

RODRIGUEZ & RICHARDS, LLC
Lisa J. Rodriguez, Esquire (#LR6767)
3 Kings Highway E.
Haddonfield, NJ 08033
(856) 795-9002

BERGER & MONTAGUE, P.C.
1622 Locust Street
Philadelphia, PA 19103
(215) 875-3000

SCHATZ & NOBEL, P.C.
330 Main Street
Hartford, CT 06106
(860) 493-6292

Attorneys for Plaintiffs

FILED

JUL 27 2000

AT 8:30 _____ M
WILLIAM T. WALSH
CLERK

UNITED STATES
DISTRICT COURT

JUL 27 2000 P 3:55

RECEIVED
WILLIAM T. WALSH, CLERK

58

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

LABORERS LOCAL 1298 PENSION
FUND, on behalf of itself and all others
similarly situated,

Plaintiff,

v.

CAMPBELL SOUP COMPANY,
DALE F. MORRISON, and
BASIL L. ANDERSON,

Defendants.

HONORABLE JOSEPH E. IRENAS

CIVIL ACTION NO. 00-152 (JEI)
(Consolidated Lead Case)

**CONSOLIDATED AMENDED
CLASS ACTION COMPLAINT**

JURY TRIAL DEMANDED

Denise L. Nappier, Treasurer of the State of Connecticut, as Trustee for the Connecticut Retirement Plans and Trust Funds ("Connecticut"), Donald DeValle ("DeValle"), and Daryle Green ("Green"), co-lead plaintiffs appointed by the Court ("Plaintiffs"), on behalf of themselves and all others similarly situated, make the following allegations against defendants Campbell

Soup Company ("Campbell" or the "Company"), Dale F. Morrison ("Morrison") and Basil L. Anderson ("Anderson") based upon Plaintiffs' counsels' investigation (except as to the allegations specifically pertaining to the named plaintiff and its counsel, which are based on personal knowledge) which included, inter alia, a review of relevant filings made with the Securities and Exchange Commission ("SEC"), press releases, news and analyst reports, and interviews with numerous former employees of Campbell Soup Company (including former officers and employees involved in sales and shipping) and other persons knowledgeable about the business practices of Campbell, who have personal knowledge of the relevant facts alleged herein.

NATURE OF THE ACTION

1. This is a securities class action lawsuit which arises out of dissemination of materially false and misleading information and omissions of material information to the investing public by defendants concerning the business, operations and financial performance of Campbell, the world's largest soup maker and marketer of soup, during the period September 8, 1997 through January 8, 1999, inclusive (the "Class Period").

2. During the Class Period, defendants engaged in a fraudulent scheme to falsely portray Campbell as achieving "record sales," a significant growth rate in both sales and earnings, and earnings in line with earnings estimates publicly disseminated by securities analysts, which were based on representations to securities analysts made by defendants.

3. Defendants' fraudulent scheme included a practice known as "loading." Loading is a practice whereby during the last month of each fiscal quarter Campbell sales people would offer steep discounts (15% to 20% during the Class Period) in order to induce sales to customers that already had enough Campbell products in inventory and did not require additional inventory.

Defendants engaged in this practice in order to increase earnings and to meet growth and earnings estimates disseminated by securities analysts.

4. This practice of loading became pervasive during the last quarter of fiscal 1997 (ending August 3, 1997) and throughout the Class Period because the Company was experiencing difficulty in achieving the sales targets set by Campbell's management through normal and acceptable sales practices. This was due to a large "buy-in" by Campbell's customers who made substantial purchases of Campbell products during the third quarter of fiscal 1997 (ending April 27, 1997) due to a previously announced price increase which would take place shortly thereafter.

5. By engaging in pervasive loading during the Class Period, the Company was mortgaging future sales. Although the practice of loading is not illegal per se, the failure to disclose the pervasive nature of the practice and the effect it would have on future sales and earnings rendered defendants' statements about growth in sales and earnings during the Class Period materially false and misleading.

6. In addition to the steep discounts offered by Campbell, the Company also induced customers to take additional product by assuring the customer that the product could be returned if it could not be sold by the customer within a reasonable period of time. Although the customer paid for the product, the revenue recognized on these transactions was improper and in contravention of Generally Accepted Accounting Principles ("GAAP") because due to the unprecedented level of loading, Campbell was unable to reasonably estimate the amount of returns and, in connection with the "sham" shipments described below, the risk of loss did not pass to the buyer at the time of sale. Campbell improperly recognized material amounts of

revenue that were made on this "guaranteed sales" basis. Alternatively, even if the revenue was properly recorded it was overstated to the extent that no reserve for returns was taken by Campbell.

7. By the first quarter of fiscal 1998 Campbell's customers' warehouses were so full of Campbell products they had nowhere to store subsequent purchases of Campbell products. In order to continue the loading practices, Campbell would sell the customer the product, but would not ship the product. Instead, Campbell would place the product on the trucks and then these trucks would park on other areas of Campbell's facilities or the product would be shipped to Campbell warehouses until the customer needed the product. Campbell's recognition of revenue on these "sham" shipments violated GAAP as set forth in paragraph 9 below and as detailed herein.

8. By the latter part of calendar year 1998 the practice of loading had become so pervasive that Campbell's customers had enough inventory on hand and stored at Campbell's facilities that they did not need to purchase substantial quantities of Campbell products as they had in the past and Campbell's future sales suffered. In fact, as later admitted by defendant Morrison, Campbell's sales would continue to suffer as a result of this practice throughout calendar year 1999. Although defendants recognized that the loading practices would harm future sales, defendants believed that their fraudulent scheme would never be uncovered. Defendants thought that growth could be provided by tapping into the international market and the introduction of new products. The international market and introduction of new product market never materialized to the extent necessary to offset the detrimental effect these loading practices had on the U.S. market.

9. Defendants also violated GAAP during the Class Period by reporting as revenue and income "sales" which were a "sham" and not properly recognizable as revenue because (i) products were deemed "shipped" and "sold" despite the fact that Campbell's merely arranged for trucks to pick up the products and then parked those trucks on other areas of Campbell's facilities, and (ii) products were deemed "shipped" and "sold" despite the fact that Campbell's merely arranged for trucks to pick up its products and take those products to warehouses either owned by Campbell or for which Campbell paid. In addition, defendants overstated Campbell's reported revenue by treating discounts given to customers as an expense similar to advertising (SG&A), rather than reducing the amount of revenue recognized by the amount of the discounts, thereby maintaining the appearance of higher sales and gross margins which defendants touted and upon which analysts focused.

10. On or about January 11, 1999, before the opening of the market and the first trading day after the close of the Class Period, Campbell stunned the investing public by announcing that fiscal-year earnings would fall 18 to 23 cents a share (or between \$77 - \$100 million) below analysts' estimates, as a result of which Campbell's stock declined dramatically from a high of \$53.94 per share on January 8, 1999 to close at \$45.375 per share on January 11, 1999, a drop of approximately 16%. Over 9.7 million shares traded on January 11, and 12, 1999. However, Campbell misrepresented the reasons for the earnings shortfall. Instead of disclosing that the failure to meet earnings estimates were as a result of its loading practices, improper revenue recognition, sham shipments and sham recordings of sales and profits, Campbell blamed the earnings shortfall on "inefficiencies in the supply chain" and "unseasonably warm weather." The next day, Campbell announced that it was ending its loading practices. In a conference call

with securities analysts on January 12, 1999, defendant Morrison conceded that "Campbell planned to end its long-time practice of offering rebates and steep discounts at quarters end as a way to entice the stores to stock up on soup so Campbell can meet its sales target."

11. As the true effect on the Company of defendants' misconduct (including the absorption by customers throughout 1999 of the product previously deemed "sold" and improperly recognized as revenue and income by defendant during the Class Period) further materialized in lower earnings reported in later quarters throughout calendar year 1999, Campbell's stock price dropped further, to as low as \$37.44 on December 21, 1999.

12. In fact, defendants admitted that the loading practices had caused quarterly results to suffer. For example, on February 16, 1999, defendants announced poor earnings results for the quarter ending February 18, 1999, conceding that the cause was "changes to its supply chain that resulted in fewer shipments." On May 18, 1999, the Company again reported poor earnings results for the third quarter ending May 2, 1999, "impacted by the [1999] decision to eliminate quarter-end promotions for retail customers." Again on September 2, 1999 and November 16, 1999, Campbell announced poor earnings results for the fourth quarter of fiscal 1999 and first quarter of fiscal 2000, respectively, as a result of discontinuation of the deep discounts and rebates offered retailers at the end of the quarter. However, to date defendants have never disclosed Campbell's improper revenue recognition, sham shipments and sham recordings of sales and profits.

JURISDICTION AND VENUE

13. The 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 and 78t, and Rule 10b-5, 17 C.F.R. § 240.10b-5 promulgated thereunder by the Securities Exchange Commission ("SEC").

14. Jurisdiction is conferred upon this Court by Section 27 of the Exchange Act, 15 U.S.C. § 78aa, and by 28 U.S.C. §§1331 and 1337.

15. Venue is proper in this District pursuant to Section 27 of the Exchange Act and 28 U.S.C. Section 1391(b). Many of the acts and transactions constituting the violations of law described in this complaint occurred in substantial part within this District, including the preparation, issuance and dissemination of materially false and misleading information to the investing public. In addition, Campbell, a New Jersey corporation, maintains its principal offices in this district at Campbell Place, Camden, New Jersey 08103-1799.

16. In connection with the acts alleged herein, defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including the United States mails, telephonic systems and the facilities of the New York Stock Exchange ("NYSE").

THE PARTIES

17. Plaintiffs Denise L. Nappier, Treasurer of the State of Connecticut, as Trustee for the Connecticut Retirement Plans and Trust Funds, Donald DeValle and Daryle Green were appointed co-lead plaintiffs by the Court, and bring this action on behalf of themselves and all other investors who purchased Campbell common stock during the Class Period. Plaintiffs purchased the common stock of Campbell at artificially inflated prices during the Class Period, as detailed in their Certifications previously filed with the Court.

18. Campbell is the world's largest maker and marketer of soup with reported sales in fiscal 1998 (fiscal year ended August 2, 1998) of approximately \$6.7 billion. Campbell currently has over 400 million shares of common stock outstanding. Campbell's stock trades on the NYSE, an open, efficient, impersonal and well developed market for the trading of securities of public companies wherein the market price reflects publicly disseminated information. Campbell's main headquarters is located within the jurisdiction of this Court.

19. Defendant Dale F. Morrison ("Morrison") was, at all relevant times, President and Chief Executive Officer of Campbell and a member of the Board of Directors. Morrison was a signatory to Campbell's annual report on Form 10-K for both fiscal 1997 ending August 3, 1997 (filed with the SEC on or about October 23, 1997) and fiscal 1998 ending August 2, 1998 (filed with the SEC on or about October 9, 1998). In fiscal year 1997, Morrison received a salary of \$362,500, other income of \$18,117, and incentive compensation of \$252,323 in cash, \$4,890,488 in restricted stock awards and options to purchase 200,000 shares of stock for meeting certain performance standards including earnings per share targets. In fiscal year 1998, Morrison received a salary of \$800,000, other income of \$56,805, and incentive compensation of \$1,093,500 in cash and options to purchase 200,000 shares of stock based on meeting certain performance standards including earnings per share targets.

20. Defendant Basil L. Anderson ("Anderson") was, at all relevant times, Executive Vice President and Chief Financial Officer of Campbell. Anderson was a signatory to Campbell's 1997 Form 10-K and 1998 Form 10-K as well as to the quarterly reports on Form 10-Q filed with the SEC throughout the Class Period, as further described herein. For fiscal year 1997, Anderson received as compensation a salary of \$360,833, other income of \$12,088, and

incentive compensation of \$301,680 in cash, restricted stock awards worth \$1,502,331, and options to purchase 108,802 shares of stock based on meeting certain performance standards including earnings per share targets. For fiscal year 1998, Anderson received as compensation a salary of \$420,000, other income of \$24,556, and incentive compensation of \$398,520 in cash, and options to purchase 48,000 shares of stock based on meeting certain performance standards including earnings per share targets.

21. Defendants Morrison and Anderson (collectively, the "Individual Defendants") were at all relevant times during the Class Period controlling persons of Campbell within the meaning of Section 20(a) of the Exchange Act. Because of the Individual Defendants' positions with the Company, they had access to undisclosed adverse information about its business, operations, sales programs, balance sheet, accounting and reserve policies, operational trends, financial condition, and present and future business prospects through access to internal corporate documents (including the Company's operating plans, budgets, forecasts, and reports of actual operations compared thereto), conversations and connections with other corporate officers and employees, attendance at management meetings and meetings of the board and committees thereof, and through reports and other information provided to them in connection therewith.

22. It is appropriate to treat the Individual 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 the narrowly defined group of defendants identified above. Each of the Individual Defendants, by virtue of his high-level position with 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

level and was privy to confidential proprietary information concerning the Company and its business, operations, prospects, growth, finances, and financial condition as alleged herein. Said defendants were involved in drafting, producing, reviewing, approving and/or disseminating the materially false and misleading statements and information alleged herein, including SEC filings, press releases, and other publications, were aware of or recklessly disregarded that materially false or misleading statements were being issued regarding the Company, and approved or ratified these statements in violation of the federal securities laws.

23. As officers, directors, and controlling persons of a publicly held company whose common stock was, and is, registered with the SEC, traded on the NYSE, and governed by the provisions of the federal securities laws, the Individual Defendants each had a duty to disseminate accurate and truthful information promptly with respect to the Company's financial condition and performance, growth, operations, financial statements, business, earnings, management, 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 Individual Defendants' misrepresentations and omissions during the Class Period violated these specific requirements and obligations.

24. The Individual 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 the omissions therefrom, and were aware of their materially false and misleading nature. Because of their positions with Campbell, each of the Individual Defendants had access to

adverse undisclosed information about Campbell's business prospects, financial condition and performance as particularized herein and knew (or recklessly disregarded) that these adverse facts rendered the positive representations made by or about Campbell and its business, issued or adopted by the Company, materially false and misleading.

25. The Individual Defendants, because of their positions of control and authority as officers and controlling persons 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 of the Individual Defendants 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 Individual Defendants is responsible for the accuracy of the public reports, releases, and statements detailed herein and is therefore primarily liable for the representations contained therein.

26. The Individual Defendants caused, allowed and/or participated in the wrongdoing complained of herein in order to continue and prolong a distorted and misleading appearance of Campbell's continued profitability and financial condition and prospects.

CLASS ACTION ALLEGATIONS

27. This action is brought by plaintiffs as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of themselves and a class (the "Class") consisting of all persons who purchased Campbell common stock between September 8, 1997 and January 8, 1999, inclusive, (the "Class Period") and suffered damages thereby. Excluded from the Class are defendants, the officers and directors of the Company at all relevant times, members of their

immediate families, any entity in which any defendant has a controlling interest, and the legal affiliates, representatives, heirs, controlling persons, successors, and predecessors in interest or assigns of any such excluded person or entity.

28. This action is properly maintainable as a class action because:

(a) During the Class Period, more than 400 million shares of Campbell common stock were outstanding. Campbell is actively traded on the NYSE. The members of the Class are dispersed throughout the United States and are so numerous that joinder of all Class members is impracticable. Millions of shares of Campbell common stock were publicly traded during the Class Period and, based upon Campbell's SEC filings and other public disclosures, plaintiffs believe that there are thousands of members of the Class;

(b) Plaintiffs' claims are typical of the claims of the other members of the Class. Plaintiffs and all members of the Class purchased and/or acquired their Campbell common stock in reliance upon defendants' statements to the public and/or the integrity of the open market and sustained damages as a result of defendants' wrongful conduct complained of herein;

(c) Plaintiffs are representative parties who 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;

(d) A class action is superior to other available methods for the fair and efficient adjudication of the claims asserted herein, because joinder of all members is impracticable. Furthermore, because the damages suffered by the individual Class members may be relatively small, the expense and burden of individual litigation make it virtually impossible

for the Class members to individually redress the wrongs done to them. The likelihood of individual Class members prosecuting separate claims is remote;

(c) Plaintiffs anticipate no unusual difficulties in the management of this action as a class action; and

(f) Common questions of law and fact predominate over any questions effecting any individual members of the Class.

29. The questions of law and fact which are common to plaintiffs and the Class include, among others:

(a) Whether the federal securities laws were violated by defendants' acts and omissions as alleged herein;

(b) Whether the documents, press releases, reports, and/or statements disseminated to the investing public and to Campbell shareholders during the Class Period omitted or misrepresented material facts about the financial condition, business, and income of Campbell;

(c) Whether defendants acted recklessly and/or knowingly in making the material misstatements and omissions described herein;

(d) Whether, during the Class Period, the market price of Campbell's common stock was artificially inflated due to the omissions and/or material misrepresentations complained of herein;

(e) Whether defendants participated in and pursued the common course of conduct complained of herein;

(f) Whether the Individual Defendants were "control persons" within the meaning of Section 20(a) of the Exchange Act; and

(g) Whether the members of the Class have sustained damages and, if so, what is the extent of such damages.

FRAUD-ON-THE-MARKET DOCTRINE

30. (a) Campbell met the requirements for listing, and is listed on the New York Stock Exchange, a highly efficient market that quickly reflects all SEC filings and press releases issued by a listed company;

(b) As a regulated issuer, Campbell filed periodic public reports with the SEC that contained material misrepresentations and/or omitted material facts during the Class Period, as alleged herein, causing the price of Campbell common stock to trade at artificially inflated prices;

(c) The trading volume of Campbell's common stock was substantial during the Class Period, indicating that there was a liquid market for Campbell common stock during the Class Period;

(d) The market price of Campbell common stock reacted efficiently to new information in SEC filings and press releases issued by Campbell that entered the market; and

(e) Plaintiffs and other members of the Class acquired Campbell common stock after the time that defendants made the misrepresentations or omissions and before the time that the truth was revealed, without knowledge of the falsity of the misrepresentations.

31. The foregoing facts clearly indicate the existence of an efficient market for the trading of Campbell common stock and, consequently, the applicability of the fraud-on-the-

market presumption of reliance. Accordingly, plaintiffs and the other members of the Class are entitled to a presumption of reliance with respect to the misstatements and omissions alleged in this Complaint.

SUBSTANTIVE ALLEGATIONS

Background To The Action

32. As of 1997, Campbell was a worldwide leader in sales of soups and sauces and had substantial revenues from the sale of other foods. Of Campbell's total reported revenues of approximately \$6.6 billion in the fiscal year ended August 3, 1997, \$4.1 billion was from soup and sauces, of which \$1.2 billion was from condensed soup and \$600 million was from the sale of Campbell's well established and best selling "big 3," Chicken Noodle, Tomato and Cream of Mushroom condensed soups (sometimes known as the "Red and White" soups due to the color on the label of the cans). During the years since 1990, when David Johnson ("Johnson") was appointed President and CEO, Campbell had dramatically increased its sales, gross margins and profit, as well as its stock price. In fiscal 1997 alone, Campbell had increased its reported revenues to \$6.61 billion from \$6.32 billion a year earlier, its reported gross margin to 45.9% from 43.2%, and its reported earnings to \$873 million before special charges (\$1.85 per share excluding special charges) from \$802 million (\$1.61 per share).

33. However, by June 1997, when Morrison was appointed to take over as President and CEO from Johnson (who would remain as Chairman of the Board of Directors), many analysts had noted that Campbell's continued increase in revenue, margin, and earnings was in jeopardy because the retail price of the Red and White soups had increased to nearly \$1.00 per can (which analysts viewed as a break point for retail customers), and further growth would have

to come largely from increased volume of sales rather than increases in the sales price.

Defendants themselves noted in Campbell's 1997 Annual Report to shareholders (filed with the SEC on or about October 23, 1997 as part of Campbell's Form 10-K) that its success in 1997 had largely resulted from increases in pricing: "the 2.7 point improvement [in gross margin] in 1997 was the largest gain in the last five years. The increases in 1997 and 1996 were due principally to continued productivity gains in manufacturing facilities and higher selling prices."

Nonetheless, Campbell management had committed to 8% annual sales growth in its core business in its discussions with analysts.

34. Although Campbell faced potential short-term pressures on margins and profit, defendants (and analysts) believed Campbell had major opportunities for increased sales and earnings because of opportunities for expansion in areas outside the United States, as well as in new products within the United States. For example, in the 1997 Annual Report, Morrison noted that although Campbell sold 80% of the wet soup sold in the United States, the opportunity worldwide was great: "How big is the opportunity? When you consider that around the world, we supply only 2% of the soup that people eat every day, big seems like too small a word." In addition, Campbell was acting to better capture the world market, announcing in September 1997 that it was acquiring Leibig, a major European manufacturer of soup. In short, defendants believed that Campbell would be able to continue its increases in revenue and earnings long-term if adverse results in fiscal 1998 – Morrison's first year at the helm – did not undermine the strategy or investors' confidence in Morrison. In recognition of the extraordinary lengths to which defendants were willing to – and did – go to ensure that Campbell continued to appear on

its upward trend during his first years at the helm, Morrison ominously commented in the 1997

Annual Report:

Our people have become accustomed to winning and will accept nothing less. That is the legacy of David Johnson's seven years as the leader of this great company. David showed us all that winning requires taking risks, stretching ourselves in ways we never imagined while always keeping the competition firmly in our sights.

35. Beginning in September 1997 and continuing throughout the Class Period, defendants engaged in a wrongful course of conduct by issuing a series of misrepresentations to investors and the market concerning Campbell's sales practices, its revenue, earnings and growth prospects, which artificially inflated and maintained the price of Campbell stock.

DEFENDANTS' WRONGFUL COURSE OF CONDUCT

Defendants' Plan, Scheme and Practice of Inflating Sales and Orchestrating Sham Shipments

36. During the third quarter of fiscal 1997 (through April 27, 1997), there was a large "buy in" (increased purchases by customers) of soup in advance of a price increase which was scheduled to take place shortly thereafter. As a result, the channels for Campbell's major product were overfilled, and there was a significant possibility that, in the absence of extraordinary sales inducements and fraudulent accounting, reported sales and gross margins would decrease going forward.

37. During the last quarter of fiscal 1997 (ending August 3, 1997), and continuing with ever-increasing intensity throughout the Class Period, Campbell engaged in activities to increase reported sales of soups, sauces, and juices in the United States through improper accounting and aggressive sales and shipping practices knowing that such activities would undermine

Campbell's future profitability in its U.S. operations. Although the loading at the end of fiscal 1997 included offering customers substantial discounts for the purchase of products before the end of the quarter, the loading became much more aggressive during the Class Period, as set forth below. By the end of fiscal 1997, as a result of the discounts offered, the channels for the distribution of some of Campbell's key products in the United States had become "stuffed," and there was no likelihood of legitimately achieving the sales targets which management had consistently forecast to analysts and investors.

38. Mark Leckie ("Leckie") became Corporate Vice President - President of the U.S. Grocery Division by the end of fiscal 1997. Under Leckie, William Toller ("Toller") was the head of marketing. Campbell had organized its sales and marketing force within teams that focused upon certain key accounts or geographical areas; each team consisted of a "team leader" (who reported to Toller) and "account executives" as well as persons who were responsible for finances and other activities. During the spring of 1998, Ron Gable ("Gable") became Vice President of Supply Chain and became responsible for arranging the shipments of goods as described herein. Both Gable and Leckie reported directly to Defendant Morrison, Campbell's CEO.

39. During the Class Period, Defendant Morrison, Campbell's CEO, and William O'Shea, who served under Defendant Anderson as Comptroller, would inform Toller of the dollar amount of revenue the Company had to report for the quarter in order to meet analyst projections.

40. Throughout the last month of the fiscal quarter, including daily telephone conference calls during the last two weeks of the fiscal quarter, Toller would instruct his

marketing group of the amounts of product that must be sold by the end of the fiscal quarter, would authorize the marketing group to provide ever larger "discounts" and would provide each member of the marketing group with the amount of product which that person must "load" onto trucks by the end of the fiscal quarter (which was largely soups, but increasingly also included sauces and juice to meet the target numbers). The persons on the daily conference calls generally included at least the following persons:

- Peter Barber, team leader for wholesalers in midwest region
- Tom Crohan, team leader for Fleming
- David Dirkin, team leader for wholesalers on the east coast
- Jerry Farrell, team leader for Safeway stores
- Terry Haverkost, another team leader
- Rory McCarthy, team leader for Food Lion
- Doug Pace, team leader for Winn Dixie
- Bill Parker, team leader for large west coast supermarket chains
- Dave Sperry, team leader for American Stores
- Richard Spoon, team leader for Suprvalue

41. As the "buy-in" which had occurred in the third quarter of fiscal 1997 and the discounting which had occurred during the last quarter of fiscal 1997 had "stuffed" the channels for Campbell's product, it was necessary to offer ever larger discounts in order to induce customers to take ever larger amounts of product. As a result, discounts were authorized which were up to 15-20%, which were not deducted from the invoice price but were instead provided to customers by check from Campbell shortly after the sale. In addition, although Campbell traditionally provided small discounts (2-3%) to customers in return for customer agreements to

provide in-store advertising and promotions of Campbell's products, the large end of quarter discounts were unaccompanied by any advertising concessions by the customers.

42. By the beginning of the first quarter of fiscal 1998, despite the large discounts, many of Campbell's customers expressed that they could not buy the quantities which Campbell was pushing them to buy as they did not have the space to hold all of the product. As a result, Campbell devised two methods to "sell" the product without shipping the product to the customer by the end of the fiscal quarter.

a. Campbell arranged for the product to be shipped to warehouses owned or paid for by Campbell, including a warehouse near Campbell's Paris, Texas facility. Campbell paid for the shipping to and from the warehouse. Campbell paid all of the costs of warehousing the product. 40-50 outside (third-party) warehouse sites were used, totaling several hundred thousand square feet of storage space.

b. Campbell arranged for the product to be loaded onto trucks which would drive the short distance to other areas of the parking lots on each of Campbell's four U.S. facilities (Napoleon, Ohio; Paris, Texas; Sacramento, California; and Maxton, North Carolina) on which the product had been "loaded," and the truck would be parked there until the product could be shipped to a customer. This process of shipping product to "the yard" was discussed by Toller on some of the daily conference calls. A large number of filled trucks (in some cases 100) would be parked in lots at the end of the quarter. Each truck contained approximately 1,200 cases of soup (with 48 cans of soup to a case) or a similar volume of other product.

43. Campbell arranged for trucks from third party shipping companies for the end of each quarter, because Campbell did not have enough trucks to handle the massive amount of

merchandise shipped at the end of the quarter. Gable and his predecessor arranged for the trucks which were involved in the movement of product at the end of the quarter.

44. As a result of the efforts at the end of the quarter to "ship" product in order to attempt to claim the "sale" as legitimate revenue, Campbell arranged for hundreds of trucks to line up at each of Campbell's four U.S. facilities in order to deliver the products, including to warehouses and to other spots on Campbell's property.

45. Throughout the Class Period, many officers at Campbell discussed the process of "loading" and "shipping" the product at the end of the quarter - and the fact that it was wrong - with senior officers of the Company, including Defendants Morrison and Anderson. A memo was prepared by Gable and delivered to Morrison during the summer of 1998, in which Gable reviewed the sales and loading practices which had been used by Campbell. Both Gable and Leckie recommended that these practices be stopped. These proposals were rejected by Morrison. At one meeting near the end of fiscal 1998, when in the presence of Defendant Morrison, one of the officers stated that the "loading" was destroying morale at Campbell, Morrison said that he didn't want to hear the "L" word used.

46. In addition to the discounts and "holding" the product which were offered and pushed by Campbell, Campbell induced "customers" to take additional product by assuring the customers that the product could be returned if it could not be sold by the customer within a reasonable period of time - what was referred to as a "guaranteed sale" policy. Although customers were often told that they could return the product if not resold within 90 days, Campbell believed that the shelf life of its products was sufficiently long that most of the product would not be returned. Nonetheless, the returns of product became so significant during the

Class Period that Toller sent out a memo instructing the sales force that he would have to personally approve any further offers which included the return of product.

47. The process of "shipping" product beyond the true capacity of Campbell's customers to handle the product reached astonishing levels during the Class Period. During the third fiscal 1998 quarter (ended May 3, 1998), Rory McCarthy, team leader for Food Lion, reported that Food Lion had 52 weeks of inventory before the push by Campbell in the last month of the quarter, but Toller nonetheless told McCarthy that he was required to sell more product to Food Lion at the end of the quarter. Other customers, including Supervalu also had at least a full year's worth of some products. Even smaller customers such as Richfood, who had no room for the levels of product pushed upon them, were approached to buy more product with offers of steep discounts and shipping arrangements, which were a departure from the normal manner in which business had previously been done.

48. Campbell's "sales" to customers, including the "sales" which were "shipped" to warehouses and "the yard," were at Campbell's risk of loss until the product was delivered to the customer (including risk of loss for any damages in shipping the product to or from the warehouses or the "yard"), and Campbell paid all costs, including all additional costs, until the product was delivered to the customer, including shipping, storage, demurrage, and handling.

THE FALSE AND MISLEADING STATEMENTS

Misrepresentations About Campbell's Results For Fiscal 1997 (Ended August 3, 1997)

49. In a press release on September 8, 1997 (the first day of the Class Period), defendants announced that Campbell had "record" sales and earnings for its fiscal 1997 fourth quarter ended August 3, 1997. Campbell reported a 5% increase in sales to \$1.72 billion versus

\$1.64 billion for the comparable quarter last year. Campbell also reported earnings increased 6% to \$192 million versus \$180 million for the comparable quarter last year. For fiscal year 1997, Campbell reported sales of \$7.96 billion, up 4% over the \$7.68 billion reported last year. Net earnings before special charges for fiscal year 1997 were reported as \$873 million, up 9% from last year's reported net earnings of \$801 million. Earnings per share excluding special charges were reported as \$1.85, increasing 15% from \$1.61 for fiscal year 1996.

50. In the September 8, 1997 press release, defendant Morrison commented that: "This was another outstanding year for Campbell. Our core business - soups and sauces, biscuit and confectionary and foodservice - grew 10 percent in sales and 15 percent in earnings. Company gross margins grew by 2.7 points to 45.9 percent, our strongest gain in the last five years."

51. On or about October 23, 1997, defendants filed Campbell's 1997 Form 10-K with the SEC, which reiterated the results set forth in the September 8, 1997 press release with respect to revenue and earnings.

52. Campbell's Form 10-K for fiscal year 1997 also included a specific representation that shipment of Campbell's products was made "promptly" by Campbell following receipt and acceptance of orders:

CUSTOMERS

In the United States, sales solicitation activities are conducted by the company's own sales force and through broker and distributor arrangements. The company's products are generally resold to consumers in retail stores, restaurants and other food service establishments. No material part of the business is dependent upon a single customer. Shipments are made promptly by the company after receipt and acceptance of orders. (emphasis added)

Misrepresentations About Estimated Sales Growth

53. On September 9, 1997, at a meeting with analysts, including representatives of Deutsche Morgan Grenfell, senior management of Campbell, including Morrison and Anderson, represented and reiterated their commitment and belief that Campbell would have 8% growth in the U.S. market for fiscal 1998, including 3% growth in sales volume in the United States. This was reported to the market by Deutsche Morgan Grenfell through an analyst report issued on September 10, 1997.

Misrepresentations About Results For Campbell's Fiscal Quarter Ended November 2, 1997

54. In a press release on November 18, 1997, defendants announced that Campbell had "record" sales and earnings for its first fiscal quarter ended November 2, 1997 ("1998 First Quarter"). The Company reported \$2.12 billion in sales and \$267 million in earnings (or \$.58 per share) for the 1998 First Quarter as compared with \$2.052 billion in sales and \$88 million in earnings (or \$.57 per share) the same quarter in the prior year.

55. In the November 18, 1997 press release, defendants touted the Company's "excellent" earnings and the sales strength of its "core businesses" as follows:

"Our excellent earnings per share performance shows that fiscal 1998 is off to a strong start," said Dale F. Morrison, Campbell President and CEO. "Sales in our core businesses of soup and sauces, biscuits and confectionery, and food service grew 7 percent and earnings increased 12 percent in the quarter. We are continuing to expand our gross margins across the company through productivity gains and improved product mix. We are investing those savings in brand growth initiatives, including a 20 percent increase in advertising. . . . U.S. soup unit volume rose 2 percent . . . (emphasis added)

56. The earnings of \$.58 per share reported by Campbell for the fiscal 1998 first quarter on November 18, 1997 were identical to the estimate issued by Merrill Lynch on October

14, 1997, and matched the consensus estimate of analysts. Following the earnings announcement, Campbell's common stock price climbed from \$52.4375 per share on November 18, 1997 to \$54.875 per share on November 20, 1997.

57. On or about December 17, 1997, defendants filed Campbell's quarterly report on Form 10-Q with the SEC, which reiterated the results first set forth in the November 18, 1997 press release with respect to revenue, earnings, margins and U.S. product volume increases.

Misrepresentations About Results For Campbell's Fiscal Quarter Ended February 1, 1998

58. In a press release on February 17, 1998, defendants announced that Campbell had "record" quarterly sales and earnings for its second quarter ended February 1, 1998 ("1998 Second Quarter"). Sales and earnings in the 1998 Second Quarter were \$2.342 billion and \$300 million (or \$.68 per share excluding a \$.55 per share restructuring charge), respectively, as compared with sales of \$2.317 billion and earnings of \$276 million (or \$.58 per share) in the same quarter in the prior year.

59. In the February 17, 1998 release, defendants again touted Campbell's performance in increasing volume of sales:

"Our continued excellent earnings per share performance demonstrates our strategic growth plan is on track," said Dale F. Morrison, Campbell President and CEO. "Sales in our core businesses grew 8 percent in the quarter, excluding the impact of currency. These results were led by soup and sauces and biscuits and confectionary. Continued strong productivity gains led to a 2.6 percentage point gain in our gross margin. We are investing those savings in growth initiatives, including advertising . . ."

The press release also announced that soup and sauces sales for the quarter increased 7 percent to \$1.39 billion from \$1.30 billion the prior year, and that U.S. soup sales were up 2%.

60. The earnings of \$0.68 per share precisely matched the earnings estimate issued previously by Merrill Lynch. As reported in the Financial Post on February 19, 1998, the reported earnings of \$0.68 per share also precisely matched the average earnings estimate of analysts for the quarter. Following the earnings announcement, Campbell's common stock price closed at \$54.5625 per share on February 17, 1998 and \$55.0625 per share on February 18, 1998.

61. On or about February 25, 1998, defendants filed Campbell's quarterly report on Form 10-Q with the SEC, which reiterated the results first set forth in the February 19, 1998 press release with respect to revenue, earnings, margins and U.S. product volume increases.

Misrepresentations About Results For Campbell's Fiscal Quarter Ended May 3, 1998

62. In a press release on May 19, 1998, defendants announced that Campbell reported sales of \$1.572 billion for the fiscal quarter ending May 3, 1998, compared with sales of \$1.541 billion for the same quarter in the prior year, and net earnings before special charges of \$157 million (or \$0.34 per share) compared with net earnings (before special charges) of \$142 million (or \$0.30) per share in the same quarter in the prior year. The press release also stated that sales in soup and sauces for the quarter increased 4 percent to \$1.01 billion and operating earnings, excluding the restructuring charge, increased 8 percent to \$243 million.

63. Defendant Morrison was quoted extensively in the May 19, 1998 press release as commenting on these results as follows:

Campbell is continuing to deliver on its commitment to annual earnings per share growth in the top quartile of the food industry. Meanwhile, the transformation of the company to a premier consumer products company focused on our strategic businesses of soup and sauces, biscuits and confectionery, and food service is continuing. . . . This quarter was marked by several major strategic growth plan accomplishments. . . . U.S. soup is a key area of focus.

We are making significant investments behind product innovation and we will be introducing several new soups into the marketplace in the coming months. We are also developing more effective go-to-market strategies consistent with our emphasis on volume driven growth. We expect these new products and strategies will begin to pay off early in the next fiscal year.

64. As with the earlier two quarters in fiscal 1998, Campbell's quarterly earnings announced by defendants (\$0.34 per share following the restructuring charge) precisely matched the earnings estimate issued previously by Merrill Lynch. As reported in the Wall Street Journal Europe on May 20, 1998, the reported earnings for the Third Quarter (before a charge for restructuring and discontinued operations) was only one cent below the average analyst estimate of earnings (of \$0.35 per share). Following the earnings announcement, Campbell's common stock price climbed from \$53.0625 per share on May 19, 1998 to \$55 per share on May 20, 1998.

65. On or about June 7, 1998, defendants filed Campbell's quarterly report on Form 10-Q with the SEC, which reiterated the results first set forth in the May 19, 1998 press release with respect to revenue, earnings, margins and U.S. product volume increases.

Misrepresentations About Results For Campbell's
Fiscal Quarter And Year Ended August 2, 1998

66. In a press release on September 3, 1998, defendants announced that Campbell had net sales for fiscal 1998 (ended August 2, 1998) of \$6.696 billion and net earnings (before a restructuring charge) of \$882 million (or \$1.90 per share) as compared to net sales of \$6.614 billion and net earnings of \$713 million (or \$1.49 per share) for fiscal 1997. Net earnings for the fourth fiscal quarter were \$0.38 per share.

67. In the September 3, 1998 press release, defendants again touted Campbell's sales results, stating:

"This was an exceptional year at Campbell. We continued to deliver strong results while completing the most far-reaching portfolio reconfiguration in the history of Campbell Soup Company," said Dale Morrison, President and Chief Executive Officer. "Our reconfiguration and accelerated productivity programs continued to expand gross margins, which were up 3.3 points to 51.7 percent in fiscal 1998." . . . Morrison added, "We are a more focused company and we are excited about our growth plan for the new year. U.S. soup is our highest priority. Across our businesses we have new products, new advertising and new marketing initiatives to build on Campbell's strong equity with consumers and to drive volume growth. We remain committed to delivering long term shareowner wealth through top quartile earnings growth."

68. In the same September 3, 1998 release, it was reported that soup and sauces sales for the year increased 6 percent to \$4.43 billion and operating earnings, excluding the restructuring, increased 10 percent to \$1.24 billion. The press release also reported that U.S. wet soup sales increased 6 percent with volume up 1 percent over the prior year.

69. As reported on the Dow Jones Online News on September 3, 1998, the average analysts' earnings estimate for the fourth quarter of fiscal 1998 was \$0.38 per share -- the exact amount reported by the Company for the quarter. Again, Campbell's per share earnings for the fourth fiscal quarter (\$0.38) exactly matched the earnings estimated by Merrill Lynch. Campbell's stock price closed at \$49.93 per share on September 3, 1998 as compared with \$50.25 per share on the preceding day -- September 2, 1998.

70. On or about October 9, 1998, defendants filed Campbell's annual report on Form 10-K with the SEC, which reiterated the results first set forth in the September 3, 1998 press release with respect to revenue, earnings, margins and U.S. product volume increases.

71. Campbell's Form 10-K for fiscal year 1998 also included a specific representation that shipment of Campbell's products was made "promptly" by Campbell following receipt and acceptance of orders:

CUSTOMERS

In the United States, sales solicitation activities are conducted by the company's own sales force and through broker and distributor arrangements. The company's products are generally resold to consumers in retail stores, restaurants and other food service establishments. No material part of the business is dependent upon a single customer. Shipments are made promptly by the company after receipt and acceptance of orders. (emphasis added)

Misrepresentations About Results For Campbell's Fiscal Quarter Ended November 1, 1998

72. In a press release on November 18, 1998, Campbell reported net sales of \$1.804 billion and net earnings of \$264 million (or \$0.58 per share) for the quarter ended November 1, 1998 as compared with net sales of \$1.813 billion and net earnings of \$267 million (or \$0.55 per share) for the same quarter in the prior year.

73. In the November 18, 1998 press release, defendants again touted Campbell's sales results, stating:

"With strong sales gains in our ongoing businesses, we are encouraged by first quarter results," said Dale Morrison, President and Chief Executive Officer. "We are especially pleased by the growth in U.S. wet soup consumption. These results reflect our commitment to accelerate investment in our powerful brands."

* * *

In the U.S., wet soup volume rose 4 percent. Sales growth was led by a strong performance from 'Chunky' ready-to-serve soups. 'Campbell's' Red & White brands, especially Tomato soup, showed significant sales growth driven by increased advertising and merchandising. . . .

74. As reported on the Dow Jones Online News on November 18, 1998, Campbell's reported results again precisely matched the mean estimate of analysts' earnings for the first quarter — \$0.58 per share. Once again, Campbell's reported earnings also matched the estimate made by Merrill Lynch, which stated in a report issued on November 19, 1998: "The key point is that U.S. soup volume increased 4%, despite warm weather. . . . Most important, U.S. soup volumes grew an impressive 4%." Following the earnings announcement, the Company's common stock price increased to \$56.4375 per share on November 18, 1998 as compared with \$55.50 per share on the preceding day November 17, 1998.

75. On or about December 16, 1998, defendants filed Campbell's quarterly report on Form 10-Q with the SEC, which reiterated the results first set forth in the November 18, 1998 press release with respect to revenue, earnings, margins and U.S. product volume increases.

Campbell's Misrepresentations At The End Of The Class Period

76. On January 11, 1999, before the opening of the market and the first trading day after the end of the Class Period, Campbell stunned investors and analysts by announcing that fiscal year earnings would fall below analysts' estimates because of weaknesses in its core condensed soup business. Campbell announced that due to "major cost saving initiatives in supply chain operations," there would be "lower soup shipments in the second quarter ending January 31, 1999 and for the fiscal year." The Company further stated that:

The supply chain initiatives are expected to deliver annualized savings of about \$100 million. They focus on significantly improving supply chain management and reducing the variability in trade spending, which creates major inefficiencies throughout the supply chain, including procurement, manufacturing, shipping and storage of products.

77. Campbell further quantified the impact on earnings to be "18 to 23 cents per share below published estimates with substantially all of the shortfall expected in the second quarter."

78. In a conference call with securities analysts on January 11, 1999, Defendant Morrison blamed unusually warm winter weather and "inefficiencies in the supply chain" for sales and earnings weaknesses.

79. However, both purported explanations for the dramatic decline in sales and earnings were blatantly false and misleading. The purported "inefficiencies in the supply chain" was nothing more than a euphemism for the undisclosed pervasive loading, and improper revenue recognition based upon the guaranteed return policy and sham shipments, and the costs arising from those improper practices. Similarly, although the weather is often used as a convenient source to explain disappointing sales, the weather in late 1998 was not dramatically different than in 1997 and 1996, and other years had shown favorable sales comparisons despite weather that was warmer. In fact, the true reason for the decline was the decision to stop the massive "loading" and improper "shipping" practices because the sales force determined during the second quarter of fiscal 1999 that as a result of the overwhelming amount of product which had been "shipped" to customers, warehouses, and "the yard," there was no place to put any more product, and even with continued massive amounts of "loading" and "shipping," there was no way that Campbell would make the projections of sales and earnings set by defendants and accepted as true by analysts.

80. Following the January 11, 1999 announcement, the Company's stock price declined approximately 16% from a high of \$53.9375 per share on January 8, 1999 to close at \$45.375 per share on January 11, 1999.

THE FALSITY OF THE STATEMENTS

81. Defendants statements beginning no later than September 8, 1997 and continuing until the end of the Class Period were false and misleading at the time that they were made and misled the investing public as to the true amount of sales and earnings achieved in each quarter during the Class Period and artificially inflated the price of the Campbell's common stock.

82. All of defendants' representations as to the revenue and earnings of Campbell – in press releases, Forms 10-Q and Forms 10-K – were materially misleading for failing to disclose that such results had been reached only through the extraordinary “loading” during the Class Period and, beginning in the first quarter of fiscal 1998, the extraordinary “shipping” procedures and did not reflect ordinary demand for Campbell's products which could be sustained in the future.

83. Defendants' representations of the forecasts for sales of Campbell's products and expected growth, and the representations in press releases and SEC filings as to the positive trends of sales of Campbell's U.S. products, were materially false and misleading because defendants knew that the “sales” had really been the result of extraordinary discounts and “loading” during the Class Period and, beginning in the first quarter of fiscal 1998, the extraordinary “shipping,” including the shipping to warehouses and to “the yard.”

84. Defendants' representations were materially misleading for failure to disclose the known trends and uncertainties concerning the discounts, “sales,” and “shipping” of Campbell's product, including the impact which those known trends would likely have upon the revenues and earnings of Campbell in later fiscal period, including fiscal 1999. These trends were required to be stated under Item 303 of Regulation S-K of the Securities and Exchange

Commission, which requires issuers on annual and quarterly filings to "[d]escribe any known trends or uncertainties that have had or that the registrant reasonably expects will have a material favorable or unfavorable impact on net sales or revenue or income from continuing operations."

17 C.F.R. § 229.303.

85. Defendants' representations in the 1997 Form 10-K and the 1998 Form 10-K (and, therefore, by implication in the Forms 10-Q throughout the Class Period, as those Forms 10-Q are deemed to incorporate accounting and other policies specifically set forth in the Forms 10-K) that product was shipped immediately upon receipt and acceptance of orders was materially misleading, as there were material amounts of product which were placed in warehouses and material amounts of product that were placed upon other areas of Campbell's property, and such delivery of product to the warehouses and to other portions of Campbell's lot may not reasonably and appropriately be considered "shipment."

86. Defendants' representations of the revenue and earnings of Campbell throughout the Class Period, and the representations in all of the Form 10-Ks and Form 10-Qs that Campbell's financial statements were in compliance with generally accepted accounting principles ("GAAP"), were false and misleading because such revenue and earnings included "sales" which were not properly recognizable as revenue:

a. GAAP are those principles recognized by the accounting profession as the conventions, rules, and procedures necessary to define accepted accounting practice at a particular time. As set forth in Financial Accounting Standards Board ("FASB") Statement of Concepts ("Concepts Statement") No. 1, one of the fundamental objectives of financial reporting

is that it provide accurate and reliable information concerning an entity's financial performance during the period being presented. Concepts Statement No. 1, at 42, states:

Financial reporting should provide information about an enterprise's financial performance during a 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' and creditors' expectations about future enterprise performance, those expectations are commonly based at least partly on evaluations of past enterprise performance.

Regulation S-X [17 C.F.R. § 210.4-01(a)(1)] states that financial statements filed with the SEC that are not prepared in conformity with GAAP are presumed to be misleading and inaccurate.

b. The conceptual basis for revenue recognition is contained in Financial Accounting Standards Board Statement of Financial Accounting Concepts No. 5, Recognition and Measurement in Financial Statements of Business Enterprises ("SFAC No. 5").

Paragraph 83(b) of SFAC No. 5 states that: "Revenues are not recognized until earned. 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." Paragraph 84(a) of SFAC No. 5 states that revenues from manufacturing and selling activities are commonly recognized at time of sale, usually meaning delivery. The SEC has reaffirmed this basic concept on numerous occasions.

For example, it was reaffirmed by the SEC in:

- (i) Accounting And Auditing Enforcement Release No. 817 (September 19, 1996) which states: "Under APB Statement No. 4, which was rescinded in March 1993, revenue was generally recognized when (1) the earnings process was complete or virtually complete, and (2) an exchange had

taken place. This revenue recognition concept has been carried forward in FASB Statement of Financial Accounting Concepts No. 5, para. 83-84, and in other authoritative literature and continues to provide the foundation for revenue recognition in accordance with GAAP."

- (ii) Accounting And Auditing Enforcement Release No. 812 (September 5, 1996) which states: "Generally Accepted Accounting Principles ("GAAP") provide that revenue should not be recognized until an exchange has occurred, the earnings process is complete, and the collection of the sales price is reasonably assured. These conditions ordinarily are met when products are exchanged for cash or claims to cash, and when the entity has substantially performed the obligations which entitle it to the benefits represented by the revenue."

c. "A bill and hold transaction is generally a practice whereby a customer agrees to purchase the goods but the seller retains physical possession until the customer requests shipment to designated locations" (SEC Exchange Act Release No. 23,507). Accordingly, revenue recognition on a "bill and hold" transaction is an exception to the GAAP (Accounting Principles Board Opinion No. 10, paragraph 12) which provides that "revenues should ordinarily be accounted for at the time a transaction is completed" and GAAP (Chapter 1A of Accounting Research Bulletin No. 43, paragraph 1) which provides that "profit is deemed to be realized when a sale in the ordinary course of business is effected." GAAP which governs the recognition of revenues associated with "bill and hold" transactions were promulgated by the SEC in its Exchange Act Release No. 23,507. This Release (the continuing authority of which has been reaffirmed by the SEC through its issuance of Staff Accounting Bulletin No. 101, Revenue Recognition In Financial Statements, on December 3, 1999) states that in order to be permitted to recognize revenue, a "bill and hold" transaction should meet the following conditions:

- (i) The risks of ownership must have passed to the buyer.
- (ii) The customer must have made a fixed commitment to purchase the goods, preferably reflected in written documentation.
- (iii) The buyer, not the seller, must request that the transaction be on a bill and hold basis and the buyer must have a substantial business purpose for ordering the goods on a bill and hold basis.
- (iv) There must be a fixed schedule for delivery of the goods and the date for delivery must be reasonable and must be consistent with the buyer's business purpose (e.g. storage periods are customary in the industry).
- (v) The seller must not have retained any specific performance obligations such that the earning process is not complete.
- (vi) The ordered goods must have been segregated from the seller's inventory and not be subject to being used to fill other orders.
- (vii) The ordered goods must be complete and ready for shipment.

Campbell financial statements were not in compliance with GAAP because a material amount of revenue and earnings (including enough earnings to meet analyst's expectations for revenue and earnings) was generated by "sales" for which no "delivery" to the customer was made, but instead the product remained under Campbell control and risk of loss. Specifically, not only did Campbell retain the risk of loss on all product until actually delivered to the customer (rather than to a warehouse or lot controlled by Campbell), but Campbell paid for the additional shipping, storage, and handling in connection with the product which was not delivered to customers soon after sale. In addition, as set forth above, the transactions in which Campbell "held" the product in warehouses or in "the yard" were transactions initiated by Campbell, for

which the customers had no legitimate business reason for purchasing the product under those conditions. Also, there was not a fixed or reasonable schedule for delivery of the goods held by Campbell.

d. GAAP (FASB Statement No. 48, Revenue Recognition When Right of Return Exists; "FASB Statement No. 48") defines "guaranteed sales" as "arrangements in which customers buy products for resale with the right to return products." FASB Statement No. 48 provides that:

If an enterprise sells its product but gives the buyer the right to return the product, revenue from the sales transaction shall be recognized at time of sale only if all of the following conditions are met:

- (i) The seller's price to the buyer is substantially fixed or determinable at the date of sale.
- (ii) The buyer has paid the seller, or the buyer is obligated to pay the seller and the obligation is not contingent on resale of the product
- (iii) The buyer's obligation to the seller would not be changed in the event of theft or physical destruction or damage of the product.
- (iv) The buyer acquiring the product for resale has economic substance apart from that provided by the seller.
- (v) The seller does not have significant obligations for future performance to directly bring about resale of the product by the buyer.
- (vi) The amount of future returns can be reasonably estimated.

In contravention of GAAP, Campbell sold material quantities of merchandise on a guaranteed sales basis, and improperly recognized these amounts as revenue because (i) in all instances the amount of future returns could not be reasonably estimated by Campbell and, (ii) in connection

with the "sham" shipments, the buyer had no obligation to Campbell in the event of theft or physical destruction or damage of the product. Alternatively, even if sales revenue is recognized on a guaranteed sale because all of the foregoing conditions are met, FASB Statement No. 48 requires that any costs or losses that may be expected in connection with any returns "shall be accrued in accordance with FASB Statement No. 5, Accounting for Contingencies. Sales revenue and cost of sales reported in the income statement shall be reduced to reflect estimated returns." In contravention of this GAAP, Campbell failed to provide for returns, (as evidenced by the financial statements of Campbell, which provide a reserve against accounts receivable for "allowances for cash discounts and bad debts" but do not reflect a "reserve for returns") or otherwise evidence compliance with FASB Statements No. 5 and 48.

e. Accounting Principles Board Opinion No. 22, Disclosure Of Accounting Policies ("APB Opinion No. 22") provides authoritative mandates with respect to financial statement disclosures. This literature states:

Disclosure of accounting policies should identify and describe the accounting principles followed by the reporting entity and the methods of applying those principles that materially affect the determination of financial position, changes in financial position, or results of operations. In general, the disclosure should encompass important judgments as to appropriateness of principles relating to recognition of revenue and allocation of asset costs to current and future periods; in particular, it should encompass those accounting principles and methods that involve any of the following:

- a. A selection from existing acceptable alternatives;
- b. Principles and methods peculiar to the industry in which the reporting entity operates, even if such principles and methods are predominantly followed in that industry;

- c. Unusual or innovative applications of generally accepted accounting principles (and, as applicable, of principles and methods peculiar to the industry in which the reporting entity operates).

In contravention of APB Opinion No. 22, Campbell failed to disclose the fact that it recognized material amounts of revenue on bill and hold transactions and guaranteed sales transactions.

- f. Accounting Principles Board Opinion No. 28, Interim Financial Reporting,

("APB Opinion No. 28") states that:

The Board believes there is a presumption that users of summarized interim financial data will have read the latest published annual report, including the financial disclosures required by generally accepted accounting principles and management's commentary concerning the annual financial results, and that the summarized interim data will be viewed in that context. In this connection, the Board encourages management to provide commentary relating to the effects of significant events upon the interim financial results.

- g. In addition, each of Campbell's interim filings on Form 10-Q during the Class Period referred the reader to the most recently filed Form 10-K (by stating that: "These statements are qualified by reference to the section 'Cautionary Statement on Forward-Looking Statements' in Item 1 of the registrant's Annual Report on Form 10-K...") and to the "summary of significant accounting policies" which were contained within these Forms 10-K by stating: "Accounting policies for measuring segment assets and earnings before interest and taxes are substantially consistent with those described in the summary of significant accounting policies included in the fiscal 1997 [1998] Annual Report." Because there is a presumption that users of summarized interim financial data will have read the financial disclosures required by generally accepted accounting principles contained in the latest published annual report, and because interim filings with the SEC on Form 10-Q ordinarily refer to statements in the latest published

annual report (as do those of Campbell), GAAP (APB Opinion No. 20, in paragraphs 23 and 24) mandates that:

Each report of interim financial information should indicate any change in accounting principles or practices from those applied in (a) the comparable interim period of the prior annual period, (b) the preceding interim periods in the current annual period and (c) the prior annual report.

Changes in an interim or annual accounting practice or policy made in an interim period should be reported in the period in which the change is made, in accordance with the provisions of APB Opinion No. 20, Accounting Changes.

By changing its policies and principles with respect to "shipment" of product and recognition of revenue from those articulated in its Form 10-K without informing investors in its SEC filings, Campbell not only materially misrepresented its financial statements and operations, but Campbell also failed to comply with GAAP (APB Opinion No. 20).

h. GAAP was also violated because Campbell's financial statements included the huge discounts to customers as part of "sales, general, and administrative expense" (SG&A) instead of deducting those costs from gross revenue, thereby materially overstating gross revenue and gross margin. Although the discounts were made in the form of checks to the customers rather than discounts off the invoice relating to the product, the discounts were reductions in the selling price in substance, and Campbell in violation of GAAP (Statement of Financial Accounting Concepts No. 2 which states, in paragraph 160 that "the principle that the quality of reliability and, in particular, of representational faithfulness leaves no room for accounting representations that subordinate substance to form") shifted this amount to SG&A in order to maintain the appearances of higher sales and margins, which had long been the focus of

Campbell's claims in its SEC filings, press releases, and comments to analysts, and which was also the focus of positive commentary about Campbell by analysts.

(i) Campbell had traditionally provided discounts to customers (often in the form of checks) in return for performing legitimate "advertising" functions, such as including Campbell products in "in-store" displays or advertising fliers, or providing direct reductions in price to help encourage the purchase by consumers.

(ii) However, the huge discounts provided to customers in connection with the "loading" and "shipping" at the end of each quarter during the Class Period were not accompanied by any "quid pro quo" by the customer in the form of advertising or otherwise. Nonetheless, Campbell paid the amount of the discount by check. Campbell treated the payments to customers in connection with the end of quarter huge discounts as advertising, in the same manner as it had treated the traditional discounts in return for advertising space and displays.

(iii) The result of Campbell's practice was that despite the tremendous decrease in true sales price as a result of the steep discounts provided to "load" the product at the end of each quarter, which accounted for 10-20% or more of Campbell's sales for the entire quarter, Campbell was still able to report level or increasing gross margins.

THE AFTERMATH OF DEFENDANTS' WRONGFUL COURSE OF CONDUCT

87. As reported in an article in The Wall Street Journal dated January 12, 1999, defendant Morrison, in a conference call with securities analysts on that same day conceded that Campbell planned to end its loading practices by stating: "Campbell planned to end its long-time practice of offering retailers rebates and steep discounts at quarters end as a way to entice the

stores to stock up on soup so Campbell can meet its sales target." However, defendant Morrison failed to disclose the extent of the loading and the effect this would have on future quarters. Defendant Morrison also failed to disclose the improper revenue recognition practices and sham shipments.

88. As admitted by defendants, the termination of the loading practices affected earnings throughout 1999, as detailed herein:

a. On or about February 16, 1999, Campbell announced its financial results for its second quarter ended January 31, 1999, with sales and earnings down as compared with the prior year. Net sales and earnings declined to \$1.83 billion and \$219 million respectively as compared with \$2.01 billion and \$300 million in revenue and earnings in the second quarter of the prior year. The major source of the sales decline was the drop in U.S. soup sales and operating earnings which declined 8% to \$1.28 billion and 26% to \$291 million, respectively, for the period. As reported in The Wall Street Journal dated February 17, 1999, Company officials stated the lower earnings were the result of "changes to its supply chain that resulted in fewer shipments." Campbell's common stock price closed at \$40.68 per share on February 16, 1999.

b. On or about May 18, 1999, the Company reported its financial results for the quarter ended May 2, 1999. The Company stated soup sales were flat at \$1.01 billion as compared with the same quarter in the prior year. The Company stated U.S. soup sales were "impacted by the January [1999] decision to eliminate quarter-end promotions for retail customers." The Company's common stock price closed at \$41.68 per share on May 18, 1999.

c. On September 2, 1999, Campbell announced earnings for the fourth quarter ended August 1, 1999. Again the results were disappointing. Earnings for the fourth

quarter before non-recurring charges were \$121 million compared to \$173 million in the comparable quarter a year ago. Morrison again admitted that terminating the loading practices had caused the poor results: "These results are disappointing, but the supply chain decisions we made this year will pay dividends in fiscal 2000 and beyond." Campbell's stock closed at \$43.8125 on September 2, 1999.

d. On November 16, 1999 Campbell announced earnings for the first quarter of fiscal year 2000. Net earnings were only \$235 million compared to \$264 million in the comparable quarter a year ago, reflecting the Company's decision last January to eliminate quarter-end promotions for U.S. retail customers. As a result, Campbell's stock dropped until it reached a 1999 low of \$37.44 on December 21, 1999.

89. Indeed, the truth was never disclosed until this litigation was initiated in January 2000. As set forth above, the price of Campbell stock dropped continuously during 1999 (to below \$40 per share by the end of 1999) as Campbell released these further disappointing earnings admittedly caused by the loading practices and other undisclosed wrongful conduct, which defendants continued to conceal even after the Class Period. As a result, the loss that class members incurred in the price of Campbell stock throughout 1999 also resulted from the fraud detailed in this Complaint, and such losses may be recovered by class members.

STATUTORY SAFE HARBOR

63. The statutory safe harbor provided for "forward-looking statements" under certain circumstances does not apply to any allegedly false statements pleaded in this Complaint because no such statements were "forward-looking statements" and to the extent that any statement was a "forward-looking statements," it was not identified as a "forward-looking statement" when made

and defendants did not accompany any such "forward-looking statement" with meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the forward-looking statement. Alternatively, the statutory safe harbor does not apply to any "forward-looking statements" because at the time each of those "forward-looking statements" was made, the speaker knew the "forward-looking statement" was false and the "forward-looking statement" was authorized and/or approved by an executive officer of Campbell who knew that the statement was false when made.

FIRST CLAIM FOR RELIEF

(Against All Defendants For Violation Of Section 10(b) Of The Exchange Act And Rule 10b-5 Promulgated Thereunder)

64. Plaintiffs repeat and reallege the allegations set forth above as though fully set forth herein.

65. Each of the defendants knew or had access to the material, adverse non-public information about the Company's products, loading practices, sham shipments, guaranteed return policy, financial results and then existing business conditions which was not disclosed and participated in drafting, reviewing and/or approving the false and misleading statements, releases, reports and other public representations of and about the Company.

66. During the Class Period, defendants, with knowledge of or reckless disregard for the truth, disseminated or caused, allowed and permitted to be disseminated the false and misleading statements specified above, which were false and misleading in that they contained misrepresentations and failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

67. As a result, defendants violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder in that they:

- a. Employed devices, schemes and artifices to defraud;
- b. Made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- c. Engaged in acts, practices and a course of business that operated as a fraud or deceit upon plaintiffs and others similarly situated in connection with their purchases of the Company's common stock during the Class Period.

68. Plaintiffs and the Class have suffered damages in that, in reliance on the integrity of the market, they paid artificially inflated prices for Campbell stock. Plaintiffs and the Class would not have purchased the Company's common stock at the prices they paid, or at all, if they had been aware that the market prices had been artificially and falsely inflated by defendants' misleading statements.

SECOND CLAIM FOR RELIEF

(Against the Individual Defendants for Violation of Section 20(a) Of The Exchange Act)

69. Plaintiffs repeat and reallege the allegations set forth above as though fully set forth herein.

70. The Individual Defendants acted as controlling persons of the Company within the meaning of Section 20(a) of the Exchange Act. By reason of their executive positions, they had

the power and authority to cause and did in fact cause the Company to engage in the wrongful conduct complained of herein.

74. By reason of such wrongful conduct, the Individual Defendants are liable to the Class pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of their wrongful conduct, plaintiffs and the other members of the Class suffered damages in connection with their purchases of the Company's securities during the Class Period.

WHEREFORE, plaintiffs, on their own behalf and on behalf of the other members of the Class, demand judgment against the defendants as follows:


- A. Determining that this action is properly maintainable as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure;
- B. Declaring and determining that defendants violated the federal securities laws by reason of their conduct as alleged herein;
- C. Awarding monetary damages against all defendants, jointly and severally, in favor of plaintiffs and the other members of the Class for all losses and damages suffered as a result of the acts and transactions complained of herein, together with prejudgment interest from the date of the wrongs to the date of the judgment herein;
- D. Awarding plaintiffs the costs, expenses, and disbursements incurred in this action, including reasonable attorneys' and experts' fees; and
- E. Awarding plaintiffs and the other members of the Class such other and further relief as the Court may deem just and proper in light of all the circumstances of this case.

JURY DEMAND

Plaintiffs demand a trial by jury in this case.

Dated: July 27, 2000

By:


Lisa J. Rodriguez, Esquire (#LR6767)
RODRIGUEZ & RICHARDS, LLC
3 Kings Highway E.
Haddonfield, NJ 08033
(856) 795-9002

Plaintiffs' Local Counsel

Sherrie R. Savett, Esquire
Stuart J. Guber, Esquire
Darin Morgan, Esquire
BERGER & MONTAGUE, P.C.
1622 Locust Street
Philadelphia, PA. 19103
(215) 875-3000

Andrew M. Schatz, Esquire
Jeffrey S. Nobel, Esquire
Patrick A. Klingman, Esquire
SCHATZ & NOBEL, P.C.
330 Main Street
Hartford, CT 06106
(860) 493-6292

Plaintiffs' Co-Lead Counsel

318485

CERTIFICATE OF SERVICE

I, Donna Siegel-Moffa, hereby certify that on this 27th day of July, 2000, I caused a true and correct copy of the Consolidated Amended Class Action Complaint to be served via overnight mail, postage pre-paid, on the following parties:

Paul C. Saunders, Esq.
Max R. Shulman, Esq.
Cravath, Swaine & Moore
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019-7475

Alan Kraus, Esq.
Keena M. Mackay, Esq.
Ricker, Danzig, Scherer, Hyland
& Perrett, LLP
Headquarters Plaza
One Speedwell Avenue
P.O. Box 1981
Morristown, NJ 07962-1981



Donna Siegel-Moffa