtained from independent sources outside an entity provide greater assurance of reliability than any internally developed. Confirmation of accounts receivable is a generally accepted auditing procedure (AU § 330). GAAS AU § 330 provides that these confirmations are to be used to obtain evidence from third parties about financial statement assertions made by management, such as rights and obligations, and presentation and disclosure. Deloitte either complied with GAAS and sent appropriate confirmations and knew and ignored that Delphi's financial statement assertions were materially false and misleading, or it failed to comply with GAAS (AU § 330) and failed to know.

573. In the course of auditing Delphi's financial statements during the relevant time period, Deloitte either knew or recklessly disregarded facts that indicated that it had failed to obtain sufficient competent evidential matter to afford a reasonable basis for expressing unqualified opinions on Delphi's financial statements. Deloitte's staff was frequently present at Delphi's offices and had access to Delphi's internal corporate books and records particularly during its annual audits. In addition, Deloitte's staff had access to Delphi's private and confidential financial and business information. Given the availability of such records and information, Deloitte either obtained, through inspection, observations, inquiries, and other

audit procedures, sufficient competent evidential matter to compel it to issue qualified or adverse opinions on Delphi's financial statements, or it recklessly failed to utilize the available records and information in the performance of its audits and recklessly failed to issue qualified or adverse opinions on Delphi's financial statements.

574. GAAS (AU § 326) notes that underlying accounting data and all corroborating information available to the auditor (including books of original entry, the general and subsidiary ledgers, related accounting manuals, and records such as work sheets and spreadsheets supporting cost allocations, computations, checks, purchase orders, bills of lading, invoices, records of electronic fund transfers, invoices, contracts, minutes of meetings, and reconciliations) constitute evidence that should be subjected to inquiry, observation, inspection, confirmation, and physical examination during an audit. It is inconceivable that Deloitte could have inquired about, observed, inspected, confirmed and physically examined the available documentation and failed to detect Delphi's fraudulent activities and the associated concealment actions (as discussed above) undertaken by the Company's management. Accordingly, Deloitte either performed audits which were so deficient that they amounted to no audits at all, or it identified and ignored, or recklessly failed to investigate, extremely questionable transactions and documents, and made audit judgments that no reasonable auditor would have made if confronted with the same facts.

575. Indeed, had Deloitte reviewed contracts underlying the numerous income generating transactions of Delphi that were not in the ordinary course, it would have discovered that these transactions were nothing more than financing arrangements that should have never been recorded as sales.

X. KNOWLEDGE OR RECKLESS DISREGARD OF DELPHI'S FRAUDULENT ACCOUNTING BY THE OFFICER DEFENDANTS

A. General Allegations of Scienter

576. The inflation of Delphi's financial statements through fraudulent accounting and manipulative transactions was a top down strategy perpetuated by the Officer Defendants and other senior managers at Delphi. Under this scheme, the Officer Defendants and other Delphi employees under their supervision manipulated Delphi's earnings, operating income, inventories, assets, expenses and liabilities through manipulative transactions with other Defendants and accounting fraud to enable Delphi to meet earnings expectations and to prove itself as a viable independent company. The Officer Defendants knew and/or recklessly disregarded that the accounting fraud and manipulative transactions caused Delphi's financial results and future growth prospects to be materially misleading.

577. The Officer Defendants were active, culpable, and primary participants in the fraudulent scheme to inflate Delphi's financial results by virtue of (1) their receipt of information reflecting the improper and fraudulent accounting described herein and/or their failure to review information they had a duty to monitor, (2) their actual issuance and control over Delphi's materially false and misleading statements, (3) their supervision over employees and actual direction of policies that encouraged accounting fraud, and (4) their association with the Company which made them privy to confidential information concerning the Company. The Officer Defendants knew or recklessly disregarded the materially false and misleading nature of the information they caused to be disseminated to the investing public. The Officer Defendants also knew or recklessly disregarded that the accounting manipulations that caused Delphi's financial statements to be materially false and misleading would adversely affect the integrity of the market for the Company's common stock and would cause the price of the Company's common stock to be artificially inflated. The Senior Management Defendants

acted knowingly or in such a reckless manner as to constitute fraud and deceit upon Lead Plaintiffs and other members of the Class.

578. In connection with the announcement in March 2005, that Delphi's financial statements from 1999-2004 were materially misleading due to a slew of accounting manipulations, Delphi's Audit Committee revealed that it had met with supervisory employees and members of management that were involved with or knew about the transactions at issue "to evaluate the conduct and knowledge of these individuals, and to consider after carefully evaluating all of the findings of the investigation and the level of cooperation, what personnel changes or other steps, if any should be taken to strengthen the Company's internal controls and procedures over financial reporting and disclosure controls and procedures to prevent the future occurrences of similar errors."

579. In conjunction with this announcement, the Audit Committee expressed "a loss of confidence" in Defendant Dawes, who had served as Delphi's Chief Accounting Officer and Vice-Chairman. As a consequence, Dawes was forced to resign. Likewise, Defendant Free, Delphi's controller, was also terminated. Within a few weeks, as the Audit Committee took steps to purge the Company of those directly responsible for the fraud, firing other individuals within Dawes' department, including Pamela Geller, Delphi's Treasuer, and Blahnik, Delphi's Director of Mergers and Acquisition and New Markets.

580. Defendant Battenberg escaped the humiliation of having to be forced out after the announcement of the fraud. On February 23, 2005, just ten days prior to these forced resignations, Defendant Battenberg announced his retirement. In responding to the controversy over the timing of his retirement and the announcement of the fraud, Defendant Battenberg claimed that the retirement was planned.

B. The Officer Defendants Were In Positions of Actual Control and/or Supervision of Delphi's Manipulative Practices

581. The Officer Defendants directed, knew about or recklessly disregarded the fraudulent accounting practices implemented under their watch. As officers of the Company, Defendants Battenberg, Dawes, Free, Runkle, Sheehan and Blahnik each knew, or should have known, and had access to – through direct knowledge or knowledge learned through the supervisory nature of their positions – the accounting information and decisions made at the Company.

2. Defendant Battenberg

582. As Delphi's President, Chief Executive Officer and Chairman of the Board of Delphi, Defendant Battenberg spearheaded Delphi's launch as a public company and steered the fledgling company throughout the Class Period. In December 1999, he appointed Defendants Dawes and Runkle as members of the Board of Directors and established direct reporting relationships with Dawes, Free, Sheehan and Runkle.

583. Defendant Battenberg ran Delphi with the assistance of the remaining Officer Defendants until February 23, 2005, when he announced his intention to retire, barely one week before Delphi's Audit Committee released the preliminary findings of its internal investigation, which uncovered widespread fraudulent accounting practices at Delphi dating back to 1999. The timing of Battenberg's announcement is highly suspicious, and plainly suggests an exit strategy to avoid humiliation and blame for the fraud that occurred under his leadership at the Company.

584. Defendant Battenberg spent more than forty-five years in the automobile industry, starting at the GM Institute in 1961, and working his way up to President of Delphi's GM predecessor division in 1995, and to President, Chief Executive Officer and Chairman of the

Board of Delphi in 1999. Battenberg was also named to lead the initial public offering and spin-off of Delphi in 1999. Through his experience at GM and Delphi, Battenberg was intimately familiar with all aspects of the Company's business and finances, including its accounting for warranties, rebates and rebate credits from suppliers, inventory financing transactions.

585. Defendant Battenberg had a tremendous stake in Delphi's success and indeed his reputation was intimately connected with the success of the Company. Delphi's bonus structure awarded huge bonuses based on Delphi's performance.

586. According to Lead Counsel's sources, including CS 10, a former financial manager of integrated services at Delphi with responsibility for environmental reserve reporting, Defendants Battenberg and Dawes together pressured their accounting executives to make the numbers work. Battenberg, along with Dawes, had a "well-known habit," when presented with financial analysis that they did not like, of saying "I don't like this picture" or "I don't like what this picture is telling me," which were known to mean, "change the numbers, go change it, rework it."

587. Defendant Battenberg knew that Delphi improperly accounted for inventory by intentionally not recording receipt of high-dollar inventory supplies. As discussed in ¶¶ 195-98, on May 3, 2004, Battenberg received a copy of the May 2004 Audit Report, which detailed how Delphi improperly recorded inventory and determined that, in order to comply with GAAP, Delphi would have to begin to "[r]ecord receipt of material in a timely manner."

588. Defendant Battenberg also knew or should have known about Delphi's off-balance sheet financing transactions of indirect materials with Setech. Indeed, CS 4, a former GM and Delphi employee who was involved in logistics for Delphi's Electronics and Safety

Division, stated that Delphi's Electronics & Safety Division's treatment of indirect materials was considered such a success within the Company that Delphi instituted a corporate wide program where individuals from other divisions in the Company were sent to the Electronics & Safety Division to see how they disposed of their indirect materials and to learn from their methods. Further, Mark Lorenz, Delphi's Vice-President of Operations and Logistics, who reported [directly] to Battenberg, sent out a Company-wide memo regarding the success of the indirect materials disposal program, which was nothing more than improperly accounted for off-balance sheet financing transactions.

589. With respect to other aspects of the Company's accounting, Defendant Battenberg received information and regular reports from Defendants Dawes, Free, Blahnik, Sheehan and Runkle. As demonstrated below, Dawes, Free, Blahnik, Sheehan and Runkle had extensive knowledge regarding the Company's accounting for, among others, its inventory financing transactions, warranty obligations and credits, rebates and rebate credits received from the Company's suppliers.

3. Defendant Dawes

590. As Delphi's Vice Chairman, CFO and a member of the Board of Directors, positions he held for over five years, Defendant Dawes knew virtually every fact regarding the Company's financial position, including its accounting practices. Indeed, Dawes learned information and received direct reports from the individuals he supervised, including Defendants Blahnik and Free, and Delphi's Vice President and Chief Information Officer Peter Janak.

591. Defendant Dawes' all-encompassing knowledge of the Company's accounting practices and his complicity in perpetrating the fraud alleged herein was admitted by the Company as Delphi forced him to resign after uncovering pervasive fraud at Delphi.

Specifically, on March 4, 2005, the Audit Committee announced that it had (i) met with culpable persons with knowledge or supervisory responsibility over these accounting manipulations and improper transactions and (ii) accepted the resignation of Defendant Dawes because the Audit Committee "had expressed a loss of confidence in him."

592. In particular, Defendant Dawes, as the head of Delphi's financial team, ordered, knew of orders or recklessly disregarded orders given by his finance staff to division financial personnel to record Delphi's worthless, obsolete inventory on the books as valuable inventory, as explained by CS 3, a former Delphi employee who was involved in logistics for Delphi's Energy & Chassis Division and Delphi's Electronics and Safety Division.

593. Defendant Dawes had direct knowledge regarding Delphi's improper accounting for the three fictitious sales involving $89 million of inventory with BBK. According to *The Wall Street Journal,* CS 5, a former BBK consultant and CS 6, a former BBK employee, these transactions were handled by, among others, Defendants Dawes, Free and Blahnik, on the Delphi side and by BBK's CEO B.N. Bahadur and Diehl on the BBK side. Further, CS 6 stated that Dawes met on a bi-monthly basis with Bahadur and Diehl to discuss the BBK - Delphi engagements.

594. Defendant Dawes knew that Delphi improperly accounted for inventory by intentionally not recording receipt of high-dollar inventory supplies. Dawes also received the May 2004 Audit Report that detailed how Delphi improperly recorded inventory and determined that it was necessary for Delphi to "[r]ecord receipt of material in a timely manner."

595. Dawes knew that Delphi fraudulently accounted for approximately $46 million in rebate transactions with EDS. According to CS 9, a former Delphi Officer who was involved in

Delphi's contract negotiations with EDS, all of Delphi's accounting for its EDS rebate transactions was handled in the finance department by Dawes, Free and their staff. Indeed, CS 9 stated that Delphi took the savings upfront as opposed to over the life of the contract because the finance department was "pretty clear that they wanted the upfront payments from EDS." CS 9 explained that in terms of the payments, credits and rebates between Delphi and EDS, nothing was ever done without the full knowledge of everybody at Delphi, including Dawes and Delphi's Chief Information Officer Pete Janak.

596. Similarly, Dawes also knew that Delphi fraudulently accounted for approximately $22 million in payments made to EDS for system implementation services rendered in 2002. According to CS 9, Dawes, Free and the finance department handled all accounting aspects of the Delphi-EDS transactions.

597. Dawes knew or recklessly disregarded that $202 million, or 85%, of its $237 million payment to GM in 2000 to settle warranty claims, was improperly accounted for as post-retirement obligations and that $30 million in credits received from GM in 2001 were improperly recorded as a reduction to expense in 2001 and 2002. Indeed, according to CS 8, a former Delphi Senior Director who had been employed for thirty years by both GM and Delphi, the accounting issues with GM were handled and resolved "at the highest financials levels involving the CFOs of both companies."

4. Defendant Free

598. As Executive Director of Delco Electronic Systems Division from June 6, 2002 until his resignation from Delphi on March 4, 2005, and as Delphi's first Chief Accounting Officer and Controller, Defendant Free was intimately familiar with the Company's financial position, including its accounting practices. Indeed, "Free was deeply involved in establishing

the accounting systems and processes necessary to enable Delphi to operate as an independent company" according to a Delphi press release on March 14, 2002.

599. Defendant Free's deep involvement in the Company's accounting systems and practices and his complicity in perpetrating the fraud alleged herein was admitted by the Company. On March 4, 2005, the Audit Committee announced that it dismissed Free after it had met with culpable persons with knowledge or supervisory responsibility over these accounting manipulations and improper transactions. In particular, as explained by CS 3, a former Delphi employee who was involved in logistics for Delphi's Energy & Chassis Division and Delphi's Electronics and Safety Division, Defendant Free, as one of the more senior managers on Delphi's financial team, ordered, knew of orders or recklessly disregarded orders given by his finance staff to division financial personnel to record Delphi's worthless, obsolete inventory on the books as valuable inventory.

600. In addition, Free knew that Delphi fraudulently accounted for approximately $46 million in rebate transactions with EDS. According to CS 9, a former Delphi Officer who was involved in Delphi's contract negotiations with EDS, all of Delphi's accounting for its EDS rebate transactions was handled in the finance department by Dawes, Free and their staff. Indeed, CS 9 stated that Delphi took the savings upfront as opposed to over the life of the contract because the finance department was "pretty clear that they wanted the upfront payments from EDS." CS 9 explained that in terms of the payments, credits and rebates between Delphi and EDS, nothing was ever done without the full knowledge of everybody at Delphi.

601. Similarly, Free also knew that Delphi fraudulently accounted for approximately $22 million in payments made to EDS for system implementation services rendered in 2002.

According to CS 9, Dawes, Free and the finance department handled all accounting aspects of the Delphi-EDS transactions.

5. Defendant Blahnik

602. Having served as both Vice President of Treasury, Mergers and Acquisitions and as Acting Chief Accounting Officer and Controller Delphi Corporation, Defendant Blahnik was intimately familiar with the Company's financial position, including its accounting practices. Indeed, Blahnik had worked in financial positions at GM and Delphi for more than 25 years and through his experience at GM and Delphi, Blahnik was intimately familiar with all aspects of the Company's business and finances, including its accounting for warranties, rebates and rebate credits from suppliers, inventory financing transactions. Blahnik reported to directly to Defendant Dawes.

603. Defendant Blahnik's complicity in perpetrating the fraud alleged herein was admitted by the Company on March 4, 2005, when the Audit Committee announced that it demoted Blahnik after it had met with culpable persons with knowledge or supervisory responsibility over these accounting manipulations and improper transactions. Thereafter, on June 8, 2005, Delphi announced Blahnik's resignation.

604. Defendant Blahnik knew or recklessly disregarded that Delphi's improperly accounted for the three fictitious sales involving $89 million of inventory with BBK. According to *The Wall Street Journal,* CS 5, a former BBK consultant and CS 6, a former BBK employee, these transactions were handled by, among others, Defendants Dawes, Free and Blahnik on the Delphi side and by BBK CEO Bahadur and Diehl on the BBK side. In addition, Blahnik knew or recklessly disregarded that Delphi entered into a $200 million sham sale of precious metals for cash with Bank One and improperly recorded this transaction as a sale instead of a financing transaction in December 2000. According to CS 7, a former GM

employee who worked in the division that was spun-off as Delphi, this transaction was done by the Treasury Department, of which Blahnik was Vice-President, and was "done to try to generate cash flow from off balance sheet financing."

6. Defendant Sheehan

605. On March 4, 2005, Defendant Sheehan was named acting CFO and Chief Accounting Officer and Controller of Delphi Corporation. Prior to this position, he was Delphi's Chief Accounting Officer and Controller (a position he held from 2002) and was responsible for all of Delphi's regulatory reporting functions, budgeting and overall financial accounting processes. In these positions, Sheehan is, and was, intimately familiar with the Company's financial position, including its accounting practices, including its accounting for warranties, rebates and rebate credits from suppliers, inventory financing transactions.

606. In particular, Sheehan knew that Delphi improperly accounted for inventory by intentionally not recording receipt of high-dollar inventory supplies. Sheehan also received the May 2004 Audit Report, which detailed how Delphi improperly recorded inventory and determined that it was necessary for Delphi to "[r]ecord receipt of material in a timely manner."

7. Defendant Runkle

607. As Delphi's Executive Vice President and President of Delphi's Dynamics & Propulsion Division (positions held from 2000 to 2003) and as Delphi's Vice Chairman and Chief Technology Officer (from 2003 through the end of the Class Period), Defendant Runkle was intimately familiar with the Company's business, including its accounting practices and true financial condition. Further, in these positions, Runkle had unfettered access to all Company documents and information, including the May 2004 Audit Report and documents and information concerning, *inter alia*, the fraudulent transactions with GM, EDS, BBK,

Setech, Bank One identified herein. Moreover, as an executive officer of Delphi, Runkle knew or should have known the terms and true purpose of these transactions. Runkle had both motive and opportunity to perpetrate Delphi's fraudulent scheme. Specifically, pursuant to the Annual Incentive Plan, Runkle received an annual cash bonus that was based upon the Company's ability to achieve specific financial results as set forth in ¶ 93 above. For example, Runkle received bonuses of 112% of his annual salary in 1999 and 146% of his annual salary in 2000.

C. The Officer Defendants Knowledge and/or Reckless Disregard of Delphi's Accounting Fraud and Manipulative Transactions

608. There exists both direct evidence and circumstantial evidence of the Officer Defendants actual knowledge and participation in Delphi's accounting fraud and Delphi's manipulative transactions designed to inflate earnings. At the outset, the Officer Defendants occupied the highest rungs of Delphi's corporate ladder and were individually responsible for Delphi's false and misleading statements and omissions during the Class Period. They were charged with reviewing Delphi's accounting procedures, assessing Delphi's internal controls, approving significant transactions, and developing company-wide policies.

609. Indeed, Officer Defendants Dawes, Battenberg, Sheehan, and Free personally attested in Delphi's Annual Reports during the Class Period that Delphi's internal controls provided reasonable assurance that Delphi's books and records and transactions complied with all relevant policies and procedures. In fact, this statement, in and of itself, was utterly false because Delphi's internal controls were wholly deficient during the Class Period as confirmed by Delphi's Audit Committee's investigation. As such, Defendants Dawes, Battenberg, Sheehan and Free either intentionally misrepresented Delphi's compliance with policies or procedures or were severely reckless in making such statements.

610. Delphi's fraudulent accounting and manipulative transactions had an enormous impact on Delphi's reported results and could not have been overlooked or ignored by the Officer Defendants. In fiscal year 2000, Delphi's fraudulent accounting and manipulative transactions inflated earnings by $185 million, or by over 18%. Basic earnings per share for fiscal year 2000, originally reported as $1.78 per share, was overstated 33 cents. In fiscal year 2001, Delphi overstated earnings by $32 million, or more than 8%, and earnings per share, originally reported as 71 cents per share, was overstated by 5 cents. In 2002, Delphi overstated earnings by $24 million or 7%, and earnings per share, originally reported as 61 cents per share, were overstated by 4 cents.

611. The fact that Delphi's fraudulent transactions were the prime drivers of Delphi's increased cash flow from operations and earnings underscores the fact that Officer Defendants knew the details of these transactions and the effect that they had on income and earnings. Indeed, of the $268 million in cash flow from operations that Delphi reported for fiscal year 2000, $220 million was inflated through Delphi's fraudulent accounting. When the magnitude of Delphi's accounting manipulations, is combined with the following facts, among others described herein, there exists a strong inference that the Officer Defendants acted with scienter in causing Delphi's financial statements to be inflated:

a. The nature and scope of Delphi's accounting manipulations point to intentional misconduct and fraud which the Officer Defendants either knew about were severely reckless in not knowing. Delphi's accounting manipulations represented blatant departures from GAAP and all of Delphi's accounting manipulations had the immediate effect of inflating earnings. This points to a concerted effort on that part of Delphi's

management to use manipulative accounting to inflate Delphi's financial results.

b. Delphi adopted an "aggressive inventory management" which was touted in Delphi's public filings and which was overseen and directed by senior managers at Delphi who reported directly to the Officer Defendants. An established element of this program was to manipulate inventories through fictitious sale transactions and delaying delivery dates. The Officer Defendants negotiated and executed contracts with companies like Setech and BBK, Ltd to effectuate these transactions;

c. Delphi's Senior Managers, including Defendants Dawes were intimately involved in the negotiation an execution of the transactions which were the subjects of Delphi's fraudulent accounting. As such, the Officer Defendants should be presumed to have had actual knowledge about the details of these transactions and how the accounting accorded the transaction; and

d. The Officer Defendants recklessly ignored internal control deficiencies at the Company that could have prevented Delphi's accounting abuses.

e. The Officer Defendants actively concealed its earlier accounting fraud after the passage of Sarbanes-Oxley even though it had ample opportunity to correct the earlier fraud and restate its financial statements.

1. The Nature and Scope of Delphi's Accounting Manipulations Points to Intentional Wrongdoing on the Part of the Officer Defendants

612. As set forth more fully in Section VI above, Delphi's: (i) accounting for the disposal of inventories and assets; (ii) its accounting for the payment of warranty obligations to

General Motors; (iii) its accounting for credits, rebates, and liabilities associated with information technology service contracts and system implementation services; and (iv) its failure to record expenses when accrued, were blatant departures from fundamental GAAP accounting, and in some cases, complete mischaracterizations of the transactions themselves, that could have served no other purpose than to inflate Delphi's financial statements. Accordingly, in every example where Delphi violated GAAP accounting, or misclassified transactions, the primary effect was to either reduce expenses or inflate income in the immediate reporting period so as to inflate that reporting period's earnings and EPS.

613. Delphi's failure to record expenses is a primary example of a GAAP violation that served no other purpose than to reduce expenses so as to inflate earnings. As explained above, an elementary principle of GAAP is that expenses accrue when realized. Delphi's Restatement reveals that Delphi failed to record $29 million worth of expenses in the years prior to December 31, 2001, $14 million in 2002, and $34 million in 2003. Similarly, in the first quarter of 2003, Delphi failed to record a $10 million warranty expense paid to General Motors. These failures cannot be attributed to mere negligence or oversight but intentional misconduct. Indeed, if Delphi's failure to account for expenses were simply the result of inadvertence or lack of internal controls, one would expect to see corresponding failures to record income. Of course, the Restatement reveals not a single instance in which Delphi failed to record income underscoring the fact that Delphi's failure to accrue for expenses was intentional misconduct designed to inflate earnings.

614. The misclassification of Delphi's $202 million payment to GM in the third quarter of 2000 is another egregious example of a transactions in which the facts lead to the inevitable conclusion that the accounting for the transaction was intentionally manipulated to inflate

Delphi's earnings. Delphi's payment to GM was the end-result of a lengthy dispute between GM and Delphi regarding warranty recall costs which GM claimed that Delphi was responsible for because these costs were associated with Delphi-produced parts. After mediation, Delphi agreed to pay GM the sum of $237 million to cover the still-contested warranty issues.

615. Yet, rather than properly recording this expense as a warranty expense, Delphi recorded $202 million, or 85% of the payment to GM, as post-retirement obligations which allowed it to capitalize the bulk of the expense and amortize it over time. The effect on Delphi's income statement was dramatic. Delphi's reported year 2000 third quarter pre-tax income was $236 million. Immediately expensing the payment to GM in that quarter would have reduced pre-tax income in that quarter to approximately $34 million, while Delphi's annual pre-tax income of 1.667 billion would have fallen by more than 14%. Thus, manipulating the accounting for this transaction had enormous benefits for Delphi's bottom line. Given that Delphi's management specifically negotiated this payment to General Motors, they must be presumed to have understood the significance of the accounting decision that was made on Delphi's reported results for 2000.

616. Delphi's accounting for payments and credits received in conjunction with its IT service agreements, as well as rebates and credits received from suppliers, as explained in Section VI.C.1-2, were violations of GAAP's elementary matching principle which requires income to be matched to the period in which services are rendered or goods produced. Yet, for no other apparent reason that to inflate pre-tax income, Delphi's management recorded rebates and credits in the quarters when the rebates and credits were received, rather than accruing them when the services for which these credits and rebates were allocated, were

actually performed. In sum, these GAAP violations allowed Delphi to inflate pre-tax income by $86 million in 2000 and 2001.

617. Similarly, Delphi's deferred expense costs associated with the implementation of software in 2002 where GAAP specifically required that the expenses be taken immediately. Once again, the only apparent reason for the improper deferral was to maximize current year earnings by failed to record $22 million in expenses.

618. Delphi's inventory and asset sale schemes are also an egregious example of transactions that were simply misclassified from the actual substance so as to maximize earnings and reduce liabilities. These transactions violated both the primary overarching principle of GAAP that the substance of a transaction should not be subverted for form but also specific GAAP requirements that prohibit the treatment of inventory disposals with buy-back arrangements as sales transactions. Yet, Delphi's asset and inventory disposition transactions were carefully crafted to appear as sales despite, as shown below, all the participants to the transactions recognizing that the transactions were actually collateralized financing arrangements in which the assets and inventories would have to be bought back by Delphi.

619. Indeed, a number of Delphi's purported inventory sales had no real cash effect and were blatantly fraudulent. In three transactions involving purported "sales" of inventory, which boosted pre-tax income by $89 million, the entity purportedly "purchasing" the inventory paid no cash to Delphi. Instead, Delphi recorded the sales as accounts receivable in the amount of $89 million. Then, Delphi allowed the counter-party to settle the account receivable purportedly through financing provided by Delphi. In sum, no actual cash was ever received for these transactions yet Delphi still recorded income. In sum, Delphi's improper

asset and inventory disposals inflated Delphi's pre-tax earnings by at least $226 million between 1999 and 2001.

620. The egregious nature of these accounting violations and their immediate effect of materially inflating revenues in critical periods creates a strong inference that Delphi's management intentionally manipulated the accounting for these transactions. Without these accounting errors, Delphi would have consistently failed, in 2000 and 2001, to meet earnings estimates. As set forth above, in every quarter in which Delphi's accounting manipulations inflated earnings, Delphi managed to just match analyst earnings expectations. Clearly, therefore, Delphi's management was attuned to the effects of these accounting manipulations on Delphi's bottom line.

2. Delphi Adopted a Firm-Wide "Aggressive Inventory Management" Program That Was Implemented by the Officer Defendants and Encouraged Fraudulent Activities to Improve Financial Results

621. Delphi's fraudulent asset sales and inventory dispositions, combined with its efforts to understate inventory levels through various manipulative practices, was a company-wide initiative developed and monitored by Delphi's senior managers. Various contracts and business relationships with entities that agreed to "purchase" Delphi's inventories and assets with buy-back arrangements, were negotiated by senior Delphi executives. As such, there is a strong inference that the Officer Defendants knew or were severely reckless in not knowing that these transactions were designed to inflate Delphi's income while understating inventories.

622. Delphi began publicly touting its initiatives to manage and reduce inventories in its public filings beginning in 2000. The effort was to convince investors and analysts covering the Company that Delphi was effectively managing its inventory levels.

623. Delphi's Vice President of Operations and Logistics, Mark Lorenz, who reported directly to Delphi's Executive Vice President, established inventory levels that divisional

managers were told to comply with. In turn divisional managers placed intense pressure on managers at Delphi's various facilities to curb inventories. The result was that Senior managers at Delphi's automotive plants, who were interviewed by Lead Plaintiffs, revealed that "there was a major push at the end of each quarter and at the end of the fiscal year" to reduce inventory levels. Among the schemes used to reduce inventories was failing to record the receipt of high dollar inventory supplies, and intentionally delaying delivery of freight holders by instructing them to hold on to their inventory deliveries.

624. Internal Delphi audit reports reveal that Defendants Dawes, O'Neal, Sheehan, and Battenberg were specifically informed by internal memo that inventory levels at plants were being manipulated and artificially reduced through various schemes. The memo revealed, "material received at the manufacturing sites is not consistently recorded in the inventory records in a timely manner. Review of recent activity at the Kettering, Juarez SEC, Rochester, and Saginaw plants near year-end appears to contain several instances where material was delivered to the plaint prior to year-end but not recorded until January."

625. In addition to being specifically informed of manipulation of inventory levels, Delphi's senior managers were intimately involved in brokering arrangements with companies such as Setech, BBK, and Bank One to remove obsolete and worthless inventories and assets from Delphi's balance sheets in fictitious sale transactions that were nothing more than financing arrangements. In the case of the transactions involving inventories, often the purported "sale" involved worthless, obsolete inventories that never left the Delphi warehouses in which they were stored.

626. According to former consultants with BBK, a company that participated in the scheme to boost Delphi's income by almost $90 million in 2000 and 2001, the inventory

disposition transactions were done to "move things off books for a short period of time, and then bring them back on the books when the cash flow improved." The deals between Delphi and BBK were "mostly parking, you buy things, you sit on it, and then you transfer them back to them at some margins to BBK." A former executive assistant to BBK's Chief Executive Officer, B.N. Bahadur, confirmed that Defendant Dawes regularly scheduled bi-weekly meetings with Bahadur and BBK's Chief Operating Officer, William Diehl, to discuss BBK-Delphi transactions. Thus, it is clear that the inventory disposal transactions with BBK and their critical role in manufacturing income to meet earnings requirements was known to the Officer Defendants.

3. The Officer Defendants Negotiated Contractual Arrangements Which Were Subsequently Fraudulently Accounted for and/or Misclassified.

627. Delphi's accounting for its payment to GM for warranty settlements was the product of long negotiations involving senior management at Delphi and GM. According to the April 13, 2005 article in *The Wall Street Journal*, a dispute arose between GM and Delphi over which company was responsible for warranty and recall costs associated with defective airbags and powerlocks in GM vehicles manufactured by Delphi Automotive Interiors.

628. After protracted negotiations with a mediator, and with the amount still disputed, Delphi paid $237 million to GM in the third quarter of 2000. According to a knowledgeable employee at Delphi who was interviewed by Lead Plaintiffs, the negotiations and their ultimate resolution "were handled at the highest financial levels involving the CFOs of both companies." Clearly, given the huge impact of this expense on Delphi's quarterly and annual financial results, the fact that Defendant Dawes was specifically involved in the negotiations, the fact that the transaction was misclassified for accounting purposes had to have been known by Dawes, specifically, as well as each of the Officer Defendants.

629. Moreover, the Officer Defendants completely omitted any reference to the $237 payment to GM in Delphi's public filings and public statements in fiscal year 2000, underscoring that fact that they intended to misrepresent the accounting for the transaction and mitigate the effect of the payment on income and earnings by blatantly lying about the character of the payment.

630. Delphi's contracts with EDS were similarly negotiated by senior executives, including Defendants Dawes. EDS was an IT services supplier which had maintained a master service agreement with GM that encompassed services to Delphi. After the spin-off, Delphi continued to retain EDS for its IT services. Delphi created a more competitive bidding process for contracts with EDS whereby everytime Delphi sought a new contract for additional services, it would force EDS to rebid existing contracts. In this way, Delphi was able to take rebates and concessions from EDS in existing contracts where services still had to be performed.

631. According to interviews with a former Chief Technical Officer at Delphi, who participated in the negotiations with EDS, Defendants Dawes and Free specifically negotiated with EDS to have these rebates issued upfront rather than at the time that the services covered by these rebates were performed. As such, these Defendants clearly knew that these rebates and credits should not have been accounted for upfront as income but instead when the services were performed. According to CS 9, a former Delphi Officer who was involved in Delphi's contract negotiations with EDS, "while Delphi did receive savings from EDS, we were a young start-up company and [we were] looking for numbers." Of course, in blatant violation of GAAP, Defendants Dawes and Free made Delphi's numbers by improperly recording these credits and rebates when received.

4. The Officer Defendants Recklessly Ignored Delphi's Internal Control Deficiencies While Assuring Investors that Delphi's Internal Controls were Adequate

632. The Officer Defendants, including Battenberg, Dawes, Sheehan, and Free, opined in Delphi's financial statements that Delphi's internal controls were proper and appropriate for ensuring Delphi's compliance for GAAP. These statements were absolute misrepresentations about the adequacy of Delphi's internal controls and reveal either a reckless disregard for the truth of their claim, because they clearly never investigated whether the internal controls were proper, or an intentional misrepresentation to ensure that the fraudulent practices at Delphi would not be uncovered.

633. Delphi's Audit Committee investigated the quality of Delphi's internal controls during the Class Period and expressed their conclusions in the Restatement. The Audit Committee concluded that the pervasive accounting manipulations that occurred during the Class Period which boosted Delphi's accounting violations occurred in an environment which was completely absent of effective internal controls. The Audit Committee's identified a host of material weaknesses in Delphi's internal controls during the Class Period and concluded that as of December 31, 2004, Delphi, in fact, did not have effective internal controls over accounting. The Audit Committee identified "material weaknesses" in Delphi's internal controls including:

a. Insufficient numbers of personnel having appropriate knowledge, experience and training in the application of GAAP at the divisional level, and insufficient personnel at the Company's headquarters to provide effective oversight and review of financial transactions;

b. Ineffective or inadequate accounting policies to ensure the proper and consistent application of GAAP throughout the organization;

c. Ineffective or inadequate controls over the administration and related accounting treatment for contracts; and

d. Ineffective "tone" within the organization related to the discouragement, prevention or detection of management override, as well as inadequate emphasis on thorough and proper analysis of accounts and financial transactions.

634. According to the Audit Committee:

> The Company's controls over the selection and application of GAAP are ineffective as a result of insufficient resources and technical accounting expertise within the organization to resolve accounting matters in a timely manner. Furthermore, accounting for transactions is performed across multiple business units and functions that are not adequately staffed or are staffed with individuals that do not have the appropriate level of GAAP knowledge. Due to the pervasiveness of this material weakness, many of the restatement items (as discussed in Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations — Restatement and Conclusion of Audit Committee Internal Investigation) resulted from the inappropriate selection of, misapplication, or inadequate consideration of GAAP by Delphi accounting personnel. Additional personnel and oversight is needed at the Company's headquarters to review the accounting for transactions to ensure compliance with GAAP.

635. In addition, the Audit Committee concluded:

> The Company's accounting policies were inadequate or insufficiently comprehensive to ensure proper and consistent application throughout the organization. This resulted in adjustments, which were material to the consolidated financial statements as of December 31, 2004. Such adjustments included inappropriate timing of income related to credits, rebates, or other lump-sum payments from suppliers, under and over-recorded liabilities related to various services provided to the Company, inappropriate adjustment (or lack of adjustment) to significant estimates within the financial statements, and misclassification of amounts within financial statement captions. A contributing factor was the lack of sufficient detail or clarity of existing policies to enable their proper application.

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> The Company does not have effective controls related to the administration and accounting for contracts. In particular, the Company does not have adequate controls to identify and analyze the terms and conditions, both written and unwritten, of new contracts, or procedures to identify, analyze, and properly record the impact of amendments, supplement letters, or other agreements related to existing contracts. As a result, transactions related to supplier and royalty agreements were not accounted for in accordance with GAAP, resulting in material adjustments to the consolidated financial statements as of December 31, 2004.

636. Given this complete breakdown in internal controls at the Company, Delphi's accounting manipulations are not only the result of intentional and fraudulent conduct on the part of the Officer Defendants and the employees they supervised, but also a reckless indifference to whether Delphi's accounting complied with GAAP.

5. The Officer Defendants Conceal the Earlier Accounting Fraud After the Passage of Sarbanes-Oxely

637. A strong inference of the Officer Defendants' scienter, especially that of Defendants Dawes, Sheehan, Battenberg, Free, and Blahnik, all of whom assumed direct control over the Company's certification of financial results after the passage of Sarbanes-Oxley, is evident from these defendants continued efforts to "wind down" the fraud in succeeding years.

638. When Sarbanes-Oxley was enacted in July 2002, it required officers of public companies, particularly the CFO and CEO, to certify the company's financial results as accurate in all material respects. The penalty for negligently inaccurate certifications under the statute is civil liability, while the penalty for willfully inaccurate certifications is criminal liability. Following the passage of Sarbanes-Oxley, almost all of Delphi's most egregious accounting manipulations ceased. Following the passage of Sarbanes-Oxley, Delphi appears to have recorded no additional inventory disposals for revenue recognition purposes, or asset

dispositions, or accelerated recognition of revenues from rebates and credits from suppliers. Indeed, the only blatantly improper accounting manipulation evident following Sarbanes-Oxley is Delphi's improper expensing of a warranty credit from GM in the first quarter of 2003, when that credit should have been recognized in later periods.

639. Delphi, with Battenberg at the helm, was the first public company to certify its financial results under the more rigorous disclosure standards of Sarbanes-Oxley. Numerous newspaper articles describe the hoopla and attention given to Battenberg when Delphi filed its quarterly report for the second quarter of 2002, the first reporting period in which Sarbanes Oxley took effect. Reflecting on the filing, Battenberg told the Associated Press in an article dated July 27, 2003, "When I sent it in, they actually called to be sure that we knew what we were doing. It was interesting. To me, it was something natural," he said. "What Sarbanes Oxley did for me as a CEO is, it validated the path we were on. We haven't had to change much of anything."

640. In fact, Delphi and each of the Officer Defendants would have had to take stock of Delphi's accounting procedures so as to ensure compliance with Sarbanes-Oxley. This review should have uncovered all of numerous accounting manipulations in 2000 and 2001 that inflated Delphi's earnings. Yet, rather than disclose these accounting manipulations, the Officer Defendants elected to perpetuate the fraudulent accounting by "winding down" the fraud through the continued amortization of improperly capitalized or deferred expenses, such as the amortization of the warranty expense to GM, and the liabilities incurred in connection with IT supplier contracts.

641. Tellingly, before Delphi filed its first quarterly report under Sarbanes-Oxley, Battenberg was interviewed by the Detroit Free Press and asked whether he agreed with the

notion that the auto industry would be immune from a large accounting scandal, like Enron and WorldCom. He replied, "That's an interesting hypothesis, I would hesitate to comment on that."

XI. KNOWLEDGE OR RECKLESS DISREGARD OF DELPHI'S FRAUDULENT ACCOUNTING BY THE AUDIT COMMITTEE DEFENDANTS

642. The Audit Committee Defendants acted recklessly in the performance of their duties and, as a direct result, facilitated the rampant accounting fraud at Delphi described herein. The vital importance of audit committees to the integrity of a company's financial reporting was emphasized by the SEC in the rules promulgated pursuant to the Sarbanes Oxley Act of 2002:

> The audit committee, composed of members of the board of directors, plays a critical role in providing oversight over and serving as a check and balance on a company's financial reporting system. The audit committee provides independent review and oversight of a company's financial reporting processes, internal controls and independent auditors. It provides a forum separate from management in which auditors and other interested parties can candidly discuss concerns. By effectively carrying out its functions and responsibilities, the audit committee helps to ensure that management properly develops and adheres to a sound system of internal controls, that procedures are in place to objectively assess management's practices and internal controls, and that the outside auditors, through their own review, objectively assess the company's financial reporting practices.

643. Even prior to the enactment of Sarbanes Oxley, Delphi, in its March 27, 2000 Schedule 14A Proxy Statement filed with the SEC, described the responsibilities of the Audit Committee as "Assist[ing]s the Board of Directors in overseeing management's conduct of Delphi's financial reporting process," including:

> Discussing with management and the outside auditors the quality of our internal accounting and financial controls;
>
> Overseeing the preparation of financial reports provided by Delphi to the government or the public;

Reviewing with management and our outside auditors our annual audited financial statements and interim financial results; and

Monitoring the independence of our outside auditors.

644. The role of the audit committee was aptly summarized by Defendant Battenberg in a presentation to the Fall 2002 Directors' Summit at the University of Wisconsin School of Business. In his presentation Battenberg stated "It simply is no longer acceptable to say, 'I didn't know...' or for a board to say, 'We were uninformed.' ... The real role of directors is to smell trouble, to ask questions, to ask questions again if they don't get satisfactory answers, and not accept mushy answers." This is a test that the Audit Committee Defendants abjectly failed.

645. Of all the Board's committees, the Audit Committee had the greatest responsibility for the oversight of the financial statements of the Company. Indeed, it was fundamental that the Audit Committee Defendants have a detailed understanding of the Company, and particularly the adequacy of its financial systems and internal controls, as well as the state of the industry in which the Company operated.

646. In this regard, the Audit Committee Defendants knew, or were reckless in not knowing, that the only way that the Company had been able to consistently meet analysts' expectations in the midst of a broad decline in the economy in general, and in the automotive industry in particular, was through fraudulent accounting. Moreover, the Audit Committee Defendants knew or should have known that the Company's financial systems and internal controls were grossly inadequate.

B. The Audit Committee's Knowing Or Reckless Failure To Monitor Delphi's Internal Controls

647. The Audit Committee Defendants acted recklessly in allowing Delphi to make the statements identified Section VIII below without ensuring that the necessary internal controls

existed to ensure that those statements were free from material error. Indeed, it was the stated responsibility of the Audit Committee to discuss those controls with Delphi management and with the Company's independent auditor.

648. Tellingly, after the initiation of an investigation into the Company by the SEC in 2004, the Audit Committee Defendants, apparently for the first time, actually undertook to carry out their responsibilities for the first time and undertook to investigate the internal controls and accounting of the Company. In short order (but a few months), they were able to learn what they had knowingly or willfully disregarded for the previous four years – Delphi's internal controls were fatally inadequate. The Audit Committee concluded that Delphi's internal controls were rife with "material weaknesses" and further found that:

> The Company's controls over the selection and application of GAAP are ineffective as a result of insufficient resources and technical accounting expertise within the organization to resolve accounting matters in a timely manner.

649. In addition, the Audit Committee stated that during the Class Period:

> The Company's accounting policies were inadequate or insufficiently comprehensive to ensure proper and consistent application throughout the organization" and did not have effective controls related to the administration and accounting for contracts. In particular, the Company does not have adequate controls to identify and analyze the terms and conditions, both written and unwritten, of new contracts, or procedures to identify, analyze, and properly record the impact of amendments, supplement letters, or other agreements related to existing contracts.

650. Had the Audit Committee Defendants conducted any investigation of those controls, or engaged in any substantive discussion of the adequacy of those controls with management or with Deloitte, they would have necessarily discovered the inadequacy of those controls and implemented controls sufficient to have prevented the perpetration of the misconduct alleged herein. Their failure to conduct the necessary, and required, investigation,

is incontrovertible evidence of their knowledge or reckless disregard of the wrongdoing at Delphi.

C. The Audit Committee's Willful Blindness To Unusual Transactions Whose Only Purpose Was to Manipulate Delphi's Financial Results

651. As set forth in great detail above, Delphi engaged in a number of unusual transactions during the Class Period, the sole purpose of which was to enable Delphi to improperly manipulate its financial results so as to artificially inflate its stock price. Had the Audit Committee undertaken to investigate any of these transactions, as it did once it became aware of the SEC's investigation into Delphi's accounting, it would have uncovered the wrongdoing that, in 2005, caused it to dismiss a number of senior Delphi executives and restate Delphi's financial statements. That the Audit Committee Defendants were readily able to uncover the fraud when they finally decided to perform their proper function in late 2004 under threat of a governmental investigation, demonstrates that they knowingly and or willfully failed to perform their duty for more than four years so as to permit Delphi to falsify its financial results over that extended period.

652. Specifically, given the size of the transaction, and the impact it had on Delphi's reported financial results for 2000, the Audit Committee Defendants must have been aware of the purported sale of $200 million in precious metals to Bank One, which allowed Delphi to report $200 million in additional cash flow and $100 million in earnings for 2000 (vastly increasing both numbers). They also must have been aware of the enormous repurchase of such metals only one month after the sale (but, highly conveniently, in a new financial reporting period). Yet they took no steps to investigate the transaction or obtain any explanation for whether the accounting treatment was appropriate.

653. The Audit Committee Defendants also must have been aware of the negotiations between GM and Delphi over pension benefits and over the questions of warranty costs. Both of these issues were critical elements of the separation between GM and Delphi and were the subject of much management attention at Delphi. Given the significant importance to Delphi and the hundreds of millions of dollars involved, The Audit Committee Defendants were either knowing or reckless in their failure to investigate the accounting treatment for warranty rebates and their improper classification as pension expenses by Delphi management.

654. As explained above, in the third quarter of 2000, Delphi paid GM $237 million in cash as settlement of warranty claims. Delphi violated GAAP by improperly classifying $202 million – or 85% – of this cash payment as an adjustment to post-retirement obligations – even though it had nothing to do with such retirement benefits -- in order to defer the expense by amortizing this amount over several future periods and reduce the unwanted adverse effect on the 2000 financial results. Delphi then compounded its wrongdoing by improperly recording $30 million of an $85 million credit it received from GM in connection with the warranty payment as an immediate reduction to expenses, in violation of GAAP, thereby immediately understating its expenses and overstating its income. The centrality of the warranty and retirement benefits issues to Delphi's operations, and the fact that the Audit Committee Defendants were readily able to uncover the accounting manipulations when the chose to look (under threat of a governmental investigation) demonstrates that they were knowingly or willfully blind to these manipulations for many years.

655. The Audit Committee Defendants also overlooked for many years a series of transactions, amounting to several hundred million dollars, between Delphi and BBK/Setech that allowed Delphi to improperly recognize cash flow and appear to manage its inventories,

even though these transactions were, in fact nothing more than short term loans. The fact that Delphi management was able to engage in a number of short terms sales and repurchase of assets without any questions being raised by the Audit Committee Defendants provides a strong inference that the Audit Committee Defendants either knew or willfully disregarding the accounting shenanigans being carried out by management.

D. The Audit Committee's Knowledge Or Willful Disregard Of Accounting Manipulations Is Demonstrated By Its Failure To Look Into Accounting Problems When It Knew That Management's Compensation Was Based Upon Incentives That Would Be Difficult Or Impossible To Achieve Given The Downward Spiral Of The Auto Industry

656. The Audit Committee Defendants knew that Delphi only had "most-favored nation" status with GM until 2001, and needed to vastly expand its non-GM sales at a time when production levels across the auto industry plummeted. The Audit Committee Defendants also knew, or should have known, of the stock market collapse in 2000, the economic decline that began at that time, the decline in the heavy truck market, the weak value of the Euro, and the implications of those factors for Delphi's customers and for Delphi itself.

657. Consistent with the Audit Committee's financial reporting responsibilities, and in light of the negative industry outlook, the Audit Committee was obligated to investigate and verify the Company's reports of continued success in a declining automotive market. Quite simply, the Audit Committee Defendants acted recklessly in failing to inquire as to how Delphi continued to meet and exceed expectations in the face of massive production declines by its primary customers, including GM. Had the Audit Committee Defendants undertaken any reasonable investigation, they would have uncovered the real reason for the Company's purported success – namely, that the Officer Defendants had implemented a host of accounting schemes to improperly inflate Delphi's reported financial results, as set forth in detail above.

658. Further, the Audit Committee Defendants, all of whom are members of the Board of Directors, approved the Annual Incentive plan that handsomely rewarded executives – with bonuses equally 100% or more of their base salaries – for achieving specific financial results including, among other things, targets for net income, earnings-per-share and cash flow. That the Officer Defendants were able to meet these financial goals and obtain the full amount of their bonuses, despite a declining auto industry, should have caused the Audit Committee Defendants to delve more deeply into Delphi's purported success. Their failure to do so constitutes knowing participation in or reckless disregard for the fraud being perpetrated at Delphi.

659. Thus, after approving the Annual Incentive Plan, the Audit Committee Defendants made no effort to verify that those incentives did not motivate the Officer Defendants to commit fraud. Indeed, the Audit Committee Defendants made no reasonable effort to verify the adequacy of Delphi's internal controls, monitor the Company's financial reporting or to detect the rampant fraud that pervaded the Company's internal accounting. Had the Audit Committee Defendants conducted even the most basic investigation, they would have recognized that the Officer Defendants implemented a series of fraudulent transactions to ensure that the Company met the necessary targets to guarantee the payment of extraordinary bonuses under the Annual Incentive Plan. In doing so, the Audit Committee Defendants would necessarily have known, if they did not already know, that there was no basis to report that Delphi's financial statements fairly represented the results of the Company's operations in accordance with GAAP.

XII. DEFENDANTS BBK, SETECH AND BANK ONE/JP MORGAN KNOWINGLY PARTICIPATED IN A SCHEME WITH DELPHI AND THE OFFICER DEFENDANTS TO FALSIFY DELPHI'S FINANCIAL STATEMENTS

660. As set forth in Section VI, *supra*, Defendants Setech, BBK and Bank One, working together with Delphi and the Officer Defendants, engaged in acts, practices, and a course of business that operated as a fraud on the investing public and, in particular, purchasers of Delphi securities. Specifically, these Defendants participated with Delphi in a series of multi-million dollar transactions that were designed to allow Delphi to record on its books sales of inventory and/or indirect materials. The money received from these purported dispositions was recorded as income from operating activities, which inflated Delphi's net income during the time period, while the removal of these indirect materials and inventory from Delphi's balance sheet created the perception that the Company was efficiently and effectively managing excess assets and inventories.

661. In fact, Delphi sold unneeded, obsolete, or excess indirect materials (such as raw materials and metals) or inventory to these companies with an agreement that Delphi would repurchase these inventories or materials at a later date. Thus, rather than being sales, these transactions were nothing more than disguised loans to Delphi. Setech, BBK and Bank One each played a direct role in this scheme. Each of these Defendants knew and/or recklessly disregarded that their participation in this scheme and manipulative transactions caused Delphi's financial results and future growth prospects to be materially misleading.

A. Setech's Scienter

662. It is beyond dispute that Setech knew that its transactions with Delphi were not sales, but were merely short-term loans that allowed Delphi to fraudulently manipulate its financial results. CS 1, a current Setech manager who was involved in the early front-end contract negotiations between Delphi and Setech, stated that it was understood by all parties

that the inventory would be repurchased by Delphi. CS 1 described the contracts as self-explanatory. He stated, "[y]ou take the contracts, the terms are explicit. You take the buy-back agreements, and the terms are explicit in it." In sum, CS 1 said "[o]ur contract was very open and clear" and the transaction was "pretty open and shut." CS 2, Setech's Director of Quality at that time, confirmed Setech's knowledge regarding the true nature of these transactions. CS 2 stated that, pursuant to the SPD, Setech acquired a total of $145 million of inventory items from Delphi with a buy-back agreement and, in return, Delphi received $145 million in cash.

663. More significantly, Setech knew precisely why Delphi entered into this financing transaction with Setech – to record loans as sales of inventory. The short-term nature of the transactions, they usually were to be reversed within a year, and the fact that they were publicly portrayed as sales, even though both sides knew they were nothing more than short term loans, demonstrate that Setech knew, or recklessly disregarded, that these transactions were nothing more than a way for Delphi to deceive the investing public.

664. Setech also knew that Delphi was entering into the transaction to get worthless and obsolete inventory off its books so as to give the misleading impression that Delphi was efficiently and effectively managing its excess assets and inventories. CS 3 stated that, in October 2000, while he was at Delphi's Electronics & Safety Division, he, along with Delphi corporate purchasing personnel, participated in the sale of millions of dollars of indirect inventory to Setech. CS 3 further stated that the purpose of the transactions was to get the inventory off Delphi's books. CS 3 stated that Delphi's plan to dispose of millions of dollars of indirect material at Delphi's Electronics & Safety Division was implemented by "grabb[ing] a couple of weasels down from [Delphi headquarters in] Troy, from [Delphi's] purchasing side,

and we worked together a deal with Setech. This was a back room deal." CS 3 specifically told Setech, "you buy this stuff, get it off my books and I will buy it back from you."

B. BBK's Scienter

665. BBK also knew and/or recklessly disregarded that its participation in this scheme and manipulative transactions caused Delphi's financial results and future growth prospects to be materially misleading. As was the case with Setech, BBK also participated in transactions in which Delphi purported to "sell" inventory to BBK (approximately $90 million worth of inventory in several transactions), while, in reality, the transaction was nothing more than a secured loan.

666. BBK knew that the purpose of the transactions was to permit Delphi to manipulate its financial results. According to former BBK consultant CS 5, these types of transactions are "done in order to move things off the books for a short period of time, and then bring them back on the books when cash flow improved." CS 5 explained that these types of transactions are focused on timing: "It's always a timed deal. It's always a deal where some time is bought or some strategic negotiating time with the union or you get some number of people off their books of whatever they have to do to remain viable on financial terms on their books." In describing these types of transactions generally, which he confirmed had occurred between BBK and GM, CS 5 said:

> To me, those were mostly parking, you buy things, you sit on it, and then you transfer them back to them at some margins to BBK. BBK worked on pretty thin margins. They had set up some warehouses to store excess inventory, or in some cases, they will pick up the goods and services, pay for them at a given price and [the company] will buy them back from them.

667. Moreover, these transactions were arranged and handled at the highest levels of BBK. Defendant Dawes and members of Delphi's Treasury Department arranged the

transactions for Delphi. CS 6, the former Executive Administrative Assistant to BBK's Chief Executive Officer B.N. Bahadur, stated that Dawes "had a very close working relationship" with Bahadur and BBK's Chief Financial Officer William Diehl and that they met on a regularly scheduled bi-monthly basis to discuss the BBK - Delphi engagements. Thus, BBK's knowledge of the duplicitous nature of its inventory transactions with Delphi resided in its most senior executives.

C. Bank One's Scienter

668. The nature and timing of the Delphi transaction with Bank One demonstrates that Bank One knew and/or recklessly disregarded that their participation in this scheme enabled Delphi to improperly manipulate its financial results and future growth prospects. In December 2000, Delphi disguised a loan for $200 million from Bank One as a sale of precious metals from its inventory. By improperly recording the $200 million precious metals transaction as a sale in 2000, Delphi was able to recognize $200 million in cash flow from operations and was able to use LIFO inventory gains that increased its pre-tax income for 2000 by approximately $100 million. Delphi was thus able to report record cash flow from operations of $268 million for 2000, rather than the actual amount of $68 million.

669. This transaction, however, was not a sale. Delphi had agreed to buy back those assets at a later time. In January 2001, scant weeks after the close of the 4th Quarter and year end 2000 financial results, Delphi reversed the transaction by buying back the $200 million in precious metals. By then, this transaction had improperly boosted the Company's cash flow and earnings for the year-ended 2000 – which, according to former Delphi employees, was the desired effect. By structuring this transaction to obtain this $200 million benefit before year-end, only to unwind it one month later at the outset of the following fiscal year, Delphi's intention, with Bank One's knowing participation, was to manipulate its financial reporting.

CS 7, a former Delphi Assistant Finance Director, stated that the precious metals transactions with BankOne "were done to try to generate cash flow from off balance sheet financing."

670. In sum, there exists both direct evidence and circumstantial evidence of these Defendants' (Setech, BBK, BankOne) actual knowledge and participation in Delphi's accounting fraud and Delphi's manipulative transactions designed to inflate earnings. Moreover, the egregious nature of these manipulative transactions, along with their immediate effect of materially inflating revenues in critical periods, creates a strong inference that these Defendants participated with actual knowledge (or reckless disregard) in a scheme to permit Delphi to materially misstate its reported financial statements and announced financial results.

XIII. LOSS CAUSATION

671. Defendants' fraudulent scheme and their fraudulent and negligent misrepresentations and omissions concerning Delphi's financial performance, ability to meet its earnings estimates, and management of assets and inventories caused the price of Delphi's securities to be inflated artificially when members of the Class purchased these securities. As the truth about Delphi's actual financial condition was gradually revealed, the inflation caused by these misrepresentations was methodically eliminated from the price of Delphi's securities.

672. The first stage of this decline began when Sarbanes-Oxley forced Delphi's management to cease their manipulation of Delphi's financial situation. Through deflated earnings and reduced guidance from the second quarter of 2002 on, management slowly fed bad news to the market to correct, covertly, its earlier misrepresentations. In September 2004, the first hint about Delphi's fraudulent accounting practices were initially disclosed, further correcting Delphi's stock price inflation as the market began to assimilate management's bad news. Finally, on March 3, 2005, the magnitude of Delphi's fraudulent accounting was laid bare, and the need for a restatement became clear. Delphi's share price swiftly declined by

nearly 30%, and the inflation caused by years of misrepresentations was finally eliminated from the price of Delphi's securities, causing Class members' losses.

673. As stated above, the artificial inflation of Delphi's stock price was gradually corrected beginning in the second quarter of 2002. Sarbanes-Oxley, which came into effect on July 30, 2002, created heightened burdens on managers of public corporations to ensure that corporations' financial results were accurate and not misleading. Under Sarbanes-Oxley, Delphi's CEO, Battenberg, and CFO, Dawes were required, by July 30, 2002, to certify the accuracy of Delphi's financial statements or face civil and/or criminal sanctions if they negligently and/or willfully certified false financial statements. Faced with these implications of Sarbanes-Oxley, Delphi's management reduced their accounting manipulations. Indeed, the last fictitious inventory sale with BBK Ltd. was conducted in the first quarter of 2002. While Delphi regularly manipulated accounting and engaged in fictitious transactions to boost earnings, the Restatement identifies only one such transaction following Sarbanes-Oxley's effective date.

674. Delphi's trickle of bad news began during the second quarter of 2002, when it offered a mixed message to the market, causing its stock to begin a long, steady decline. As a result of the Company updating earnings guidance for the quarter and year on June 25, 2002, the market reacted strongly and negatively to Delphi's announcement. Delphi's stock price fell 20% from its close of $13.75 on June 24, 2002 on volume of 2.264 million shares, to its close of $11 on July 16, 2002 on volume of 3.22 million shares. The average daily trade volume during this period was over 4.26 million shares, more than double its Class Period average of approximately 2.08 million shares.

675. On July 17, 2002, Delphi filed the 2Q 2002 10-Q. In response to Delphi's announcement at the end of the second quarter of 2002, Delphi's stock price fell from a close of $13.16 on July 8, 2002 to a close of $9.8 on July 23, 2002. The average daily trade volume for this period exceeded 3.57 million shares, well above the Class Period average of approximately 2.08 million shares.

676. On July 24, 2002, Delphi's stock closed at $10.1 on volume of approximately 4.84 million shares. On July 30, 2002, Sarbanes-Oxley took effect, and Delphi's stock price continued its decline in the months that followed. By October 15, 2002, it had sunken to a close $7.54 on trading volume of approximately 2.4 million shares – a 25% decline. The average daily trade volume during this period was 2.6 million shares, well above the average volume for the Class Period.

677. On October 16, 2002, in the first reporting period under Sarbanes-Oxley, Delphi announced its financial results for the third quarter of 2002. In response to the 3Q 2002 Press Release, Delphi's share price fell from $7.54 to $6.89 between October 15 and October 20, 2002, representing an additional 8.6 % decline in value. In fact, Delphi's announcement, and its reduced guidance for the remainder of 2002, was nothing less than corrections of the earnings inflation that it had perpetrated in prior reporting periods. Thus, as Delphi was no longer able to meet earnings guidance through earnings fabricated by manipulative transactions and fraudulent accounting, its stock price began to decline to adjust to the reality of Delphi's actual earning potential.

678. Delphi's stock price stabilized between December 2002 and September 29, 2004. On September 29, 2004, Delphi first revealed that the SEC had initiated an investigation into Delphi's accounting of its transactions with EDS. At first Delphi downplayed the investigation

but on October 18, 2004, the Company announced that the Audit Committee had commenced an investigation into the transactions identified in the SEC's inquiry. Again, the announcement minimized the scope of the SEC's inquiry and Delphi's stock price remained stable. However, on December 8, 2004, Delphi's Audit Committee revealed that its review of the transactions identified by the SEC had led to it to additional problematic transactions with other technology supply companies. The Company stated that it would delay filing its Form 10-Q for the third quarter of 2004 in light of its ongoing investigation. In response to these announcements, and sudden indications of an unfolding fiasco at Delphi, Delphi's stock price fell 7% from September 29 to December 8, 2004.

679. On March 3, 2005, Delphi announced that Defendant Dawes, its Vice Chairman and Chief Financial Officer, was leaving the company and had resigned from the Board of Directors and strategy board after "the audit committee expressed a loss of confidence in him." Accompanying this announcement was the startling revelation that the Audit Committee's ongoing investigation had uncovered massive accounting irregularities in Delphi's financial statements dating back to 1999, which that would require the Company to restate its financial statements.

680. In response to this disclosure of serious accounting problems in Delphi going back to the very inception of the Company, Delphi's stock collapsed. Between March 1, 2005 and March 4, 2005, the stock fell from $6.89 to $4.89, representing a decline of almost 30%. Subsequent disclosures of Delphi's fraudulent conduct led to further declines in Delphi's stock price.

681. Delphi's stock price declined in stages due to the phased disclosure of Delphi's fraud. In the first phase, as Delphi was forced to readjust market expectations when it could

no longer manipulate its revenues through illicit transactions and fraudulent accounting, it was forced to reveal something closer to its true financial situation through lowered earnings and lowered guidance. While unknown to investors at the time, Delphi's poor performance was a manifestation and product of the fraud that inflated its earnings in previous periods. The transactions that artificially boosted Delphi's 2000 and 2001 earnings artificially reduced them in 2002 and 2003. Where Delphi had accelerated income from service provider rebates in 2000 and 2001, it lost the benefit of those rebates in later years, when the rebates should have been booked. Where it should have expensed warranty payments to GM in 2000 and 2001, it now had to amortize those payments in 2002 and 2003. Inventories and materials Delphi had hidden in 2000 and 2001 with sham sales that boosted its early Class Period earnings now re-appeared as worthless assets that materially increased the Company's expenses and drained later Class Period earnings. Deterred by the stringent requirements of Sarbanes-Oxley from adopting new accounting gimmicks to increase earnings in 2002, Delphi was forced to record severe losses. In response, Delphi's stock declined causing investors who had purchased Delphi stock on false earnings to suffer losses. Between May 2002 and November 2002, Delphi's stock price declined from approximately $17.00 per share to less than $7.00 a share.

682. Then, beginning in September 2004, Delphi finally disclosed the first hint of the actual fraud that had inflated its earnings in prior periods. As these corrective disclosures regarding the impropriety of the Delphi's accounting practices entered the marketplace, Delphi's stock price fell even more precipitously, as the market came to know that the Company's financial performance was a sham. These declines in stock price, which corrected the inflation caused by Delphi's fraudulent accounting practices and manipulative transactions, caused Class members' losses. Between September 30, 2004 and March 9, 2005, as the

details about Delphi's fraudulent practices were gradually disclosed, Delphi's stock price declined from approximately $9.00 per share to approximately $3.30 per share.

XIV. PRESUMPTION OF RELIANCE – FRAUD ON THE MARKET

683. Lead Plaintiffs are entitled to a presumption of reliance on Defendants' material misrepresentations and omissions for the following reasons:

a. Delphi's publicly-traded securities were actively traded in an efficient market on the NYSE during the period in which Lead Plaintiffs bought and/or sold Delphi securities. The average daily trading volume of Delphi shares was more than 2,080,321 shares traded. The total number of shares traded during the Class Period was 2,658,650,300 shares;

b. As a regulated issuer, Delphi filed periodic public reports with the SEC;

c. Delphi regularly communicated with public investors via established market communication mechanisms, including through regular disseminations of press releases on the major news wire services and through other wide-ranging public disclosures, such as communications with the financial press, securities analysts and other similar reporting services;

d. The market reacted to public information disseminated by Delphi;

e. Delphi was followed by numerous securities analysts employed by major brokerage firms who wrote reports which were distributed to the sales force and certain customers of their respective firms. Each of these reports was publicly available and entered the public marketplace;

f. The material misrepresentations and omissions alleged herein would tend to induce a reasonable investor to misjudge the value of the Delphi's shares;

g. Without knowledge of the misrepresented or omitted material facts alleged herein, Lead Plaintiffs and other members of the Class purchased Delphi securities between the time Defendants misrepresented or failed to disclose material facts and the time the true facts were disclosed.

684. In addition to the foregoing, Lead Plaintiffs are entitled to a presumption of reliance because, as more fully alleged above, Defendants failed to disclose material information regarding Delphi's business, financial results and business prospects, throughout the Class Period.

XV. <u>NO SAFE HARBOR</u>

685. As alleged herein, the Officer Defendants, the Audit Committee Defendants, and Deloitte acted with scienter in that they knew, at the time they issued them, that the public documents and statements issued or disseminated in the name of Delphi were materially false and misleading or omitted material facts; knew that such statements or documents would be issued or disseminated to the investing public; knew that members of the investing public were likely to reasonably rely on those misrepresentations and omissions; and knowingly and substantially participated or were involved in the issuance or dissemination of such statements or documents as primary violations of the federal securities law. As set forth elsewhere herein in detail, these Defendants, by virtue of their receipt of information reflecting the true facts regarding Delphi, their control over, and/or receipt of Delphi's allegedly materially misleading misstatements and/or their association with the companies which made them privy to confidential proprietary information concerning Delphi, which were used to inflate financial

results and which the Defendants caused or were informed of, participated in and knew of the fraudulent scheme alleged herein. With respect to non-forward-looking statements and/or omissions, the Defendants knew and/or recklessly disregarded the falsity and misleading nature of the information which they caused to be disseminated to the investing public.

686. Defendants' false and misleading statements and omissions do not constitute forward-looking statements protected by any statutory safe harbor. The statements alleged to be false and misleading herein all relate to facts and conditions existing at the time the statements were made. No statutory safe harbor applies to any of Delphi's material false or misleading statements.

687. Alternatively, to the extent that any statutory safe harbor is intended to apply to any forward-looking statement pled herein, the Defendants are liable for the false forward-looking statement pled because, at the time each forward-looking statement was made, the speaker knew or had actual knowledge that the forward-looking statement was materially false or misleading, and the forward-looking statement was authorized and/or approved by a director and/or executive officer of Delphi who knew that the forward-looking statement was false or misleading. None of the historic or present tense statements made by the Defendants was an assumption underlying or relating to any plan, projection or statement of future economic performance, as they were not stated to be such an assumption underlying or relating to any projection or statement of future economic performance when made nor were any of the projections or forecasts made by the Officer Defendants, or Deloitte expressly related to or stated to be dependent on those historic or present tense statements when made.

XVI. CLAIMS FOR RELIEF

COUNT I

Against Delphi, the Officer Defendants,

and the Audit Committee Defendants For Violations
<u>of Section 10(b) of the Exchange Act and Rule 10b-5 (a), (b) and (c)</u>

688. Lead Plaintiffs repeat and reallege each and every allegation above as though set forth fully herein.

689. This Count is brought pursuant to Section 10(b) of the Exchange Act and Rule 10b-5(a), (b) and (c), against Delphi, the Officer Defendants and the Audit Committee Defendants on behalf of Lead Plaintiffs and other members of the Class who purchased or otherwise acquired Delphi securities during the Class Period, except for the July 2003 Offering. Lead Plaintiffs exclude from this Count and specifically do not make any allegation of fraud in connection with Delphi's July 2003 Offering or any securities issued by Delphi Trust I or Delphi Trust II.

690. Throughout the Class Period, Delphi, the Officer Defendants and the Audit Committee Defendants, individually and in concert, directly and indirectly, by use of the means or instrumentalities of interstate commerce, the mails, and/or the facilities of a national securities exchange:

a. Employed devices, schemes, and artifices to defraud;

b. Made untrue statements of material fact and/or omitted to state material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading; and/or

c. Engaged in acts, practices, and a course of conduct that operated as a fraud or deceit upon Lead Plaintiffs and others similarly situated in connection with their purchases of all Delphi securities, except for the July 2003 Offering, which is not included in this Count.

691. Delphi, the Officer Defendants, and the Audit Committee Defendants made material misrepresentations and/or omissions knowingly and/or in reckless disregard for the truth, with the purpose and effect of misleading the investing public with respect to Delphi's true financial condition and performance and supporting the artificially inflated price of the publicly traded securities of Delphi, except for the July 2003 Offering, which is not included in this Count.

692. Delphi, the Officer Defendants, and the Audit Committee Defendants used or engaged in devices, schemes, artifices, practices and/or courses of conduct knowingly and/or in reckless disregard for the truth, with the purpose and effect of misleading the investing public with respect to Delphi's true financial condition and performance and supporting the artificially inflated price of the publicly traded securities of Delphi, except for the July 2003 Offering, which is not included in this Count.

693. Delphi, the Officer Defendants, and the Audit Committee Defendants knowingly or in reckless disregard for the truth employed devices, schemes, artifices to defraud, and/or engaged in acts, practices and/or courses of business, with the purpose and effect of misleading the investing public with respect to the true financial condition and performance of Delphi, and supporting the artificially inflated price of the publicly traded securities of Delphi, except for the July 2003 Offering, which is not included in this Count.

694. Delphi, the Officer Defendants, and the Audit Committee Defendants carried out a plan, scheme and course of business that was intended to and did deceive the investing public, including Lead Plaintiffs and other members of the Class, as alleged herein, artificially inflate and maintain the market price of the publicly traded securities of Delphi, except for the July 2003 Offering, which is not included in this Count; and induce Lead Plaintiffs and other

members of the Class to purchase or otherwise acquire the publicly traded securities of Delphi, except for the July 2003 Offering, which is not included in this Count, at artificially inflated prices.

695. By virtue of the foregoing, Delphi, the Officer Defendants, and the Audit Committee Defendants have violated Section 10(b) of the Exchange Act and Rule 10b-5 (a), (b) and (c).

696. As detailed herein, Lead Plaintiffs and the other members of the Class have suffered damages because, in reliance on the integrity of the market, they paid artificially inflated prices for the publicly traded securities of Delphi, except for the July 2003 Offering, which is not included in this Count. Lead Plaintiffs and the other members of the Class would not have purchased the securities of Delphi, except for the July 2003 Offering, which is not included in this Count, at the prices they paid, if at all, had they known that the market prices of those securities were artificially inflated by the fraudulent conduct alleged herein.

COUNT II

Against the Officer Defendants and Director Defendants Under Section 20(a) of the Exchange Act

697. Lead Plaintiffs repeat and reallege each and every allegation above as though set forth fully herein.

698. This Count is brought pursuant to Section 20(a) of the Exchange Act against the Officer Defendants and Director Defendants on behalf of Lead Plaintiffs and other members of the Class who purchased or otherwise acquired Delphi securities during the Class Period, except for the July 2003 Offering. Lead Plaintiffs exclude from this Count and specifically do not make any allegation of fraud in connection with Delphi's July 2003 Offering or any securities issued by Delphi Trust I or Delphi Trust II.

699. As set forth in Count I above, Defendant Delphi committed a primary violation of Section 10(b) of the Exchange Act and Rule 10b-5(a), (b) and (c) through its knowing and/or reckless dissemination of materially false and misleading statements, and/or through its use of devices, schemes, artifices, practices and/or courses of conduct that operated as a fraud on the investing public.

700. Each of the Officer Defendants and Director Defendants possessed, directly or indirectly, the power to direct and/or control Delphi's management and policies, including Delphi's management of and policies surrounding its financial reporting, and was therefore a controlling person of Delphi within the meaning of Section 20(a) of the Exchange Act throughout the Class Period. By virtue of the Officer Defendants' and Director Defendants' operational and management control of Delphi's businesses and systematic involvement in the fraudulent scheme alleged herein, each of the Officer Defendants and Director Defendants had the ability to prevent the issuance of the statements alleged to be false and misleading or cause such statements to be corrected. Each of the Officer Defendants and Director Defendants also had direct and supervisory involvement in the operations of Delphi and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations alleged herein, and exercised the same.

701. By virtue of the foregoing, the Officer Defendants and Director Defendants are liable under Section 20(a) of the Exchange Act to Lead Plaintiffs and the other members of the Class, each of whom has been damaged as a result of the fraud alleged herein.

COUNT III

Against BBK, Bank One and Setech For Violations of Section 10(b) and Rule 10b-5 (a) and (c)

702. Lead Plaintiffs repeat and reallege each and every allegation above as though set forth fully herein.

703. This Count is brought pursuant to Section 10(b) of the Exchange Act and Rule 10b-5 (a) and (c) against Defendants BBK, Bank One and Setech on behalf of Lead Plaintiffs and other members of the Class who purchased and/or otherwise acquired Delphi securities during the Class Period, except for the July 2003 Offering. Lead Plaintiffs exclude from this Count and specifically do not make any allegation of fraud in connection with Delphi's July 2003 Offering or any securities issued by Delphi Trust I or Delphi Trust II.

704. During the Class Period, Defendants BBK, Bank One and Setech, by use of the means or instrumentalities of interstate commerce, the mails, and/or the facilities of a national securities exchange:

d. Employed devices, schemes, and artifices to defraud; and/or

e. Engaged in acts, practices, and a course of business that operated as a fraud or deceit upon Lead Plaintiffs and others similarly situated in connection with their purchases of all Delphi securities, except for the July 2003 Offering, which is not included in this Count.

705. Defendants BBK, Bank One and Setech knowingly or in reckless disregard for the truth employed devices, schemes, artifices to defraud, and/or engaged in acts, practices and/or courses of business, with the purpose and effect of misleading the investing public with respect to the true financial condition and performance of Delphi, and supporting the artificially inflated price of the publicly traded securities of Delphi, except for the July 2003 Offering, which is not included in this Count.

706. BBK, Bank One and Setech carried out a plan, scheme and course of business that was intended to and did deceive the investing public, including Lead Plaintiffs and other members of the Class, as alleged herein, artificially inflate and maintain the market price of Delphi securities, except for the July 2003 Offering, which is not included in this Count; and induce Lead Plaintiffs and other members of the Class to purchase or otherwise acquire Delphi securities, except for the July 2003 Offering, which is not included in this Count, at artificially inflated prices.

707. In furtherance of this unlawful scheme, plan and course of business, BBK, Bank One and Setech are each sued as a primary participant in the unlawful conduct charged herein.

708. By virtue of the foregoing, BBK, Bank One and Setech violated Section 10(b) of the Exchange Act and Rule 10b-5 (a) and (c), promulgated thereunder.

709. As detailed herein, Lead Plaintiffs and the other members of the Class have suffered damages because, in reliance on the integrity of the market, they paid artificially inflated prices for the publicly traded securities of Delphi, except for the July 2003 Offering, which is not included in this Count. Lead Plaintiffs and the other members of the Class would not have purchased the securities of Delphi, except for the July 2003 Offering, which is not included in this Count, at the prices they paid, if at all, had they known that the market prices of those securities were artificially inflated by the fraudulent conduct alleged herein.

COUNT IV

Against Defendant Deloitte For Violations of Section 10(b) of the Exchange Act and Rule 10b-5(b)

710. Lead Plaintiffs repeat and reallege each and every allegation above as though set forth fully herein.

711. This Count is brought pursuant to Section 10(b) of the Exchange Act and Rule 10b-5(b) against Deloitte on behalf of Lead Plaintiffs and other members of the Class who purchased or otherwise acquired Delphi securities during the Class Period, except for the July 2003 Offering. Lead Plaintiffs exclude from this Count and specifically do not make any allegation of fraud in connection with Delphi's July 2003 Offering or any securities issued by Delphi Trust I or Delphi Trust II.

712. Deloitte issued unqualified opinions for Delphi's financial statements for Fiscal Years 1999, 2000, 2001, 2002 and 2003, which, as described above, falsely stated that it had conducted its audits in accordance with GAAS and that, in its opinion, Delphi's financial statements were prepared in accordance with GAAP.

713. As set forth above, during the Class Period, Deloitte, by use of the means or instrumentalities of interstate commerce, the mails, and/or the facilities of a national securities exchange, engaged and participated in a continuous course of conduct to materially misstate Delphi's reported financial results, and made untrue statements of material fact and/or omitted to state material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading.

714. By virtue of the foregoing, Deloitte violated Section 10(b) of the Exchange Act and Rule 10b-5(b) promulgated thereunder.

715. Lead Plaintiffs and the other members of the Class suffered damages because, in reliance on the integrity of the market, they paid artificially inflated prices for the publicly traded securities of Delphi, except for the July 2003 Offering, which is not included in this Count. Lead Plaintiffs and the other members of the Class would not have purchased the publicly traded securities of Delphi, except for the July 2003 Offering, which is not included in

this Count, at the prices they paid, if at all, had they known that the market prices of those securities were artificially inflated by the unlawful actions and omissions by Deloitte.

COUNT V

Against Delphi; Officer Defendants Battenberg, Dawes, and Free; Director Defendants Wyman, Smith, Pearce, Losh, McLaughlin, Penske, Neto, Colbert, and Opie; Deloitte; and Underwriter Defendants Bear Stearns and Credit Suisse For Violations of Section 11 of the Securities Act In Connection With the June 2001 Offering

716. Plaintiffs repeat and reallege each and every allegation above as though set forth fully herein.

717. This Count is brought pursuant to Section 11 of the Securities Act against Defendants Delphi, Battenberg, Dawes, Free, Wyman, Smith, Pearce, Losh, McLaughlin, Penske, Neto, Colbert, Opie, Deloitte, Bear Stearns and Credit Suisse First Boston, on behalf of all persons who purchased or otherwise acquired 6.55% Delphi notes pursuant or traceable to the June 2001 Offering. The notes were issued on or about June 5, 2001, by means of the June 2001 Offering Materials.

718. This count sounds in fraud, and involves deceit, manipulation or contrivance on the part of Defendants Delphi, Battenberg, Dawes, Free, Wyman, Smith, Pearce, Losh, McLaughlin, Penske, Neto, Colbert, Opie, Deloitte, Bear Stearns and Credit Suisse First Boston, as alleged herein.

719. As alleged herein, the June 2001 Offering Materials were false and misleading, contained untrue statements of material fact and omitted to state facts necessary in order to make the statements made therein not misleading.

720. Delphi is the registrant of the securities issued in the June 2001 Offering, pursuant to the June 2001 Offering Materials. Defendants Battenberg, Dawes, Free, Wyman, Smith,

Pearce, Losh, McLaughlin, Penske, Neto, Colbert and Opie are signatories of the June 2001 Offering Materials.

721. Deloitte consented to the incorporation of its unqualified opinions regarding Delphi's financial statements into the June 2001 Offering Materials.

722. Defendants Bear Stearns and Credit Suisse were lead underwriters of the June 2001 Offering. Due to their role as underwriters, Bear Stearns and Credit Suisse were responsible for the contents and dissemination of the June 2001 Offering Materials. Bear Stearns and Credit Suisse were required to investigate with due diligence the representations contained therein to confirm that they did not contain materially misleading statements or omit to state material facts. As alleged in detail herein, Defendants Bear Stearns and Credit Suisse did not make a reasonable investigation and did not possess reasonable grounds for believing that the statements contained in the registration statements were true, did not omit any material fact, and were not materially misleading.

723. By reason of the foregoing, Defendants Delphi, Battenberg, Dawes, Free, Wyman, Smith, Pearce, Losh, McLaughlin, Penske, Neto, Colbert, Opie, Deloitte, Bear Stearns and Credit Suisse First Boston are liable to Lead Plaintiffs and other members of the Class who purchased or otherwise acquired notes issued in the June 2001 Offering, pursuant to the June 2001 Offering Materials for violations of Section 11 of the Securities Act, each of whom has been damaged by reason of such violations.

COUNT VI

Against Underwriter Defendants Bear Stearns and Credit Suisse, For Violations of Section 12(a)(2) of the Securities Act In Connection With the June 2001 Offering

724. Plaintiffs repeat and reallege each and every allegation above as though set forth fully herein.

725. This Count is brought pursuant to Section 12(a)(2) of the Securities Act against Defendants Bear Stearns and Credit Suisse First Boston, on behalf of all persons who purchased or otherwise acquired 6.55% Delphi notes pursuant or traceable to the June 2001 Offering. The notes were issued on or about June 5, 2001, by means of the June 2001 Offering Materials.

726. As alleged herein, the June 2001 Offering Materials were false and misleading, contained untrue statements of material fact and omitted to state facts necessary in order to make the statements made therein not misleading.

727. Defendants Bear Stearns and Credit Suisse were lead underwriters of the June 2001 Offering. Due to their role as underwriters, Bear Stearns and Credit Suisse were responsible for the contents and dissemination of the June 2001 Offering Materials. Bear Stearns and Credit Suisse were required to investigate with due diligence the representations contained therein to confirm that they did not contain materially misleading statements or omit to state material facts. As alleged in detail herein, Defendants Bear Stearns and Credit Suisse did not make a reasonable investigation and did not possess reasonable grounds for believing that the statements contained in the registration statements were true, did not omit any material fact, and were not materially misleading.

728. By reason of the foregoing, Defendants Bear Stearns and Credit Suisse are liable to Lead Plaintiffs and other members of the Class who purchased or otherwise acquired notes issued in the June 2001 Offering, pursuant to the June 2001 Offering Materials for violations of Section 12(a)(2) of the Securities Act, each of whom has been damaged by reason of such violations.

729. Lead Plaintiffs and the other members of the Class who acquired securities pursuant to June 2001 Offering Materials and who still hold such securities have the right to rescind and recover the consideration exchanged for such notes, and hereby tender their notes to the Company. Those Plaintiffs and other members of the Class who have sold securities they acquired pursuant to those registration statements seek damages to the extent permitted by law.

COUNT VII

Against the Officer Defendants and Director Defendants For Violations of Section 15 of the Securities Act In Connection With the June 5, 2001 Offering

730. Plaintiffs repeat and reallege each and every allegation above as though set forth fully herein. This Count involves deceit, manipulation or contrivance on the part of the Officer Defendants and the Director Defendants referenced in Count V above, as alleged herein.

731. This Count is brought pursuant to Section 15 of the Securities Act against the Officer Defendants and Director Defendants, on behalf of all persons who purchased or otherwise acquired 6.55% Delphi notes pursuant or traceable to the June 2001 Offering. The notes were issued on or about June 5, 2001, by means of the June 2001 Offering Materials.

732. As set forth in Count V above, Defendant Delphi committed a primary violation of Section 11 of the Securities Act.

733. Each of the Officer Defendants and Director Defendants possessed, directly or indirectly, the power to direct and/or control Delphi's management and policies, including Delphi's management of and policies surrounding its financial reporting, and was therefore a controlling person of Delphi within the meaning of Section 15 of the Securities Act throughout the Class Period. By virtue of the Officer Defendants' and Director Defendants' operational and management control of Delphi's businesses and systematic involvement in the fraudulent

scheme alleged herein, each of the Officer Defendants and Director Defendants had the ability to prevent the issuance of the statements alleged to be false and misleading or cause such statements to be corrected. Each of the Officer Defendants and Director Defendants also had direct and supervisory involvement in the operations of Delphi and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations alleged herein, and exercised the same.

734. By reason of the foregoing, the Officer Defendants and Director Defendants are liable to Lead Plaintiffs and other members of the Class who purchased or otherwise acquired notes issued in the June 2001 Offering, pursuant to the June 2001 Offering Materials, for violations of Section 15 of the Securities Act, each of whom has been damaged by reason of such violations.

COUNT VIII

Against Delphi; Officer Defendants Battenberg, Dawes, Runkle, and Sheehan; Director Defendants Opie, Brust, Colbert, Farr, Gottschalk, Irimajiri, Mclaughlin, Nito, Penske, and Sueltz; Deloitte; and Underwriter Defendants Barclays, Citigroup and BAS For Violations of Section 11 of the Securities Act in Connection With the July 25, 2003 (6.50%) Bond Offering

735. Plaintiffs repeat and reallege each and every allegation above as though set forth fully herein, except those allegations that sound in fraud. This claim does ***not*** sound in fraud and Lead Plaintiffs do not incorporate ***any*** allegation of fraud in connection with this Count.

736. This Count is brought pursuant to Section 11 of the Securities Act against Defendants Delphi, Battenberg, Dawes, Runkle, Sheehan, Opie, Brust, Colbert, Farr, Gottschalk, Irimajiri, Mclaughlin, Nito, Penske, Sweltz, Deloitte, Barclays, Citigroup, and BAS, on behalf of all persons who purchased or otherwise acquired 6.50% Delphi notes pursuant or traceable to the July 2003 Offering. The securities were issued on or about July 25, 2003, by means of the July 2003 Offering Materials.

737. As alleged herein, the July 2003 Offering Materials were false and misleading, contained untrue statements of material fact and omitted to state facts necessary in order to make the statements made therein not misleading.

738. Delphi is the registrant of the securities issued in the July 2003 Offering pursuant to the July 2003 Offering Materials. Defendants Battenberg, Dawes, Runkle Sheehan, Opie, Brust, Colbert, Farr, Gottschalk, Irimajiri, Mclaughlin, Nito, Penske and Sweltz, are signatories of the July 2003 Offering Materials.

739. Deloitte consented to the incorporation of its unqualified opinions regarding Delphi's financial statements into the July 2003 Offering Materials.

740. Defendants Barclays, Citigroup and BAS were lead underwriters of the July 2003 Offering. Due to their role as underwriters, Barclays, Citigroup and BAS were responsible for the contents and dissemination of the July 2003 Offering Materials. Barclays, Citigroup and BAS were required to investigate with due diligence the representations contained therein to confirm that they did not contain materially misleading statements or omit to state material facts. As alleged in detail herein, Defendants Barclays, Citigroup and BAS did not make a reasonable investigation and did not possess reasonable grounds for believing that the statements contained in the registration statements were true, did not omit any material fact, and were not materially misleading.

741. By reason of the foregoing, Defendants Delphi, Battenberg, Dawes, Runkle, Sheehan, Opie, Brust, Colbert, Farr, Gottschalk, Irimajiri, Mclaughlin, Nito, Penske, Sweltz, Deloitte, Barclays, Citigroup, and BAS, are liable to Lead Plaintiffs and other members of the Class who purchased or otherwise acquired securities issued in the July 2003 Offering,

pursuant or traceable to the July 2003 Offering Materials for violations of Section 11 of the Securities Act, each of whom has been damaged by reason of such violations.

COUNT IX

Against Underwriter Defendants Barclays, Citigroup and BAS For Violations of Section 12(a)(2) of the Securities Act in Connection With the July 25, 2003 (6.50%) Bond Offering

742. Plaintiffs repeat and reallege each and every allegation above as though set forth fully herein, except those allegations that sound in fraud. This claim does ***no***t sound in fraud and Lead Plaintiffs do not incorporate ***any*** allegation of fraud in connection with this Count.

743. This Count is brought pursuant to Section 12(a)(2) of the Securities Act against Defendants Barclays, Citigroup, and BAS, on behalf of all persons who purchased or otherwise acquired 6.50% Delphi notes pursuant or traceable to the July 2003 Offering. The securities were issued on or about July 25, 2003, by means of the July 2001 Offering Materials.

744. As alleged herein, the July 2003 Offering Materials was false and misleading, contained untrue statements of material fact and omitted to state facts necessary in order to make the statements made therein not misleading.

745. Defendants Barclays, Citigroup and BAS were lead underwriters of the July 2003 Offering. Due to their role as underwriters, Barclays, Citigroup and BAS were responsible for the contents and dissemination of the July 2003 Offering Materials. Barclays, Citigroup and BAS were required to investigate with due diligence the representations contained therein to confirm that they did not contain materially misleading statements or omit to state material facts. As alleged in detail herein, Defendants Barclays, Citigroup and BAS did not make a reasonable investigation and did not possess reasonable grounds for believing that the statements contained in the registration statements were true, did not omit any material fact, and were not materially misleading.

746. By reason of the foregoing, Defendants Barclays, Citigroup, and BAS are liable to Lead Plaintiffs and other members of the Class who purchased or otherwise acquired securities issued in the July 2003 Offering, pursuant to the July 2003 Offering Materials for violations of Section 12(a)(2) of the Securities Act, each of whom has been damaged by reason of such violations.

747. Lead Plaintiffs and the other members of the Class who acquired securities pursuant to July 2003 Offering Materials and who still hold such securities have the right to rescind and recover the consideration exchanged for such notes, and hereby tender their notes to the Company. Those Plaintiffs and class members who have sold notes they acquired pursuant to those registration statements seek damages to the extent permitted by law.

COUNT X

Against the Officer Defendants and the Director Defendants For Violations of Section 15 of the 1933 Securities Act in Connection With the July 25, 2003 (6.50%) Bond Offering

748. Plaintiffs repeat and reallege each and every allegation above as though set forth fully herein, except those allegations that sound in fraud. This claim does ***not*** sound in fraud and Lead Plaintiffs do not incorporate ***any*** allegation of fraud in connection with this Count.

749. This Count is brought pursuant to Section 15 of the Securities Act against the Officer Defendants and the Director Defendants referred to in Count VIII above, on behalf of all persons who purchased or otherwise acquired 6.5% Delphi notes pursuant or traceable to the July 2003 Offering. The notes were issued on or about July 25, 2003, by means of the July 2003 Offering Materials.

750. As set forth in Count VIII above, Defendant Delphi committed a primary violation of Section 11 of the Securities Act.

751. Each of the Officer Defendants and Director Defendants possessed, directly or indirectly, the power to direct and/or control Delphi's management and policies, including Delphi's management of and policies surrounding its financial reporting, and was therefore a controlling person of Delphi within the meaning of Section 15 of the Securities Act throughout the Class Period. By virtue of the Officer Defendants' and Director Defendants' operational and management control of Delphi's businesses and systematic involvement in the fraudulent scheme alleged herein, each of the Officer Defendants and Director Defendants had the ability to prevent the issuance of the statements alleged to be false and misleading or cause such statements to be corrected. Each of the Officer Defendants and Director Defendants also had direct and supervisory involvement in the operations of Delphi and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations alleged herein, and exercised the same.

752. By reason of the foregoing, the Officer Defendants and the Director Defendants are liable to Lead Plaintiffs and other members of the Class who purchased or otherwise acquired securities issued in the July 2003 Offering, pursuant to the July 2003 Offering Materials for violations of Section 15 of the Securities Act, each of whom has been damaged by reason of such violations.

COUNT XI

Against Delphi; Delphi Trust I; Officer Defendants Battenberg, Dawes, Runkle and Sheehan; Director Defendants Opie, Neto, Brust, Colbert, Farr, Gottschalk, Irimajari, Penske, and Sueltz; Deloitte; and Underwriter Defendants Merrill Lynch, Morgan Stanley, UBS and Wachovia For Violations of Section 11 of the Securities Act in Connection With the October 21, 2003 Delphi Trust I Offering (8.25%)

753. Plaintiffs repeat and reallege each and every allegation above as though set forth fully herein, except those allegations that sound in fraud. This claim does ***not*** sound in fraud and Lead Plaintiffs do not incorporate ***any*** allegation of fraud in connection with this Count.

754. This Count is brought pursuant to Section 11 of the Securities Act against Defendants Delphi, Delphi Trust I, Battenberg, Dawes, Runkle, Sheehan, Opie, Neto, Brust, Colbert, Farr, Gottschalk, Irimajari, Penske, Sueltz, Deloitte, Merrill Lynch, Morgan Stanley, UBS and Wachovia, on behalf of all persons who purchased or otherwise acquired Trust I Notes pursuant or traceable to the Trust I Offering. The notes were issued on or about October 21, 2003, by means of the Trust I Offering Materials.

755. As alleged herein, the Trust I Offering Materials was false and misleading, contained untrue statements of material fact and omitted to state facts necessary in order to make the statements made therein not misleading.

756. Delphi and Delphi Trust I are registrants of the securities issued in the Trust I Offering pursuant to the Trust I Offering Materials. Defendants Battenberg, Dawes, Runkle, Sheehan, Opie, Neto, Brust, Colbert, Farr, Gottschalk, Irimajari, Penske, and Sueltz, are signatories of the Trust I Offering Materials.

757. Deloitte consented to the incorporation of its unqualified opinions regarding Delphi's financial statements into the Trust I Offering Materials.

758. Defendants Merrill Lynch, Morgan Stanley, UBS and Wachovia were underwriters of the Trust I Offering. Due to their role as underwriters, Merrill Lynch, Morgan Stanley, UBS and Wachovia were responsible for the contents and dissemination of the Trust I Offering Materials. Merrill Lynch, Morgan Stanley, UBS and Wachovia were required to investigate with due diligence the representations contained therein to confirm that they did not contain materially misleading statements or omit to state material facts. As alleged in detail herein, Defendants Merrill Lynch, Morgan Stanley, UBS and Wachovia did not make a reasonable investigation and did not possess reasonable grounds for believing that the statements contained in the registration statements were true, did not omit any material fact, and were not materially misleading.

759. By reason of the foregoing, Defendants Delphi, Delphi Trust I, Battenberg, Dawes, Runkle Sheehan, Opie, Neto, Brust, Colbert, Farr, Gottschalk, Irimajari, Penske, Sueltz, Deloitte, Merrill Lynch, Morgan Stanley, UBS and Wachovia are liable to Lead Plaintiffs and other members of the Class who purchased or otherwise acquired notes issued in the Trust I Offering, pursuant to the Trust I Offering Materials for violations of Section 11 of the Securities Act, each of whom has been damaged by reason of such violations.

COUNT XII

Against Underwriter Defendants Merrill Lynch, Morgan Stanley, UBS and Wachovia For Violations of Section 12(a)(2) of the Securities Act in Connection With the October 21, 2003 Delphi Trust I Offering (8.25%)

760. Plaintiffs repeat and reallege each and every allegation above as though set forth fully herein, except those allegations that sound in fraud. This claim does not sound in fraud and Lead Plaintiffs do not incorporate any allegation of fraud in connection with this Count.

761. This Count is brought pursuant to Section 12(a)(2) of the Securities Act against Defendants Merrill Lynch, Morgan Stanley, UBS and Wachovia on behalf of all persons who

purchased or otherwise acquired Trust I Notes pursuant or traceable to the Trust I Offering. The securities were issued on or about October 21, 2003 by means of the Trust I Offering Materials.

762. As alleged herein, the Trust I Offering Materials was false and misleading, contained untrue statements of material fact and omitted to state facts necessary in order to make the statements made therein not misleading.

763. Defendants Merrill Lynch, Morgan Stanley, UBS and Wachovia were underwriters of the Trust I Offering. Due to their role as underwriters, Merrill Lynch, Morgan Stanley, UBS and Wachovia were responsible for the contents and dissemination of the Trust I Offering Materials. Merrill Lynch, Morgan Stanley, UBS and Wachovia were required to investigate with due diligence the representations contained therein to confirm that they did not contain materially misleading statements or omit to state material facts. As alleged in detail herein, Defendants Merrill Lynch, Morgan Stanley, UBS and Wachovia did not make a reasonable investigation and did not possess reasonable grounds for believing that the statements contained in the registration statements were true, did not omit any material fact, and were not materially misleading.

764. By reason of the foregoing, Defendants Merrill Lynch, Morgan Stanley, UBS and Wachovia are liable to Lead Plaintiffs and other members of the Class who purchased or otherwise acquired securities issued in the Trust I Offering, pursuant to the Trust I Offering Materials for violations of Section 12(a)(2) of the Securities Act, each of whom has been damaged by reason of such violations.

765. Lead Plaintiffs and the other members of the Class who acquired securities pursuant to Trust I Offering Materials and who still hold such securities have the right to

rescind and recover the consideration exchanged for such notes, and hereby tender their notes to the Company. Those Plaintiffs and Class members who have sold notes they acquired pursuant to those registration statements seek damages to the extent permitted by law.

COUNT XIII

Against the Officer Defendants and Director Defendants For Violations of Section 15 of the Securities Act in Connection With the October 21, 2003 Delphi Trust I Bond Offering (8.25%)

766. Plaintiffs repeat and reallege each and every allegation above as though set forth fully herein, except those allegations that sound in fraud. This claim does ***not*** sound in fraud and Lead Plaintiffs do not incorporate ***any*** allegation of fraud in connection with this Count.

767. This Count is brought pursuant to Section 15 of the Securities Act against the Officer Defendants and the Director Defendants referenced in Count XI above, on behalf of all persons who purchased or otherwise acquired Trust I Notes pursuant or traceable to the Trust I Offering. The securities were issued on or about October 21, 2003 by means of the Trust I Offering Materials.

768. As alleged herein, the Trust I Offering Materials was false and misleading, contained untrue statements of material fact and omitted to state facts necessary in order to make the statements made therein not misleading.

769. As set forth in Count XI above, Defendant Delphi committed a primary violation of Section 11 of the Securities Act.

770. Each of the Officer Defendants and Director Defendants possessed, directly or indirectly, the power to direct and/or control Delphi's management and policies, including Delphi's management of and policies surrounding its financial reporting, and was therefore a controlling person of Delphi within the meaning of Section 15 of the Securities Act throughout the Class Period. By virtue of the Officer Defendants' and Director Defendants' operational

and management control of Delphi's businesses and systematic involvement in the fraudulent scheme alleged herein, each of the Officer Defendants and Director Defendants had the ability to prevent the issuance of the statements alleged to be false and misleading or cause such statements to be corrected. Each of the Officer Defendants and Director Defendants also had direct and supervisory involvement in the operations of Delphi and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations alleged herein, and exercised the same.

771. By reason of the foregoing, the Officer Defendants and Director Defendants are liable to Lead Plaintiffs and other members of the Class who purchased or otherwise acquired securities issued in the Trust I Offering, pursuant to the Trust I Offering Materials for violations of Section 15 of the Securities Act, each of whom has been damaged by reason of such violations.

COUNT XIV

Against Delphi; Delphi Trust II; Officer Defendants Battenberg, Dawes, Runkle and Sheehan; Director Defendants Opie, Neto, Brust, Colbert, Farr, Gottschalk, Irimajari, Penske, and Sueltz; Deloitte; and Underwriter Defendants Merrill Lynch and Citigroup For Violations of Section 11 of the Securities Act in Connection With the November 11, 2003 Delphi Trust II Offering (Adjustable Rate)

772. Plaintiffs repeat and reallege each and every allegation above as though set forth fully herein, except those allegations that sound in fraud. This claim does ***not*** sound in fraud and Lead Plaintiffs do not incorporate ***any*** allegation of fraud in connection with this Count.

773. This Count is brought pursuant to Section 11 of the Securities Act against Defendants Delphi, Delphi Trust II, Battenberg, Dawes, Runkle Sheehan, Opie, Neto, Brust, Colbert, Farr, Gottschalk, Irimajari, Penske, Sueltz, Deloitte, Merrill Lynch and Citigroup, on behalf of all persons who purchased or otherwise acquired Trust II Notes pursuant or traceable

to the Trust II Offering. The notes were issued on or about November 11, 2003, by means of the Trust II Offering Materials.

774. As alleged herein, the Trust II Offering Materials was false and misleading, contained untrue statements of material fact and omitted to state facts necessary in order to make the statements made therein not misleading.

775. Delphi and Delphi Trust II are registrants of the securities issued in the Trust II Offering pursuant to the Trust II Offering Materials. Defendants Battenberg, Dawes, Runkle Sheehan, Opie, Neto, Brust, Colbert, Farr, Gottschalk, Irimajari, Penske, and Sueltz, are signatories of the Trust II Offering Materials.

776. Deloitte consented to the incorporation of its unqualified opinions regarding Delphi's financial statements into the Trust II Offering Materials.

777. Defendants Merrill Lynch and Citigroup were underwriters of the Trust II Offering. Due to their role as underwriters, Merrill Lynch and Citigroup were responsible for the contents and dissemination of the Trust II Offering Materials. Merrill Lynch and Citigroup were required to investigate with due diligence the representations contained therein to confirm that they did not contain materially misleading statements or omit to state material facts. As alleged in detail herein, Defendants Merrill Lynch and Citigroup did not make a reasonable investigation and did not possess reasonable grounds for believing that the statements contained in the registration statements were true, did not omit any material fact, and were not materially misleading.

778. By reason of the foregoing, Defendants Delphi, Delphi Trust II, Battenberg, Dawes, Runkle Sheehan, Opie, Neto, Brust, Colbert, Farr, Gottschalk, Irimajari, Penske, Sueltz, Deloitte, Merrill Lynch and Citigroup are liable to Lead Plaintiffs and other members

of the Class who purchased or otherwise acquired notes issued in the Trust II Offering, pursuant to the Trust II Offering Materials for violations of Section 11 of the Securities Act, each of whom has been damaged by reason of such violations.

COUNT XV

Against Underwriter Defendants Merrill Lynch and Citigroup For Violations of Section 12(a)(2) of the Securities Act in Connection With the November 11, 2003 Delphi Trust II Offering (Adjustable Rate)

779. Plaintiffs repeat and reallege each and every allegation above as though set forth fully herein, except those allegations that sound in fraud. This claim does ***not*** sound in fraud and Lead Plaintiffs do not incorporate ***any*** allegation of fraud in connection with this Count.

780. This Count is brought pursuant to Section 12(a)(2) of the Securities Act against Defendants Merrill Lynch, and Citigroup on behalf of all persons who purchased or otherwise acquired Trust II Notes pursuant or traceable to the Trust II Offering. The securities were issued on or about November 11, 2003 by means of the Trust II Offering Materials.

781. As alleged herein, the Trust II Offering Materials was false and misleading, contained untrue statements of material fact and omitted to state facts necessary in order to make the statements made therein not misleading.

782. Defendants Merrill Lynch and Citigroup were underwriters of the Trust II Offering. Due to their role as underwriters, Merrill Lynch and Citigroup were responsible for the contents and dissemination of the Trust II Offering Materials. Merrill Lynch and Citigroup were required to investigate with due diligence the representations contained therein to confirm that they did not contain materially misleading statements or omit to state material facts. As alleged in detail herein, Defendants Merrill Lynch and Citigroup did not make a reasonable investigation and did not possess reasonable grounds for believing that the statements

contained in the registration statements were true, did not omit any material fact, and were not materially misleading.

783. By reason of the foregoing, Defendants Merrill Lynch and Citigroup are liable to Lead Plaintiffs and other members of the Class who purchased or otherwise acquired securities issued in the Trust II Offering, pursuant to the Trust II Offering Materials for violations of Section 12(a)(2) of the Securities Act, each of whom has been damaged by reason of such violations.

784. Lead Plaintiffs and the other members of the Class who acquired securities pursuant to Trust II Offering Materials and who still hold such securities have the right to rescind and recover the consideration exchanged for such notes, and hereby tender their notes to the Company. Those Plaintiffs and class members who have sold notes they acquired pursuant to those registration statements seek damages to the extent permitted by law.

COUNT XVI

Against the Officer Defendants and Director Defendants For Violations of Section 15 of the Securities Act in Connection With the November 11, 2003 Delphi Trust II Offering (Adjustable Rate)

785. Plaintiffs repeat and reallege each and every allegation above as though set forth fully herein, except those allegations that sound in fraud. This claim does ***not*** sound in fraud and Lead Plaintiffs do not incorporate ***any*** allegation of fraud in connection with this Count.

786. This Count is brought pursuant to Section 15 of the Securities Act against the Officer Defendants and Director Defendants referenced in Count XIV above, on behalf of all persons who purchased or otherwise acquired Trust II Notes pursuant or traceable to the Trust II Offering. The securities were issued on or about November 11, 2003, by means of the Trust II Offering Materials.

787. As alleged herein, the Trust II Offering Materials was false and misleading, contained untrue statements of material fact and omitted to state facts necessary in order to make the statements made therein not misleading.

788. As set forth in Count XIV above, Defendant Delphi committed a primary violation of Section 11 of the Securities Act.

789. Each of the Officer Defendants and Director Defendants possessed, directly or indirectly, the power to direct and/or control Delphi's management and policies, including Delphi's management of and policies surrounding its financial reporting, and was therefore a controlling person of Delphi within the meaning of Section 15 of the Securities Act throughout the Class Period. By virtue of the Officer Defendants' and Director Defendants' operational and management control of Delphi's businesses and systematic involvement in the fraudulent scheme alleged herein, each of the Officer Defendants and Director Defendants had the ability to prevent the issuance of the statements alleged to be false and misleading or cause such statements to be corrected. Each of the Officer Defendants and Director Defendants also had direct and supervisory involvement in the operations of Delphi and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations alleged herein, and exercised the same.

790. By reason of the foregoing, the Officer Defendants and Director Defendants are liable to Lead Plaintiffs and other members of the Class who purchased or otherwise acquired securities issued in the Trust II Offering, pursuant to the Trust II Offering Materials for violations of Section 15 of the Securities Act, each of whom has been damaged by reason of such violations.

XVII. PRAYER FOR RELIEF

WHEREFORE, Lead Plaintiffs pray for relief and judgment, as follows:

A. Determining that this action is a proper class action under Rule 23 of the Federal Rules of Civil Procedure;

B. Awarding compensatory damages in favor of Lead Plaintiffs and the other members of the Class against all Defendants for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

C. Awarding Lead Plaintiffs and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

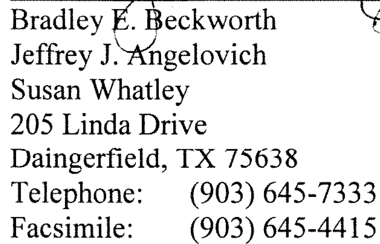
D. Such other and further relief as the Court may deem just and proper.

XVIII. JURY TRIAL DEMANDED

Lead Plaintiffs hereby demand a trial by jury.

Dated: September 30, 2005

NIX, PATTERSON & ROACH, L.L.P.

By: 

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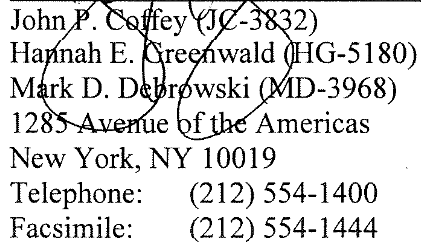
By: 

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Hannah E. Greenwald (HG-5180)
Mark D. Debrowski (MD-3968)
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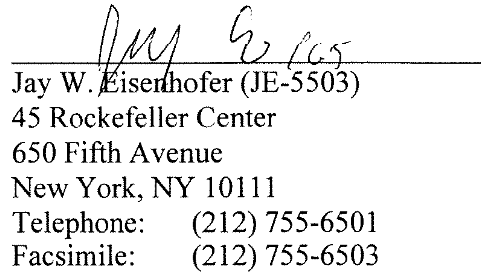
(signatures continued on next page)

GRANT & EISENHOFER P.A.

By: 
Jay W. Eisenhofer (JE-5503)
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- and -

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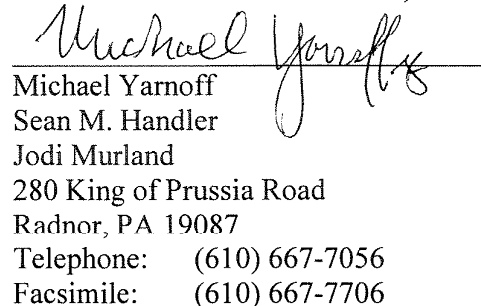
SCHIFFRIN & BARROWAY, LLP

By: 
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Co-Lead Counsel for Lead Plaintiffs Teachers' Retirement System of Oklahoma, Public Employees' Retirement System of Mississippi, Raiffeisen Kapitalanlage-Gesellschaft m.b.H and Stichting Pensioenfonds ABP and the Prospective Class

EXHIBIT 1

CERTIFICATION OF PROPOSED LEAD PLAINTIFF
PURSUANT TO FEDERAL SECURITIES LAWS

The TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA declares the following as to the claims asserted, or to be asserted, under the federal securities laws:

I, ____Matti Palluconi, Chairperson____________________, am the ____Chairperson________________________________ of the Teachers' Retirement System of Oklahoma ("OTRS"), and I have been duly authorized by OTRS to commence litigation against Delphi Corporation ("Delphi") and the other Defendants.

I hereby make this declaration pursuant to Section 21D(a)(2) of the Securities Exchange Act of 1934.

1. I have reviewed the Complaint against Delphi and other Defendants and authorize the filing of a comparable Complaint on behalf of OTRS.

2. OTRS did not acquire Delphi securities at the direction of Plaintiffs' counsel, or in order to participate in any private action arising under Title I of the Securities Exchange Act of 1934.

3. OTRS is willing to serve as a Lead Plaintiff, either individually or as part of a group. A Lead Plaintiff is a representative party who acts on behalf of other class members in directing the action, and whose duties may include testifying at deposition and trial. I understand that the Court has the authority to select the most adequate Lead Plaintiff in this action and that Nix, Patterson & Roach, LLP, may exercise its discretion in determining whether to move on behalf of OTRS for appointment as Lead Plaintiff.

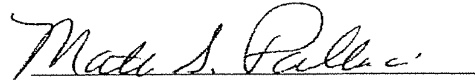
4. During the period from April 12, 2000 through March 3, 2005, OTRS purchased shares of Delphi as listed on Exhibit "A" hereto.

5. During the three (3) year period preceding the date on which this Certification is signed, OTRS moved for appointment as a lead plaintiff in one case, In re Royal Dutch Securities Litigation, pending in the United States District Court for the District of New Jersey. OTRS was not appointed lead plaintiff in that action.

6. OTRS will not accept any payment for serving as a representative party on behalf of the class beyond its pro rata share of any recovery, except such reasonable costs and expenses directly relating to the representation of the class as ordered or approved by the Court.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 20th day of April, 2005.



Matti Palluconi, Chairperson
Board of Trustees
Teachers' Retirement System of Oklahoma

OKLAHOMA TEACHERS RETIREMENT SYSTEM
Transactions in Delphi Corporation (DPH)
Class Period: 4/12/00-3/3/05

Trade Date	Trade	Shares	Price
	Opening Balance:	232,956	
7/26/2000	Sale	-1,200	$14.7650
9/21/2000	Sale	-15,000	$14.5417
9/25/2000	Sale	-10,000	$14.6250
11/15/2002	Purchase	14,800	$7.6543
11/18/2002	Purchase	7,500	$7.7718
11/18/2002	Purchase	800	$7.7718
11/19/2002	Purchase	15,000	$7.6500
11/20/2002	Purchase	31,700	$7.7544
4/29/2003	Purchase	8,100	$8.4600
4/29/2003	Purchase	5,700	$8.4911
4/30/2003	Purchase	26,355	$8.4311
9/4/2003	Purchase	55,300	$9.1934
9/5/2003	Purchase	39,200	$9.3699
9/5/2003	Purchase	15,700	$9.3792
9/8/2003	Purchase	29,900	$9.5976
10/22/2003	Sale	-10,100	$8.8000
10/22/2003	Sale	-4,900	$8.7482
11/20/2003	Purchase	18,700	$8.2782
11/26/2003	Purchase	150,000	$8.6374
11/28/2003	Purchase	158,300	$8.7992
2/27/2004	Purchase	48,500	$10.2151
3/1/2004	Purchase	19,500	$10.2450
3/2/2004	Purchase	12,300	$10.2086
3/3/2004	Purchase	13,900	$10.1750
3/5/2004	Purchase	19,300	$10.7471
3/5/2004	Purchase	12,800	$10.8633
3/5/2004	Purchase	9,000	$10.8633
3/5/2004	Purchase	13,400	$10.7471
3/8/2004	Purchase	33,700	$10.7816
3/8/2004	Purchase	23,600	$10.7816
3/9/2004	Purchase	29,100	$10.5359
3/9/2004	Purchase	41,700	$10.5359
3/10/2004	Purchase	31,300	$10.2936
3/10/2004	Purchase	44,800	$10.2936
3/11/2004	Purchase	4,500	$10.0849
3/11/2004	Purchase	4,900	$10.1171
3/11/2004	Purchase	7,100	$10.1171
3/11/2004	Purchase	6,400	$10.0849
3/12/2004	Purchase	4,800	$10.2762
3/12/2004	Purchase	6,900	$10.2762
3/15/2004	Purchase	8,500	$10.1895
3/15/2004	Purchase	12,100	$10.1895
8/12/2004	Purchase	9,700	$9.0242
8/13/2004	Purchase	9,700	$8.9574
8/16/2004	Purchase	2,600	$9.1063
8/17/2004	Purchase	6,700	$9.2769
10/7/2004	Purchase	8,100	$8.8272
10/8/2004	Purchase	14,300	$8.7916
10/11/2004	Purchase	14,800	$8.8343
10/12/2004	Purchase	18,600	$8.8279
10/13/2004	Purchase	9,800	$8.8056
10/20/2004	Purchase	11,700	$8.3848
11/10/2004	Purchase	20,100	$8.9441
11/10/2004	Purchase	34,300	$8.8942
11/11/2004	Purchase	18,700	$9.0074

OKLAHOMA TEACHERS RETIREMENT SYSTEM
Transactions in Delphi Corporation (DPH)
Class Period: 4/12/00-3/3/05

Trade Date	Trade	Shares	Price
11/22/2004	Purchase	16,100	$8.8724
11/30/2004	Purchase	34,100	$9.0067
12/1/2004	Purchase	25,000	$9.1739
12/20/2004	Sale	-26,700	$8.4358
1/11/2005	Purchase	6,100	$8.1403
2/4/2005	Purchase	31,800	$7.5492
2/7/2005	Purchase	2,000	$7.5411
2/7/2005	Purchase	3,400	$7.5428

EXHIBIT 2

CERTIFICATION

Jim Hood, Attorney General of the State of Mississippi, on behalf of the Public Employees' Retirement System of Mississippi ("Mississippi") declares, as to the claims asserted under the federal securities laws, that:

1. He has reviewed a complaint filed in this action.

2. Mississippi did not purchase the securities that are the subject of this action at the direction of its counsel, or to participate in this action.

3. Mississippi is willing to serve as a Lead Plaintiff and class representative on behalf of the Class, including providing testimony at deposition and trial, if necessary. Mississippi fully understands the duties and responsibilities of the Lead Plaintiff under the Private Securities Litigation Reform Act, including the selection and retention of counsel and overseeing the prosecution of the action for the Class.

4. Mississippi's transactions in Delphi Corporation securities that are the subject of this action are set forth in the chart attached hereto.

5. Mississippi is currently seeking to serve as lead plaintiff in the following actions filed under the federal securities laws:

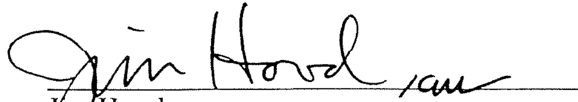
Meyer v. Converium Holding AG, No. 04-CV-07897 (MBM) (S.D.N.Y.)
Ley v. Visteon Corp., No. 05-CV-70737-RHC-VMM (E.D.M.I.)

6. Mississippi sought to serve as lead plaintiff in the following actions filed under the federal securities laws during the three years preceding the date of this Certification, but withdrew its motions for lead plaintiff in those cases:

In re Cardinal Health Inc. Securities Litigation
In re American International Group, Inc. Securities Litigation
In re HealthSouth Inc. Stockholder Litigation

7. Mississippi will not accept any payment for serving as a Lead Plaintiff on behalf of the Class beyond its pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) relating to the representation of the Class as ordered or approved by the court.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 5 day of May 2005.



Jim Hood
Attorney General of the State of Mississippi
Legal Counsel to the Public Employees' Retirement System of Mississippi

Public Employees' Retirement System of Mississippi
Transactions in Delphi Corp.
Class Period: 4/12/00 - 3/3/05

Transaction	Trade Date	Shares	Price
	Opening Balance:	359,702	
BUY	4/12/2000	7,400	$19.1856
BUY	4/19/2000	4,900	$19.9286
BUY	5/3/2000	6,300	$20.4063
BUY	5/4/2000	1,000	$20.0781
BUY	5/9/2000	47,300	$19.8564
BUY	5/10/2000	3,100	$19.1563
BUY	5/10/2000	2,600	$19.2640
BUY	5/19/2000	8,800	$17.5167
BUY	5/23/2000	3,400	$17.7509
BUY	5/24/2000	73,500	$18.4193
BUY	6/19/2000	15,000	$15.9724
BUY	6/19/2000	16,400	$15.9724
SELL	6/30/2000	4,500	$14.5625
BUY	6/30/2000	1,300	$14.7812
BUY	7/5/2000	1,000	$15.3125
BUY	7/5/2000	4,000	$15.3044
SELL	7/26/2000	5,400	$14.7650
BUY	8/11/2000	200	$15.6250
BUY	8/15/2000	7,300	$15.4688
BUY	8/16/2000	153,200	$16.0990
SELL	12/29/2000	2,700	$11.2500
SELL	2/14/2001	200	$14.7600
SELL	2/28/2001	300	$14.0300
SELL	4/5/2001	33,800	$13.4099
SELL	4/26/2001	160,500	$14.1175
SELL	5/2/2001	1,100	$14.8000
SELL	5/2/2001	52,200	$14.8239
SELL	6/21/2001	20,700	$15.7620
SELL	6/22/2001	15,000	$15.8167
SELL	6/27/2001	9,900	$15.5983
SELL	6/29/2001	5,200	$15.7720
SELL	7/13/2001	17,000	$16.6104
SELL	9/26/2001	31,200	$11.0500
SELL	9/28/2001	20,945	$11.7500
BUY	9/28/2001	10,100	$11.7155
BUY	10/1/2001	6,400	$11.2979
BUY	10/1/2001	23,350	$11.3652
BUY	10/3/2001	9,600	$11.4512
BUY	10/8/2001	5,900	$12.0050
BUY	3/4/2002	15,450	$16.7912
BUY	3/4/2002	2,300	$16.6200
BUY	3/25/2002	40,700	$15.1570
BUY	4/25/2002	1,800	$15.6225
BUY	4/26/2002	1,400	$15.6915
SELL	4/29/2002	17,050	$15.4061
BUY	4/30/2002	100	$15.6000

Transaction	Trade Date	Shares	Price
BUY	4/30/2002	2,100	$15.5149
BUY	5/30/2002	5,200	$15.5620
BUY	6/28/2002	2,900	$13.3200
SELL	9/23/2002	2,100	$9.0464
SELL	9/27/2002	4,500	$9.1816
BUY	11/5/2002	4,400	$7.3700
BUY	1/30/2003	47,600	$8.4886
BUY	3/12/2003	6,300	$6.5250
SELL	5/6/2003	28,000	$8.6437
SELL	5/6/2003	60,200	$8.4950
SELL	5/14/2003	11,800	$8.6864
SELL	8/21/2003	51,200	$8.7155
SELL	8/22/2003	64,900	$8.7306
BUY	8/29/2003	22,850	$8.7500
SELL	9/9/2003	4,300	$9.4813
SELL	9/30/2003	80,800	$9.0743
SELL	2/18/2004	23,550	$10.5641
SELL	4/1/2004	23,350	$10.0723
BUY	7/19/2004	8,759	$9.7300
BUY	9/20/2004	6,400	$9.0400
BUY	9/22/2004	15,500	$9.0400
BUY	9/22/2004	13,400	$9.0400
BUY	9/22/2004	20,732	$9.0090
BUY	9/23/2004	63,068	$9.0800
BUY	11/12/2004	6,700	$9.1370
BUY	12/17/2004	12,100	$8.4980
SELL	1/24/2005	10,100	$7.5800

EXHIBIT 3

CERTIFICATION O0F NAMED PLAINTIFF
PURSUANT TO FEDERAL SECURITIES LAWS

Raiffeisen Kapitalanlage-Gesellschaft m.b.H. ("Raiffeisen" or "Plaintiff") declares, as to the claims asserted under the federal securities laws, that:

1. Plaintiff did not purchase the security that is the subject of this action at the direction of Plaintiff's counsel or in order to participate in any private action.
2. Plaintiff is willing to serve as a representative party on behalf of the class, including providing testimony at deposition and trial, if necessary.
3. Attached are Plaintiff's transactions in Delphi Corporation (NYSE: DPH) securities during the Class Period.
4. Raiffeisen is a Vienna, Austria based mutual fund manager with in excess of U.S. $20 billion in assets under management. Raiffeisen has full power and authority to bring suit to recover for investment losses.
5. Raiffeisen has fully reviewed the facts and allegations of the complaints filed in this action. Raiffeisen has authorized the filing of the motion for appointment as lead plaintiff on its behalf in this action.
6. We are authorized to make legal decisions on behalf of Raiffeisen.
7. Raiffeisen intends to actively monitor and vigorously pursue these actions for the benefit of the class. Schiffrin & Barroway, LLP is knowledgeable and experienced in securities law, particularly with regard to the role and responsibilities of institutional investors in class actions.
8. Plaintiff will endeavor to provide fair and adequate representation and work directly with the efforts of Class counsel to ensure that we obtain the

largest recovery for the Class consistent with good faith and meritorious judgment.

9. During the three years prior to the date of this Certification, Plaintiff has sought to serve as a representative party in a class action filed against Impath, Inc.

10. Plaintiff will not accept any payment for serving as a representative party on behalf of the class beyond the Plaintiff's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as ordered or approved by the Court.

We declare under penalty of perjury that the foregoing is true and correct.

Executed this 14 day of April 2005.

Raiffeisen Kapitalanlage-Gesellschaft m.b.H.

By:

Mag. Gerhard Aigner
Managing Director

Dr. Mathias Bauer
Managing Director

Raiffeisen Kapitalanlage-Gesellschaft m.b.H.

Date	Purchase or Sale	Number of Securities	Type of Securities	Price of Securities
11/14/2000	Purchase	960	Com Stk	14.8125
11/16/2000	Purchase	550	Com Stk	14.5625
1/24/2001	Purchase	850	Com Stk	14.4375
2/5/2001	Purchase	440	Com Stk	15.2600
2/27/2001	Purchase	7,520	Com Stk	14.4200
2/27/2001	Purchase	4,660	Com Stk	14.3400
4/11/2001	Purchase	127	Com Stk	13.2500
5/2/2001	Purchase	146	Com Stk	14.8000
6/5/2001	Purchase	363	Com Stk	15.0100
8/6/2001	Purchase	900	Com Stk	16.1844
10/16/2001	Purchase	900	Com Stk	13.1620
12/5/2001	Purchase	4,400	Com Stk	13.7000
1/31/2002	Purchase	3,700	Com Stk	14.2851
2/28/2002	Purchase	3,383	Com Stk	16.1900
3/4/2002	Purchase	588	Com Stk	16.9350
3/14/2002	Purchase	240	Com Stk	16.6000
4/8/2002	Purchase	14,000	Com Stk	15.8096
4/22/2002	Purchase	1,149	Com Stk	15.9300
4/30/2002	Purchase	7,700	Com Stk	15.6703
5/14/2002	Purchase	2,500	Com Stk	16.6000
5/29/2002	Purchase	800	Com Stk	16.4000
8/5/2002	Purchase	2,365	Com Stk	9.1130
8/14/2002	Purchase	704	Com Stk	9.3300
10/7/2002	Purchase	14,000	Com Stk	8.1500
10/9/2002	Purchase	570	Com Stk	6.8872
11/6/2002	Purchase	47,000	Com Stk	7.7013
1/10/2003	Purchase	23,500	Com Stk	8.8279
3/14/2003	Purchase	22,200	Com Stk	6.6982
3/19/2003	Purchase	21,300	Com Stk	6.8200
4/23/2003	Purchase	1,900	Com Stk	8.3500
3/26/2004	Purchase	170,000	Com Stk	9.8995
4/7/2004	Purchase	145,000	Com Stk	10.4281
4/14/2004	Purchase	35,000	Com Stk	9.9109
5/5/2004	Purchase	5,000	Com Stk	10.2000
5/11/2004	Purchase	22,500	Com Stk	10.0564
6/9/2004	Purchase	1,200	Com Stk	10.6500
6/9/2004	Purchase	8,000	Com Stk	10.6330
6/10/2004	Purchase	4,700	Com Stk	10.7781
6/14/2004	Purchase	7,100	Com Stk	10.6355

Raiffeisen Kapitalanlage-Gesellschaft m.b.H.

Date	Purchase or Sale	Number of Securities	Type of Securities	Price of Securities
6/15/2004	Purchase	7,600	Com Stk	10.8745
6/15/2004	Purchase	1,200	Com Stk	10.7977
7/21/2004	Purchase	47,400	Com Stk	9.9193
7/30/2004	Purchase	20,000	Com Stk	9.5000
8/6/2004	Purchase	17,700	Com Stk	9.1732
8/10/2004	Purchase	4,180	Com Stk	9.0500
8/16/2004	Purchase	9,200	Com Stk	9.1867
8/26/2004	Purchase	60,000	Com Stk	9.2989
8/26/2004	Purchase	28,000	Com Stk	9.2755
8/31/2004	Purchase	3,900	Com Stk	9.1914
9/13/2004	Purchase	122,400	Com Stk	9.1390
9/15/2004	Purchase	116,600	Com Stk	8.8658
10/5/2004	Purchase	8,700	Com Stk	9.4300
10/5/2004	Purchase	25,800	Com Stk	9.3908
10/11/2004	Purchase	7,900	Com Stk	8.7300
10/18/2004	Purchase	12,900	Com Stk	8.4342
12/7/2004	Purchase	74,800	Com Stk	8.8284
12/16/2004	Purchase	50,000	Com Stk	8.2831
12/17/2004	Purchase	2,800	Com Stk	8.4500
1/4/2005	Purchase	56,700	Com Stk	8.6182
1/5/2005	Purchase	391,700	Com Stk	8.5041
1/7/2005	Purchase	44,300	Com Stk	8.4349
1/10/2005	Purchase	16,000	Com Stk	8.3347
1/13/2005	Purchase	43,300	Com Stk	8.0501
8/18/2000	Sale	866	Com Stk	15.8125
2/14/2001	Sale	1,900	Com Stk	14.9179
8/27/2001	Sale	1,656	Com Stk	14.5110
1/9/2002	Sale	10,900	Com Stk	13.9300
1/10/2002	Sale	500	Com Stk	13.6500
2/4/2002	Sale	160	Com Stk	14.0700
2/5/2002	Sale	1,100	Com Stk	14.3800
2/12/2002	Sale	150	Com Stk	14.1900
2/15/2002	Sale	6,000	Com Stk	14.8267
2/19/2002	Sale	5,400	Com Stk	14.7500
3/6/2002	Sale	9,800	Com Stk	16.8700
3/15/2002	Sale	600	Com Stk	16.2300
3/15/2002	Sale	1,300	Com Stk	16.1608
3/18/2002	Sale	6,000	Com Stk	16.2642

Raiffeisen Kapitalanlage-Gesellschaft m.b.H.

Date	Purchase or Sale	Number of Securities	Type of Securities	Price of Securities
4/19/2002	Sale	7,600	Com Stk	15.2300
4/22/2002	Sale	3,000	Com Stk	15.7100
4/25/2002	Sale	60,000	Com Stk	15.4275
5/13/2002	Sale	2,220	Com Stk	16.3300
5/15/2002	Sale	56,900	Com Stk	16.7569
5/30/2002	Sale	43,700	Com Stk	15.6186
5/31/2002	Sale	10,000	Com Stk	15.8800
6/13/2002	Sale	1,600	Com Stk	14.5700
6/26/2002	Sale	58,000	Com Stk	12.8776
7/3/2002	Sale	1,730	Com Stk	12.8000
7/9/2002	Sale	7,400	Com Stk	13.1538
7/9/2002	Sale	51,400	Com Stk	13.1100
7/16/2002	Sale	2,000	Com Stk	11.3300
7/17/2002	Sale	12,100	Com Stk	10.0000
7/18/2002	Sale	1,100	Com Stk	10.2500
10/8/2002	Sale	286	Com Stk	7.4788
10/9/2002	Sale	5,300	Com Stk	6.7606
11/15/2002	Sale	17,300	Com Stk	7.6800
11/29/2002	Sale	2,100	Com Stk	8.3900
12/2/2002	Sale	2,300	Com Stk	8.5000
2/3/2003	Sale	15,100	Com Stk	8.5000
2/25/2003	Sale	8,713	Com Stk	7.8554
3/12/2003	Sale	2,400	Com Stk	6.4600
4/11/2003	Sale	8,900	Com Stk	7.2922
4/24/2003	Sale	27,000	Com Stk	8.4000
5/23/2003	Sale	41,300	Com Stk	7.9584
5/23/2003	Sale	51,100	Com Stk	7.9081
6/13/2003	Sale	6,000	Com Stk	8.5000
6/30/2003	Sale	3,300	Com Stk	8.6300
10/2/2003	Sale	18,000	Com Stk	9.3384
11/21/2003	Sale	26,400	Com Stk	8.1800
6/30/2004	Sale	30,000	Com Stk	10.4372
8/17/2004	Sale	10,319	Com Stk	9.2842
8/17/2004	Sale	14,981	Com Stk	9.2842
9/7/2004	Sale	13,200	Com Stk	9.4527
9/13/2004	Sale	8,420	Com Stk	9.0363
9/14/2004	Sale	730	Com Stk	9.0300
9/14/2004	Sale	585	Com Stk	9.0100
9/16/2004	Sale	346	Com Stk	8.9300

Raiffeisen Kapitalanlage-Gesellschaft m.b.H.

Date	Purchase or Sale	Number of Securities	Type of Securities	Price of Securities
9/29/2004	Sale	22,300	Com Stk	9.1022
12/17/2004	Sale	2,800	Com Stk	8.4500
2/23/2005	Sale	1,590	Com Stk	6.9600

* Opening balance of 640,900 shares

EXHIBIT 4

CERTIFICATION OF RENÉ MAATMAN ON BEHALF OF STICHTING PENSIOENFONDS ABP

I, René Maatman, make this Certification on behalf of Stichting Pensioenfonds ABP, ("ABP") pursuant to 28 U.S.C. § 1746 and 15 U.S.C. § 78u-4, and state on information and belief as follows:

1 I am General Legal Counsel for Stichting Pensioenfonds ABP ("ABP") and am authorized to make this Certification on behalf of ABP.

2. I have had the records reviewed of ABP's transactions in securities of Delphi Corporation ("Delphi") for the relevant time period of April 12, 2000 through March 3, 2005 (the "Class Period"). Those transactions are listed in the chart attached to this Certification.

3. ABP is an entity established under the laws of the Kingdom of the Netherlands and is the pension fund for public employees in the governmental and education sectors in the Netherlands. With assets amounting to nearly 168 billion Euros, ABP is one of the three largest pension funds in the world. Its assets represent around 35% of total Dutch pension fund assets, and its client base totals some 2.2 million participants and retirees (e.g.: civil servants, educators, university employees, police and firemen). ABP maintains its office and principal place of business at Oude Lindestraat 70, Postbus 2889, 6401 DL Heerlen, The Netherlands. ABP Investments U.S. Inc. is ABP's affiliate in the United States and its offices are located at 666 Third Avenue, 2nd Floor, New York, NY 10017

4. ABP has authorized the filing of the motion for appointment as lead plaintiff on its behalf in this action. Leo Palmen, Chief Legal and Tax Counsel, ABP Investments U.S. Inc., and Ton Coemans, Legal Counsel ABP, have had contacts with counsel to discuss the merits of the complaints as well as other causes of action that may be brought by Delphi investors.

5. ABP intends to actively monitor and vigorously pursue these actions for the benefit of the class, rather than simply relying on its attorneys. ABP has retained the law firm of Grant & Eisenhofer, P.A. to represent ABP. Grant & Eisenhofer, P.A. is knowledgeable and experienced in securities law and litigation, particularly with regard to the role and responsibilities of institutional investors in class actions.

6. ABP believes that it is the class member with the largest losses based on the complaints filed to date. Like other investors who purchased Delphi securities during the Class Period, ABP believes that these losses occurred as a result of the defendants' fraudulent conduct and violations of the securities laws. ABP believes its claims against the defendants are typical of those of other members of the class.

7. ABP did not purchase the securities that are the subject of the various complaints at the direction of counsel or to participate in any private action arising under the federal securities laws. ABP invested in Delphi solely for its own business purposes.

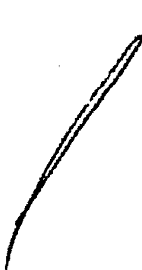
8. ABP is willing to serve as the representative party on behalf of the class of Delphi security holders who invested during the Class Period, including providing testimony at depositions and trial. ABP intends to pursue this litigation for the best interests of all class members.

9. During the three-year period preceding the date of this Certification, ABP has not served as lead plaintiff in any securities fraud class actions. It sought lead plaintiff status in a class action against Nortel Networks, Inc., pending in the United States District Court for the Southern District of New York, but was not selected as lead plaintiff.

10. ABP will not accept any payment for serving as representative party on behalf of the class beyond its *pro rata* share of any recovery, except as ordered and approved by the Court.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: May 6, 2005



René Maatman
General Legal Counsel
Stichting Pensioenfonds ABP

Schedule A
Stichting Pensioenfonds ABP
Delphi Corporation Common Stock

Initial Position: 2,080,747

PURCHASES

Date	Shares	Price Per Share
4/12/2000	4,800	$19.19
4/17/2000	11,067	$18 71
4/18/2000	26,000	$20.31
4/19/2000	400	$19 75
4/19/2000	110,500	$19.93
5/1/2000	2,800	$19 13
5/23/2000	300	$17.22
9/15/2000	8,300	$15 58
9/15/2000	4,900	$15.66
11/9/2000	100	$14 59
11/10/2000	200	$14.28
11/13/2000	100	$14 47
11/14/2000	9,300	$14 63
11/16/2000	600	$14 59
11/30/2000	39,755	$13 82
11/30/2000	125,502	$13 82
1/4/2001	10,088	$14 45
1/23/2001	700	$14.56
2/2/2001	11,425	$15 29
2/16/2001	4,200	$14.95
2/16/2001	92,700	$15 06
3/7/2001	133,700	$15.02
5/29/2001	300	$14.79
6/29/2001	100	$15 93
9/24/2001	28,173	$10 82
9/25/2001	74,848	$11.08
11/9/2001	3,143	$12 32
12/4/2001	127,964	$13 55
12/21/2001	189	$13.26
12/27/2001	11,987	$13 67
2/6/2002	175,436	$14 09
2/28/2002	17,700	$15.99
4/9/2002	38,734	$16 29
6/3/2002	6,879	$15.36
6/6/2002	9,326	$14.85
6/28/2002	5,455	$13 20
6/28/2002	1,145	$13.20
7/9/2002	213,244	$13 12
7/31/2002	80,867	$9 96
7/31/2002	13,133	$9 91
10/11/2002	15,660	$7.12
2/26/2003	1,497	$7.94
3/13/2003	82,874	$6 64
4/30/2003	17,082	$8 40
4/30/2003	162,969	$8 44
5/2/2003	36,494	$8 29

SALES

Date	Shares	Price Per Share
5/5/2000	1,500	$19 87
5/10/2000	1,000	$19.78
6/21/2000	5,100	$15.28
6/30/2000	18,100	$14 78
7/3/2000	181	$14.56
7/3/2000	919	$14 59
7/6/2000	1,800	$15.28
7/27/2000	3,678	$14.77
7/27/2000	2,222	$14.74
8/1/2000	43,900	$15 00
8/3/2000	2,400	$14 63
9/18/2000	3,713	$15.47
9/18/2000	1,087	$15 50
10/2/2000	37,100	$15 13
10/30/2000	102,100	$14 88
12/1/2000	200	$13 81
12/11/2000	1,400	$12 18
12/12/2000	1,400	$11 72
12/18/2000	123	$11 53
12/18/2000	1,277	$11 56
1/2/2001	396	$11 26
1/2/2001	804	$11 25
1/31/2001	98,479	$14.77
2/2/2001	11,425	$15 29
2/15/2001	500	$14.80
2/22/2001	122	$14 91
2/22/2001	478	$14.93
3/1/2001	138	$14 02
3/1/2001	262	$14 03
3/19/2001	600	$14 07
4/2/2001	447	$14.16
4/2/2001	253	$14.17
5/17/2001	1,700	$15 00
6/15/2001	1,400	$14 88
6/19/2001	76,600	$14 97
6/21/2001	20,200	$15 76
6/22/2001	9,700	$15.82
6/27/2001	400	$15.45
6/29/2001	53,400	$15 83
7/5/2001	52,400	$16 33
7/6/2001	1,000	$16 01
7/10/2001	26,400	$16 30
7/11/2001	20,200	$16 20
7/11/2001	13,800	$16 20
7/12/2001	2,600	$16.60
7/12/2001	64,400	$16 67

Schedule A
Stichting Pensioenfonds ABP
Delphi Corporation Common Stock

PURCHASES

Date	Shares	Price Per Share
5/15/2003	212,128	$8.71
6/3/2003	347,761	$9.03
7/2/2003	47,703	$8.52
8/29/2003	27,032	$9.06
9/5/2003	117,415	$9.39
9/5/2003	18,654	$9.29
9/5/2003	8,923	$9.32
10/15/2003	441,003	$9.37
12/2/2003	92,596	$8.85
12/19/2003	13	$9.48
12/19/2003	3	$9.52
12/19/2003	83	$9.48
4/5/2004	12,060	$10.39
5/5/2004	61,741	$10.16
5/10/2004	597,467	$9.88
5/10/2004	47,907	$9.88
6/2/2004	68,494	$10.37
7/7/2004	56,800	$9.93
9/30/2004	118,364	$9.23
10/1/2004	39,454	$9.43
10/7/2004	336,372	$8.84
11/1/2004	91,310	$8.42
11/12/2004	1,225	$9.14
12/8/2004	53,833	$8.79
12/8/2004	12,204	$8.79
12/17/2004	1,133	$8.31
12/28/2004	38,700	$8.75
1/6/2005	979,200	$8.48

SALES

Date	Shares	Price Per Share
7/16/2001	17,900	$16.95
7/17/2001	9,500	$16.99
7/17/2001	22,600	$17.08
7/18/2001	51,400	$16.75
7/19/2001	35,300	$17.02
7/20/2001	88,200	$16.81
11/28/2001	53,200	$13.13
11/28/2001	53,200	$13.13
12/20/2001	300	$13.10
1/2/2002	71,500	$13.66
1/2/2002	19,100	$13.66
1/9/2002	180,735	$13.70
3/5/2002	87,070	$16.74
4/9/2002	38,734	$16.29
4/24/2002	1,888	$15.76
5/7/2002	6,893	$15.38
6/6/2002	9,326	$14.65
6/6/2002	130,410	$14.64
6/28/2002	19,600	$13.22
7/18/2002	6,715	$10.01
8/8/2002	12,175	$9.41
9/30/2002	11,826	$8.55
9/30/2002	36,500	$8.55
10/1/2002	32,567	$8.40
10/29/2002	37,410	$6.75
10/31/2002	11,055	$6.97
10/31/2002	10,345	$6.96
10/31/2002	342	$6.96
10/31/2002	35,407	$6.96
11/1/2002	33,133	$6.96
11/6/2002	35,208	$7.63
11/12/2002	77,991	$7.44
11/20/2002	27,978	$7.70
11/20/2002	79,435	$7.71
11/20/2002	79,436	$7.71
2/3/2003	14,106	$8.52
2/4/2003	11,285	$8.40
2/5/2003	88,985	$8.39
2/5/2003	27,084	$8.49
2/6/2003	18,057	$8.48
3/31/2003	2,040	$6.83
3/31/2003	17,875	$6.83
4/15/2003	69,044	$7.73
5/1/2003	91,000	$8.36
8/27/2003	215,013	$8.56
9/30/2003	9,122	$9.05
9/30/2003	5,062	$9.05
1/13/2004	69,934	$11.30

Schedule A
Stichting Pensioenfonds ABP
Delphi Corporation Common Stock

PURCHASES			SALES		
Date	Shares	Price Per Share	Date	Shares	Price Per Share
			1/22/2004	316,632	$11.47
			1/28/2004	62,449	$11.06
			1/29/2004	62,449	$10.84
			1/30/2004	62,450	$10.35
			2/18/2004	40,600	$10.58
			2/18/2004	28,444	$10.50
			2/26/2004	483,938	$10.06
			3/16/2004	185,747	$10.22
			3/19/2004	91	$10.08
			4/5/2004	400	$10.38
			4/7/2004	34,963	$10.41
			4/13/2004	49,147	$9.95
			4/14/2004	3,613	$9.86
			4/14/2004	100	$9.68
			5/27/2004	57,579	$10.32
			6/4/2004	4,030	$10.46
			6/9/2004	597,520	$10.62
			7/7/2004	96,000	$9.91
			8/16/2004	304	$9.15
			9/14/2004	120,065	$9.06
			10/6/2004	17,124	$8.86
			11/3/2004	51,370	$8.51
			11/4/2004	61,209	$8.57
			11/30/2004	13,216	$9.00
			1/7/2005	16,442	$8.37
			1/19/2005	198,900	$7.94
			1/24/2005	16,873	$7.59
			1/26/2005	16,873	$7.52
			2/1/2005	48,301	$7.55
			2/7/2005	51,156	$7.54
			2/28/2005	3,879	$6.87
			2/28/2005	6,440	$6.87
			3/3/2005	52,515	$6.37
			3/7/2005	225,301	$5.23
			3/15/2005	780,300	$5.02