

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

CAROLYN L. PORTER, On Behalf of
Herself and All Others Similarly
Situated,

Plaintiff,

vs.

CONSECO, INC., GARY C. WENDT,
WILLIAM J. SHEA, and CHARLES B.
CHOKEL,

Defendants.

No. 1:02-CV-1332 SEB

**CLASS ACTION COMPLAINT
FOR VIOLATION OF THE
FEDERAL SECURITIES LAWS**

JURY TRIAL DEMANDED

Plaintiff Carolyn L. Porter, by her attorneys, for her Class Action Complaint (the "Complaint") alleges the following upon personal knowledge as to herself and her own acts and upon information and belief based upon the investigation of plaintiff's attorneys as to all other matters. The investigation includes the thorough review and analysis of public statements, publicly filed documents of Conseco Inc. ("Conseco" or the "Company"), press releases, news articles and the review and analysis of accounting rules and related literature. Plaintiff believes that further substantial evidentiary support will exist for the allegations set forth below after a reasonable opportunity for discovery.

SUMMARY OF ACTION

1. This is a securities class action on behalf of public investors who purchased the common stock of Conseco during the period from October 30, 2001 to July 15, 2002 (the "Class

Period").

2. Conseco is an Indiana corporation headquartered in Carmel, Indiana. The Company is a financial services holding company, with core businesses in insurance and finance.

3. On October 30, 2001, the first day of the Class Period, defendants announced Conseco's third quarter 2001 earnings. The press release insisted that prospects of a liquidity crisis at the Company were "overstated" in public comments, and failed to disclose that the Company faced an imminent liquidity crisis based in large part on problems in that segment of the Company's business based upon financing of manufactured homes. The problems which the Company was suffering in the collectability of mobile home loans were also not properly disclosed.

4. While the Company never has fully disclosed its underlying problems, the impact of these underlying problems on the value of Conseco became evident at the end of the Class Period. On August 9, 2002, the Company announced that it would not make certain bond interest payments as it asked its lenders to restructure its \$6.5 billion debt. On August 12, 2002, the last day of the Class Period, the New York Stock Exchange suspended trading in Conseco common stock and applied to the Securities and Exchange Commission ("SEC") to delist the Company from the New York Stock Exchange.

5. This case involves defendants' material omissions and the dissemination of materially misleading statements concerning the liquidity of Conseco, and particularly concerning the problems with manufactured homes financing. Due to these misleading statements, the stock of Conseco remained above its true *de minimus* or zero value during the Class Period. Because of the undisclosed problems and the resulting announcement that Conseco

would miss certain bond interest payments, the price of Conseco common stock declined to 11.5 cents per share at the market close on the last day of the Class Period, which was the day defendants revealed that the Company could not sustain its false assertions about sufficient liquidity to cover its indebtedness and remain a going concern. Defendants' failure to fully disclose the Company's liquidity problems and problems with its manufactured homes financing business segment artificially inflated Conseco's stock prices and acted as a fraud on the market, and the Class has been damaged thereby.

JURISDICTION AND VENUE

6. The claims asserted arise under §§10(b) and 20(a) of the Securities Exchange Act of 1934 (the "Exchange Act" or the "1934 Act"). Jurisdiction is conferred by §27 of the 1934 Act. Venue is proper pursuant to §27 of the 1934 Act as defendant Conseco and/or the individual defendants conduct business in and the wrongful conduct took place in this District.

THE PARTIES

7. Plaintiff Carolyn L. Porter purchased Conseco publicly traded securities as detailed in the attached Certification and was damaged thereby.

8. Defendant Conseco is a financial services holding company which is one of the largest life and health insurance companies in the United States, and also, through its subsidiary, Conseco Finance Corp. ("Conseco Finance"), one of America's largest consumer finance companies, with leading market positions in manufactured housing lending, retail home equity mortgages, home improvement loans and private label credit cards.

9. Defendant Gary C. Wendt ("Wendt") was during the Class Period, and at the time

of the wrongs alleged herein, the Chairman, Chief Executive Officer and a director of Conseco.

10. Defendant William J. Shea ("Shea") was during the Class Period, and at the time of the wrongs alleged herein, President of Conseco.

11. Defendant Charles B. Chokel, was from the beginning of the Class Period until on or about March 6, 2002, an executive vice president and the Chief Financial Officer of Conseco.

12. Defendants Wendt, Shea and Chokel are sometimes referred to herein as the "Individual Defendants." They are liable for the false statements pleaded herein, as those statements were "group-published" information.

13. Because of the Individual Defendants' positions with the Company, they had access to the adverse undisclosed information about the Company's business, operations, operational trends, financial statements, markets and present and future business prospects via access to internal corporate documents (including the Company's operating plans, budgets and forecasts and reports of actual operations compared thereto), conversations and connections with other corporate officers and employees, attendance at management and Board of Directors meetings and committees thereof and via reports and other information provided to them in connection therewith.

14. 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 above officers of Conseco, by virtue of their high-level positions 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 levels and was privy to confidential proprietary information concerning the Company and its business, operations, 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.

15. 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, and was traded on the New York Stock Exchange (“NYSE”), and governed by the provisions of the federal securities laws, the Individual 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, 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 Individual Defendants' misrepresentations and omissions during the Class Period violated these specific requirements and obligations.

16. 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 omissions therefrom, and were aware of their materially false and misleading nature. Because of their Board membership and/or executive and managerial positions with Consec,

each of the Individual Defendants had access to the adverse undisclosed information about Conseco's business prospects and financial condition and performance as particularized herein and knew (or recklessly disregarded) that these adverse facts rendered the positive representations made by or about Conseco and its business issued or adopted by the Company materially false and misleading.

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

18. Each of the defendants is liable as a participant in a fraudulent scheme and course of business that operated as a fraud or deceit on purchasers of Conseco common stock by disseminating materially false and misleading statements and/or concealing material adverse facts. The scheme deceived the investing public regarding Conseco's business, operations, management and the intrinsic value of Conseco common stock and caused plaintiff and other members of the Class to purchase Conseco securities at artificially inflated prices.

SUBSTANTIVE ALLEGATIONS

19. Conseco provides a variety of financial services through two lines of business: insurance (health insurance, annuity, individual life insurance and other insurance products), and

finance (through its Conseco Finance subsidiary). Conseco Finance claimed to be one of the largest consumer finance companies in the United States, with leading market positions in manufactured housing lending, retain home equity mortgages, home improvement loans and private label credit cards. Its activities include origination, securitization and servicing of manufactured housing loans, home equity loans, and retail credit extension.

20. Manufactured housing historically was the predominant segment of the finance business. As reported in the Form 10-K annual report for the year ended December 31, 2001, dated March 29, 2002, Conseco's managed receivables as of December 31, 200, included \$25.6 billion of contracts for manufactured housing purchases, which comprised 49 percent of total managed receivables. Because Conseco Finance's customers are typically lower wage earner with poor credit histories, the economy's slowdown has put them at an increased risk of default, analysts said. This is particularly true with respect to the manufactured home financing segment of the business.

21. Conseco was also highly leveraged. As of the first day of the Class Period, according to the company announcement of October 30, 2001, Conseco's 2002 public debt maturities and debt service commitments totaled \$1,390,000,000. Nevertheless, the Defendants offered constant reassurances to investors during the Class Period that Conseco had sufficient liquidity to meet its debt obligations for 2002, and that Conseco would continue as a going concern.

22. In fact, the Defendants misrepresented Conseco's ability to pay its debts, and understated and failed to disclose the full extent of Conseco's liquidity problems.

23. In particular, the Defendants failed to disclose the full extent of the problems in

collectability of Conseco's loans for manufactured housing. Conseco's loan workout options with respect to these loans cause delinquent loans to be falsely coded as current, plus the use of credit rate modifications (reductions) in the workouts cause an impairment of Conseco's liquidity which is not reflected in Conseco's books and records.

24. Each of the Individual Defendants and Conseco are liable in that they inflated the price of Conseco stock by making false and misleading statements and omitting material adverse information. The defendants' wrongful course of business (i) artificially inflated the price of Conseco's stock during the Class Period; (ii) deceived the investing public, including plaintiff and other Class members, into acquiring Conseco's securities at artificially inflated prices; and (iii) permitted Conseco to benefit economically from the wrongful course of conduct.

Defendants' Misleading Statements and Material Omissions During The Class Period

25. On October 30, 2002 the Company issued a comprehensive public report on third quarter 2002 earnings, stating:

Conseco Announces 3Q01 Earnings

INDIANAPOLIS--(BUSINESS WIRE)--Oct. 30, 2001--The attached "NEW Conseco Memo no. 17" from Conseco CEO Gary C. Wendt was posted on Conseco's web site for shareholders and/or electronically distributed to them today.

NEW Conseco Memo
No. 17

To: Conseco Shareholders
From: Gary Wendt, Chairman & CEO
Date: October 30, 2001

There isn't much news left in reporting the financial results for the third quarter. You know from our statement last week that operating earnings per share for the quarter were 18 cents, up from

12 cents in the 3rd quarter a year ago. And, you know from my October 2 memo that we are taking substantial non-operating charges that will result in a net loss for the quarter.

In this memo, I will briefly summarize the quarter's operating results. As importantly, I want to address some recent comments about the company and to discuss where we are in the turnaround process.

Summary points

- Operating earnings for the quarter were up 49% over the 3rd quarter a year ago, \$60.6 million (18 cents per share) in 3Q01 vs. \$40.8 million (12 cents per share) for 3Q00. For the first 3 quarters, 2001 operating earnings were \$184.2 million compared with \$110.7 million for 2000 - growth of 66%.
- Various non-operating items resulted in a total after-tax charge of \$471 million resulting in a net loss for the quarter of \$411 million (\$1.21 per share).
- The Finance segment continued to show strong earnings growth on a year over year basis. Pretax operating income was \$72.5 million for 3Q01, up 81% from \$40.0 million in 3Q00. The 9-month year-to-date comparison of 2001 with 2000 shows pretax operating earnings growth of 108%. On a sequential quarter basis, 3rd quarter pretax operating earnings in the Finance segment declined \$8 million due to a \$23 million increase in the quarter for provision for loan loss expense.

* * *

Finance Segment

- Year-over-year quarterly pre-tax operating earnings improved 81%, driven by increased on-balance-sheet receivables, improved margins and lower operating costs. Specifically, the average on-balance-sheet portfolio from continuing operations grew 24%, margins improved 113 bps and quarterly operating costs declined \$20 million.

- On a sequential quarter basis, pre-tax operating earnings declined by \$8 million or 9%. Although revenue increased 3% and margins improved 17 bps, these were more than offset by a \$23 million increase in provision expense as the Finance Company strengthened reserves. Specifically on-balance-sheet loan reserves increased from \$318 million to \$355 million at the end of the quarter.
- The Finance segment continued the process of growing and diversifying its on- balance-sheet portfolio of assets. Specifically, 3Q originations were \$3.1 billion, driven by a 31% quarter-over-quarter increase in Home Equity lending. Manufactured Housing (MH) originations of \$707 million represented only 23% of originations. Finally, the average on-balance-sheet portfolio of \$17.5 billion grew approximately 5% in the quarter.
- Delinquencies increased slightly in the quarter. Total managed 60+ delinquencies rose 11 bps to 1.89%. For MH, 60+ delinquencies and repo inventory increased 7 bps and 12 bps to 2.27% and 2.30%, respectively. Like any company in the finance business, we remain cautious about the overall direction of the economy and focused on managing portfolio performance in the slowing market.
- Finally, new issuance spreads, net proceeds from securitizations and operating cash flow remain at or above 2Q01's strong levels. In addition, the Finance Company retired \$24 million of 2002 public debt.
- MH repo inventory increased during the quarter from 13,607 to 14,333 (up 5%) primarily due to slower sales than in previous quarters. Recovery rates held steady at 45%. 2001 repo sales are up 10% year-to-date over 2000, and new units repossessed quarterly are holding steady with the same periods last year. The chart below updates the data we have been providing to you since early this year.

* * *

Recent comments

As I noted last week, recent public comments suggesting a

liquidity crisis in 2002 were overstated. We expect to meet our debt payments in 2002 and beyond by managing our balance sheet to achieve needed cash flows.

* * *

In short, we have excellent and predictable cash flow from operations and we have multiple options to generate additional cash. We expect to meet our future debt obligations and, equally important, to provide sufficient cash to grow our businesses at targeted returns.

* * *

Where are we in the Turnaround process?

Our estimate today, is that 4th quarter operating earnings will be in the range of 17 cents to 20 cents per share, which will translate into 72 cents to 75 cents per share for the year.(1)

I am disappointed that our original earnings expectations turned out to be too optimistic. But our goals for the company are clearly achievable. We may be about twelve months behind the schedule outlined by our initial earnings projections, but we fully intend to achieve our long-term financial objectives. And, in all likelihood, we will make up some of the delay we've experienced this year.

* * *

It is important to note that the facts at Consecos still add up to creating substantial shareholder value. Even with some internal and external impediments, our operating earnings are expected to exceed 72 cents per share this year. Even with the pain of this quarter's large non-operating charge, we are making progress toward "clean quarters". And, most importantly to our strategic focus, we are producing strong cash flow to reduce the company's debt burden.

26. In truth, the Company had underlying problems with its portfolio of Manufactured Home loans which it failed to disclose, including write-offs which were not disclosed. This, in turn, impaired the value of the goodwill stated on the books and records of Consecos in connection with its acquisition of Green Tree Financial Corp. The Company had no chance of enjoying a

successful outcome for the so-called “turnaround process,” but failed to disclose that fact.

27. On November 15, 2001, defendant Wendt attempted to reassure investors that the Company was a going concern and a sound investment, focusing particularly on the Conseco Finance unit. As reported in Bloomberg News (“Bloomberg”):

Conseco's Wendt Tries to Reassure Investors on Credit Defaults

New York, Nov. 15 (Bloomberg) -- Conseco Inc. Chairman Gary Wendt sought to reassure investors that the company's consumer finance unit is working to combat losses from credit defaults and that the insurer has sufficient sources of cash to fund next year's debt payments.

Wendt met with investors just weeks after Conseco's shares sank to an all-time low on concern continued profit declines and a slowing economy may squeeze the company's ability to make payments on its \$6.1 billion of debt. While Wendt has said Conseco plans to raise as much as \$410 million by asset sales or other means to repay debt, some analysts and investors fret the company may fall short of that goal.

Minneapolis-based Conseco Finance is expected to produce between \$310 million and \$340 million of cash for the parent company next year. The former Green Tree Financial Corp., which Conseco acquired in June 1998 for \$6 billion, is facing an increase in credit defaults on loans it originates because of the slowing economy and the Sept. 11 attack that destroyed the World Trade Center.

“We think Conseco Finance is an attractive business and will be one of the engines of earnings growth,” said Wendt at the meeting, held at the Sofitel New York Hotel. “Conseco Finance can earn \$800 million pretax and \$500 million in net income a year by 2004,” he said. “That's why I like this business.”

28. In painting this rosy picture, Defendants failed to disclose the underlying problems with Conseco Finance and particularly its manufactured homes lending, and Defendants misled the public that Conseco would meet its debt obligations when it did not have the means to do so.

29. On January 7, 2002, Conseco Executive Vice President of Corporate Affairs, Mark Lubbers, sent a letter to Conseco investors attempting to reassure them in the face of a critical SalomonSmithBarney report about the Company. The letter, which focused on rebutting the analyst report's bleak prognosis for the mobile home financing business, stated, in pertinent part, as follows:

Conseco Sends Letter to Investors About Analyst Report

INDIANAPOLIS--(BUSINESS WIRE)--Jan. 7, 2002--The attached letter from Conseco, Inc. (NYSE:CNC) Executive Vice President of Corporate Affairs, Mark Lubbers, was sent to Conseco investors this afternoon via e-mail, fax, etc.

January 7, 2002

Dear Conseco Investor:

When Gary Wendt recruited me to the Conseco turnaround 17 months ago, he didn't sugar-coat the task ahead. At the time, this company had \$2 billion in bank debt coming due and no apparent way to pay it. And if it could negotiate that "boulder," as he called it, there were half a dozen other boulders waiting to be moved. Beyond the immediate boulders was the tough job of changing Conseco from an acquisition engine into a company producing shareholder value through operations. He knew there would be bumps in the road, and that an open channel to investors and our other outside audiences would be important to our success. Like the others Gary recruited to this adventure, I enjoy a challenge. But I never imagined having to write a letter like this.

On Saturday morning, I was quoted in the New York Times calling SalomonSmithBarney's January 3 "research" report absurd. I called it that because the report contains misleading information and bad analysis.

The core of the January 3rd SSB report takes the loan losses projected by Greenpoint on its exit from the MH business and projects them onto Conseco.

* * *

This so-called analysis is used to assert that it "would imply" future charges or loan losses of between \$2.2 and \$3.5 billion for Conseco.

What is wrong with this "analysis"? It is 100% based on the Greenpoint data and assumptions. Two data points drive the cumulative loan loss projection announced by Greenpoint: (1) default rates and (2) severity rates. For the SSB analysis to hold water, Conseco's experience would have to mirror the Greenpoint experience and projections.

Does it? NO

Will it? NO.

Is there any basis for an analyst's claiming that it does or it will? No, none whatsoever. In fact, there is basis for an opposite conclusion.

* * *

Not to pick on Greenpoint, a well-run and successful company, but the loan performance data clearly shows that Conseco Finance is the better performing MH lender. In data compiled by Lehman Bros. and available on its website, you can see that for securitization pools since 1999, Conseco has lower average monthly losses and lower cumulative losses.

See attached.

Worse, SSB's analysis is based on Greenpoint's projected severity rate of 80.2% -- which means that GPT plans on getting less than 20 cents on the dollar for its repossessed MH units.

Is that or will that be Conseco's severity rate? NO.

Should an objective analyst know why this is an inappropriate basis for making projections about Conseco? Absolutely.

We have talked many times in the last year about how critical it is to our operations to avoid wholesale disposition of repo units. Throughout this bad cycle in the MH business, our severity rates for on-balance-sheet receivables have remained at approximately 48%.(1) In a business that plans on between 1 in 4 and 1 in 5 loans defaulting, the recovery rates on repossessed collateral is a crucial financial metric. And this is where being No. 1 in the industry really matters - as we've said many times before.

* * *

Conseco is not exiting this business segment. There is no

disgrace in Greenpoint's exiting. Its presentation last week shows pretty conclusively that it generates higher returns for shareholders by getting out. As Gary Wendt has told you before, he made the same decision at GE Capital, where, as we all know, market leadership was prized above all things as a critical element of financial success - just as it is in the MH lending business, where **Conseco Finance is No. 1.**

The positive variance between Greenpoint and Conseco Finance on loan performance is almost exclusively owing to Conseco Finance's strategic advantage in the market. Yet, the SSB report gives it not a pause. It passes completely over the data and extrapolates **an unsupportable opposite conclusion, namely, that whatever befell Greenpoint will befall Conseco.**

Extrapolating a conclusion about Conseco's ongoing business from the economics of Greenpoint's exit is inappropriate. And for an analyst to ignore completely the several reasons why a Greenpoint exit is beneficial to Conseco Finance is inexplicable.

In short, the "analysis" that is the core of the SSB report is the fabrication of a circumstance that does not and will not exist.

I am obliged to note a few other errors in the SSB report. Perhaps the most egregious is the comment that:

"on a liquidation basis ... policyholders should be reasonably well protected by various state guaranty funds."

The misinformation that this sentence implies is simply irresponsible. The analyst knows well that Conseco's insurance policyholders are backed by \$25 billion of assets that are held on the books of our insurance subsidiaries, and that our risk-based-capital(RBC) ratios are well in excess of prescribed levels. We have worked diligently to maintain the confidence of insurance regulators around the country, and **the claims paying ability of this company is not in doubt.**

* * *

We are a company now in the 19th month of a difficult turnaround, made even more difficult by the current economy. Our original turnaround objectives hit rough sailing in the 2nd quarter of 2001 when, as we now know, but didn't know then, the economy

entered a mild recession. Compounded by 9-11, this economic backdrop has hindered our plan. Despite the setback, we continue to execute. We said we would make all our debt payments in 2001, and we did - six months early. We said we would reduce the company's debt by more than \$3 billion by the end of 2003, and \$2.2 billion has already been elimi

We plan to survive. And we plan to thrive. We will do so with the support of investors, regulators, and customers who have the good sense - the common sense - to pay attention to the facts.

Sincerely,

R. Mark Lubbers
EVP, Corporate Affairs

30. Defendants thereby mislead the public and failed to disclose the truth, i.e., that Conseco had much the same problems as Greenpoint, and Defendants failed to make accurate disclosure concerning Conseco's projected loan losses, especially with respect to loans related to manufactured housing.

31. On February 21, 2002, the Company announced fourth quarter 2001 earnings, and despite bad news, the Company encouraged investors about its future prospects. The Company's official news release stated as follows:

Conseco Announces 4Q01 Earnings
2002-02-21 08:31 (New York)

INDIANAPOLIS--(BUSINESS WIRE)--Feb. 21, 2002--The attached "NEW Conseco Memo #19" from Conseco CEO Gary C. Wendt was posted on Conseco's web site for shareholders and/or electronically distributed to them today.

NEW Conseco Memo
#19

To: Conseco Shareholders
From: Gary Wendt
Date: February 21, 2002

Re: 4Q01 Earnings

Summary

2001 operating earnings were \$218 million, up 44% from \$152 million in 2000. On a per share basis, that's up 36% -- from 47¢/sh in 2000 to 64¢/sh in 2001.

4Q01 was the worst quarter of the year with operating income falling to \$34 million from \$61 million in the 3rd quarter (10¢/sh in 4Q01 vs. 18¢/sh in 3Q01). The chief reason for the bad 4th quarter relates to the economy and an increase in loss reserves at the finance company equivalent to 8¢/sh. A secondary reason was adverse mortality experience worth approximately 3¢/sh.

We incurred net non-operating charges of \$92 million in the 4th quarter, resulting in a net loss of \$58 million.

32. Despite these grim results, the Company's official statement remained optimistic about the Company's prospects, telling investors in the same announcement:

For now, you should think about 2002 in terms of a base-line scenario that could improve. Including the change in accounting for goodwill expense, **we expect base-line earnings in 2002 of 60¢ to 70¢ per share.**

Will we do better than that? We're planning on it. But we learned our lesson last year: Internal financial goals will not be our external goals in 2002. If the economy in 2002 is like the 4Q01, then 60¢ to 70¢ is what we should earn. If we return to solid economic growth and full employment, then we should do better.

Although we didn't intend to be in this situation, we must play the cards we have been dealt. We are attempting to use this unique moment to our strategic advantage, making urgency work to our long-term benefit. I believe we will look back on this period and say it was a good thing for Consec.

There remains no doubt in my mind, or in the minds of your board of directors and your senior management team, that Consec is in better shape today than it was 20 months ago. We are making progress. We've proven that we can take a

punch. And we remain positioned to get back on track for above-market growth in earnings.

33. In truth, contrary to what was claimed, Consecos financial position, and its potential for meeting its debt obligations, continued to deteriorate along with the quality of its manufactured homes loans.

34. On March 6, 2002, Bloomberg reported, in pertinent part, as follows:

Conseco Ratings May Fall Without Clean Audit Opinion

Carmel, Indiana, March 6 (Bloomberg) -- Conseco Inc. may have its credit ratings cut two notches or more by Moody's Investors Service if the insurance and finance company can't convince its auditor that it can make debt payments due this year, the credit-rating company said."

35. That same Bloomberg article reported the Company's official response:

Responding to the Moody's report, Conseco spokesman Mark Lubbers said the company has **"built room for error in our cash raising plans, which are going very well -- we'll be sending out party invitations at the end of the month."** He didn't elaborate.

36. On March 7th Bloomberg reported , in pertinent part, as follows:

Conseco Shares Slide to Low as Merrill Says Sell

Carmel, Indiana, March 7 (Bloomberg) -- Conseco Inc. shares fell as much as 33 percent to an all-time low after Merrill Lynch & Co. analyst Edward Spehar recommended investors sell the stock, citing the departure of the company's chief financial officer and concern Conseco won't raise enough cash to meet debt payments.

37. The Company's official response, as reported in that same Bloomberg report, was as follows:

"The only thing that matters is our closing on our cash-raising transactions," said Mark Lubbers, a Conseco spokesman.

“People can be unsettled based on an analyst report, but we're doing what needs to be done.”

38. Once again, Defendants misled the investing public and failed to disclose that the Company faced an imminent shortage of cash and could not meet its debt obligations.

39. On April 1, 2002, as the market price of Consecos stock rose on optimism, the Company’s own statements encouraged the rise. As reported by Bloomberg:

Consecos May Have Eased Cash Crunch, Investors Say

Carmel, Indiana, April 1 (Bloomberg) -- Consecos Inc.'s agreements with lenders and bondholders to lengthen the time the company has to pay debts may have bought the insurer until late 2003 to revive its consumer finance unit, some investors say.

Consecos, which sells life insurance and finances mobile homes, may have averted a downgrade of its credit rating that would have threatened to push the company into bankruptcy, they say. Auditor PricewaterhouseCoopers LLP, in Consecos's annual report filed today, gave the company's financial statements an unqualified opinion, which debt-rating company Moody's Investors Service said was needed to avoid a cut.

40. Defendants encouraged the stock appreciation. As reported in the same Bloomberg article:

“It's clear we're safely through '02 and are working on '03,” said Mark Lubbers, a spokesman for the company, based outside of Indianapolis in Carmel, Indiana.

41. The foregoing was a false statement, in that given the problems with Consecos Finance, and particularly the portfolio of loans related to manufactured housing, Consecos did not have sufficient cash flow to pay the debt coming due in 2002.

42. On May 1, 2002, Consecos reported its first quarter 2002 earnings, announcing as follows:

Conseco Announces 1Q02 Earnings

INDIANAPOLIS--(BUSINESS WIRE)--May 1, 2002--The attached "NEW Conseco Memo #24" from Conseco CEO Gary C. Wendt was posted on Conseco's web site for shareholders and/or electronically distributed to them today.

NEW Conseco Memo # 24

To: Conseco Shareholders
From: Gary Wendt, Chairman & CEO
Date: May 1, 2002
Re: 1Q Earnings

Summary

- **As indicated in the recent 10-K filing, the 2002 liquidity issues are behind us. Cash-raising initiatives have been very successful and accomplished without damage to our business franchises. The 2002 shortfall is covered, and we are confident about liquidity in 2003....**

- Pre-tax operating earnings in the Finance company were up 23% over 4Q01. Progress is also evident in collections with managed 30+ delinquencies down 54 basis points and managed 60+ delinquencies down 11 basis points since the end of 4Q01. We see positive signs that economic recovery may be taking hold, but the after-effects of the recession and the glut of manufactured housing repos in the marketplace will continue to pressure earnings in 2002.

- 43. The Company saw optimistic indicators in its mobile home financing business:

Pre-tax operating earnings at Conseco Finance were up 23% over Q01, from \$27.0 million in 4Q01 to \$33.1 million in 1Q02. This, progress and other key measures in the Finance company give us a glimmer of better performance ahead, but it is still too early to declare victory. The glut of repossessed manufactured housing units in the market will continue to have negative implications in this business segment and overall stability in the economy remains uncertain. The stock of repo units throughout the country is affecting recovery rates, forcing a larger mix of "repo-refis," and depressing sales of new units. We expect this problem to be a drag

on earnings throughout 2002 and into 2003.

In summary fashion, other important operating metrics in the quarter were:

- Average on-balance sheet receivables grew to \$18.8 billion - a 3% increase over 4Q01.
- Net operating expenses in 1Q02 decreased nearly \$8 million or 5% from 4Q01. Cost-saving initiatives accounted for more than \$5 million of the savings.
- Consumer Businesses (Home Equity (HE), Retail Credit (RC), and Consumer Finance (CF)) account for 53% of average on-balance-sheet receivables, **MH accounts for only 40%.**
- Loan originations were \$2.12 billion - a decrease of 26% from 4Q01 and a decrease of 5% from 1Q01 ...
- ... however, compared with 1Q01, MH originations are down 35%, HE originations are up 18% and RC originations are up 13%.
- **MH originations in 1Q02 comprised 16% of originations, down from 23% in 1Q01. The target share for MH originations in 2002 is 15%.**
- Securitization execution improved while spreads compressed in 1Q02. In the HE transaction that occurred in the first quarter, spread decreased from 4Q01 experience - 6.83% to 6.24%. Proceeds execution rate improved between quarters from 101.7% in 4Q01 to 103.2% in 1Q02.
- Portfolio net interest margin decreased to 5.20% of average on-balance-sheet receivables/earning assets. This is a 30 basis point (bp) decrease from 4Q01 and 4 bp increase over 1Q 2001. In part this is a result of bringing \$500 million of floorplan assets onto the balance sheet in 1Q02.
- **Total managed 30+ days delinquencies (DQ) decreased \$278 million or 18% in the quarter compared to year-end 2001, falling 54 bps from 3.81% to 3.27%. We**

believe this is based on seasonality, operational focus, and a marginally improving economy.

- Total managed 60+ days delinquencies decreased 11 bps in the quarter, from 2.10% in 4Q01 to 1.99%.
On-balance-sheet 60+ DQ improved by 1 bp over 4Q01. The largest improvements in 60+ DQ were recorded in the retail credit and consumer finance areas a sign that recessionary forces are abating.
- **Provision for loan loss in 1Q02 was \$158.4 million, down \$18.3 million from 4Q01.** Net credit losses were \$141.6 million in 1Q02, up from \$111.9 million in 4Q01.
- Loss reserve balance increased in the quarter by 4.4% to \$440 million from \$421 million at December 31. **This increase strengthened our overall reserve position** for on-balance-sheet receivables ratio to 2.44% from 2.34% at the end of 4Q01.
- **Bankruptcy filings in 1Q02 were down 12% from 4Q01, but up 23% over 1Q01.**
- On-balance-sheet Repo/REO inventory increased again this quarter. **Part of that increase is due to seasonal pressure.** In 1Q02, 77% of our repo disposition revenue came from retail sales (vs. 75% in 1Q01). **Maintaining this level is crucial to achieving target recovery rates.** We now own and operate 18 MH retail sales lots.
- Repo/REO inventory increases were driven by both Mortgage foreclosures and seasonal liquidation pressure. On a dollar basis, 1Q02 incurs increased 3% compared with 4Q01, while sales declined 9%. The MH repo inventory report is detailed in Chart 3 below.

44. The Company radiated optimism about its cash situation, stating:

First, in the span of four months, Conseco Finance has already surpassed its cash target for all of 2002. In addition to its strong and predictable operating cash flow, our leadership team in St. Paul has been very aggressive and successful with its part in the company's cash-raising initiatives. At the beginning of the year,

CFC had \$324 million of public debt coming due in 2002. During 1Q02, CFC tendered for all its outstanding public debt. So far this year, it has retired \$281 million of public debt that had been due in 2002. In June, Conseco Finance will pay \$35 million to retire the last of its 10 1/4% senior subordinated notes. Then, with an \$8 million payment in September, CFC will meet its final public debt maturity. In addition to extinguishing \$324 million of its own 2002 public debt this year, Conseco Finance has the plan and the capacity to upstream at least \$50 million to the parent.

Meanwhile, cash-raising initiatives in the Insurance segment have been equally productive. We now have completed, or are in the process of completing, transactions that will provide \$528 million of cash at the parent company. These amounts, combined with projected operating cash flow of approximately \$450 million from our Insurance businesses, the above-mentioned available funds from Finance, and an estimated \$70 million from the disposition of our remaining shares of AT&T Wireless would be more than enough to cover all cash needs at the parent company for 2002 (including interest, preferred dividends, public debt maturity, 100% of the optional principal payment to the banks, financing fees, etc.)

It is very important to note that we have been able to execute these cash-raising initiatives without damaging our existing "franchise." The various reinsurance and sale transactions do not affect the ongoing conduct of business. They relate to existing, fixed blocks of business whose earnings will generally diminish over time. We expect these reinsurance and sale transactions to reduce 2002 pre-tax operating earnings in the Insurance segment by approximately \$90 to \$100 million. Further, we estimate the impact of these transactions on 2003 earnings will be approximately \$100 million.

Given the attention we have generated by our transparent approach to liquidity issues, I feel obliged to say that our command over cash planning is better today by far than at any time since we began the turnaround. (Recall that when I started on June 30, 2000 Conseco faced \$1.2 billion in bank debt due in 60 days, and had no plan for making the payment!) Bill Shea has done a terrific job of coordinating our efforts. He has an excellent senior staff in the Finance area. He has our business leaders focused on this important issue. And we are way ahead of the game. **By that I mean to**

communicate that the combination of a handsome 2002 year-end cash balance, operating cash flows in Insurance and Finance, possible further transactions, and other available cash-positive options, makes us confident about liquidity in 2003. As you consider these capital and cash questions, I believe it is very important to remember that, unlike many other turnaround companies in today's economy, Consecos has strong operating cash flows. Even after the transactions executed to raise cash, our operating cash flow should continue to exceed \$750 million per year. **This year, operating cash flow should be approximately \$800 million, which is obviously more than enough to service our expected interest and preferred dividend expenses of \$500 million.** My point in going to this length on this issue is to make certain that you understand that the strain on cash is NOT an interest coverage problem. Rather, it is a function of meeting principal maturities to achieve our debt reduction goals. In September 2000 we committed to reducing Consecos debt and preferred securities by \$3.5 billion within 3 ½ years. We will cross that goal with the public debt payments due in February 2003. And, we expect to have achieved a \$3.8 billion reduction by September 2003.

At some point in this period, given the strong operating cash flows and the declining interest coverage requirements, Consecos should be in a position to restructure its existing debt in a permanent and cost effective way. At that point, we would have annual free cash flow of several hundred million dollars a year available to reinvest in the business. We could be in that position as early as late next year, but in any event, not long after that. All of us here at Consecos are dedicated to doing the hard work necessary to make that bright future a reality.

45. Contrary to what was announced, Consecos did not generate sufficient cash flows to continue as a going concern. Investors were not apprised of the impairment in value of Consecos Finance because of its poor performance because Defendants did not write down the goodwill value stated on the books and records of Consecos to reflect the purchase price of Consecos Finance, although such a write down was required by relevant accounting standards.

46. On May 28, 2002, Moody's Investors Service cut Consecos's senior debt rating a

notch, to Caa1 from B2. Conseco reacted with indignation, stating as follows:

Conseco's Wendt Responds to Moody's Downgrade

INDIANAPOLIS--(BUSINESS WIRE)--May 28, 2002--The following is a statement from Conseco Chairman and CEO Gary Wendt on today's ratings action by Moody's on Conseco (NYSE:CNC).

"We take strong issue with the timing of and the language used to support today's ratings action by Moody's.

The basis cited for today's action was information that is between four and six weeks old. And, to the extent the action is based on reported first quarter earnings, it is based on information that is now two months old.

Let me quickly set the record straight with respect to the two issues raised by Moody's as the basis for their action.

First, Moody's states that our cash raising is "slower than anticipated." As we have made clear for the past several months, the need to raise cash quickly was alleviated by the amendments that we negotiated with our banks. **That new bank agreement gave us much greater flexibility than we anticipated at the beginning of this year.**

As we have said before, the bank agreement and the reduced urgency for cash raising is highly beneficial to the company. We could have amassed a larger amount of cash by today, but we might have paid dearly for the haste. **We do not need to rush**, and we have no intention of minimizing value for our shareholders in order to meet artificial deadlines imposed by observers with no stake in the outcome of the turnaround.

Our cash raising results are virtually unchanged since reported 4 weeks ago. All deals are on schedule. In fact, one has improved, and a new opportunity is also being discussed. **As other analysts have reported, we believe 2002 is well in hand and we are hard at work on 2003 and the permanent capital structure of the company. Thus, we are not spending our days worrying about whether or not we will remain a going concern.**

Second, Moody's states that our operating performance is "continued weak." To issue such a statement a month after an earnings release and two months after the end of the reporting period implies knowledge of interim performance that Moody's does not have.

As our previously stated earnings guidance indicates, **we expect operating performance to improve throughout the year.** It is true that the hint of improvement in the economy will need to bear fruit in order to meet those objectives, but we are increasingly optimistic about that prospect.

Finally, while the Moody's statement goes to some length to report the results of our bond exchange (which we released on April 18), it fails to overtly say that the new bonds issued in that exchange were not downgraded.

In sum, neither of the bases for the ratings downgrade are causes for concern. We continue to execute actions to improve the long-term operations of the company. And we continue to work through the reduction of debt and the creation of a long-term capital structure that have been, and remain, the focus of this turnaround.

We regret having to take public issue with Moody's. But, the progress of this turnaround merits a balanced perspective."

47. So once again, on May 28, 2002, Defendants were striving to conceal the extent of the problems at Consec, and its inability to fulfill its debt obligations or remain solvent.

48. Given the ongoing optimism of Consec, as reflected in its public announcements, the investing public was dealt a stunning blow on August 9, 2002, as follows:

Consec to Miss Bond Payments as It Restructures Debt

Carmel, Indiana, Aug. 9 (Bloomberg) -- Consec Inc., saying Chairman Gary Wendt's turnaround has failed, won't make some bond interest payments as the insurance and finance company asks lenders to restructure its \$6.5 billion in debt.

The value of Consec's common stock is likely to be wiped out, said Colin Devine, an analyst for Salomon Smith Barney Inc.

Conseco hired Lazard LLC and the law firm of Kirkland & Ellis to meet with its bankers and creditors to see if a restructuring of its debts can be accomplished without a bankruptcy.

49. Another devastating blow was dealt to investors on August 12, 2002, with the suspension of the trading of Conseco stock on the NYSE:

Conseco Suspended From NYSE Trading, May Be Delisted

New York trading by the New York Stock Exchange shares may be delisted, the exchange said.

The move follows the insurance and finance company's announcement Friday that it won't make some bond payments and has asked its lenders to restructure its \$6.5 billion in debt, the Big Board said in a news release.

The exchange cited the company's failure to make the payments, as well as the "abnormally low selling price" of Conseco's shares, for the suspension. The stock has fallen 96 percent in the past year, closing Thursday at 34 cents, as Chairman Gary Wendt has struggled to overhaul the company and repay debt amid high loan losses and slumping earnings.

"I don't see how they avoid Chapter 11" bankruptcy, said Bill Batcheller, a money manager at National City Corp., which manages \$89 billion and used to own Conseco shares.

50. The bad news was compounded when Conseco filed its 10-Q for the second quarter of 2002 on August 14, 2002. At that time the Company announced \$4 billion of write-offs and a drastic decline in operating income:

2Q Earnings From Operations \$1.3 Million Non-Operating Charges

Produce Net Loss of \$1.3 Billion; With Goodwill
Impairment of \$2.9 Billion, Write-Offs Top \$4.2 Billion

INDIANAPOLIS--(BUSINESS WIRE)--Aug. 14, 2002--Conseco, Inc. today announced earnings from operations of \$1.3 million for

its second quarter ended June 30, 2002, compared with earnings from operations of \$69.6 million for the same period last year.

In its second quarter, the company took a charge of \$1,003 million on its deferred tax asset, which together with charges for other non-operating items in the quarter, resulted in a net loss of \$1.3 billion.

Additionally, the company announced that its goodwill impairment under Statement of Financial Accounting Standards No.142 (SFAS 142) would be \$2.9 billion. Under the transitional rules for this accounting change, the effect of the goodwill adjustment is reflected as a cumulative effect of accounting change in the consolidated financial statements for 1Q02.

51. In addition, on August 14, 2002, defendants announced that the Securities and Exchange Commission was investigating the Company's accounting practices. It was also reported that investors were angry about the Company's failure to be candid about its problems in a timely manner:

Carmel, Indiana, Aug. 14 (Bloomberg) -- Consec Inc., the insurance company struggling to restructure \$6.5 billion in debt, said the Securities and Exchange Commission is investigating its accounting practices and that it posted a \$1.33 billion loss as it wrote down the value of an asset and suffered loan losses.

The second-quarter loss widened to \$3.86 per share, from \$30.3 million, or 9 cents, a year earlier, the company said in a filing. Consec said it had \$1 billion in costs from writing down the value of an allowance against future taxable income. It also restated its first-quarter results, writing off \$2.95 billion to reflect the falling value of businesses it purchased.

Chief Executive Officer Gary Wendt has posted five consecutive quarterly losses as the recession has spurred customers to miss debt payments and pared sales of variable annuities and fees from assets under management. The company said last week it would miss some bond payments and renegotiate debt to try to avert bankruptcy.

"Given what has happened to this company over the last three months, its assets were impaired long before the quarter," said

Bill Batcheller, a money manager at National City Corp., which manages \$89 billion and used to own Consecos shares. "But with the stock trading at 6 cents a share, who cares?"

The insurance and finance company disclosed that the SEC is probing the company's accounting and other events from the spring of 2000, according to the filing. "The company is cooperating with the SEC staff in this matter," Consecos said. It didn't provide further details.

Regulators have initiated a formal inquiry that gives investigators authority to subpoena testimony as well as telephone and bank records, the company said.

* * *

Consecos shares were suspended from trading by the New York Stock Exchange last week and may be delisted. The exchange cited the company's failure to make the bond payments and the "abnormally low selling price" of its shares.

The stock has fallen 99 percent in the past year. Shares of the Carmel, Indiana-based company trade for about 6.1 cents.

"The credibility of Gary Wendt is in the toilet," said Brenda Izzo, a fixed income money manager at Jessup & Lamont, which owns Consecos bonds. "Nobody expected this."

Jessup & Lamont has filed a complaint with the SEC to force Wendt and former CEO Stephen Hilbert to disgorge the signing bonuses and severance Consecos paid them, Izzo said. Wendt received a \$45 million hiring bonus in June 2000. Hilbert got \$72.5 million in severance when he quit Consecos in April 2000.

Separately, A.M. Best Co. said it downgraded the financial strength ratings of Consecos's principal insurance subsidiaries to B, or fair, from B++, or very good. The ratings remain under review and the status was changed to developing from negative, A.M. Best said in a statement distributed by Business Wire.

A.M. Best officials couldn't immediately be reached for comment.

52. In Consecos's Form 10-Q for the quarterly period ending June 30, 2002, filed with

the SEC on or about August 14, 2002, Conseco further clarified that it would be forced to file a petition in bankruptcy court if its negotiations with creditors were unsuccessful. The Form 10-Q stated, in pertinent part, as follows:

“On August 9, 2002, we announced that, in addition to exercising the 30 day grace period on bond interest payments as described above, we have engaged financial and legal advisors to begin discussions with our debt holders with a goal of restructuring the capital of the parent company. We cannot predict whether any restructuring will be effected out-of-court or through a Chapter 11 bankruptcy proceeding, nor can we predict how long any restructuring of our debt will be required to implement. If we are unable to achieve a consensual restructuring, we will be unable to satisfy all of our debt obligations and we will be forced to petition for relief under the U.S. Bankruptcy Code.”

53. Not surprisingly, at this time the Company’s stock price hovered around zero, declining from \$.34 at the market close on August 8, 2002, to \$.115 on August 12, 2002 to \$.53 on August 15, 2002.

SCIENTER ALLEGATIONS

54. As alleged herein, defendants acted with scienter in that defendants knew that the public documents and statements issued or disseminated in the name of the Company were materially false and misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws. As set forth elsewhere herein in detail, defendants, by virtue of their receipt of information reflecting the true facts regarding Conseco, their control over, and/or receipt and/or modification of Conseco’s allegedly materially misleading misstatements and/or their associations with the Company which made them privy to confidential proprietary

information concerning Conseco, participated in the fraudulent scheme alleged herein.

APPLICABILITY OF PRESUMPTION OF RELIANCE:
FRAUD-ON-THE-MARKET DOCTRINE

55. At all relevant times, the market for Conseco's securities was an efficient market for the following reasons, among others:

(a) Conseco's stock met the requirements for listing, and was listed and actively traded on the NYSE, a highly efficient and automated market;

(b) As a regulated issuer, Conseco filed periodic public reports with the SEC and the NYSE;

(c) Conseco regularly communicated with public investors via established market communication mechanisms, including through regular disseminations of press releases on the national circuits of major newswire services and through other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services; and

(d) Conseco was followed by several securities analysts employed by major brokerage firms who wrote reports which were distributed to the sales force and certain customers of their respective brokerage firms. Each of these reports was publicly available and entered the public marketplace.

56. As a result of the foregoing, the market for Conseco's securities promptly digested current information regarding Conseco from all publicly available sources and reflected such information in Conseco's stock price. Under these circumstances, all purchasers of Conseco's securities during the Class Period suffered similar injury through their purchase of Conseco's securities at artificially inflated prices and a presumption of reliance applies.

NO SAFE HARBOR

57. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false statements pleaded in this complaint. Many of the specific statements pleaded herein were not identified as "forward-looking statements" when made. To the extent there were any forward-looking statements, there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. Alternatively, to the extent that the statutory safe harbor does apply to any forward-looking statements pleaded herein, defendants are liable for those false forward-looking statements because at the time each of those forward-looking statements was made, the particular speaker knew that the particular forward-looking statement was false, and/or the forward-looking statement was authorized and/or approved by an executive officer of Conseco who knew that those statements were false when made.

COUNT I

VIOLATIONS OF SECTION 10(b) OF THE EXCHANGE ACT AND RULE 10b-5 PROMULGATED THEREUNDER AGAINST ALL DEFENDANTS

58. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

59. During the Class Period, defendants disseminated or approved the false statements specified above, which they knew or recklessly disregarded were materially false and misleading in that they contained material 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.

60. Defendants violated §10(b) of the 1934 Act and Rule 10b-5 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 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 plaintiff and others similarly situated in connection with their purchases of Consec publicly traded securities during the Class Period.

61. Defendants (a) employed devices, schemes, and artifices to defraud; (b) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (c) engaged in acts, practices, and a course of business which operated as a fraud and deceit upon the purchasers of the Company's securities in an effort to maintain artificially high market prices for Consec's securities in violation of Section 10(b) of the Exchange Act and Rule 10b-5. All defendants are sued either as primary participants in the wrongful and illegal conduct charged herein or as controlling persons as alleged below.

62. Defendants, individually and in concert, directly and indirectly, by the use, means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about the business, operations and future prospects of Consec as specified herein.

63. These defendants employed devices, schemes and artifices to defraud, while in possession of material adverse non-public information and engaged in acts, practices, and a course

of conduct as alleged herein in an effort to assure investors of Conseco's value and performance and continued substantial growth, which included the making of, or the participation in the making of, untrue statements of material facts and omitting to state material facts necessary in order to make the statements made about Conseco and its business operations and future prospects in the light of the circumstances under which they were made, not misleading, as set forth more particularly herein, and engaged in transactions, practices and a course of business which operated as a fraud and deceit upon the purchasers of Conseco securities during the Class Period.

64. Each of the Individual Defendants' primary liability, and controlling person liability, arises from the following facts: (i) the Individual Defendants were high-level executives and/or directors at the Company during the Class Period and members of the Company's management team or had control thereof; (ii) each of these defendants, by virtue of his responsibilities and activities as a senior officer and/or director of the Company was privy to and participated in the creation, development and reporting of the Company's internal budgets, plans, projections and/or reports; (iii) each of these defendants enjoyed significant personal contact and familiarity with the other defendants and was advised of and had access to other members of the Company's management team, internal reports and other data and information about the Company's finances, operations, and sales at all relevant times; and (iv) each of these defendants was aware of the Company's dissemination of information to the investing public which they knew or recklessly disregarded was materially false and misleading.

65. The defendants had actual knowledge of the misrepresentations and omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were available to them. Such

defendants' material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose and effect of concealing Consecos operating condition and future business prospects from the investing public and supporting the artificially inflated price of its securities. As demonstrated by defendants' overstatements and misstatements of the Company's business, operations and earnings throughout the Class Period, defendants, if they did not have actual knowledge of the misrepresentations and omissions alleged, were reckless in failing to obtain such knowledge by deliberately refraining from taking those steps necessary to discover whether those statements were false or misleading.

66. As a result of the dissemination of the materially false and misleading information and failure to disclose material facts, as set forth above, the market price of Consecos securities was artificially inflated during the Class Period. In ignorance of the fact that market prices of Consecos publicly-traded securities were artificially inflated, and relying directly or indirectly on the false and misleading statements made by defendants, or upon the integrity of the market in which the securities trade, and/or on the absence of material adverse information that was known to or recklessly disregarded by defendants but not disclosed in public statements by defendants during the Class Period, plaintiff and the other members of the Class acquired Consecos securities during the Class Period at artificially high prices and were damaged thereby.

67. At the time of said misrepresentations and omissions, plaintiff and other members of the Class were ignorant of their falsity, and believed them to be true. Had plaintiff and the other members of the Class and the marketplace known the truth regarding the problems that Consecos was experiencing, which were not disclosed by defendants, plaintiff and other members of the Class would not have purchased or otherwise acquired their Consecos securities, or, if they had

acquired such securities during the Class Period, they would not have done so at the artificially inflated prices which they paid.

68. By virtue of the foregoing, defendants have violated Section 10(b) of the Exchange Act, and Rule 10b-5 promulgated thereunder.

69. As a direct and proximate result of defendants' wrongful conduct, plaintiff and the other members of the Class suffered damages in connection with their respective purchases and sales of the Company's securities during the Class Period.

COUNT II

VIOLATION OF SECTION 20(a) OF THE EXCHANGE ACT AGAINST THE INDIVIDUAL DEFENDANTS

70. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

71. The executive officers of Consecoco prepared, or were responsible for preparing, the Company's press releases and SEC filings. The Individual Defendants controlled other employees of Consecoco. Consecoco controlled the Individual Defendants and each of its officers, executives and all of its employees. By reason of such conduct, defendants are liable pursuant to §20(a) of the 1934 Act.

72. The Individual Defendants acted as controlling persons of Consecoco within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions, and their ownership and contractual rights, participation in and/or awareness of the Company's operations and/or intimate knowledge of the false financial statements filed by the Company with the SEC and disseminated to the investing public, the Individual Defendants had

the power to influence and control and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements which plaintiff contends are false and misleading. The Individual Defendants were provided with or had unlimited access to copies of the Company's reports, press releases, public filings and other statements alleged by plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

73. In particular, each of these defendants had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same.

74. As set forth above, Consecoco and the Individual Defendants each violated Section 10(b) and Rule 10b-5 by their acts and omissions as alleged in this Complaint. By virtue of their positions as controlling persons, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of defendants' wrongful conduct, plaintiff and other members of the Class suffered damages in connection with their purchases of the Company's securities during the Class Period.

CLASS ACTION ALLEGATIONS

75. Plaintiff brings this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of all persons who purchased Consecoco publicly traded securities (the "Class") on the open market during the Class Period. Excluded from the Class are defendants, directors and officers of Consecoco and their families and affiliates.

76. The members of the Class are so numerous that joinder of all members is impracticable. The disposition of their claims in a class action will provide substantial benefits to the parties and the Court.

77. There is a well-defined community of interest in the questions of law and fact involved in this case. Questions of law and fact common to the members of the Class which predominate over questions which may affect individual Class members include:

- (a) Whether the 1934 Act was violated by defendants;
- (b) Whether defendants omitted and/or misrepresented material facts;
- (c) Whether defendants' statements omitted material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; and
- (d) Whether defendants knew or recklessly disregarded that their statements were false and misleading.

PRAYER FOR RELIEF

WHEREFORE, plaintiff demands judgment:

1. Determining that the instant action is a proper class action maintainable under Rule 23 of the Federal Rules of Civil Procedure;
2. Awarding compensatory damages and/or rescission as appropriate against defendants, in favor of plaintiff and all members of the Class for damages sustained as a result of defendants' wrongdoing;
3. Awarding plaintiff and members of the Class the costs and disbursements of this suit, including reasonable attorneys', accountants' and experts' fees; and

4. Awarding such other and further relief as the Court may deem just and proper.

DATED: August 19, 2002

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JURY DEMAND

Plaintiff hereby demands a trial by jury.

DATED: August 28, 2002

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START CERTIFICATION

GLANCY & BINKOW LLP
SWORN CERTIFICATION OF PLAINTIFF CAROLYN L. PORTER
CONSECO INC. SECURITIES LITIGATION


I, Carolyn L. Porter, certify that:

1. I have reviewed the Complaint and authorized its filing.
2. I did not purchase CONSECO INC., 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 arising under this title.
3. I am willing to serve as a representative party on behalf of a class and will testify at deposition and trial, if necessary.
4. My transactions in CONSECO INC. during the Class Period set forth in the Complaint are as follows:

I bought	325	shares on	11 / 05 / 01	at \$3.48	per share
I sold	325	shares on	1 / 07 / 02	at \$3.23	per share
I bought	250	shares on	3 / 11 / 02	at \$3.65	per share
I bought	200	shares on	5 / 14 / 02	at \$3.56	per share

5. I have not served as a representative party on behalf of a class under this title during the last three years.
6. I will not accept any payment for serving as a representative party, except to receive my pro rata share of any recovery or as ordered or approved by the court including the award to a representative plaintiff of reasonable costs and expenses (including lost wages) directly relating to the representation of the class.

I declare under penalty of perjury that the foregoing are true and correct statements.


(Please Sign Your Name Above)

Dated: 8/17/02

END CERTIFICATION

FAX THIS DOCUMENT BACK TO (310) 201-9160
AND BY US MAIL