

Name: Alert ID: TMML2024035359160 Assistant Attorney General Christopher A. Wray of the Criminal Division, Enron Task Force Director Andrew Weissmann, and Assistant Director Chris Swecker of the FBI announced today that Timothy Despain, the former assistant treasurer of Enron Corp., has pleaded guilty to a charge of conspiracy to commit securities fraud. Despain, 39, of Houston, Texas, entered the guilty plea today before Judge Ewing Werlein at U.S. District Court in Houston. As part of his plea, Despain has agreed to cooperate fully and truthfully with the Enron Task Force's ongoing criminal investigation into the collapse of Enron. Despain pleaded guilty to one count of conspiracy to commit securities fraud, and faces a maximum sentence of five years in prison and a fine of \$250,000 or twice the loss. The information and plea documents signed by Despain state that Despain was an Assistant Treasurer of Enron from approximately January 1999 until May 2002. Despain was responsible for coordinating interactions between Enron senior management and the national credit rating agencies who rated Enron's corporate debt. Despain admitted that from 1999 through the fall of 2001, he and his superiors engaged in conduct that he knew was intended to fraudulently manipulate Enron's credit rating. Despain admitted that he knew this rating was relied on by the holders and prospective purchasers of Enron's publicly traded stocks and bonds. Despain stated that during this time period he was supervised directly by the people who served as Enron's treasurers—including Ben Glisan, who pleaded guilty in September 2003 and is currently serving a five-year prison sentence. Despain admitted that in communicating with representatives of the rating agencies, he and others at Enron did not truthfully present the financial position and cash and funds flow of the company—key factors influencing the company's rating. Among other things, Despain admitted that he and others falsely represented to credit rating agencies that Enron's cash flows from its non-regulated businesses were stable and predictable. In fact, the annual cash flow targets that Enron set for itself and reported to the rating agencies were arbitrarily based on what he and others believed was necessary to maintain Enron's investment-grade credit rating, rather than on the amount of cash flow Enron's non-regulated businesses were expected to achieve. One example of such an improper transaction was "Project Nahanni." Despain admitted that, in late 1999, Enron was at least \$500 million short of the cash flow target it had artificially set and then told the national rating agencies it intended to achieve for 1999. In order to make up this shortfall, Enron entered into Project Nahanni, a transaction that resulted in Enron reporting the sale of \$485 million of Treasury securities as cash flow from operations. Despain admitted that he and others knew that there was no business purpose to the Project Nahanni transaction, other than to achieve Enron's desired cash flow results. Moreover, the sale of Treasury securities should not have been characterized as a sale of a merchant asset and therefore should not have been included in the cash flow from operations figures presented to the rating agencies. This transaction occurred during a time in which Enron was actively pursuing a credit rating upgrade from one of the national credit rating agencies. Despain stated that he knew at the time of the Project Nahanni transaction that if the rating agencies understood that \$485 million of the reported cash flow from operations for 1999 was from the sale of Treasury securities, Enron's credit rating would have been negatively affected, and Enron would not likely have received the desired upgrade in its credit rating. Despain also admitted that another mechanism by which Enron achieved the artificial cash flow targets it set for itself was through transactions commonly referred to within the company as "prepays." The reporting of the cash received from these transactions was a means of demonstrating to the rating agencies Enron's ability to recognize cash from its mark-to-market trading book. Although the prepay transactions were accounted for as commodity transactions and reflected on Enron's books as a trading liability, the transactions in substance created debt-like obligations to the financial institutions that advanced funds to Enron through the transactions. Despain and others told the rating agencies that the cash generated from Enron's trading operations was from the sale or "monetization" of trading contracts or the future cash flow streams from those contracts. The agencies were led to believe that Enron was generating cash by selling an asset, when in fact Enron was generating cash by incurring a future obligation that operated as debt. Over the course of Despain's time as Assistant Treasurer, Enron's obligations under the "prepay" transactions grew to approximately \$5 billion. Despain stated that he was directed by Enron's treasurers not to reveal to, or discuss with the credit rating agencies the nature and extent of the prepay transactions entered into by Enron. Despain and the treasurers recognized that if the rating agencies knew about the nature and extent of Enron's prepay transactions, such information would have had a

materially negative effect on Enron's credit rating. Enron, at one time the seventh-ranked company in the United States with stock trading as high as \$80 per share in August 1999, filed for bankruptcy protection on December 2, 2001 and its stock became virtually worthless. The investigation into Enron's collapse is being conducted by the Enron Task Force, a team of federal prosecutors within the Justice Department's Criminal Division and agents from the FBI and the Internal Revenue Service Criminal Investigations Division. The Enron Task Force also has coordinated with and received considerable assistance from the Securities and Exchange Commission. The Enron Task Force is part of the President's Corporate Fraud Task Force, created in July 2002 to investigate allegations of fraud and corruption at U.S. corporations. To date, 33 defendants have been charged in connection with the work of the Enron Task Force, including 24 former Enron executives. With the plea today, 16 defendants have so far been convicted. The Enron Task Force has obtained more than \$162 million in forfeiture for restitution to victims.