CONSOLIDATED CLASS ACTION COMPLAINT

1. Lead Plaintiffs Donald Kassan and Peter E. Hubbard (“Lead Plaintiffs”), for their consolidated complaint against defendants, allege the following based upon the investigation of counsel, which included, inter alia, a review of U.S. Securities and Exchange Commission (“SEC”) securities laws filings, press releases and other public statements issued by KeySpan Corporation (“KeySpan” or the “Company”), as well as regulatory filings and reports, securities analysts' reports and advisories by or about the Company, media and third party reports about the Company, and a review of the case file in the Chancery Court Division of the Superior Court of New Jersey, Monmouth County, in the litigation styled KeySpan Services Inc. et al. v. LeRoy Kay et al., Docket No. MON-C-95-01 (the “Monmouth County litigation”). Lead Plaintiffs in good faith believe that substantial additional evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

INTRODUCTION

2. This is a federal class action under the Securities Exchange Act of 1934 (the “Exchange Act”) on behalf of purchasers of KeySpan securities between November 4, 1999 and January 24, 2002 inclusive (the “Class Period”). As more fully set forth herein, the defendants have admitted that financial and operational improprieties had not been disclosed. Moreover, the SEC has commenced a formal investigation into insider trading and the truthfulness of disclosures by KeySpan and its directors.

3. Defendant KeySpan, formerly known as Brooklyn Union Gas, began as a regulated gas utility in the downstate region of New York State. Historically, it competed with suppliers of oil, electricity and other energy sources to supply the public’s fuel needs for cooking, heating, air conditioning and like purposes. Today, however, it has been transformed
into a predominant supplier and distributor of energy and energy-related services in the densely populated Northeast region.

4. Behind the Company’s metamorphosis from a local, regulated gas utility into a major energy and energy-related services company is the changing regulatory policies and market forces of the mid-1990s. These forces shifted the fuel supply industry from the traditional cost-based regulation of gas sales, transportation, and storage on a bundled basis toward market-based sales on an unbundled basis. The changes were designed to and, in fact did, make the market more competitive for gas supply and related services in KeySpan’s territory, which now comprises the Northeast quadrant of the United States.

5. More specifically, the New York State Public Service Commission promulgated a policy framework under a series of orders issued in 1994 through 1996 permitting customers who chose to do so to purchase their gas directly from qualified marketers. Under the new regulations, KeySpan continued to transport gas within its distribution network and customers paid KeySpan for transportation of the gas. The introduction of competition significantly diminished the Company’s potential to grow its business and profits were it to remain a traditional, local gas distributor.

6. In order to remain a vibrant company in an environment that gradually stripped away its monopoly on the sale and distribution of gas in its home territory, KeySpan sought opportunities that provided greater flexibility, expansion capabilities and diversification in a variety of energy-related businesses through investments, acquisitions and strategic alliances. In that connection, in the mid-1990s, KeySpan acquired the Long Island Lighting Company (“LILCO”), the electric company monopoly for Long Island, New York; purchased the Ravenswood electric generating plant from Consolidated Edison of New York; and formed international partnerships with foreign energy suppliers. In so doing, KeySpan began to create a new integrated and diversified energy company that offered a broader range of energy services to a larger customer base.
7. Another outgrowth of deregulation was KeySpan’s reorganization into business segments that separated the utility and non-utility businesses. Since a regulated utility would be permitted to conduct only regulated activities, and since the servicing of gas energy and equipment is not the distribution of gas, those activities had to be divided from the utility portions of the Company. KeySpan represented that, in order to accomplish this without divesting itself of a key growth business, KeySpan separated the energy services business, among others, by attempting to create a new non-regulated subsidiary that would handle only that business.

8. But in 1999, the Company came under harsh criticism by Wall Street for not having a good game plan to move to the next level. Its attempts to acquire utilities and electric generation properties had stalled and the Company became surrounded by larger consolidating energy utilities. Questions surfaced as to whether KeySpan was a takeover target and whether its investments in the Gulf of Mexico, Western Canada and Ireland really had a strategic fit with KeySpan, then a predominately New York utility. KeySpan’s earlier growth burst seemed to have stunted and Wall Street was unsure if the Company returned to being a slow-growth, low-risk utility or a higher growth, higher risk energy company. In Wall Street’s eyes, these lingering doubts failed to justify above-average valuation multiples for KeySpan’s stock, which had sputtered.

9. Under this backdrop, KeySpan turned to what it had represented was a very simple and straightforward strategy: add customers and then build the margin per customer. As defendant Catell stated in a Company press release on November 8, 2000, the Company charted its future on the “vision [] to become the premier energy and services company in the Northeast United States.”

10. The cornerstone of KeySpan’s renewed strategy for revenue and profit growth was through the proliferation of gas heating. KeySpan began to operate under the view that if it could become the largest gas company in the Northeast region it would be ideally positioned to profit from the untapped long-term opportunity to achieve over a billion dollars of gross profit
margins from increasing gas usage in New York City, Long Island and New England, since the latter markets have very low saturation levels for gas heating.

11. In addition, KeySpan saw an increased growth opportunity arising from increased demand for natural gas in the Northeast, fueled by residential and commercial oil-to-gas conversions and the need to power cleaner burning electric generation.

12. To advance these goals, KeySpan had started its energy services business in 1997. This startup unit allowed the Company to provide unregulated energy solutions to homes and businesses throughout its growing territory that were otherwise prohibited to the Company’s regulated entities. Initially focused on providing appliance service contracts, the division grew to derive half of its revenues from the installation of gas equipment, such as boilers, furnaces, central air conditioners and water heaters. Although it took a few years to contribute to the Company’s bottom line, by 1999 the unit had sufficiently developed to be considered a viable growth business. Indeed, by that time the energy services business included unregulated, subsidiary companies that designed and/or operated energy systems for commercial and industrial customers, provided energy-related services to clients, provided and serviced various appliance, heating, ventilation and air conditioning service contracts to the Company’s customers, and marketed gas and electricity to retail customers. Many of the subsidiary companies in the energy services unit were only acquired in 1998-1999. In fact, in the latter half of 1999, KeySpan accelerated its acquisition plan and negotiated the purchase of Roy Kay, Inc. (“Roy Kay”), a contracting company headquartered in Freehold, New Jersey, which KeySpan represented was a major energy contracting company.

13. In the same time frame, KeySpan negotiated its boldest and biggest acquisition in its expansion history with the purchase of the largest gas distributor in New England, Eastern Enterprises (“Eastern”).

14. However, amidst this flurry of acquisition activity, and defendants’ contemporaneous priming of the public investment community with representations that both the Roy Kay and Eastern acquisitions advanced KeySpan’s stated strategy of expanding on two
fronts while maintaining revenue and profit growth, defendants concealed facts known to or recklessly disregarded by them that substantial and material segments of the acquired companies were incompatible with KeySpan’s growth and profit plans because: (i) with the acquisition of Eastern, KeySpan would become a registered utility under the Public Utility Holding Company Act of 1935 (“PUHCA”), 15 U.S.C. § 79 et seq., and would thereby be prohibited from (a) retaining non-energy related businesses and (b) having services provided to affiliated companies by other affiliates; (ii) Roy Kay and Eastern operated substantial divisions that were non-energy related businesses that would either require divestiture or a significant reduction in general contracting growth strategy at a substantial and material cost to the Company; (iii) Roy Kay’s growth strategy was formulated based on being able to provide services to affiliated companies; (iv) Roy Kay lacked proper accounting controls and had incurred but not properly recorded substantial contract liabilities; and (v) KeySpan would belatedly take two special charges against Roy Kay’s earnings that caused KeySpan to report consolidated losses for the second and third quarters of 2001 due to cost overruns on contracts and other contract costs that should have been previously recorded in calendar year 2000.

15. At the end of the Class Period, KeySpan admitted that Roy Kay had engaged in undisclosed financial and operational improprieties and that the Company was compelled to jettison the non-energy businesses and take huge reserves against substantial liabilities that had gone unreported during the Class Period, reversing any profit reported from the acquisitions and forcing KeySpan to refocus the Company on its core business operations tied to energy distribution, reversing course from the Company’s prior stated strategy of expanding into non-energy contracting businesses.

16. During the Class Period, defendants failed to disclose the following material adverse facts:

a. that the Company's projections of future success were lacking in a reasonable basis at all times because a key unit of the Company, Roy Kay, had engaged in financial and operational improprieties and was known by KeySpan managers to be replete with cost overruns
on its largest, high profile contracts and administrative actions preventing them from completing at least one other major contract. The defendants knew or in the absence of recklessness should have discovered in KeySpan’s purported due diligence that Roy Kay was experiencing major difficulties in attempting to complete several of its major construction projects, including, but not limited to, its general construction contract with the New York State Construction Fund to build the Student Activities Center at the State University of New York at Stony Brook and its contract with the Pohatcong Board of Education to build the New Pohatcong School and that Roy Kay generally had a reputation for problematic construction projects;

b. that defendants knew of the fiscal problems at Roy Kay as early as the Summer of 2000, and “basically took over running of the company.” This take-over of Roy Kay was effectively completed by April 20, 2001, when the members of the Kay family who had previously owned the firm prior to the acquisition were discharged by defendant Feraudo and forcibly removed from the premises of the headquarters of the company in Freehold, New Jersey;

c. that because the Company would become subject to regulation under PUHCA by virtue of KeySpan’s merger with Eastern, its subsidiaries would be restricted from providing services to other KeySpan affiliates and prohibited from continuing or growing the general contracting operations of Roy Kay and the shipping activities of Midland Enterprises (“Midland”);

d. that Roy Kay would not be able to attain its profit target because it was restricted from the acceptance of general contracting work, which had comprised 30% of its total business, and was restricted from providing services to other KeySpan affiliates as a result of the Eastern acquisition and KeySpan’s becoming regulated under PUHCA;

e. that upon becoming subject to PUHCA, it was unlikely that KeySpan would be granted a waiver from the statutorily mandated divestiture of non-energy related businesses, including the general contracting operations of Roy Kay and the shipping activities of Midland, and, as a result, KeySpan would either on its own or after SEC order have to shed Roy Kay and Midland;
f. that prior to its acquisition of Roy Kay, KeySpan knew that the former’s business was 30% comprised of general, non-energy related, contracting; and

g. that from the time KeySpan became a regulated entity under PUHCA on November 8, 2000, it progressively began restricting Roy Kay’s general contracting activities, thus eliminating the growth potential of those activities.

17. Ultimately, the Company shocked the public with the following disclosures:

a) that it was taking a special charges against earnings of $30 million (after-tax) on July 17, 2001, and by disclosing later, on October 24, 2001, that it was exiting Roy Kay’s general contracting business;

b) that in the period ending September 30, 2001, the Company recognized additional after-tax losses related to the Roy Kay companies of $56 million deriving from the discontinuance of the general contracting activities of the unit, the costs to complete work on certain loss construction projects, and general operating losses;

c) that the Company had also taken a $5.5 million operating loss on the Roy Kay operations in the Fourth Quarter, which was not disclosed until October 24, 2001;

d) that the Company would write off goodwill relating to the Roy Kay purchase in the amount of $12.4 million – under the justification that the asset was not recoverable, for the year ending December 31, 2001; and

e) that, as set out in its April 26, 2002 Form10-Q filed for Q1 2002, the Company had incurred an EBIT loss of $7.9 million and was later forced to guarantee $167.9 million of surety bonds in transactions not recorded on KeySpan’s Consolidated Balance Sheet.

18. In addition, for the period ending December 31, 2000, KeySpan belatedly recognized an after tax $30.4 million loss in connection with its forced divestiture of Midland. KeySpan did not disclose in its 10-K filed on March 30, 2001, that it would most likely incur a loss that year based upon the ordered sale of Midland. In fact, KeySpan only stated that the sale was required by November 8, 2003. Alternatively, KeySpan did not disclose in the notes to the December 31, 2000 financial statements that it could not ascertain the proper accounting for the
allocation of the purchase price to Midland, thus making the entire Eastern purchase price allocation preliminary, due to the uncertainty related to the Midland divestiture. Additionally, KeySpan did not disclose the Midland operations as discontinued with the attendant disclosure required by APB 30. Therefore, KeySpan’s statements were materially false and misleading.

**JURISDICTION AND VENUE**

19. The claims asserted herein arise under and pursuant to Sections 10(b) and 20(a) of the Exchange Act [15 U.S.C. §§ 78j(b), 78t(a)] and Rule 10b-5 promulgated thereunder by the Securities and Exchange Commission [17 C.F.R. § 240.10b-5].

20. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1337 and Section 27 of the Exchange Act [15 U.S.C. § 78aa].

21. Venue is proper in this district pursuant to Section 27 of the Exchange Act, and 28 U.S.C. § 1391(b). KeySpan maintains its principal place of business in this district and many of the acts and practices complained of herein occurred in substantial part in this district.

22. In connection with the acts alleged, defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the mails, interstate telephone communications and the facilities of the national securities markets.

**PARTIES**

23. Lead Plaintiffs, as set forth in their certifications previously filed with the Court and incorporated by reference herein, purchased KeySpan stock at artificially inflated prices during the Class Period and have been damaged thereby.

24. Defendant KeySpan, the largest investor owned New York energy utility corporation with offices at One MetroTech Center, Brooklyn, New York, is a registered holding company under PUHCA and a member of the Standard & Poor's 500 Index. KeySpan manages a portfolio of subsidiary service companies. KeySpan Energy Delivery operates six utilities that distribute natural gas to approximately 2.5 million customers in New York City, Long Island, Massachusetts and New Hampshire. Through other subsidiaries, KeySpan owns and operates electric generating plants in Nassau and Suffolk Counties on Long Island and in Queens County.
in New York City that generate 6,200 MW and provide power to 1.1 million customers of the Long Island Power Authority ("LIPA") and to 25% of New York City's capacity needs. Through yet other subsidiaries, including 70%-owned Houston Exploration and wholly-owned KeySpan Exploration and Production, LLC, KeySpan engages in gas and oil exploration and production; gas storage; wholesale and retail gas and electric marketing; appliance service; heating, ventilation and air conditioning installation and services; large energy-system ownership, installation and management; and engineering services. Additionally, KeySpan has a 450-mile fiber-optic network in New York. KeySpan also invests and participates in the development of natural gas pipelines, electric generation and other energy-related projects, domestically and internationally. During the Class Period, KeySpan also had a general contracting construction business and, separately, tug-boats and barges operating other shipping activities, as more fully set forth herein.

25. The following defendants (the “Individual Defendants”) were, at all material times, senior officers and/or directors of KeySpan. Each had knowledge of the adverse information complained of herein and concealed from the Company’s public shareholders during the Class Period, and each profited handsomely by selling KeySpan stock during the Class Period. Collectively, the Individual Defendants profited over $58 million in insider trading proceeds.

26. Defendant Robert B. Catell (“Catell”) served as Chairman of the Board of Directors and Chief Executive Officer of KeySpan. He also served on KeySpan’s Executive Committee, which exercised all of the powers of the Board of Directors when the Board was not in session. During the Class Period, while in possession of adverse undisclosed information about the Company, and at the same time that KeySpan made false statements and issued false financial results to the investing public, defendant Catell sold almost 173 thousand shares of stock at prices between $39.68 to $39.87 per share, for illegal insider trading proceeds of almost $7 million. Furthermore, defendant Catell fraudulently supplemented his annual salary for 2000 through 2001 with additional bonus payments in the amounts of $336,000 for 2000 and $901,288
for 2001 based on KeySpan’s false financial reporting during the Class Period and because KeySpan stock hit certain performance targets during that time as a result thereof. Additionally, defendant Catell received restricted stock awards as part of his compensation during the Class Period based on KeySpan’s purported, but fraudulent, success.

27. Defendant Craig G. Matthews (“Matthews”) served as Vice Chairman of the Board of Directors and Chief Operating Officer of KeySpan. He also served on the Corporate Responsibility Committee, which *inter alia*, oversaw corporate ethics. During the Class Period, while in possession of adverse undisclosed information about the Company, and at the same time that KeySpan made false statements and issued false financial results to the investing public, defendant Matthews sold 179,900 shares of KeySpan stock at prices between $39.68 to $39.87 per share, for illegal insider trading proceeds of over $7 million. In addition, shortly before KeySpan’s July 17, 2001, partial disclosure of its $30.1 million charge to earnings, and while the Company was still issuing false financial results, defendant Matthews again sold 54,666 shares of KeySpan stock at prices between $38.06 to $40.01 -- near the all time highs for the Company’s stock price -- for illegal insider trading proceeds of over $2 million. Furthermore, defendant Matthews fraudulently supplemented his annual salary for 2000 and 2001 with bonus payments in the amounts of $246,690 for 2000 and $486,974 for 2001 based on KeySpan’s false financial reporting during the Class Period and because KeySpan stock hit certain performance targets during that time as a result thereof.

28. Defendant Gerald Luterman (“Luterman”) served as Chief Financial Officer and Executive Vice President of KeySpan. During the Class Period, while in possession of adverse undisclosed information about the Company, and at the same time that KeySpan made false statements and issued false financial results to the investing public, defendant Luterman sold 32,568 shares of KeySpan stock at $39.87 per share, for insider trading proceeds of almost $1.3 million. In addition, shortly before KeySpan’s July 17, 2001, partial disclosure of its $30.1 million charge to earnings, and while the Company was still issuing false financial results, defendant Luterman, on or about May 11, 2001, sold another 20,000 shares of KeySpan stock for
$38.06 per share, for illegal insider trading proceeds of $761,200. Furthermore, defendant Luterman fraudulently supplemented his annual salary for 2000 and 2001 with bonus payments in the amounts of $120,000 for 2000 and $259,360 in 2001 based on KeySpan’s false financial reporting during the Class Period and because KeySpan stock hit certain performance targets during that time as a result thereof. Additionally, defendant Luterman received restricted stock awards as part of his compensation during the Class Period based on KeySpan’s purported, but fraudulent, success. Defendant Luterman signed the false and misleading 10Ks and 10Qs filed with the SEC during the Class Period.

29. Defendant Stephen L. Zelkowitz (“Zelkowitz”) served as General Counsel and Senior Vice President for KeySpan. On July 1, 2001, he was elected Executive Vice President. During the Class Period, while in possession of adverse undisclosed information about the Company, and at the same time that KeySpan made false statements and issued false financial results to the investing public, defendant Zelkowitz sold over 63,000 shares of KeySpan stock at prices between $39.68 to $41.91 per share, for illegal insider trading proceeds in excess of over $2.5 million. In addition, shortly before KeySpan’s July 17, 2001, partial disclosure of its $30.1 million charge to earnings, and while the Company was still issuing false financial results, defendant Zelkowitz sold an additional 48,648 shares of KeySpan stock at prices between $39.06 to $40.06 per share -- near the all time highs for the Company’s stock price -- for illegal insider trading proceeds of almost $2 million.

30. Defendant Robert J. Fani (“Fani”) served as Executive Vice President of KeySpan and was later made President of KeySpan Energy Services and Supply, a subsidiary company. During the Class Period, while in possession of adverse undisclosed information about the Company, and at the same time that KeySpan made false statements and issued false financial results to the investing public, defendant Fani sold almost 82,000 shares of KeySpan stock at prices between $39.68 and $39.87 per share, for illegal insider trading proceeds of more than $3.2 million. In addition, shortly before KeySpan’s July 17, 2001, partial disclosure of its $30.1 million charge to earnings, and while the Company was still issuing false financial results,
defendant Fani sold an additional 82,366 shares of KeySpan stock for $38.06 per share, for illegal insider trading proceeds of more than $3.1 million. Furthermore, defendant Fani fraudulently supplemented his annual salary for 2000 and 2001 with bonus payments in the amounts of $95,935 for 2000 and $247,203 in 2001 based on KeySpan’s false financial reporting during the Class Period and because KeySpan stock hit certain performance targets during that time as a result thereof. Additionally, defendant Fani received restricted stock awards as part of his compensation during the Class Period based on KeySpan’s purported, but fraudulent, success.

31. Defendant William K. Feraudo (“Feraudo”) served as Executive Vice President of the Roy Kay unit of KeySpan, and also oversaw all of KeySpan’s unregulated business activities. During the Class Period, while in possession of adverse undisclosed information about the Company, and at the same time that KeySpan made false statements and issued false financial results to the investing public, defendant Feraudo sold 160,333 shares of KeySpan stock at $39.68 per share, for illegal insider trading proceeds of over $6.3 million. In addition, shortly before KeySpan’s July 17, 2001, partial disclosure of its $30.1 million charge to earnings, and while the Company was still issuing false financial results, defendant Feraudo sold an additional 62,666 shares of KeySpan stock at prices between $38.06 and $39.92 per share, for illegal insider trading proceeds of more than $2.5 million.

32. Defendant Wallace P. Parker (“Parker”) served as Vice President of KeySpan. On June 25, 2001, KeySpan announced that Parker had been promoted to President of KeySpan Energy Delivery, KeySpan’s combined regulated businesses after the June 25, 2001 reorganization. During the Class Period, while in possession of adverse undisclosed information about the Company, and at the same time that KeySpan made false statements and issued false financial results to the investing public, Parker sold 42,035 shares of KeySpan, for illegal insider trading proceeds of over $1.5 million. Also, on or about February 21, 2001, Parker again sold 41,666 shares of KeySpan stock for illegal trading proceeds of over $1.5 million. In addition, shortly before KeySpan’s July 17, 2001, partial disclosure of its $30.1 million charge to earnings,
and while the Company was still issuing false financial results, defendant Parker sold an additional 30,000 shares of KeySpan stock, for illegal insider trading proceeds of over $1 million. Furthermore, defendant Parker fraudulently supplemented his annual salary for 2001 with a bonus payment in the amount of $243,314, and for 2000 with a bonus payment in the amount of $95,168, based on KeySpan’s false financial reporting during the Class Period and because KeySpan stock hit certain performance targets during that time as a result thereof. Parker’s illegal insider trading proceeds amount to $4,528,972.30.

33. Defendant Cheryl Smith (“Smith”) served as a Vice President of KeySpan and Chief Information Officer of KeySpan’s information technology division. During the Class Period, while in possession of adverse undisclosed information about the Company, and when KeySpan was making false statements and issuing false financial results, Smith sold 15,000 shares of KeySpan, for illegal insider trading proceeds of almost $600,000. Shortly before the July 17, 2001 announcement of the $30.1 million charge to earnings in KeySpan’s financial statement, defendant Smith sold an additional 12,413 shares of KeySpan stock, for illegal insider trading proceeds of almost $500,000. Upon information and belief, in addition to her annual salary and other benefits, defendant Smith also received bonus payments based on KeySpan’s purported success and restricted stock awards due to KeySpan’s false financial reports and because KeySpan stock hit certain performance targets during the Class Period. Smith’s illegal insider trading proceeds came to over $1 million.

34. Defendant Lenore F. Puleo (“Puleo”) served as an Executive Vice President of KeySpan Shared Services division. During the Class Period, while in possession of adverse undisclosed information about the Company, and when KeySpan was making false statements and issuing false financial results, Puleo sold 152,333 shares of KeySpan, for illegal insider trading proceeds of almost $6.5 million. On or about February 13, 2001, defendant Puleo again sold 3,300 shares of KeySpan stock, for illegal insider trading proceeds of over $131,000. Shortly before the July 17, 2001 announcement of the $30.1 million charge to earnings in KeySpan’s financial statement, defendant Puleo sold an additional 56,666 shares of KeySpan
stock, for illegal insider trading proceeds of over $2 million. In addition to his illegal insider trading proceeds, annual salary and other benefits, defendant Smith also received a bonus payment in the amount of $98,252 for 2000 based on KeySpan’s purported success and restricted stock awards due to KeySpan’s false financial reports and because KeySpan stock hit certain performance targets during the Class Period. Upon information and belief, Puleo also received a bonus payment for 2001 based on KeySpan’s purported success and target stock performance. Puleo’s illegal insider trading proceeds amount to over $8.8 million.

35. Defendant David Manning (“Manning”) served as a Vice President of KeySpan Corporate Affairs Division. During the Class Period, while in possession of adverse undisclosed information about the Company, and when KeySpan was making false statements and issuing false financial results, Manning sold 42,404 shares of KeySpan stock, for illegal insider trading proceeds of over $1.5 million. Upon information and belief, in addition to his annual salary and other benefits, Defendant Manning also received bonus payments based on KeySpan’s purported success and restricted stock awards due to KeySpan’s false financial reports and because KeySpan stock hit certain performance targets during the Class Period.

36. Defendant Elaine Weinstein (“Weinstein”) served as a Vice President of KeySpan Senior Vice President of KeySpan’s Human Resources division. During the Class Period, while in possession of adverse undisclosed information about the Company, and when KeySpan was making false statements and issuing false financial results, Weinstein sold 28,422 shares of KeySpan stock, for illegal insider trading proceeds of over $1 million. Shortly before the July 17, 2001 announcement of the $30.1 million charge to earnings, defendant Weinstein sold an additional 15,966 shares of KeySpan stock, for illegal insider trading proceeds of over $607,000. Upon information and belief, in addition to her annual salary and other benefits, defendant Weinstein also received bonus payments based on KeySpan’s purported success and restricted stock awards due to KeySpan’s false financial reports and because KeySpan stock hit certain performance targets during the Class Period. Weinstein’s illegal insider trading proceeds were over $1.7 million.
37. Defendant Lawrence S. Dryer (“Dryer”) served as KeySpan’s Vice President of Internal Audit. During the Class Period, while in possession of adverse undisclosed information about the Company, and when KeySpan was making false statements and issuing false financial results, Dryer sold 39,676 shares of KeySpan stock, for illegal insider trading proceeds of over $1.5 million. Upon information and belief, in addition to his annual salary and other benefits, defendant Dryer also received bonus payments based on KeySpan’s purported success and restricted stock awards due to KeySpan’s false financial reports and because KeySpan stock hit certain performance targets during the Class Period.

38. Defendant Colin P. Watson (“Watson”) served as a Vice President of KeySpan. During the Class Period, while in possession of adverse undisclosed information about the Company, and when KeySpan was making false statements and issuing false financial results, Watson sold 29,466 shares of KeySpan stock, for illegal insider trading proceeds over $1 million. Upon information and belief, in addition to his annual salary and other benefits, defendant Watson also received bonus payments based on KeySpan’s purported success and restricted stock awards due to KeySpan’s false financial reports and because KeySpan stock hit certain performance targets during the Class Period.

39. Because of the Individual Defendants' respective positions with KeySpan, they each had access to the adverse undisclosed information about its business, operations, products, operational trends, financial statements, markets, and 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.

40. 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 KeySpan, by virtue of his or her 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, products, growth, financial
statements, and financial condition, as alleged herein. They were involved in the drafting,
producing, reviewing and/or disseminating of 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.

41. As officers and controlling persons of a publicly held company whose common
stock was, and is, registered with the SEC pursuant to the Exchange Act, traded on the New York
Stock Exchange (“NYSE”), and governed by the provisions of the federal securities laws, each of
the Individual Defendants had a duty to disseminate promptly, accurate and truthful information
with respect to the Company's financial condition and performance, growth, operations, financial
statements, business, products, markets, management, earnings and business prospects, to cause
KeySpan’s financial statements to conform to Generally Accepted Accounting Practices
(“GAAP”), to correct any previously issued statements that had become materially misleading or
untrue, and to disclose any adverse trends that would materially affect the financial operating
results of the Company, so that the market price of the Company's publicly traded common stock
would be based upon truthful and accurate information. The Individual Defendants'
misrepresentations and omissions during the Class Period violated these specific requirements
and obligations.

42. The Individual Defendants participated in the drafting, preparation, and/or
approval to disseminate the various public, 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. In addition, because of their Board memberships and/or executive and managerial positions with KeySpan, each of the Individual Defendants had access to the adverse undisclosed information about KeySpan's business prospects and financial condition and performance as particularized herein and knew (or reckless disregarded) that these adverse facts rendered the positive representations made by or about KeySpan and its business or adopted by the Company materially false and misleading.

43. 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.

44. At all relevant times, the Company's day-to-day operations were managed and directed by all of the Individual Defendants.

45. 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 KeySpan common stock through the dissemination of materially false and misleading statements and/or concealing material adverse facts. The scheme: (i) deceived the investing public regarding KeySpan's business, operations, management and the intrinsic value of KeySpan common stock; (ii) enabled the Individual Defendants to sell their personal shares of KeySpan common stock, reaping proceeds of more than $58 million; and (iii) caused the Lead Plaintiffs and other members of the Class to purchase KeySpan common stock at artificially inflated prices.
CLASS ACTION ALLEGATIONS

46. Lead Plaintiffs bring this action as a class action pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3) on behalf of all those who purchased KeySpan's common stock during the Class Period and were damaged thereby (the “Class”). Excluded from the Class are defendants, the officers and directors of the Company, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which defendants have or had a controlling interest.

47. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, KeySpan common shares were actively traded on the NYSE. While the exact number of Class members is unknown to Lead Plaintiffs at this time and can only be ascertained through appropriate discovery, as of March 11, 2002, there were more than 140 million shares of the Company’s common stock outstanding and, as of March 1, 2002, KeySpan had 82,321 registered record holders of its common stock. Accordingly, there are thousands of members in the proposed Class. Record owners and other members of the Class may be identified from records maintained by KeySpan or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

48. Lead Plaintiffs’ claims are typical of the claims of the members of the Class, as all members of the Class are similarly affected by defendants' wrongful conduct in violation of the federal law that is complained of herein.

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

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

a. whether the federal securities laws were violated by the acts alleged herein;
b. whether statements made by defendants to the investing public during the Class Period misrepresented material facts about the business, operations, financial condition and management of KeySpan; and

c. to what extent the members of the Class have sustained damages and the proper measure of those damages.

51. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

SUBSTANTIVE ALLEGATIONS

A. KeySpan’s Purported Due Diligence of Roy Kay

52. In July 1999, in connection with KeySpan’s initial overtures to acquire the Roy Kay companies from its then owners, the Kay family, Roger Walz, an employee of KeySpan Services, Inc., a Delaware corporation umbrella subsidiary holding title to and overseeing the energy services companies, with offices in Parsippany, New Jersey, visited and was given a tour of the Roy Kay facilities in Freehold, New Jersey. He was shown, and acknowledged being shown, the headquarters and facilities supporting the general construction operations of Roy Kay.

53. In August 1999, LeRoy and David Kay, father and son principals of Roy Kay, dined with Tom Bonocusso and Gene Martin, employees of KeySpan. In the course of their conversations, they discussed KeySpan’s desire to acquire Roy Kay and KeySpan’s plans for the company after it was acquired. At that time, Messrs. Bonocussa and Martin expressly mentioned KeySpan’s intention to capitalize on Roy Kay’s general contracting business, which comprised 30% of Roy Kay’s business, and KeySpan’s desire to construct power co-generating plants through or with the help of Roy Kay’s general contracting business.
54. On or about August 25, 1999, KeySpan commenced its purported due diligence investigation of Roy Kay, which continued through the closing of the acquisition. According to the documents filed in the Monmouth County litigation, KeySpan was provided with numerous documents of Roy Kay’s finances and operations, all of which KeySpan alleged after the fact had indicated that Roy Kay’s general contracting business was substantial and growing. KeySpan later admitted that there were outstanding issues as to Roy Kay’s ability to complete several major projects and the potential liability deriving therefrom.

55. In August or September of 1999, KeySpan was supplied with an independent report prepared by First Business Advisors that stated that approximately 30% of Roy Kay’s business was non-energy related, general contracting.

56. In September 1999, LeRoy Kay, Janet Kay, David Kay and Alice Kay met with Messrs. Walz, Ken Fritz, and defendant Feraudo. In the course of that meeting, David Kay specifically represented that a critical underpinning and key motivating factor for the Kays to sell to KeySpan was the opportunity for Roy Kay to provide substantial services to affiliate companies of KeySpan.

57. In November 1999, at about the same time KeySpan was negotiating with, and ultimately agreed to an acquisition of, Eastern (as more fully described below), Mr. Martin of KeySpan voiced opposition to the Kays making a bid through Roy Kay on a major general contracting project called Polytech. He expressly told the Kays that his opposition was grounded on the fact that KeySpan believed that the project was one that could and should be worked on together by both Roy Kay and KeySpan after closing on the Roy Kay purchase.

58. At no time prior to the events described in the following paragraph did KeySpan advise the Kays or public investors of KeySpan’s negotiations with Eastern. KeySpan also failed to advise the Kays and public investors until the middle of the Class Period, well after both the Eastern and Roy Kay acquisitions were finalized, that the KeySpan’s acquisition of additional utilities, specifically Eastern, could subject KeySpan to regulation under PUHCA that would likely restrict Roy Kay’s provision of services to KeySpan affiliates and force the curtailment of
its general contracting business until the middle of the Class Period, well after both the Eastern and Roy Kay acquisitions were finalized.

**B. KeySpan’s Acquisition of Eastern**

59. On November 4, 1999, KeySpan began a big push into New England with its announcement of a definitive merger agreement under which KeySpan would acquire all of Eastern’s common stock in a purchase transaction for $64.00 per share in cash, for a total value of approximately $2.5 billion. In addition, KeySpan reported that Eastern amended its merger agreement with EnergyNorth, Inc. ("EnergyNorth") to provide for an all cash $250 million acquisition by Eastern of EnergyNorth shares at a price per share of $61.13, to result in the restructured EnergyNorth merger closing contemporaneously with the KeySpan/Eastern transaction. At the time of this announcement, the annual net savings from the KeySpan/Eastern transaction were misrepresented by KeySpan to be $24 to $29 million, phased in over a two year period.

60. The November 4, 1999 announcement was materially false and misleading because KeySpan did not disclose that, as a result of the acquisition of Eastern and EnergyNorth, KeySpan would become subject to SEC jurisdiction under PUHCA, which regulates affiliate transactions in interstate utility holding companies such as a combined KeySpan and Eastern. The November 4 announcement did not disclose that KeySpan would be negatively affected by PUHCA rules that (i) regulate transactions among the affiliates and the holding company and (ii) limit the Company from entering into or expanding businesses that are not directly engaged in the utility business.

61. Furthermore, the November 4, 1999 statements were also materially false and misleading because they grossly inflated the projected net savings to be derived on the KeySpan/Eastern merger transaction. There was no reasonable, good faith basis that supported the $24 to $29 million of savings claimed since defendants knew, as a direct result of their purported due diligence review of Eastern as well as their own knowledge of the regulatory issues involved, that KeySpan would be force to divest Midland, would be restricted in the
ability for its subsidiaries to provide services to each other, and would be required to divest or restructure other businesses on which KeySpan had already gone to contract to purchase (namely: Roy Kay) that were unrelated to its core utility functions, at costs that would offset the represented savings.

C. KeySpan’s Acquisition of Roy Kay

62. In January of 2000, before KeySpan closed on its acquisition of Roy Kay, Mr. Bonocussos objected to Roy Kay’s placing a bid on a $5 million general contracting job known as the LIJH project. He represented to the Kays that the proposal should wait the closing of KeySpan’s acquisition of Roy Kay so that the companies could work on the project together.

63. On January 20, 2000, KeySpan Services, Inc., acquired all of the stock of Roy Kay and its related entities. In connection with the transaction, and in reliance upon the representations to the Kays concerning KeySpan’s expansion plans for Roy Kay’s general contracting business in part due to Roy Kay’s providing substantial services to KeySpan affiliates, the Kays agreed to accept less than half of the agreed upon purchase price in cash, with the majority of the consideration made contingent upon the future growth, performance and profitability of all of the Roy Kay companies.

64. On February 4, 2000, The Wall Street Journal reported KeySpan’s purchase of Roy Kay, together with two other engineering and construction contracting companies in the New York Metropolitan area in pursuit of KeySpan’s stated objectives of building up the Company’s HVAC business. It reported that KeySpan expected the acquisitions to provide as much as 20% of KeySpan’s profits within five years. The report came on the heels of a Company press release misreporting the same information.

65. The February 4, 2000, Company press release was materially false and misleading because it did not disclose that, as result of the planned KeySpan/Eastern merger, Roy Kay would very likely become restricted by federal regulation under PUHCA from entering into general contracting work, for KeySpan affiliated companies. General contracting, which actually comprised approximate 30% of Roy Kay’s total business, could even be determined to be a
prohibited activity under PUHCA, which would require divestitures or termination of that activity. Therefore, the representation that the Roy Kay acquisition would contribute to KeySpan Services, Inc., yielding 20% profits within five years was false and misleading and without any reasonable basis.

66. Furthermore, the February 4, 2000 press release was also materially false and misleading because it concealed the fact that Roy Kay had significant liabilities at the time of the acquisition resulting from major general construction contracts that were behind schedule, over budget and were the subject of threatened action by developers. This led KeySpan to assume liabilities ultimately exceeding $100 million, well in excess of the price KeySpan paid for all of Roy Kay, KeySpan knew or was reckless in not knowing of these facts as a result of its purported due diligence. The press release was also materially false and misleading because it concealed the fact that Roy Kay lacked an accounting system and system of internal control. KeySpan failed to detect the liabilities resulting from major general construction contracts that were behind schedule, over budget and were the subject of threatened action by developers, at the time of acquisition.

67. Also, on February 4, 2000, KeySpan issued a press release over PRNewswire in which it reported that the newly acquired companies combined doubled the size of KeySpan Services, Inc., and that the presidents of each acquired company will continue in the same positions. The press release quoted defendant Catell as follows: “[t]hese acquisitions are consistent with KeySpan Energy’s aggressive strategy to expand our home-energy and business-solutions companies. Our goal is to become the premier energy company in the Northeast and this is a major step to achieving that goal.” Defendant Feraudo was further quoted stating that: “[t]he acquisitions are key to achieving the earnings goals set for this year. The Companies we’ve acquired are among the leading energy service companies headquartered in New York and New Jersey. They have blue-chip clients that include some of the leading hospitals, real-estate developers, manufacturers and pharmaceutical companies in the region.” “KeySpan will build on the impressive credentials and formidable reputations of our new subsidiaries," added
Feraudo. “The fit is a natural. We supply developers as well as established commercial, industrial and residential customers with engineering, design, construction, financing, their fuel of choice and the energy management services they want and need.”

68. A report on the following day in The Record (a local paper in Bergen County, New Jersey) reported that since KeySpan’s utility markets were opening to competition, the acquisitions reflected the Company’s broader expansion plans into less regulated energy related businesses that would offer higher profits, similar to the Company’s acquisition of Whippany, New Jersey, based Philip Fritze & Sons in 1998.

69. According to an investment report published by UBS Warburg on July 17, 2001, Roy Kay was purchased by KeySpan for approximately $20 million. Based on the allegations contained in the pleadings in the Monmouth County litigation, of the total $20 million consideration agreed to, the Kays received less than $9 million (i.e., less than half of the consideration) in cash. The remaining payment was to be made in the future and was contingent upon the future growth, performance and profitability of all of the Roy Kay companies.

70. The acquisition of Roy Kay did not require KeySpan shareholder approval and was made without prior disclosure to its prospective investors and public shareholders.

71. However, the statements that the Roy Kay acquisition was key to achieving earnings growth for the year and was consistent with the Company’s energy expansion strategy contained in ¶ 67 were materially false and misleading because they failed to disclose that Roy Kay was a company beset with clear indicia of financial ill health and material fiscal problems at the very time of its acquisition by KeySpan. These problems resulted in KeySpan announcing a material special charge to earnings in July of 2001 and again in October of 2001. Anything but the most reckless due diligence would have uncovered the financial and operational problems that existed at Roy Kay at the time of the acquisition. These problems included several construction projects which were significantly delayed in starting and/or had clear and obvious financial and other difficulties. At the time of the acquisition, Roy Kay’s general construction contract with the New York State Construction Fund to build the Student Activities Center at the
State University of New York at Stony Brook and its contract with the Pohatcong Board of Education to build the New Pohatcong School were fraught with cost overruns, substantial delays and other problems. In addition to its public conflicts with various unions, Roy Kay had a general reputation as a shoddy contractor. In fact, Roy Kay was the subject of a damming 1997 report issued by the New York City Councilman (now Congressman) Anthony Weiner called “Anatomy of a Bad Contractor.”

72. In addition, the statements in ¶ 67 that the acquisitions were of companies that were engaged in energy related businesses with large portfolios of existing business in that area were materially false and misleading because they failed to inform investors that: (i) Roy Kay was also 30% comprised of general contracting businesses that were in financial distress; (ii) Roy Kay had unrecorded liabilities on contracts that would result in significant losses that far exceeded the purchase price of Roy Kay; (iii) Roy Kay did not have adequate financial systems and internal controls to adequately prepare financial statements that reflected its financial condition; and (iv) that, in addition to the losses that were to be expected from the general contracting activities of Roy Kay, a substantial charge to earnings would inevitably have to be made to KeySpan’s earnings to write off good will related to the acquisition of Roy Kay in connection with the divestiture of the general contracting business required under PUHCA.

D. Roy Kay’s Financial And Operational Difficulties

73. On February 10, 2000, after KeySpan had acquired Roy Kay, Michael Burton, Deputy Commissioner of Structures of the New York City Department of Design and Construction, ordered Roy Kay to show cause at an administrative hearing to be held the following week why Roy Kay should not be held in default of its general contracting commitments with respect to the project called the Concourse Village Childcare. As grounds for the order, Mr. Burton cited Roy Kay’s failure to maintain an adequate work force, failure to uphold appropriate site safety standards, and failure to meet many of the critical completion dates mandated in the contract. See Ex. A. By letter dated March 20, 2000, the acting Deputy
Commissioner of the New York City Department of Design and Construction concluded that Roy Kay was, in fact, in default on this project and terminated the contract. See Ex. B.

74. On October 11, 2000, at a meeting between Roy Kay and the State University Construction Fund concerning two general contracting projects for the State University of New York at Stony Brook and Old Westbury, Roy Kay acknowledged its deficiency in falling behind schedule and purported to agree to a new schedule to get back on track. However, Roy Kay did not abide by its agreement and was notified of its default by subsequent letters on January 23, 2001, and February 5, 2001, respectively.

75. On December 7, 2000, counsel for the Mason Tenders District Council Trust Funds wrote to Roy Kay demanding payment and other relief in connection with Roy Kay's default of almost $200,000 in contributions that were not made to certain funds in the second and third quarters of 2000. See Ex. C.

76. On December 18, 2000, the Internal Revenue Service mailed its Final Notice and Notice of intent to Levy in connection with Roy Kay's failure to pay taxes for the 1999 calendar year in an amount exceeding $100,000. See Ex. D.

77. On or about January 19, 2001, Roy Kay was advised by the New York City Transit Authority, in connection with the general contracting project known as the Rail Control Center project, that Roy Kay was in default. As a result, Liberty Bond Service ("Liberty") was forced to deliver on its performance bond, subject to its rights against Roy Kay, and as of March 20, 2001, estimated its costs to be $5 million. In that connection, Liberty notified both Roy Kay and KeySpan, by letter dated March 20, 2001, that Liberty was performing on its bond commitment and would seek full remediation from Roy Kay and KeySpan for at least $5 million. See Ex. E. However, KeySpan improperly failed to make the necessary and appropriate financial reserves required under the circumstances and, instead, in early April 2001, reserved only $3 million in the Roy Kay companies' financial statements. See Ex. F.

78. On April 20, 2001, as a result of the financial and other problems plaguing Roy Kay, defendant Feraudo terminated the employment of LeRoy Kay, Janet Kay, David Kay and
Alice Kay, all prior owners of Roy Kay. Based upon the allegations in the pleadings in the Monmouth County litigation, defendant Feraudo on April 20th, sent KeySpan personnel to the headquarters of Roy Kay for the purpose of downloading documents and locking out the Kays while dining with LeRoy Kay at a nearby diner. The Kays have alleged that KeySpan subsequently dumped and shredded relevant Roy Kay records.

79. According to the Kay family, the Kays were forcibly evicted by a platoon of security personnel summoned by KeySpan. In addition, KeySpan representatives told the police that were summoned and reported to the scene of the eviction that the Kays had looted the company, that David Kay was personally guilty of fraud. Subsequently, KeySpan alleged that the reported financial and operating performance of Roy Kay was materially misrepresented.

80. Defendants failed to disclose to the investing public all of the foregoing events concerning the improprieties and battles for control over Roy Kay until the analysts conference call on July 17, 2001 and thereafter. More recently, following the appointment of Lead Plaintiffs in this litigation, they sought and obtained an order sealing the files in the Monmouth County litigation, with the intent that the truth would continue to be concealed from Lead Counsel and the Court in this litigation.

E. The False and Misleading Financial Reports To The Public

1. Fiscal Year 2000

81. On March 24, 2000, KeySpan reported in a press release, and reaffirmed in its 8-K filed with the SEC on March 27, 2000, that “earnings [were] significantly ahead of analysts' estimates for the first quarter of 2000 and could be up to 7 percent higher for calendar year 2000." Defendant Catell specifically attributed the higher numbers to success in implementing the Company’s growth strategy. "Our dividend yield and earnings growth are superior to our respective industry groups and make us confident of increasing long-term value for our shareholders," he said. In addition, KeySpan said that its merger with Eastern was proceeding on schedule and was expected to be completed by the Fall. "We are confident that we will exceed
our goal of achieving $30 million in synergy savings and are hoping to achieve a level of savings that will make the merger non-dilutive in the first full year," said Mr. Catell.

82. On April 26, 2000, KeySpan issued a press release reporting its consolidated earnings for the first quarter of 2000. It reported an increase of 30% in its earnings, from $134.5 million the previous year to $163.6 million, or an increase from $0.94 cents per share to $1.22 per share. KeySpan noted that the electronic-services segment had earnings of $42.7 million or 32 cents per share in the first quarter, as compared to $16.6 million, or $0.12 cents per share in the first quarter of 1999.

83. The March 24 and April 26 statements were materially false and misleading because the financially troubled Roy Kay operations were required to be included in the financial reports for virtually that entire quarter inasmuch as Roy Kay was purchased in January 2000. Therefore, KeySpan had no reasonable basis for reporting such earnings, as its earnings were jeopardized throughout the entire period because KeySpan failed to properly account for the continuing and mounting contract losses associated with the Roy Kay general contracting operations.

84. On May 12, 2000, the Company filed its Form 10-Q for the period ending March 31, 2000, which was signed by defendant Luterman. In reporting its misstated earnings for the quarter, KeySpan echoed its April 26, 2000, press release, stating that consolidated earnings per share were $1.22 for the first quarter, as compared to $0.94 per share, for the same period in 1999, an increase of 30%. Therein the Company also reported that its assets increased by approximately $200 million in its energy related services unit due to the acquisition of complementary companies, including Roy Kay. In addition, KeySpan disclosed that following the closing of the Eastern transaction, which was expected in 2001, the Company would become subject to regulation as a registered holding company under PUHCA, without disclosing how that would affect the Company.

85. Because KeySpan failed to properly disclose and account for the troubled Roy Kay operations, and the resulting jeopardy to its earnings, its report of earnings for this period
was materially false and misleading. Furthermore, the representation that KeySpan would become subject to PUHCA was materially false and misleading because it did not disclose that the effect of such regulation would (i) prohibit KeySpan from (a) retaining or growing non-energy related businesses and (b) having services provided to affiliated companies by other affiliates; (ii) compel KeySpan to divest its non-energy related businesses at substantial and material cost to the Company; and (iii) that Roy Kay operated without proper accounting controls and with substantial unrecorded liabilities that exceeded the entire cost of that acquisition.

86. On July 12, 2000, the Company filed a Form 8-K reporting the unaudited consolidated financial statements of a combined KeySpan/Eastern as of the quarter ended March 31, 2000 and for the year ended December 31, 1999. These reports were only illustrative since the companies had not yet combined and were not expected to combine until the fourth quarter. However, this filing was materially false and misleading because no mention of the application to retain the existing non-utility activities after the Eastern acquisition was made and the report failed to make provision for the impairment of Roy Kay’s general contracting business and the required divestiture of the Midland shipping business.

87. On July 26, 2000, in a press release and in a Form 8-K filed with the SEC, KeySpan reported its purported earnings for the second quarter of 2000, ending June 30. Its results for that quarter were represented as $47.1 million, or $0.35 per share, up from $14.3 million, or $0.10 per share, for the same period for 1999. The Company highlighted this “significant” increase in its release and its purported profits from its energy-related services segment of $17.2 million or $0.13 cents per share as opposed to a net loss of $0.9 million or $.01 per share in the same quarter in 1999. This was also materially false and misleading because it made no mention of the application to retain the existing non-utility activities after the Eastern acquisition and failed to properly disclose and account for the troubled Roy Kay operations, and the resulting jeopardy to its earnings.
88. On August 10, 2000, KeySpan filed a form 10-Q with the SEC, which was signed by defendant Luterman, reporting its misstated earnings for the period ending June 30, 2000. In that 10-Q, KeySpan affirmed the financial results announced on July 26, 2000, reporting consolidated earnings of $47.08 million or $0.35 per share, compared with $0.10 per share for the same period in 1999. Again, this report was also materially false and misleading because it made no mention of the application to retain the existing non-utility activities after the Eastern acquisition and failed to properly disclose and account for the troubled Roy Kay operations, and the resulting jeopardy to its earnings.

89. On October 24, 2000, KeySpan issued a press release reporting its purported earnings for the third quarter of 2000. KeySpan’s stated results for that quarter were $13.2 million, or $0.10 per share, compared to a break even quarter for the same period in 1999. The Company highlighted in its release its purported profits from its energy-related services segment of $9.6 million or $0.7 cents per share. These statements were materially false and misleading because no mention was made of the application to retain the existing non-utility activities after the Eastern acquisition and failed to properly disclose and recognize losses from the Roy Kay general contracting operations, which jeopardized its earnings.

90. On October 31, 2000, KeySpan filed its 10-Q for the quarterly period ending September 30, 2000, which was signed by defendant Luterman. Confirming its press release of October 24, it reiterated that consolidated earnings per share were $0.10 for the first quarter. The 10-Q also recapped the merger agreement between KeySpan and Eastern and discussed the financing methods to be used in the acquisition. It represented that KeySpan will be subject to PUHCA and that as a result, corporate and financial activities, including the ability to pay dividends, will be subject to SEC regulation under PUHCA. Finally, it represented that the merger was conditioned upon SEC approval, that shareholders of both Eastern and EnergyNorth, as well as the New Hampshire Public Utility Commission (with respect to Eastern's acquisition of EnergyNorth) approved the transactions, and that the Company anticipated consummation in the fourth quarter of 2000, but was unable to determine when or if SEC approval would be
obtained. This 10-Q was materially false and misleading because it made no mention of the application to retain the existing non-utility activities after the Eastern acquisition and failed to properly disclose and account for the troubled Roy Kay operations and the resulting jeopardy to its reported and future earnings.

91. On November 8, 2000, the company closed its purchase of Eastern Enterprises for $64.5580 per share in cash and EnergyNorth for $61.4587 per share in cash. The following day, November 9, 2000, the Company publicly reported that it had consummated the merger with Eastern, stating that it had “created the largest natural gas-distribution company in the Northeast with the acquisition of Eastern Enterprises.” The press release went on to say:

"Today we celebrate the culmination of an ambitious effort that has forged great companies into the largest gas-distribution company in the Northeast and the fifth largest in the United States," said Robert B. Catell, chairman and chief executive officer of KeySpan. "This expansion is a milestone in our company's history, and is a major step in implementing our strategy of growth and our vision of becoming the premier energy and services company in the Northeast. KeySpan anticipates tremendous growth for regulated and unregulated sales of natural gas and energy-related products and services throughout the region."

KeySpan further emphasized that the acquisition “increases the customer base of KeySpan's regulated utilities from 1.6 to 2.4 million natural gas customers, and creates the market potential for KeySpan to expand to more than 5 million customers for energy and services. With market saturation for natural gas in the Northeast averaging only 35%, the area provides opportunities for significant growth in KeySpan's regulated gas business.” Additionally, Standard & Poor’s upgraded its rating of KeySpan to "A", and Moody's affirmed its "A3" rating, following the Eastern acquisition. The press release further reported that KeySpan now had “assets of more than $10 billion and projected annual revenues of $5 billion, resulting primarily from the consolidation of six utilities in New York and New England,” and that KeySpan expected “the acquisition to yield pre-tax annual savings of approximately $40 million.” Further, the November 9, 2000 press release contended that the acquisition stemmed from “efforts to
maximize shareholder value,” and that the acquisition would provide unprecedented services to energy customers in New England.

92. The November 9, 2000 press release was materially false and misleading because it failed to disclose that Eastern’s Midland subsidiary, a non-utility subsidiary operating a fleet of tug-boats and barges conducting shipping activities, would be ordered divested by the SEC, which had expressly retained jurisdiction regarding that issue. Indeed, KeySpan belatedly admitted the forced divestiture, in one buried phrase, in its filing on March 20, 2001, in the annual 10-K for the period ending December 31, 2000. Furthermore, KeySpan misrepresented that savings of $40 million were expected from the merger because the Company failed to properly disclose or account for the uncertainty related to the loss contingency for the required disposal of Midland. The loss contingency, at a minimum, should have been disclosed in the notes to the financial statements at December 31, 2000. Instead, KeySpan improperly waited until the second quarter of the year ending December 31, 2001, to make these disclosures, and then took a one-time write-off of Midland during the Fourth Quarter of 2001. Thus, the Company’s Class Period disclosures were not in accordance with GAAP requirements of FAS 5 “Accounting for Contingencies,” or the requirement of Accounting Principles Board (“APB”) 16 and FAS 38, which required KeySpan to disclose that the allocation of the purchase price was preliminary due to the uncertainty related to the Midland divestiture. Finally, KeySpan did not identify Midland as a discontinued operation in the notes to the financial statements at December 31, 2000, even though it had full knowledge of their required disposition at that date.

93. On January 25, 2001, KeySpan issued a press release, reiterated in a Form 8-K filed on the same date, reporting its misstated consolidated earnings for fiscal 2000 of $282.7 million or $2.10 per share. The Company also released its purported fourth quarter earnings of $100 million or $.74 per share, along with a restructuring charge, which lowered the quarterly earnings to $58.9 million or $.44 cents per share. The Company also highlighted the performance of KeySpan Services, Inc. for its “first annual profit, adding $40.9 million, or $.31
cents per share, to consolidated earnings, compared to a loss of $2.5 million, or $.02 per share last year.” In addition, the Company reported that its energy management businesses achieved profitability according to schedule, with fourth quarter earnings of $15.1 million, or $.11 per share, versus essentially break-even results the prior year. Finally, it reported the successful completion of the Eastern merger.

94. The release reported further:

Looking to the future, Mr. Catell said, "We have a sound strategy and a strong foundation for future earnings growth. All our business segments have a positive outlook and should be able to build upon this year's strong performance. Conversions from oil to natural gas in New England and on Long Island are expected to continue at a healthy pace. We maintain a rigorous budget process to control costs and expect to achieve our synergy savings target. As a result, we expect to earn between $2.60 to $2.65 per share in 2001. We will keep our shareholders abreast of any changes to this earnings forecast which may arise from factors including the level of gas prices, winter weather patterns, and the demand for electricity this summer."

95. The foregoing reports were materially false and misleading because KeySpan failed to properly disclose and/or record losses for both the troubled Roy Kay operations and its impending divestiture of Midland, the totality of which actually reversed almost $115 million of the reported earnings of $282.7 million or $2.10 per share before the restructuring charge. Alternatively, KeySpan’s failure to disclose that its purchase price allocation was preliminary with respect to the Eastern acquisition due to the uncertainty regarding the forced divestiture of Midland makes the statements made materially false and misleading. Furthermore, KeySpan misreported an annual profit of $40.9 million for its energy services segment, which was known to be false and misleading due to the necessary reserves and charges that should have been taken in the period to offset the financial difficulty and improprieties plaguing Roy Kay and the charge required against earnings for the inevitable Midland and Roy Kay divestitures. Finally, defendant Catell’s statements that all business segments retained their positive outlook and that the Company maintained a rigorous budget process to control costs so that target earnings would
be achieved was materially false and misleading because of the same reasons stated in this paragraph. Alternatively, they were false and misleading because KeySpan failed to disclose that it could not ascertain the amount of the losses due to both the forced divestiture of Midland, and accounting issues at and inevitable divestiture of the general contracting business of Roy Kay.

96. On March 30, 2001, KeySpan filed its annual Form 10-K with the SEC, which defendants Luterman and Catell signed. In that 10-K, KeySpan misstated its annual consolidated returns of $282.7 million or $2.10 per share, compared with $1.62 per share reported in 1999. It also reported that the energy services division reported consolidated earning of $40.946 million in 2000. Midland’s operations were reportedly included in the financial results even though KeySpan partially disclosed that Midland’s operations were determined not to be functionally related to KeySpan’s core utility operations as required by PUHCA and the SEC ordered divestment of Midland by November 8, 2003.

97. The foregoing 10-K was materially false and misleading for the reasons stated above in ¶ 95 and because KeySpan failed to disclose that the Midland divestiture would cause the Company to incur a loss that was not accounted for or reserved against as required by GAAP. In addition, the 10-K did not disclose that the allocation of purchase price ascribed to Midland was preliminary due to the forced divestiture. Instead, the Company waited until August 13, 2001, five months later, to disclose that the purchase price allocation of Midland was preliminary, and that an adjustment to reflect its fair value at the purchase date at that later time was the first notification to shareholders and investors that such a contingency existed. The failure to disclose the uncertainty regarding the preliminary or initial allocation of the purchase price at December 31, 2000, was a major violation of GAAP (APB 16 and FAS 38). The Securities Exchange Commission has taken a position that failure to specifically detail the nature of purchase price allocation uncertainties precludes subsequent reallocations. KeySpan’s disclosure in its August 13, 2001 Form 10-Q for the quarter ending June 30, 2001, filed with the SEC, also designated the $30.1 million after tax charge to earnings ($53.6 million pre-tax) as a
“special charge” in order to reflect certain “unanticipated costs.” This should not have been recorded as a special charge under proper contract accounting, as it constitutes part of operating income unless it is the correction of an error.

98. Finally, because KeySpan failed to properly disclose and account for the troubled Roy Kay operations and its impending divestiture or, alternatively, failed to disclose that the Company could not ascertain the loss related to Roy Kay’s lack of financial controls and, separately, for the divestiture of Roy Kay’s general contracting business with the resulting jeopardy to its earnings, its statements relating to its earnings for 2000 were materially false and misleading.

99. In short, notwithstanding that KeySpan was aware of the imminent divestiture of Midland and the impending termination of Roy Kay’s general contracting business, and was further aware of the liabilities deriving from the Roy Kay general contracting business’ failure to perform many significant contracts such that it had defaulted on its obligations and was liable for substantial damages thereunder, separate from the financial improprieties at Roy Kay that made the reporting of its earnings in conformity with GAAP impossible, KeySpan did not make the appropriate adjustments in its financial statements, or, alternatively, did not disclose in its notes to its financial statements that the amount of loss could not be ascertained on that date. KeySpan’s materially misleading statements and omissions were relied upon by the investing public.

100. Furthermore, KeySpan’s failure to record a $30.4 million after tax loss or reserve resulting from the forced sale of Midland and of which KeySpan was aware since its due diligence in connection with the Eastern transaction, made the financial reports disseminated for the entire year of 2000 materially false and misleading. This loss should have been subject to estimation or a minimum disclosure of the uncertainty and the effect on the required allocation of the purchase price in KeySpan’s financial statements for the period ending December 31, 2000, and included in a note to those financial statements. Alternatively, KeySpan should have but
failed to state that it could not ascertain the amount of the loss at that time. Therefore, KeySpan’s 10-K was materially false and misleading.

101. During the Class Period, defendants failed to disclose the following material adverse facts to the investing public, including Lead Plaintiffs and the other Class Members, including but not limited to the following in connection with the periodic reports disseminated to investors. The Company's representations of being positioned for success were lacking in a reasonable basis at all times because it was known by defendants, or in the absence of recklessness should have been discovered in connection with KeySpan’s due diligence, that it would incur a substantial loss upon the imminent divestiture of Midland. Defendants knew of the fiscal problems involved with the divestiture at least by November 8, 2000, when the Eastern acquisition was completed, but failed to disclose same at that time or reflect that loss in KeySpan’s financial statements for the period ending December 31, 2000; instead, delaying disclosure until January 24, 2002, when it announced the $30.4 million after tax loss for 2001. Alternatively, defendants failed to account for the forced divestment of Midland as discontinued operations and to disclose the net effect that the discontinued operations would have on the overall financial and operational performance of KeySpan. This failure permitted the defendants to disguise the imminent losses related to Midland as losses that could not be ascertained on that date.

102. Similarly, the Company’s representations of being positioned for success lacked a reasonable basis at all times because KeySpan and the Individual Defendants knew Roy Kay to be replete with fiscal problems and cost overruns on several of its construction projects, in particular, its general construction contract with the New York State Construction Fund to build the Student Activities Center at the State University of New York at Stony Brook and its contract with the Pohatcong Board of Education to build the New Pohatcong School, that Roy Kay generally had a reputation for problematic construction projects, that Roy Kay would not be able to attain its profit target due to its being restricted from the acceptance of general construction
work, and due to its being restricted in the provision of services to other KeySpan affiliates as a result of the Eastern acquisition and KeySpan’s becoming regulated under PUHCA, that upon becoming subject to PUHCA, the likelihood that KeySpan would be granted a waiver from the statutorily mandated divestiture of non-energy related businesses was most unlikely and, as a result, KeySpan would either on its own or after SEC order have to discontinue or curtail Roy Kay’s general contracting business. Immediately upon KeySpan becoming a regulated entity under PUHCA on November 8, 2000, it began restricting Roy Kay’s general contracting activities and effectively eliminating any possible growth from those activities.

103. In the Monmouth County litigation brought against the Kays, who filed certain counter-claims against KeySpan, KeySpan admitted that it knew of the problems at Roy Kay as far back as March 2001. Notwithstanding such knowledge, however, KeySpan failed to make timely public disclosure about the Roy Kay problems and failed to record the charges that were needed to account for them and/or perform an exhaustive analysis of the massive extent of those problems until the third quarter of 2001.

2. Fiscal Year 2001

104. On April 26, 2001, KeySpan misreported “record” first quarter earnings for the period ending March 31, 2001 of $223.3 million, or $1.63 per share. In light of those results, KeySpan updated its annual results to reflect a forecast of $2.70 earnings per share. In that press release the Company highlighted that KeySpan Services, Inc., a subsidiary which includes Roy Kay, had EBIT of $2 million.

105. The April 26 earnings report was materially false and misleading because KeySpan actually had a first quarter operating loss of $5.5 million as a result of the improprieties at Roy Kay that were concealed from the public. This $5.5 million loss, in fact, was not disclosed until a Press Release issued by KeySpan on October 24, 2001. KeySpan has also improperly failed to restate its previously issued financial statements in order to reflect the
combined losses of approximately $100 million that were revealed on July 17, 2001, and October 24, 2001, related to the Roy Kay operations.

106. On May 7, 2001, KeySpan filed a Form 10-Q with the SEC affirming its reported consolidated earnings announced on April 26, 2001. The 10-Q, which was signed by Defendant Luterman, stated that KeySpan had consolidated earnings of $223.3 million, or $1.63 per share compared to the $163.6 million or $1.22 per share for the corresponding period in 2000. In that same 10-Q, KeySpan raised its projected consolidated earnings from $2.40-$2.50 per share to $2.70 per share. Because KeySpan did not properly disclose or recognize the losses from Roy Kay general contracting operations or disclose the required compliance with the SEC order related to the Midland divestiture, or the resulting jeopardy to its earnings, its report of earnings was materially false and misleading.

107. On June 25, 2001, KeySpan issued a Press Release announcing three executive promotions, including defendants Fani, Zelkowitz and Parker. KeySpan also announced that it was combining its unregulated business into KeySpan Energy and Services and Supply, and that its regulated businesses would be combined into KeySpan Energy Delivery. KeySpan stated that such actions would enable it “to implement [its] growth strategy and are consistent with the evolution of [its] organizational structure into regulated and unregulated businesses.” Because KeySpan did not properly disclose or account for the troubled Roy Kay operations or the impending Midland divestiture, its statements were materially false and misleading.

108. On July 17, 2001, the Company issued a press release and filed a Form 8-K with the SEC stating, for the first time, that it would take a special charge in its energy services business of $53.6 million, $30-million-after-tax, or 22-cents-per-share, in the second quarter, as a result of the operations of the Roy Kay companies. The Company said that the special charge reflected the unanticipated costs to complete work on certain construction projects, as well as the impact of inaccuracies on the books of these companies, relating to their overall financial and operational performance. The Company went on to report that as a result of its findings,
KeySpan terminated the employment of the former owners of the Roy Kay companies and installed new management in their place, that the parties were engaged in litigation relating to the termination of the former owners, as well as other matters relating to the acquisition of the Roy Kay companies, and that KeySpan intended to pursue all available legal remedies to recover the damages it had incurred as a result of the activity of the former owners.

109. Defendant Robert B. Catell, was quoted saying:

The performance of the Roy Kay companies under their former management was not commensurate with the high standards demanded by KeySpan. We have taken appropriate steps to address these issues and have every confidence that the actions we are undertaking will mean better service for KeySpan customers and enhanced value for our shareholders. While the Roy Kay situation is disappointing, we are confident that our other acquisitions are performing within expectations. Accordingly, our strategy for building our Energy Services business remains intact.

110. The report went on to state that the Company expected to report earnings of approximately $0.16 per share for the second quarter, excluding the special Energy Services charge of $0.22 per share. It also disclosed that for 2001, excluding the special charge, the Company reduced its earnings expectations from approximately $2.70 per share to a range of $2.50 to $2.60 per share, expecting to be towards the middle of the range. Finally, the press release advised investors of a Conference Call to be held the same day at 11:30am to discuss with the financial community the matters announced.

111. The July 17, 2001, Conference Call was attended by defendant Matthews, defendant Luterman, Mike Taunton and other members of KeySpan’s finance team. In that call, defendants reiterated the matters already stated in the prior disclosures that KeySpan was taking a $30 million after tax, or $0.22 cents per share, charge to earnings in the second quarter of 2001 due to the problems with the Roy Kay unit. However, defendants did not disclose in either the press release, 8-K or conference call that the total pre-tax charge was in fact $53.6 million, or more than 2 ½ times the total purchase price of Roy Kay.
112. In that Conference Call, defendant Luterman admitted that KeySpan became aware of the problems at Roy Kay in March and April of 2001, but said that it had taken until July “to put our hand around the size and scope of it.” However, these statements were materially false and misleading because the problems that were disclosed concerning Roy Kay were ones which originated and were plaguing Roy Kay prior to its acquisition by KeySpan, as admitted by Luterman, and most likely as far back as early 1999. Incredibly, these problems were claimed by KeySpan not to have been discovered as a result of the original due diligence but of an analysis done in conjunction with the close of the second quarter of 2001 by a group of outside expert-consultants in accounting and construction, which included Arthur Andersen, the Company’s auditor at the time. No explanation was given as to why the outside experts were able to detect the problems but KeySpan was not or why the Company and the experts failed to discover the problems during the reporting of the December 31, 2000 financial results. This supposed “discovery” effectively reversed the revenue reported by KeySpan going back to the time of its acquisition of Roy Kay. Only the most reckless due diligence would have failed to “uncover” several construction projects where Roy Kay was failing to complete on time and within its contracted bid. See Exs. A-H.

113. Moreover, notwithstanding that KeySpan claimed that its “experts” discovered the problems with Roy Kay in March of 2001, KeySpan still delayed disclosing the loss until July 17, 2001. Even after it disclosed the $53.6 million charge on July 17, 2001, KeySpan still failed to report the true amount of the loss but waited three months until October 24, 2001, in order to take an additional $56.6 million after tax charge. Additionally, on October 24, 2001, KeySpan revealed a first-quarter operating loss of $5.5 million due to Roy Kay operations, which was not disclosed until that date. KeySpan also failed to ever restate its First Quarter earnings or disclose the falsity of key information related to the effect of these losses on EBIT announced for KeySpan Services, which included the Roy Kay operations.
114. As previously alleged herein, Roy Kay was a contracting company which had displayed obvious indicia of financial ill health and fiscal problems before the KeySpan acquisition in January of 2000. The problems “discovered” by KeySpan’s experts and consultants were not new but announced as if they were not discoverable, and thus were treated by KeySpan as special charges to earnings in the Second Quarter of 2001, and again, in the Third Quarter of 2001. Anything but the most reckless due diligence would have uncovered the financial and operational problems that existed at Roy Kay at the time of the acquisition. Roy Kay’s problems included several construction projects which were delayed in starting and/or had clear and obvious difficulties. At the time of KeySpan’s acquisition, Roy Kay’s general construction contract with the New York State Construction Fund to build the Student Activities Center at the State University of New York at Stony Brook and Old Westbury were fraught with problems including cost overruns and substantial delays. See Exs. G-H. In addition to its public conflicts with various unions, which included at least one demonstration involving 40,000 construction workers, Roy Kay had a general reputation as a shoddy contractor.

115. In response to the foregoing materially misleading and false statements and reports, the price of KeySpan common stock fell on July 17, 2001, from $34.50 to $32 per share, and bottomed out at a 52-week low of $29.35 on July 24, 2001.

116. On July 26, 2001, the Company issued another press release and filed another Form 8-K with the SEC reporting KeySpan’s earning for the quarter and six-months ended June 30, 2001. The Company reportedly earned $22.1 million, or $0.16 per share for the quarter, excluding the special charge announced the prior week of $30.1 million after tax, or $0.22 per share, compared to $47.1 million, or $0.35 per share earned for the same period in the prior year. The Company went on to state that:

\[
\text{[e]arnings for the quarter were adversely affected by the special charge in the unregulated Energy Services segment as the result of the operations of the Roy Kay companies. Including this special charge, earnings were a loss of $8.0 million, or $0.06 per share, for the second quarter, and a profit of $215.3 million,}
\]
or $1.57 per share, for the year to date. Year to date diluted earnings were $1.55 per share.

Although we are disappointed with the need to take a special charge, we are pleased with the results of our operations and the implementation of our growth strategy. Except for the Roy Kay companies, our Energy Services acquisitions are on target. The performance of our gas distribution business continues to excel as we successfully integrate the operations of our gas distribution acquisitions and achieve our synergy-savings targets. Our gas exploration and production segment has increased production by approximately 20% this year, and the segment continues to provide significant value to shareholders. We have a strong position in the New York electric market, and our energy investments are providing a significant contribution. Based on this platform for continued growth and our strong first-half results, we are confident that we will continue to deliver strong earnings in the future.

117. On August 13, 2001, the Company filed Form 10-Q for the quarter ending June 30, 2001, which stated:

In June, a charge of $53.6 million ($30.1 million after-tax) was recorded by the Roy Kay companies (plumbing, mechanical and electrical contracting companies acquired by us in January 2000) to reflect unanticipated costs to complete work on certain construction projects, as well as the impact of inaccuracies in the books of these companies relating to their overall financial and operational performance.

118. The $53.6 million charge, however, was later revealed as inadequate and just the tip of the iceberg, as KeySpan announced an additional $56.6 million loss on October 24, 2001, as well as a $5.5 million operating loss incurred during the First Quarter of 2001 related to Roy Kay operations. KeySpan did not restate the losses to the previously reported financial statements, as required by GAAP.

119. The August 13, 2001, Form 10-Q also noted that, but for the special charge to earnings, KeySpan would have had a positive earnings quarter. The 10-Q states; “Excluding this special charge, consolidated earnings were $22.1 million, or $0.16 per share for the second quarter of 2001 and $245.4 million, or $1.79 per share for the six months ending June 30, 2001.” Of course, with the inclusion of the charge, the results amount to a loss of $.06 per share or a loss of $6.5 for the quarter. Even that $30.1 million loss, however, did not adequately reflect the
negative impact that the Roy Kay operations would have on the overall financial and operating performance of KeySpan in 2001. This should not have been recorded as a special charge under proper contract accounting, as changes in estimates are required by GAAP to be included as part of normal operating income. The fact that it was designated as a special charge affirms Lead Plaintiffs’s allegation that the amount was a correction of an error related to previously issued financial statements.

120. The August 13, 2001, Form 10-Q also advised shareholders that the SEC ordered divestiture of its Midland subsidiary by November 8, 2003 because its operations were not functionally related to core utility operations. Although the Company represented that it was at that time uncertain as to the timing of any divestiture, it reported its expectation that prior to November 8, 2001, the Company would adjust the preliminary purchase price allocation of Midland to reflect its fair value at the purchase date (November 8, 2000) with a corresponding adjustment to goodwill. Although the Company’s Form 10-K for the period ending December 31, 2000, contained a one-line buried disclosure that it would be required to divest Midland, it did not disclose that the allocation of the purchase price was preliminary, due to the forced divestiture, as required by APB16 and FAS 38. This announcement on August 13, 2001, that the purchase price allocation of Midland was preliminary, and that an adjustment to reflect its fair value at the purchase date would be made was the first notification to shareholders and investors that such a material loss contingency did exist. KeySpan either was precluded from making that adjustment due to the failure to disclose the contingency at December 31, 2000, or failed to appropriately make the adjustment, because on January 24, 2002, it announced that it had taken a $30.4 million after tax loss with respect to the forced Midland divestiture. The failure to disclose the uncertainty regarding the preliminary or initial allocation of the purchase price at December 31, 2000, was a major violation of GAAP (APB 16 and FASB 38). The Securities Exchange Commission has taken the position that failure to specifically detail the nature of purchase price allocation uncertainties precludes subsequent reallocations for the undisclosed contingencies.
121. The August 13, 2001, Form 10-Q also reported that the Company and the former owners of the Roy Kay companies were engaged in litigation relating to the termination of the former owners, as well as other matters relating to the acquisition of the Roy Kay companies. It represented that KeySpan alleged that the former owners misstated the financial statements of the Roy Kay Companies and certain underlying work-in-progress schedules, that KeySpan sought damages in excess of $76 million as well as a declaratory judgment that KeySpan was not required to pay the former owners any further amounts under the terms of the stock purchase agreement entered into in connection with the acquisition of the Roy Kay Companies, and that the causes of action asserted include breach of contract and fiduciary duty, fraud, and violation of the New Jersey Securities Laws. KeySpan’s 10-Q designation of the $30.1 million after tax charge to earnings ($53.6 million pre-tax) as a “special charge” in order to reflect certain “unanticipated costs” should not have been recorded as a special charge under proper contract accounting, as it constitutes part of operating income. As set out herein, the fact that it was characterized as a special charge affirms Lead Plaintiffs’s allegation that the amount was related to financial statements previously issued.

122. The August 13, 2001, Form 10-Q also reported that the former owners filed counterclaims against KeySpan and certain of its subsidiaries and officers to recover damages claimed to have incurred as a result of, among other things, their improper termination and the alleged fraud on the part of KeySpan in failing to disclose the limitations imposed upon the Roy Kay Companies with respect to the performance of certain services under PUHCA. It disclosed that the fraud claims asserted by the former owners included claims under the New Jersey Uniform Securities Law and RICO statutes. The 10-Q represented that the Company was unable to predict the outcome of the proceedings or what effect, if any, such outcome would have on the Company’s financial condition, results of operations or cash flows.
123. Finally, the 10-Q reported that new senior management was operating the Roy Kay companies, a new business model was developed, and that the Company continued to monitor the on-going business and carrying value of the investment.

124. On Wednesday, August 15, 2001, in an article entitled “EXEC BAILED BEFORE $LIDE,” The New York Post reported that “[t]op executives at Brooklyn energy company KeySpan sold millions of dollars worth of stock and stock options before announcing a significant loss that sent the company’s shares tumbling. KeySpan’s Roy Kay unit - which provides plumbing, mechanical and electrical - was in financial straits for three months before the company held a heads-up conference call with Wall Street analysts in mid-July. The problems at the unit eventually lead to a $30 million after-tax loss at KeySpan that sent the stock tumbling. In the meantime, as many as 11 executives made $5.8 million by selling stock and options.” The article continues to state, “[o]n April 20, KeySpan fired the heads of the Roy Kay unit because of suspected financial improprieties. ‘We clearly knew that there was a problem in April and we tried to solve it.’ said Bob Mahoney, a KeySpan spokesman.”

125. On October 23 and 24, 2001, KeySpan issued a press release and filed a Form 8-K with the SEC. Therein, the Company reported on its third quarter results for the period ending September 30, 2001. The statement read, in pertinent part:

KeySpan Corporation (NYSE:KSE) reported today that its consolidated results, excluding certain special items discussed below, for the three-month period ended September 30, 2001, were essentially breakeven as compared to last year’s third quarter earnings of $13.2 million, or $0.10 per share.

* * *

Special Items . . . [I]n its Energy Services segment, it has been determined that the general contracting business conducted by the KSI Contracting companies (previously named the Roy Kay companies) will be discontinued since these activities are no longer consistent with our core competencies, strategic focus and risk profile. Consequently, the Company has recorded a third quarter after tax charge of $56.6 million, reflecting costs to complete all current projects, as well as the discontinuance of the general contracting activities of those companies. Year to date special charges also include an additional Roy Kay first quarter operating loss of $5.5 million after tax. The remaining activities engaged in by the KSI Contracting Companies will be integrated into and closely coordinated with the
other KeySpan energy related businesses as we further implement the Company's strategy of offering full service energy solutions for residential and business customers in the Northeast. We are pleased to report that these other acquired specialized contracting and engineering companies in our Energy Services segment are currently performing at or near expectations. Results including all special items reflected a loss of $36.6 million, or $0.26 per share for the quarter and earnings of $178.7 million, or $1.30 per share year-to-date. Diluted earnings per share for the nine months ended September 30, 2001 were $1.28.

* * *

Mr. Catell added, "We are committed to putting the general contracting activities engaged in by the former Roy Kay companies behind us and enhancing our focus on providing energy solutions to customers in the Northeast. We have installed new management at KeySpan Services and are well positioned for profitability in the Northeast energy market. We believe that the realignment of our energy services business will better position KeySpan's energy services subsidiaries to play a significant role in this region's construction efforts going forward."

* * *

Including the special charges, Energy Services had an EBIT loss of $51.7 million for the third quarter and $95.2 million on a year-to-date basis.

126. The financial statements supplied with the 8-K also disclosed special charges for the three months and nine months ending September 30, 2001, of $72.6 million and $133.7 million EBIT, respectively, to discontinue the general contracting business of Roy Kay. Notwithstanding the disclosures in the 8-K, KeySpan did not restate the First Quarter for this loss or the $30.1 million loss announced on July 17, 2001, nor did it restate its First Quarter earnings to reflect the $5.5 million operating loss due to the Roy Kay operations.

127. On November 14, 2001, KeySpan filed its 10-Q for the third quarter. In addition to reflecting the same information supplied in its prior third quarter press release and Conference Call, this filing also disclosed:

During the second and third quarters of 2001 we undertook a complete evaluation of the strategy, operating controls and organizational structure of the Roy Kay companies - plumbing, mechanical, electrical and general contracting companies acquired by us in January 2000. For the three months ended June 30, 2001, the Roy Kay companies incurred an after-tax loss of $30.1 million reflecting: (i) unanticipated costs to complete work on certain construction projects; (ii) the impact of inaccuracies in the books of these companies relating to their overall financial and operational performance; and (iii) quarterly operating losses. During the quarter ended September 30, 2001, we decided to discontinue the general
contracting business conducted by these companies based upon our view that the general contracting business is not a core competency of these companies. Certain remaining activities engaged in by the Roy Kay companies will be integrated with those of other KeySpan energy-related businesses. For the third quarter of 2001, the Roy Kay companies incurred an after-tax loss of $56.6 million [$0.41 per share] reflecting: (i) additional project completion costs; (ii) discontinuance costs of the general contracting activities of those companies, including the write-off of goodwill, and certain accounts and retainage receivables; and (iii) quarterly operating losses. For the third quarter of 2001 the Roy Kay companies recorded an EBIT loss of $72.6 million and for the nine months ended September 30, 2001 these companies recorded an EBIT loss of $133.7 million and net loss of $92.2 million [$0.67 per share]. For the third quarter of 2000, the Roy Kay companies recorded EBIT of $0.7 million and net income of $0.3 million; for the nine months ended September 30, 2000 these companies recorded EBIT of $3.1 million and net income of $1.4 million.

128. The same 10-Q also disclosed that KeySpan was cooperating in preliminary inquiries by the U.S. Attorney's Office, Southern District of New York, and the SEC regarding trading in KeySpan stock by individual officers prior to the July 17, 2001 announcement that KeySpan was taking a special charge in its energy services business and otherwise reducing its 2001 earnings forecast. On March 25, 2002, the SEC commenced a formal investigation into insider trading and the truthfulness of disclosures by KeySpan and its directors.

129. In its December 6, 2001, press release, KeySpan “affirmed its commitment to divest or monetize its non-core assets in 2002, including its Midland in-land barge business.” KeySpan did not disclose that it would record a $30.4 million loss after tax based on the forced sale until January 24, 2002. Because KeySpan did not properly disclose or account for the $30.4 million loss, or any loss for that matter, during the Class Period, or disclose the resulting jeopardy to its earnings, due to uncertainties, as required by GAAP, its statements related to its earnings were materially false and misleading.

F. KeySpan’s PUHCA Filings Not Disclosed To Public Investors

130. On March 31, 2000, the Company filed with the SEC Form U-3A-2, Statement by Holding Company Claiming Exemption Under Rule U-3A-2 from the Provisions of the Public Utility Holding Company Act of 1935, by which it reiterated its position that the Company was exempt from regulation under PUHCA, just as it had done many times in the past.
131. On June 15, 2000, the Company filed with the SEC an amended Form U-1 by which it sought the SEC’s general preapproval of KeySpan’s acquisition of Eastern, and approval of a plan calling for the retention by KeySpan of the existing businesses, investments and non-utility activities of KeySpan and Eastern after the acquisition of Eastern. The substance of this filing was only made under PUHCA and public investors were not advised thereof.

132. As part of its March 6, 2000 request for approval of the retention of existing non-utility activities after the Eastern acquisition, including the Roy Kay companies, the Company reported that at December 31, 1999, KeySpan's non-utility subsidiaries and investments constituted approximately 34% of the consolidated assets of KeySpan and its subsidiaries, 33% of consolidated net income and 30% of consolidated net revenues.

133. In making the request for retention, KeySpan falsely represented that its non-utility businesses were not subject to divestment under PUHCA because, it claimed, they were reasonably incidental, economically necessary and appropriate to the proper functioning of the holding company system as a whole. In truth, the general contracting business of Roy Kay and the Midland business were completely independent of the utility subsidiaries of the Company and, moreover, Roy Kay was denied by KeySpan the opportunity to expand its general contracting business by the Company’s refusal to permit the placing of bids on new proposals for construction as a result of PUHCA.

134. On November, 7, 2000, KeySpan filed an amended Form U-1 in which was reported that at June 30, 2000, KeySpan's non-utility subsidiaries and investments constituted approximately 33% of the consolidated assets of KeySpan and its subsidiaries and that for the twelve months ended June 30, 2000, KeySpan's non-utility subsidiaries and investments constituted approximately 38% of consolidated net income and 40% of consolidated revenues. This filing was an utility regulatory filing and not a securities filing and, therefore, was not disseminated or otherwise publicized to the investing public.
On or about November, 7, 2000, the SEC, by order in File No. 70-9641 (Release No. 35-27271), approved KeySpan's acquisition of Eastern. The same order reserved jurisdiction with respect to the retention by KeySpan of its non-utility subsidiaries and required KeySpan to file post-effective amendments setting forth the reasons justifying its retention of these companies by June 30, 2001. This order was also an utility regulatory posting and not a securities posting and was not publicized to the investing public. Accordingly, public investors did not know that the SEC declined to rubber stamp KeySpan’s application for the retention of its non-energy related businesses, including Roy Kay and Midland, and did not know that the inevitable reckoning forcing the divestment of Roy Kay was only postponed until June 30, 2001.

On November, 7, 2000, KeySpan filed a Form U5A officially registering under PUHCA.

On February 6, 2001, KeySpan filed a Form U5B with the SEC in which it listed the value of one of the Roy Kay companies at more than $20.5 million.

According to the Form U-1 filed by KeySpan on October 23, 2001, the retention request still remained pending as of that date.

KeySpan’s Belated Disclosure Of The Truth

On January 24, 2002, KeySpan issued a press release and filed a Form 8-K with the SEC to report its financial performance for the year ending December 31, 2001. In that connection, the Company made full disclosure going forward of the following special charges against fiscal year 2001 earnings:

As part of the Eastern acquisition in November 2000, the Securities and Exchange Commission ordered the Company to divest its interest in the Midland barge business because it was not functionally related to our core utility operations. The Company announced today that it has entered into a contract to sell Midland Enterprises Inc. to a subsidiary of Ingram Industries for approximately $230 million, subject to adjustment. Ingram will also assume debt of approximately $135 million from Midland. The deal, which is subject to certain regulatory and tax approvals, is expected to close during the second quarter of 2002. As a result,
the Company has recorded in the fourth quarter an estimated loss on the sale of
this business of $30.4 million after tax, or $0.22 per share.¹

* * *

KeySpan Construction (formerly Roy Kay): After-tax charge of $95.0 million or
$0.69 per share due to the discontinuance and exit of general contracting activities
in our Energy Services segment.

140. The materially false statements detailed in the prior sections were materially false
and misleading when made. Contrary to defendants’ misrepresentations of fiscal strength at
KeySpan, defendants were aware of the substantial problems that existed at the time in the Roy
Kay company and concerning the forced divestiture of Midland and Roy Kay’s general
contracting businesses, which were only fully disclosed in the January 24, 2002, 8-K.
Defendants intentionally or recklessly issued materially false and misleading statements to the
investing public through the end of the Class Period and illegally profited thereby.

141. The Class Period statements were alive and uncorrected throughout Class Period.

142. During the Class Period, before disclosure of the true facts, the Individual
Defendants sold their personally held KeySpan stock, generating more than $58 million in illegal
insider trading proceeds.

143. On March 25, 2002, the SEC commenced a formal investigation into insider
trading and the truthfulness of disclosures by KeySpan previously described herein.

THE MONMOUTH COUNTY LITIGATION

144. On April 29, 2002, a Bloomberg report summarized the claims, counterclaims,
and other developments deriving from the Monmouth County, New Jersey litigation between
KeySpan and the Kays:

¹ The only previous disclosure of the Midland divestiture was the loose reference in the
March 30, 2001 10-K.
KeySpan Corp. told a New Jersey judge about inflated profits at a subsidiary after insiders had sold more than $14 million in company stock and almost two months before disclosing the news to investors.

Officials of KeySpan, the Northeast's largest natural-gas supplier, sold the shares last year, around the time the company was investigating its Roy Kay Inc. plumbing, mechanical, and electrical contracting units, court and regulatory records show. The U.S. attorney's office in Manhattan and the Securities and Exchange Commission are investigating whether company officials engaged in insider trading.

KeySpan bought Roy Kay in February 2000, fired owners LeRoy Kay and his son David in April 2001, then sued them for fraud. Less than a month later, KeySpan insiders began selling shares, according to company filings with the SEC. Two weeks after that, KeySpan disclosed in court papers that its investigation found Roy Kay had overstated earnings, as well as the work performed on projects, and improperly transferred costs.

“There has been a concerted effort on the part of the Kays to present to (KeySpan) false financial and profit and loss statements,” said Kevin Parker, a comptroller installed at Roy Kay by KeySpan, in a May 25 court filing as part of the company's fraud suit. The purpose, Parker said, was to “forestall the eventual day of reckoning.”

KeySpan didn't tell investors about Roy Kay's problems until July 17. U.S. regulators later began investigating the stock sales. KeySpan shares fell 7.9 percent on July 17, after the company cut earnings by $30 million and disclosed the problems.

* * *

KeySpan also said it had extended credit to Roy Kay 36 times since Jan. 31, 2000, for a total of $31.5 million.

* * *

The Kays have denied KeySpan's allegations of inaccurate accounting and also filed a defamation lawsuit on April 19 against several KeySpan officials. The suit said accusations by KeySpan that the Kays committed fraud and misstated earnings were “false and known to be false when made.”

* * *

The litigation between Roy Kay and KeySpan has been contentious. After firing the Kays last April, KeySpan obtained a court order barring them from their former Freehold offices. KeySpan claimed that at the time of their termination, the Kays had screamed obscenities, destroyed property, and threatened employees.

The Kays said KeySpan officials sent “an army” of employees to “tear apart the office.” The Kays also claimed KeySpan fraudulently induced them into the sale.

They asserted in court papers that KeySpan never disclosed to them that the November 1999 acquisition of Eastern Enterprises, a Boston natural gas utility, effectively precluded Roy Kay from doing general contracting work under federal law. As a result, the Kays say, they lost almost one-third of their business.
On Feb. 1, the Kays also accused KeySpan of dumping and shredding Roy Kay records relating to the litigation, in violation of a July 6 court order. Those records, which David Kay said he found in a trash bin outside a company building, included original construction plans and architect's drawings the Kays say were needed to help determine KeySpan's final payout to them.

* * * 

Superior Court Judge Clarkson S. Fisher Jr. in Freehold hasn't ruled on whether KeySpan violated his July 6 order. He signed a new order on March 20 requiring KeySpan to retain all original business records.

145. With the exception of a claim for negligent misrepresentation, on December 31, 2001, the judge in the Monmouth County litigation denied cross motions to dismiss the direct and counter claims asserted by all of the parties in that litigation, has determined that the various claims raises substantial issues of credibility, and has set the course of that litigation for full discovery and trial.

INDIVIDUAL DEFENDANTS’ SCIENTER

146. As alleged in the above paragraphs, the Individual Defendants acted with scienter in that said 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 herein in detail, the Individual Defendants, by virtue of their receipt of information reflecting the true facts regarding KeySpan, their control over, and/or receipt and/or modification of KeySpan's allegedly materially misleading misstatements and/or their associations with the Company which made them privy to confidential proprietary information concerning KeySpan, participated in the fraudulent scheme alleged herein.

147. The Individual Defendants, who were at all relevant times officers and/or directors of KeySpan were top executives who had daily contact with each other while running KeySpan as “hands-on” managers dealing with the important issues facing KeySpan’s business.
The Individual Defendants controlled and/or possessed the power and authority to control the contents of KeySpan’s Registration Statements, its Form 10-K SEC filings, and quarterly and annual reports and press releases, and were provided copies of the filings, reports and releases alleged herein to be misleading prior to or shortly after their issuance and had the ability and opportunity to present their issuance and/or cause them to be corrected.

148. The Individual Defendants were also involved with KeySpan’s day-to-day operations. They received copies of KeySpan’s internal operating and budget reports, and the securities offerings occurring during the Class Period could not have taken place without the authorization of the Individual Defendants on the Board.

149. The Individual Defendants acted with scienter in that they knew the public documents and statements issued or disseminated in the name of the Company were materially false and misleading, 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, the defendants, by virtue of their receipt and/or modifications of KeySpan’s materially misleading misstatements and/or their association with the Company, which made them privy to confidential proprietary information concerning KeySpan, participated in the fraudulent schedule alleged herein.

150. The Individual Defendants’ scienter is also evidenced by the large amount of insider trading of said defendants during the Class Period. The Individual Defendants, while issuing materially false and misleading statements about KeySpan and its business during the Class Period and omitting material information concerning, inter alia, the value of Roy Kay, directly or indirectly, disposed of almost 1.5 million shares of the stock they owned for insider trading proceeds of more than $58 million, and each Individual Defendant personally benefitted from the artificial inflation in KeySpan’s stock price their fraudulent scheme had created. This massive sell-off by the Individual Defendants was clearly out of their ordinary investing practice,
as none of the Individual Defendants had previously sold their KeySpan holdings prior to December of 2000 or in the prior year.\(^2\) In fact, the Individual Defendants during the Class Period either (a) acquired shares via exercise of options and liquidated all or substantially all holdings immediately, or (b) liquidated all or substantially all of their currently owned shares. Notwithstanding their access to non-public information as a result of their positions with the Company, the Individual Defendants directly or indirectly disposed of the following amounts of KeySpan common stock:

<table>
<thead>
<tr>
<th>INSIDER NAME</th>
<th>DATE</th>
<th>SHARES</th>
<th>PRICE</th>
<th>PROCEEDS</th>
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<tbody>
<tr>
<td>Robert B. Catell</td>
<td>12/12/00-</td>
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<tr>
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<tr>
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<td></td>
</tr>
<tr>
<td>Craig G. Matthews</td>
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<tr>
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<tr>
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<td>Gerald Luterman</td>
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<td>Steven L. Zelkowitz</td>
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<td>William K. Feraudo</td>
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</table>

\(^2\) Excepting William K. Feraudo, who sold 600 shares of common stock on August 20, 1999.
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<thead>
<tr>
<th>Date</th>
<th>Shares</th>
<th>Price Range</th>
<th>Total Value</th>
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<td>Cheryl Smith</td>
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<tr>
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<td>5/11/01</td>
<td>29,466</td>
<td></td>
<td>$1,121,593.00</td>
</tr>
</tbody>
</table>

**GRAND TOTAL** 1,468,314 $58,327,961.79

151. The Individual Defendants’ scierter is clearly evidenced by the insider selling of the Individual Defendants and other KeySpan insiders. Said defendants’ scierter can be drawn from their trades, as set out above because of the magnitude and timing of the trades. By
receiving in excess of $58 million dollars in insider trading proceeds, the Individual Defendants had ample motive to keep KeySpan’s stock price artificially inflated for as long as possible.

152. The increase in the Individual Defendants’ selling of shares in the proposed Class Period was inconsistent with the assumption that the market was fully informed as to the prospects for KeySpan, inconsistent with prior base line of insider trading before 2000, and evidence that the Individual Defendants had foreknowledge of inflation in the share price of KeySpan and were selling shares well beyond the levels suggested for individual wealth diversification and liquidity purposes.

153. The rate at which insider selling increased among the Individual Defendants generally throughout the proposed Class Period (beginning with significant selling activity in December, 2000) reached a peak in May of 2001, just prior to the July 17, 2001 announcement of the adverse disclosure of KeySpan’s $30.1 million charge to earnings, and indicates the Individual Defendants’ foreknowledge that the share price of KeySpan was inflated during the Class Period, including but not limited to 2000, and the first and second quarters of 2001.

154. The Individual Defendants’ illegal insider trading activities in December of 2000, artificially inflated the price of KeySpan stock up to a high of $43.00 per share.

155. From May 16, 2001, until May 31, 2001, the Individual Defendants’ illegal insider trading activities artificially inflated the stock up to a high of $40.40 per share on May 24, 2001.

156. Each of the Individual Defendants had a strong motive to engage and participate in the scheme to defraud and to conduct KeySpan’s business in a manner that operated as a fraud or deceit on purchasers of KeySpan’s publicly traded securities. Every KeySpan Defendant sold substantial amounts, either in absolute or relative terms, of his KeySpan stock, pocketing significant proceeds from his or her illegal insider trading. Additionally, the Individual Defendants were in a position to also pocket huge cash bonus payments if KeySpan achieved
certain preset earnings targets and its stock advanced to certain targeted trading levels and, in fact, said Individual Defendants received such bonuses, as set out above.

157. The market for KeySpan’s securities was open, well-developed, and efficient at all relevant times. As a result of the materially false and misleading statements and failures to disclose set out herein, KeySpan’s common stock traded at artificially inflated sales prices during the Class Period. Lead Plaintiffs and other members of the Class purchased or otherwise acquired KeySpan securities relying on the integrity of the market price of KeySpan’s securities and market information relating to KeySpan, and have been damaged thereby.

158. As set out above, the Individual Defendants’ massive sales in this case were clearly out of their ordinary investing practice, as none of the Individual Defendants had previously sold their KeySpan holdings prior to December of 2000, or the prior year, with the sole exception of Defendant Feraudo. As detailed above, the Individual Defendants’ transactions during the Class Period reveal that each of them either (a) acquired shares via exercise of options and liquidated all or substantially all holdings immediately, or (b) liquidated all or substantially all of their currently owned shares.

159. Because defendants materially mislead the investing public, thereby inflating the price of KeySpan’s common stock, by publicly issuing false and misleading statements and omitting to disclose material facts necessary to make defendants’ statements, as set forth herein, not false and misleading during the Class Period, and personally profited from such false and misleading statements and failure to disclose material facts, the element of scienter is obvious.

160. At all relevant times, the material misrepresentations and omissions particularized in this Complaint directly or proximately caused or were a substantially contributing cause of the damages sustained by Lead Plaintiffs and other members of the Class. As described herein, during the Class Period, defendants made or caused to be made a series of materially false or misleading statements about KeySpan’s business, operations and prospects. These material misstatements and omissions had the cause and effect of creating in the market an
unrealistically positive assessment of KeySpan and its business, operations and prospects, thus causing the Company’s securities to be overvalued and artificially inflated at all relevant times. Defendants’ material false and misleading statements and omissions during the Class Period resulted in Lead Plaintiffs and other members of the Class purchasing the Company’s securities at artificially inflated prices, thus causing the damages complained of herein.

**APPLICABILITY OF PRESUMPTION OF RELIANCE:**

**FRAUD-ON-THE-MARKET DOCTRINE**

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

a. KeySpan'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, KeySpan filed periodic public reports with the SEC and the NYSE;

c. KeySpan 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. KeySpan 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.

162. The market for KeySpan's common stock was open, well-developed and efficient at all relevant times. As a result of these materially false and misleading statements and failures to disclose, KeySpan's securities traded at artificially inflated prices during the Class Period. The artificial inflation continued until the time KeySpan revealed the financial and accounting
irregularities occurring at Roy Kay, and this information was digested by the securities markets, resulting in a drop in the value of KeySpan common stock on the NYSE. Lead Plaintiffs and other members of the Class purchased or otherwise acquired KeySpan securities relying upon the integrity of the market price of KeySpan's common stock and market information relating to KeySpan, and have been damaged thereby.

163. During the Class Period, defendants materially misled the investing public, thereby inflating the price of KeySpan's securities, by publicly issuing materially false and misleading statements and omitting to disclose material facts necessary to make defendants' statements, as set forth herein, not false and misleading. Said statements and omissions were materially false and misleading in that they failed to disclose material adverse information and misrepresented the truth about the Company, its business and operations.

164. At all relevant times, the material misrepresentations and omissions particularized in this Complaint directly or proximately caused or were a substantial contributing cause of the damages sustained by Lead Plaintiffs and other members of the Class. As described herein, during the Class Period, defendants made or caused to be made a series of materially false or misleading statements about KeySpan's business, operations and prospects. These material misstatements and omissions had the cause and effect of creating in the market an unrealistically positive assessment of KeySpan and its business, operations and prospects, thus causing the Company's securities to be overvalued and artificially inflated at all relevant times. Defendants' materially false and misleading statements during the Class Period resulted in Lead Plaintiffs and other members of the Class purchasing the Company's securities at artificially inflated prices, thus causing the damages complained of herein.

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

**NO SAFE HARBOR**

166. 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. None of the specific statements pleaded herein were identified as “forward-looking statements” when made. To the extent that any statements are deemed to be 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 statements pleaded herein, defendants are liable for those false statements because at the time each of those statements was made, the particular speaker knew that the particular statement was false, and/or the statement was authorized and/or approved by an executive officer of KeySpan who knew that those statements were false when made.

**VIOLATIONS OF GAAP**

167. KeySpan repeatedly violated GAAP in that its internal controls were inadequate to address the weaknesses in the information technology systems which produced inaccurate financial information relating to its Roy Kay unit until, at the earliest, the second quarter of fiscal 2000 when the revisions resulting in additional charges of $30.1 million were made. This contradicted management’s representations referred to above in the Form 10-K for the year ended December 31, 2000, pertaining to KeySpan’s internal controls. The weaknesses in KeySpan’s internal controls relating to its Roy Kay subsidiary were not disclosed until at least July 17, 2001. Given the fact that the Roy Kay unit was acquired in January of 2000, it is inconceivable that a large portion, if not all of the $30.1 million dollar loss, was not attributable to fiscal year 2001. As confirmed by the attached exhibits and described herein, the Roy Kay unit was not in compliance with construction benchmarks contained in several contracts at the
time of the January 2000 acquisition, which the defendants had a duty to disclose. Defendants violated section 13(b) of the Securities Exchange Act of 1934, which requires that every issuer of a security maintain a sufficient system of internal accounting controls. Defendants also breached their duty of due diligence and the requirement to allocate the purchase price, under APB 16, by failing to verify that the contract costs and profit recognition was being appropriately estimated by the use of the percentage of completion methods required by Statement of Position (“SOP”) 81-1.

168. KeySpan also violated GAAP by overriding the internal controls in order to suppress the financial information related to the Midland unit, which enabled it to produce inaccurate financial reporting until the 2001 Fourth Quarter charge of $30.4 million was revealed on January 24, 2002. The weaknesses in KeySpan’s internal controls relating to reporting of its Midland subsidiary were not disclosed until January 24, 2002. The sole mention of the forced divestiture in the 10-K for 2000 states only that KeySpan was required to sell Midland by November 8, 2003. This fails the test for adequate disclosure for at least four reasons. First, such failure is in violation of Accounting Board Principle 16 and FAS 38, which require that KeySpan would have had to value Midland assets at the fair value it determined they were worth due to the forced divestiture at December 31, 2000, or specifically disclose the uncertainty. Secondly, defendants violated FASB 5, in that they failed to properly accrue the forced Midland divestiture, or alternatively, state that the Company could not accurately ascertain the amount of the loss at that time. Thirdly, KeySpan did not disclose the operations of Midland as a discontinued operation at December 31, 2000 to enable readers of the financial statements to ascertain the magnitude of the assets, liabilities and operations of Midland. Finally, defendants violated section 13(b) of the Securities Exchange Act of 1934, which requires that every issuer of a security maintain a sufficient system of internal accounting controls.

169. KeySpan’s Form 10-K filed during the Class Period violates section 13(b) of the Securities Exchange Act of 1934, which requires in relevant part that every issuer of a security
must maintain sufficient financial records, including the balance sheet and earnings statements, in that the Form 10-K filed during the Class Period states:

KeySpan in its subsidiaries’ Consolidated Financial Statements were prepared by management in conformity with Generally Accepted Accounting Principles. KeySpan’s system of internal controls is designed to provide reasonable assurance that assets are safeguarded and that transactions are executed in accordance with management’s authorizations and recorded to permit preparation of financial statements that present fairly the financial position operating results of KeySpan. KeySpan’s internal auditors, [then] Arthur Andersen, LLP, evaluate and test the system of internal controls. The Company’s Vice President and General Auditor reports directly to the Audit Committee of the Board of Directors, which is composed entirely of outside directors. The Audit Committee meets periodically with management, the Vice President and General Auditor and Arthur Andersen LLP to review and discuss internal accounting controls, audit results, accounting principles and practices and financial reporting matters.

170. KeySpan’s 10Qs filed during the Class Period also violate section 13(b) of the Securities Exchange Act of 1934, in that the Form 10-K states:

KeySpan in its subsidiaries’ Consolidated Financial Statements were prepared by management in conformity with Generally Accepted Accounting Principles. KeySpan’s system of internal controls is designed to provide reasonable assurance that assets are safeguarded and that transactions are executed in accordance with management’s authorizations and recorded to permit preparation of financial statements that present fairly the financial position operating results of KeySpan. KeySpan’s internal auditors, [then] Arthur Andersen, LLP, evaluate and test the system of internal controls. The Company’s Vice President and General Auditor reports directly to the Audit Committee of the Board of Directors, which is composed entirely of outside directors. The Audit Committee meets periodically with management, the Vice President and General Auditor and Arthur Andersen LLP to review and discuss internal accounting controls, audit results, accounting principles and practices and financial reporting matters.

171. KeySpan’s financial statements issued during the Class Period failed to:

a. Comply with the accounting principle of reliability, which requires that reported information be reliable to the extent that users can depend on it to represent economic conditions
or events that it purports to represent and the such information is reasonably free from error or bias. FASB Statement of Concepts No 2.

b. Comply with the accounting principle of completeness, which requires financial information to be complete and that it validly, represents the underlying events and conditions. FASB Statement of Concepts No 2. Disclosure of the fact that KeySpan would have to divest Midland prior to November 8, 2003, made in the March 30, 2001 10-Q, does not satisfy GAAP Standards; specifically FASB 5, APB 16, and FAS 38, require appropriate accounting and/or disclosure for the divestiture and APB 30 requires disclosure regarding discontinued operations.

c. Comply with the accounting principle of relevance which requires that the reported information have the capacity to make a difference in a decision by helping users form predictions about the outcome of past, present and future events. FASB Concepts No. 2.

d. Comply with respect to its Roy Kay subsidiary with GAAP’s SOP 81-1, which requires that in order to use the percentage-of-completion method of accounting: (a) a company must have the ability to make reasonably dependable estimates of (1) progress toward completion, (2) contract revenue, and (3) contract costs; (b) contracts executed by the parties normally include provision that clearly specify the enforceable rights regarding goods or services to be provided and received by the parties, the consideration to be exchanged, and the manner and terms of settlement; and (c) the buyer can be expected to satisfy his obligations under the contract; and the contractor can be expected to perform his contractual obligations.

e. Restate its Form 10-K and 10-Qs for the First Quarter of 2001 to reflect the $5.5 million after tax loss in the Roy Kay Unit and the proportionate share of the $133.7 million EBIT which was announced July 17, 2001, and October 24, 2001, and failed to restate the earnings for the year ending December 31, 2000, and each quarter of the year ending December 31, 2000. In particular, given that KeySpan historically earned most of its annual earnings in its First Quarter due to the seasonal nature of its business, such restatement would have put a reasonable investor on notice of the actual state of its First Quarter earnings. Accordingly, the
amounts represented as KeySpan’s First Quarter earnings were materially false and misleading. Notwithstanding the material losses that clearly should have attributed to its First Quarter, KeySpan failed to ever restate anything related to its First Quarter of 2001 during the Class Period.

f. Comply with Accounting Principles Board Opinion 16 and FASB 38 which require accurate allocation of the acquisition purchase with both Midland and the Roy Kay units or full disclosure of any material uncertainties that made the purchase price allocations preliminary in nature.

g. Properly estimate its losses due to the anticipated divestiture of Midland for the financial statements reflecting the year ending December 31, 2000. Alternatively, the fact that KeySpan management was unable to appropriately ascertain the contingent loss related to the Midland divestiture at the time of its financial statements should have been disclosed.

172. In violation of Section 13(b), as incorporated into the Securities Exchange Act of 1934, KeySpan’s Forms 10-Q released during the Class Period stated:

In the opinion of the Company, the accompanying unaudited Consolidated Financial Statements contain all adjustments necessary to present fairly the financial position of the Company as of [the relevant period], and the results of its operations and cash flows for three in six months ended [as of the date of the relevant period] and [as of the same period in the prior year] the accompanying financial students should be read in conjunction with the consolidated financial statements and notes included in the Company’s [prior] annual report on Form 10-K. Income from interim periods may not be in the indicative of future results. Certain reclassifications were made to conform prior period financial statements with the current period financial statement presentation. Other than as noted, adjustments were of normal, reoccurring nature.

173. Directly contrary to defendants’ misrepresentations, all adjustments had not been made to provide a fair presentation of the financials, since after tax adjustments in the amounts of $30.1 million, $56.6 million, and $30.4 million, primarily relating to fiscal 2000 and prior were required to be made in the fiscal year 2000 were not appropriately recorded. Additionally, the
$5.5 million operating loss resulting from the Roy Kay operations was not properly disclosed recorded or restated.

174. As a result of KeySpan’s failure to implement proper internal control procedures, its financial statements contained in Forms 10-Q for the quarters filed May 12, 2000, through July 17, 2001, and the Form 10-K for the year ended December 31, 2000, were materially false and misleading and materially overstated its assets and stockholders’ equity and earnings and understated its expenses and losses.

175. In sum, KeySpan’s financial statements and related press releases, including but not limited to its Forms 10-K and 10-Q filed during the Class Period did not timely reflect the losses incurred during the Class Period. Said items were materially false and misleading as set out above.

**FIRST CLAIM**

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

176. Lead Plaintiffs repeat and reallege each and every allegation contained above as if fully set forth herein.

177. During the Class Period, defendants carried out a plan, scheme and course of conduct which was intended to and, throughout the Class Period, did: (i) deceive the investing public, including Lead Plaintiffs and other Class members, regarding KeySpan’s business, operations, management, and the intrinsic value of KeySpan securities; (ii) artificially inflate and maintain the market price of KeySpan's securities; and (iii) cause Lead Plaintiffs and other members of the Class to purchase KeySpan's securities at artificially inflated prices; and (iv) enable the Individual Defendants to sell over $58 million dollars worth of stock for illegal insider trading proceeds.

178. In furtherance of this unlawful scheme, plan and course of conduct, defendants took the actions set forth herein, including but not limited to the following: (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 made 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 KeySpan's securities in violation of Section 10(b) of the Exchange Act and Rule 10b-5.

179. 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 prospects of KeySpan as specified herein.

180. 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 said defendants, by virtue of his or her 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.

181. The Individual 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 KeySpan's operating condition and
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.

182. 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 KeySpan's securities was artificially inflated during the Class Period. In ignorance of the fact that market prices of KeySpan's 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, Lead Plaintiffs and the other members of the Class acquired KeySpan securities during the Class Period at artificially high prices and were damaged thereby.

183. At the time of said misrepresentations and omissions, Lead Plaintiffs and the other members of the Class were ignorant of their falsity, and believed them to be true. Had Lead Plaintiffs and the other members of the Class and the marketplace known of the true financial condition and business prospects of KeySpan, which were not disclosed by defendants, Lead Plaintiffs and other members of the Class would not have purchased or acquired their KeySpan 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.

184. By virtue of the foregoing, defendants have violated Section 10(b) of the Exchange Act, and Rule 10b-5 promulgated thereunder.
185. As a direct and proximate result of defendants' wrongful conduct, Lead Plaintiffs 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.

SECOND CLAIM
Violation Of Section 20(a) Of The Exchange Act
(Asserted Against The Individual Defendants)

186. Lead Plaintiffs repeat and reallege each and every allegation set forth above as if fully set forth herein.

187. The Individual Defendants acted as controlling persons of KeySpan 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, in fact, influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements which Lead Plaintiffs contend 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 Lead Plaintiffs 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.

188. 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.

189. By virtue of their positions as senior insiders of KeySpan, the Individual Defendants were in possession of material, non-public information about KeySpan at the time of
their collective sales of more than $58 million of their own KeySpan stock to Lead Plaintiffs and
members of the Class at artificially inflated prices.

190. By virtue of their participation in the scheme to defraud investors described
herein, and/or their sales of stock while in possession of material, non-public information about
the adverse information detailed herein, the Individual Defendants violated the 1934 Act and
applicable rules and regulations thereunder.

191. As set forth above, 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, Lead Plaintiffs and other members
of the Class suffered damages in connection with their purchases of the Company's securities
during the Class Period.

THIRD CLAIM

Violation of Section 20A of the Exchange Act
(Asserted Against the Individual Defendants)

192. Lead Plaintiffs repeat and reallege each and every allegation set forth above as if
fully set forth herein.

193. By virtue of their positions as officers and/or directors of KeySpan, the defendants
were in possession of material non-public information about the Company that resulted in a duty
to either disclose the information or abstain from trading.

194. Defendants sold KeySpan stock while in possession of material, non-public
information, as stated herein.

195. Such sales were made contemporaneously with some of the purchases by Lead
Plaintiff Donald Kassan and the other members of the Class.
196. Lead Plaintiffs and all other members of the Class who purchased shares of KeySpan securities contemporaneously with the sales of KeySpan securities by these defendants (1) have suffered substantial damages in that they paid artificially inflated prices for the securities as a result of the violations of §10(b) and Rule 10b-5 herein described; and (2) would not have purchased KeySpan 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 and concealment. At the time of the purchase by Mr. Kassan, the fair and true market value of said securities was substantially less than the price paid by him.

WHEREFORE, Lead Plaintiffs pray for relief and judgment, as follows:

A. Determining that this action is a proper class action, and certifying Lead Plaintiffs as class representatives under Rule 23 of the Federal Rules of Civil Procedure;

B. Awarding compensatory damages in favor of Lead Plaintiffs and the other Class Members against all defendants, jointly and severally, for all damages sustained as a result of defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

C. Awarding Lead Plaintiffs and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

D. Such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

197. Lead Plaintiffs hereby demand a trial by jury.

198. Lead Plaintiffs reserve the right to amend this Complaint to reflect facts to be uncovered in discovery and in the Monmouth County litigation.
Dated: New York, New York
May 13, 2002

/s/
Mark D. Smilow (MS-2809)
WEISS & YOURMAN
Joseph H. Weiss (JW-4534)
551 Fifth Avenue
New York, NY 10176
(212) 682-3025
info@wynyc.com

Steven E. Cauley, Esq.
Stewart Cearley, Esq.
Allen Carney, Esq.
Connie Grace, Esq.
CAULEY GELLER BOWMAN & COATES, LLP
P.O. Box 25438
Little Rock, Arkansas 72221
(501) 312-8500
info@classlawyer.com

Co-Lead Counsel
February 10, 2000

VIA FACSIMILE & CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. LeRoy Kay
Roy Kay, Inc.
One Market Yard
Freehold, New Jersey 07728

Re: HR25DC5 – Concourse Village Childcare
Contract Reg. No. 98E1678
Bond No. 15004706

Dear Mr. Kay:

I have been advised that you have failed to (1) maintain an adequate work force; (2) uphold appropriate site safety standards; and (3) meet many of the critical completion dates agreed to in the enclosed commitment schedule signed by you on September 21, 1999 concerning the above referenced Project. Accordingly, you are hereby directed to appear at a meeting to show cause why your firm should not be held in default of the referenced contract pursuant to Article 45 of the Agreement.

The meeting will be held at the Department of Design and Construction, Office of the General Counsel, 30-30 Thomson Avenue, 5th Floor, Conference Room 502, Long Island City, New York on Wednesday, February 16, 2000, at 10:00 a.m. All key personnel assigned to this contract should attend and should bring with them any relevant documentation. You are entitled to be represented by counsel at the meeting.

You are hereby advised that, in accordance with Section 335 of the New York City Charter and Section 5-12 of the Rules of the Procurement Policy Board, if you are determined to be in default of your contract, said determination may result in the commencement of further proceedings to
February 10, 2000
Page 2

debar you from being considered for award of any City contract for a period not to exceed five
years. You are further advised that, if you are determined to be in default of this contract, notice
of the declaration of default will be entered in the New York City VENDEX system, the
citywide database concerning contractor information and performance. This may impact upon
your eligibility for award of future City contracts.

Very truly yours,

Michael Burton, P.E.
Deputy Commissioner

Enclosure

c:  G. Geiersbach, Director, Office of Construction
    A. Papageorge
    L. Rueda
    D. Spillane
    M. Morriss
    J. Romanowich
    D. Hooker
    A. Wright
    R. Rodriguez
    E. Macfarlane
    H. Zan
    E. O'Reilly
    C. Johnson
    E. Junge
    V. Himelewski

(Via Facsimile & Certified Mail Return Receipt Requested)
Liberty Bond Services
Attn: Surety Claims Department
600 West Germantown Pike
Plymouth Meeting, Pa. 19462
Fax # (610) 832-8124
EXHIBIT B
March 20, 2000

VIA FACSIMILE & CERTIFIED MAIL. RETURN RECEIPT REQUESTED

Roy Kay, Inc.
One Market Yard
Freehold, N.J. 07728

Re: Capis I.D. HR21DC5
Concourse Village East
New Child Care Facility
Contract Reg. No.: 98E1678
Bond Number: 15004706

Gentlemen:

After reviewing the evidence presented at a meeting held on February 16, 2000 concerning the above referenced contract, and having given due consideration to the issues raised and the documentary evidence provided, I hereby conclude that your company is in default of its contract pursuant to Article 45 of the Agreement.

You are hereby directed to discontinue all further operations under this contract and to quit the site, leaving unopened all material, equipment, tools and supplies now on the site, in accordance with Article 47 of the Agreement.
Roy Kay, Inc.
March 20, 2000
Page 2

The Department of Design and Construction will undertake to have the work done under
this contract by such means and in such a manner as may be deemed advisable, and will
hold you responsible for any additional expense which may be incurred by reason of your
failure to complete the work or as a consequence of damages resulting from your failure
to complete the work, in accordance with Article 41 of your Agreement.

Be advised that this declaration of default will be entered in the New York City Vendex
system, the citywide database concerning contractor information and performance. This
may impact upon your eligibility for award of future City contracts.

Very truly yours,

Anne Papageorge
Acting Deputy Commissioner

cc: L. Rueda, DDC
    E. DeBlasio, DDC
    D. Spillane, DDC
    M. Morrise, DDC
    J. Romanowitch, DDC
    D. Hooker
    A. Wright, DDC
    R. Rodriguez, DDC
    B. Macfarlane, EAO
    H. Zin, DDC
    E. O’Reilly, DDC
    C. Johnson, Payments
    N. Murphy, Esq.
    E. Junge, Esq.
    V. Himelewski, Esq.
    G. Betto, DDC
    J. Weeks, Department of Finance, (via fax)
    G. Giersbach, Dir., ODC
    File
CERTIFIED MAIL -
RETURN RECEIPT REQUESTED

Leroy Kay, President
Roy Kay, Inc.
1 Market Yard
Freehold, New Jersey 07728

Re: Fringe Benefit Contributions Due to the Mason Tenders District Council
Fringe Benefit Funds
Client/Matter No.: 09500/10200

Dear Mr. Kay:

We are the attorneys for the Mason Tenders District Council Trust Funds (the "Funds") and have been advised by our client that, based upon available reports, Roy Kay, Inc. has failed to make contractually due fringe benefit contributions in the amount of at least $187,919.34 for the period June 1, 2000 through October 30, 2000, together with such additional amounts, if any, which may be determined to be owed upon an audit of Roy Kay, Inc.'s books and records.

Demand is hereby made for the full and immediate payment of all fringe benefits due, with interest on the unpaid fringe benefit contributions of $3,980.40. If you fail to make payment of the delinquent contributions and interest within fifteen days from the date of this letter, the Funds will immediately institute suit in Federal Court to collect the amount due and the additional damages to which they are entitled under the Employee Retirement Income Security Act, as amended. Such damages include (i) liquidated damages, currently assessed at nine percent (9%) of the principal contributions due; (ii) interest imposed by statute, also computed at nine percent (9%); (iii) attorneys' fees, a minimum of $250.00; and (iv) principal court costs, a minimum of $190.00. Settlement offers of full payment of principal, interest and audit fee after institution of suit on the delinquency will not be accepted, unless the additional damages incurred under ERISA are paid. For example, a $1,000.00 delinquency for two months will cost a minimum of $1,600.00 in principal and additional damages to settle after the filing and service of summons and complaint but prior to discovery and trial. Settlement after motion practice, discovery or trial will cost more as liquidated damages, interest and attorneys' fees continue to accrue.

We are also the attorneys for the Mason Tenders District Council (the "Union"), and have been advised that Roy Kay, Inc. has failed to remit dues checkoffs in the amount of at least
Case 1:01-cv-05852-ARR-MDG     Document 29     Filed 05/13/2002     Page 80 of 93

Gorlick, Kravitz & Listhaus, P.C.

Leroy Kay, President
Roy Kay, Inc.
December 7, 2000
Page 2

$13,918.50 and Political Action Committee contributions in the amount of at least $1,391.85 for the period June 1, 2000 through October 30, 2000. Said amounts are owed to the Union pursuant to the trade agreement between Olean Construction Inc. and the Union.

In addition, this is a demand that an auditor-representative of the Funds be permitted access to all necessary books and records of Roy Kay, Inc. to permit an audit, including, but not limited to, all payroll sheets, W-2 forms, New York State Employment Reports, Insurance Company Reports and supporting checks, ledgers, vouchers, 1099 forms, evidence of unemployment insurance contributions, payroll tax deductions, disability insurance premiums, certification of workers compensation coverage, and any other items concerning payroll(s), as well as the same books and records of any affiliate, subsidiary, alter ego or other related company of Roy Kay, Inc. doing bargaining unit work.

The Trustees insist that you abide by your contractual obligations and make payment and schedule an audit, if one has not already been scheduled, within fifteen days of the date of this letter or face the alternative of legal action with its attendant costs and additional sanctions.

Your prompt attention to this matter is strongly urged.

Very truly yours,

GORLICK, KRAVITZ
& LISTHAUS, P.C.

Michael J. Vollbrecht

MJW/mjw

cc: John J. Virga, Director
    Mason Tenders District
    Council Trust Funds
EXHIBIT D
FINAL NOTICE
NOTICE OF INTENT TO LEVY AND NOTICE OF YOUR RIGHT TO A HEARING
PLEASE RESPOND IMMEDIATELY

Your federal tax is still not paid. We previously asked you to pay this, but we still haven't received your payment. This correspondence is your notice of our intent to levy under Internal Revenue Code (IRC) Section 6331 and your right to receive Appeals consideration under IRC Section 6330.

We may file a Notice of Federal Tax Lien at any time to protect the government's interest. A lien is a public notice to your creditors that the government has a right to your current assets, including any assets you acquire after we file the lien.

If you don't pay the amount you owe, make alternative arrangements to pay, or request Appeals consideration within 30 days from the date of this correspondence, we may take your property, or rights to property, such as real estate, automobiles, business assets, bank accounts, wages, commissions, and other income. We've enclosed Publication 594 with more information, Publication 1560 explaining your right to appeal, and Form 12153 to request a Collection Due Process Hearing with Appeals.

To prevent collection action, please send your full payment today. Make your check or money order payable to the United States Treasury. Write your social security number on your payment. Send your payment to us in the enclosed envelope with a copy of this letter. The amount you owe is shown below:

<table>
<thead>
<tr>
<th>Form Number</th>
<th>Tax Period</th>
<th>Assessed Balance</th>
<th>Statutory Additions</th>
<th>Amount You Owe</th>
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<td>115,870.53</td>
<td>8,889.63</td>
<td>124,760.16</td>
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If you have recently paid this tax or you can't pay it, call us immediately at the telephone number shown in the Collection Assistance box, and let us know.

The assessed balance may include tax, penalties and interest you still owe. It also includes any credits and payments we've received since we sent our last correspondence to you.
EXHIBIT E
March 20, 2001

KeySpan Services, Inc.
KeySpan Energy Management, Inc.
KeySpan Business Solutions Company
1719 Route 10
 Parsippany, NJ 07054

Roy Kay, Inc.
One Market Yard
Freehold, NJ 07728

Attn: LeRoy Kay

Mr. LeRoy Kay
Ms. Janet Kay
1 Debra Court
Marlboro, NJ 07746

Roy Kay Electrical Company, Inc.
1303 B Travis Avenue
Staten Island, New York 10314

Attn: LeRoy Kay, President

Mr. David A. Kay
Ms. Alice Kay
112 Micki Street
Morganville, NJ 07751

RE: Roy Kay, Inc. – Liberty Bond Services

Dear Sirs/Madams:

As you are aware, Liberty Bond Services, directly and/or through its affiliated surety companies
(collectively, LBS), has issued various surety bonds on behalf of Roy Kay, Inc. (RKI) in reliance
upon a General Agreement of Indemnity executed by RKI, Roy Kay Electrical Company, Inc.,
LeRoy Kay, Janet Kay, David A. Kay and Alice Kay (collectively, the Indemnitors) dated
November 2, 1998 (the Indemnity Agreement). In particular, LBS issued payment and
performance bonds at the request of RKI with respect to the Rail Control Center Project (Rail
Control Project) undertaken by RKI for the New York City Transit Authority (TA).

In a letter dated January 19, 2001, the TA advised RKI that it was defaulted under its contract
with the TA providing for construction of the Rail Control Project and it demanded that LBS
complete the Project under the performance bond that it had issued at the request of RKI. LBS
has advised the TA that it shall honor its performance bond obligations, subject to a reservation of
rights.
March 20, 2001
Page Two

Given these circumstances, LBS has incurred, and expects to incur, significant expense in reviewing, adjusting and complying with its obligations under its performance and payment bonds issued with respect to the Rail Control Project. Further, LBS has recently posted initial reserves against the losses and expenses arising from the Rail Control Project in the amount of $5,000,000. Each of the Indemnitors promised in the Indemnity Agreement, among other things, to provide to LBS, upon demand, with collateral security against, and to reimburse LBS for, these and all other losses incurred by LBS as a consequence of its suretyship of RKI.

Accordingly, pursuant to the Second Paragraph of the Indemnity Agreement, LBS hereby demands that the Indemnitors deposit with LBS, before the close of business next Friday, March 23, 2001, the amount of $5,000,000. This deposit must be made by a check in the amount of $5,000,000, subject to collection, made payable to Liberty Mutual Insurance Company and delivered to the office of our counsel, David Westermann, Jr., located at Westermann Hamilton & Sliveley, LLP, Garden City Center 100 Quentin Roosevelt Boulevard, Suite 205, Garden City, New York 11530.

Please be advised that LBS may be required to increase this reserve of $5,000,000 and, correspondingly, to make a further demand for collateral as to the Rail Control Project. Also, as you know, RKI has been defaulted by the State University Construction Fund on projects located at Stony Brook and Old Westbury. LBS may be compelled, in the near future, to post reserves and make collateral security deposit demands as to those projects.

Further, RKI entered into a repayment agreement with LBS pertaining to earlier losses that LBS had incurred as a consequence of its suretyship of RKI. RKI has breached the repayment agreement and has persisted in its failure to make payment, despite due notice and an opportunity to cure. The enclosed schedule sets forth the amount presently owed by RKI under this agreement. LBS demands payment of this delinquent amount of $545,240.62, also by check made payable to Liberty Mutual Insurance Company and delivered to Mr. Westermann by the close of business on March 23, 2001.

LBS' demand for a collateral security deposit under this letter is also made upon KeySpan Energy Management, Inc., KeySpan Services, Inc. and KeySpan Business Solutions Company (collectively, KeySpan). In addition to RKI being a wholly owned subsidiary of KeySpan Services, Inc., KeySpan, in one or more of its iterations, assumed and guaranteed, in or about October 2000, RKI's contractual obligations on the Rail Control Project owed to the TA and to trade contractors and suppliers, all without LBS' consent, and then later was defaulted by the TA. KeySpan also may have taken control of trust funds paid under the Rail Control Center contract. Accordingly, KeySpan is the alter ego of RKI and a de facto principal and, therefore, indemnitee to Liberty Mutual Insurance Company. Further, Liberty Mutual Insurance Company enjoys, by equitable subrogation, the various rights against KeySpan held both by the TA and the trade contractors and suppliers left unpaid by RKI and KeySpan.
March 20, 2001
Page Three

Finally, LBS again makes demand of RKI and KeySpan that they turn over to LBS, pursuant to Paragraph Eighth of the Indemnity Agreement, all "books, records and/or accounts" related to the Rail Control Project.

LBS expressly reserves all of its rights and remedies.

Sincerely,

Francis J. McCall, CPA, CFM
Senior Surety Manager

FJM:jme
Enclosures

cc: Peter Metzger, Esquire
    Peter Goetz, Esquire
April 17, 2001

Roger J. Walz  
Sr. Vice President & CFO  
KeySpan Services, Inc.  
1719 Route 10  
Parsippany, New Jersey 07054

Dear Roger:

I would appreciate an explanation for the $3 million reserve for the MTA Rail Control Center incorporated into our March, 2001 financial statement. When we prepare our monthly financials, we estimate costs to complete on each contract in progress. Therefore, this additional expense which you requested be made to our financials should have been discussed with David or myself. If agreed, the proper accounting should have been to increase the estimated costs to complete at March 31, 2001 to MTA Rail Control Center.

Very truly yours,
Roy Kay, Inc. / KeySpan

[Signature]
LeRoy Kay  
President

LRK/kw
EXHIBIT G
Via Facsimile and Registered Mail RRR

Roy Kay, Inc.
One Market Yard
Freehold, New Jersey 07728

Attn: Mr. Roy Kay, President

Re: SUCF Project No. 13A55
Student Activities Center Phase II
State University of New York at Stony Brook

Dear Mr. Kay:

At the "Notice of Default" meeting held on October 11, 2000, Roy Kay, Inc. (RKI), agreed to certain conditions in exchange for not being declared in default of its contract for the above-referenced Project. The Fund summarized those conditions in a letter dated October 18, 2000.

In sum, the Fund agreed to give RKI a ninety-day period within which to correct the problems discussed at the meeting, to provide a logic driven CPM recovery schedule, and to demonstrate that RKI has the ability to complete the Project on time and in accordance with all contract requirements.

By letter dated December 19, 2000, the Fund advised you that, as of that date, you were not meeting the conditions established at the October 11, 2000 meeting. Specifically, you have not met the scheduling requirements nor have you rectified all of the quality control issues that were raised. The schedule submitted in November was totally unacceptable and you were so advised. As of this date, the Project is still not weather enclosed, structural shop drawings remain outstanding, curtain wall and glass-engineered shop drawings were not resubmitted for approval until early December 2000 (a four-month lag from the original "rejected" and returned date of August 8, 2000). Also, additional quality control issues have arisen during the ninety-day "cure" period.

You were awarded the contract on January 22, 1999 and the completion date is October 15, 2001. Given the above, it is clear that you have been unable to demonstrate to the Fund that you have the necessary skill and resources to complete this Project by the scheduled completion date.

The Fund, therefore, declares you in default of your contract for the above-referenced Project pursuant to section 2.26 of the Agreement between your firm and the Fund.

Very truly yours,

James E. Biggese
Assistant General Manager

Copy: Peter Goetz, Esq.
Anthony Sartor, Keyspan
Andrew Goldman
Liberty Mutual Insurance Company, Bond Claims Department
Richard Mann, SUNY Stony Brook
EXHIBIT H
February 5, 2001

Via Facsimile and Registered Mail RRR

Roy Kay, Inc.
One Market Yard
Freehold, New Jersey 07728
Attn: Mr. Roy Kay, President

Re: SUCF Project No. 31121
Student Union
State University College at Old Westbury

Dear Mr. Kay:

At the “Notice of Default” meeting held on October 11, 2000, Roy Kay, Inc. (RKI), agreed to certain conditions in exchange for not being declared in default of its contract for the above-referenced Project. The Fund summarized those conditions in a letter dated October 16, 2000.

In sum, the Fund agreed to give RKI a ninety-day period within which to correct the problems discussed at the meeting, to provide a logic driven CPM recovery schedule, and to demonstrate that RKI has the ability to complete the Project on time and in accordance with all contract requirements.

By letter dated December 19, 2000, the Fund advised you that, as of that date, you were not meeting the conditions established at the October 11, 2000 meeting. Specifically, you have not met the scheduling requirements nor have you rectified all of the quality control issues that were raised. The schedule submitted in November was unacceptable and you were so advised. As of this date, the Project is still not weather enclosed, critical shop drawings remain outstanding, and structural details and connections have not been adhered to. Also, additional quality control issues have arisen during the ninety-day “cure” period. A substantial quantity of fireproofing (applied to structural steel) is damaged from water/moisture and will need to be replaced.

You were awarded the contract on February 2, 1999 and the completion date is September 21, 2001. Given the above, it is clear that you have been unable to demonstrate to the Fund that you have the necessary skill and resources to complete this Project by the scheduled completion date.

The Fund, therefore, declares you in default of your contract for the above referenced Project pursuant to section 2.28 of the Agreement between your firm and the Fund.

Yours truly,

James E. Biggane
Assistant General Manager
Office of Design and Construction

Copy: Peter Goetz, Esq.
Anthony Sartor, KeySpan
Joe Jenal, EJLJ Engineers
Liberty Mutual Insurance Company, Bond Claims Department
Dr. Calvin O. Butts, III, President – Old Westbury
CERTIFICATE OF SERVICE

This is to certify that on this 13th day of May 2001, a true and correct copy of the attached Consolidated Class Action Complaint, together with the exhibits annexed thereto, were served on the parties set forth below by regular U.S. mail and electronic mail.

Brian R. Michael, Esq. (BM 9076)
bmichael@stblaw.com
Simpson Thacher & Bartlett
425 Lexington Avenue
New York, New York 10017-3954
Tel: (212) 455-2000
Fax: (212) 455-2502

Attorneys for Defendant Keyspan Corporation

Steven J. Roman, Esq.
Romans@dsmo.com
Dickstein Shapiro Morin & Oshinsky LLP
2101 L Street, NW
Washington, D.C. 20037-1526
Tel: (202) 785-9700
Fax: (202) 887-0689

Attorneys for Individual Defendants

/S/
MARK D. SMILOW