Lead Plaintiff Genesee County Employees’ Retirement System (“Lead Plaintiff”) individually and on behalf of all other persons similarly situated, by its undersigned attorneys, alleges the following based upon personal knowledge as to itself and its own acts, and information and belief as to all other matters, based upon, inter alia, the investigation conducted by and through its attorneys, which included a review of the public documents and announcements made by the Defendants, documents filed with the Securities Exchange Commission (“SEC”), press releases issued by Transaction Systems Architects, Inc. (“TSA” or the “Company”), reports by analysts who followed TSA, documents produced by TSA,
Arthur Andersen LLP (“Arthur Andersen”), KPMG LLP (“KPMG”) and other third party witnesses and the deposition testimony of current and former employees of TSA and former employees of Arthur Andersen and third-party witnesses, and consultation with financial market analysts.

**NATURE OF THE ACTION**

1. This is a securities class action brought by Lead Plaintiff on behalf of itself and a class consisting of all persons who purchased TSA securities during the period from January 21, 1999 through and including November 19, 2002 (the “Class Period”), to recover damages caused by the Defendants’ violations of the Securities Exchange Act of 1934 (“Exchange Act”).

2. At the commencement of the Class Period, TSA’s stock traded as high as $50 per share. The stock price benefited TSA in its business strategy of growth through acquisition whereby TSA’s common stock was used as currency to purchase other companies. However, beginning in the first quarter of fiscal 1999, TSA began to fall short of achieving its financial targets. Thus, a newly-enacted accounting standard, American Institute of Certified Public Accountants’ Statement of Position (“SOP”) 97-2, was adopted by TSA for the 1999 fiscal year beginning October 1, 1998, and provided TSA with a way to prematurely recognize revenue in order to meet market expectations, and to inflate TSA’s common stock price.

3. Even with the Company’s improper application of SOP 97-2, TSA struggled each quarter to meet analysts’ expectations. Thus, as TSA issued financial press releases during the Class Period, the stock price of TSA stock nonetheless began to decline, but not nearly as much as it would have, had the Company been fully truthful.

4. After the close of market trading on August 14, 2002, TSA announced that certain transactions had come to light with a customer (which turned out to be Digital Courier Technologies, Inc. (“Digital Courier”)). As a result, TSA stated that (i) the Company would conduct a re-audit of the financial statements for fiscal years 1999, 2000 and 2001; (ii) the re-audits would likely result in the
restatement of the Company’s financial statements; (iii) TSA’s new auditor, KPMG, LLP (“KPMG”) was not able to certify the accuracy of the interim financial statements for the third quarter of 2002 pursuant to the newly enacted Sarbanes-Oxley Act of 2002; and (iv) defendant Greg Duman, the Company’s then Chairman of the Board of Directors, had resigned effective August 13, 2002. As a result of this announcement, TSA’s share price fell almost 20% on August 15, 2002.

5. On November 19, 2002, the Company announced that it would restate – i.e. admit as false in material amounts – its previously disseminated financial statements for fiscal years 1999, 2000 and 2001, as well as restate its previously issued 2000, 2001 and 2002 quarterly results - - because it improperly recognized revenue in conjunction with its software licensing arrangements subject to SOP 97-2. The size of the restatement was dramatic. Remarkably, the accounting shenanigans were so pervasive that they affected all aspects of the Company’s financial reporting, and implicated numerous provisions of Generally Accepted Accounting Principles (“GAAP”) including revenue recognition, collectibility, contract accounting, subscription accounting, delivery/term commencement, distributor arrangements, purchase accounting, capitalized software, bad debts, accrued liabilities, facilities management set-up costs, distributor commissions, corporate restructuring, goodwill, software impairment, interest income and expense, investments, foreign currency and income taxes.

6. For example, rather than the reported fiscal year 1999 net income of $44.7 million, TSA actually suffered a loss of almost $12 million, a difference of approximately $56 million. For fiscal year 2000, TSA reported net income of $2.1 million, when in fact, the Company actually suffered a loss of more than $50 million. In 2001, the actual loss of $80 million was almost twice the reported loss of $43 million.

7. On November 19, 2002, TSA stock closed at $8.95 per share, down from $10 per share on November 18, 2002 and continued to tumble, closing at $7.35 per share on November 20, 2002.
For the 90 day period following November 19, 2002, TSA’s average stock price was approximately $6.76 per share.

8. During the Class Period, the stock price of TSA reacted, rising and falling in relationship to whether the Company exceeded, or fell short of, analysts’ expectations. For example, as noted above, at the beginning of the Class Period, the stock price of TSA was approximately $50 per share. According to the Company’s 2002 10-K, for the first quarter 2000 (period ending December 31, 1999) TSA’s revenues were overstated by 10.65%. On January 21, 2000, (the first day the market reacted to the news released by TSA regarding its financial results for the first quarter 2000), the price of TSA stock closed at $24.8125. TSA issued its financial press release for the quarter ended March 31, 2000 on April 25, 2000, after the close of trading, and while TSA’s revenues were actually overstated by 18.03%, as reported, its financial results were still well below analysts’ expectations, who downgraded the stock. The stock price fell from a closing price of $25 per share on April 25th to close at $13.31 on April 26, 2000. On July 20, 2000, TSA issued its financial press release for the quarter ending June 30, 2000. Though TSA’s reported revenues for the quarter ending June 30, 2000 were overstated by 21.68%, the results were in line with analysts’ expectations and TSA’s stock went from a closing price of $18.75 per share on July 20, 2000 to close at $19.50 per share on July 21, 2000. Accordingly, while TSA’s stock price made partial adjustments for reported revenue and earnings that, while fraudulently inflated, were lower than expected, the full scope of Defendants’ fraud was unknown to the market until the end of the Class Period.

9. According to the restatement as finally issued by TSA on January 13, 2003 in its Form 10-K (“2002 10K”), the Company’s fraudulent scheme involved an aggregate overstatement of revenues for the fiscal years 1999-2001 of $128 million, and an aggregate overstatement of net income by $145.8 million, as well as violations of more than 12 separate provisions of GAAP, most of which are based on very basic accounting principles. Moreover, the fraudulent statements issued by
defendants were each materially false and misleading when made because they failed to disclose or misrepresented the following adverse facts, among others: (i) the Company lacked sufficient internal controls and therefore was unable to understand its true financial condition; (ii) the Company’s revenues and net income for the reported period were materially misstated due to the pervasive accounting violations, including the manner of booking revenue; (iii) TSA’s balance sheet and income statement were materially misstated at all relevant times; (iv) TSA’s revenue recognition practices were not in compliance with SOP 97-2 as represented; (v) TSA was not appropriately accounting for companies acquired using TSA stock as currency during its aggressive acquisition binge; (vi) TSA had improperly engaged in “wash” transactions with other companies in order to boost reported revenue; and (vii) TSA, on a systematic and regular basis, was not adhering to GAAP.

10. TSA had an Audit Committee, the members of which were charged with enumerated responsibilities pursuant to TSA’s Audit Committee Charter. Among its duties, the Audit Committee was to: review annual audited statements with management, including assessing the adequacy of internal controls; review the quarterly financial statements prior to filing Forms 10-Q with both management and the independent auditor; meet periodically with TSA management to review major financial risk exposures; review major accounting principles and practices as suggested by the independent auditor or management; consider any difficulties encountered during the course of audit work; and meet annually with the Chief Financial Officer and independent auditor in separate executive sessions. However, (a) the former Chairman of the Audit Committee testified that prior to TSA’s restatement, there were no internal controls in place to assure that TSA management complied with the basic provisions of GAAP as they related to the recognition of revenue for software licensing and (b) after becoming the Company’s independent auditor, KPMG issued a “material weaknesses” letter to TSA’s Audit Committee due to the Company’s lack of internal controls.
JURISDICTION AND VENUE

11. The claims alleged herein arise under Sections 10(b) and 20(a) of the Exchange Act, 15 U.S.C. §§ 78j(b) and 78t(a), and Rule 10b-5, 17 C.F.R. § 240.10b-5 promulgated thereunder.

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

13. Venue is proper in this Judicial District pursuant to Section 27 of the Exchange Act and 28 U.S.C. § 1391(b). Many of the acts and transactions alleged herein, including the preparation and dissemination to the investing public of false and misleading information, occurred in substantial part in this Judicial District. Moreover, the Company’s corporate headquarters are located in this Judicial District.

14. In connection with the acts, transactions and conduct alleged herein, Defendants, directly and indirectly, used the means and instrumentalities of interstate commerce, including the United States mails, interstate telephone communications and the facilities of the national securities exchanges.

THE PARTIES

15. Lead Plaintiff Genesee purchased shares of TSA Class A common stock during the Class Period, as set forth in the Certification previously filed with the Court and was damaged thereby.

16. Proposed Intervenor Plaintiff and Class Member Louisiana District Attorneys Retirement System (“Louisiana” or “Proposed Intervenor Plaintiff”) purchased 11,300 shares of TSA Class A common stock on December 3, 2001 and held these shares through the end of the Class Period, as set forth in the Certification previously filed with the Court, and was damaged thereby.

On April 21, 2006, Louisiana filed a Motion to Intervene in this action (“Motion”); the Motion is sub judice. Thus, in the event the Motion is granted, allegations in the Complaint regarding adequacy and typicality would be deemed to include Louisiana.
17. TSA maintains its corporate headquarters at 224 South 108th Avenue, Suite 7, Omaha, Nebraska. The Company develops, markets, installs and supports a broad line of software products and services primarily focused on facilitating electronic payments (e-payments) and electronic commerce (e-commerce). In addition to its own products, TSA distributes or acts as a sales agent for software developed by third parties. TSA’s products and services are used principally by financial institutions, retailers and e-payment processors, in domestic and international markets. The Company’s services and products were, at the time this action was filed, organized into the following business units: ACI Worldwide, Insession Technologies and IntraNet, Inc. During the Class Period, TSA common stock was actively traded on the NASDAQ National Market under the ticker symbol “TSAI” or “TSAIE.”

18. Defendant William E. Fisher (“Fisher”) was one of the founders of TSA and served as the Chairman of the Board of TSA from December 1, 1993 until May 1, 2001. He served as TSA’s President and Chief Executive Officer (“CEO”) until November, 1999 and served again as CEO from May 22, 2000 until May 1, 2001. Fisher also served in various capacities, including President and later Chairman and Chief Executive Officer of ACI Worldwide, TSA’s principal division, from 1997 to 1999.

(a) Fisher historically received about 50% of his annual income from his bonus. Thus, for the fiscal year 1998, Fisher received a salary of $233,333 and a bonus of $255,768. In 1999, Fisher received a salary of $250,000 and a bonus of $231,489. In fiscal year 2000, however, Fisher’s salary was $206,250, and his bonus was $69,833. In 2000, Fisher and TSA entered into a three-year employment agreement whereby Fisher was entitled to a base salary of $200,000, with a bonus based upon achieving certain objectives including sales, revenue, pretax profit, backlog and/or cash flow (“bonus objectives”). Pursuant to a verbal agreement entered into in December 2000, Fisher also received a $3 million “loan” from TSA, of which one-half of the principal and interest (i.e., more than
$1.5 million) would be forgiven in the event the closing bid for the Company’s stock reached certain price targets within a three-year period. By fiscal 2001, Fisher had received the full amount of the loan, but was terminated just six months after receiving the loan and only a year into his agreed-upon three year term.

(b) Fisher was a signatory to the Forms 10-K for the fiscal years ended September 30, 1999 and 2000 and was frequently quoted in TSA’s press releases issued in connection with the Company’s quarterly and annual financial results (“financial press releases”).

19. Defendant Greg Duman (“Duman”) served as TSA’s Chairman of the Board from May, 2001 until August 13, 2002. Duman previously served as TSA’s Vice President and Chief Financial Officer from 1993 through September 1998 and Executive Vice President - Lines of Business from September 1998 to April 2000. From 1983 to at least 1991, Duman was employed by ACI Worldwide, serving as its Controller and then Vice President and Chief Financial Officer. Prior to 1983, he was employed by the now-defunct Arthur Andersen, TSA’s outside auditor until May 29, 2002, at which time it was replaced by KPMG. Just two and one half months later, on August 13, 2002, Duman was forced to resign from TSA after KPMG advised TSA’s Audit Committee it would resign as auditor unless Duman left the Company.

(a) Like Fisher, historically almost 50% of Duman’s annual compensation was in the form of a bonus based upon achieving specified bonus objectives. For the fiscal years ended September 30, 1998 and 1999, Duman received a base salary of $118,334 and $165,000 respectively, with a bonus of $137,659 and $125,396, respectively.

(b) In his capacity as CFO, Duman was responsible for the Company’s financial, treasury and accounting functions. Duman was a signatory to the Forms 10-K for the fiscal years ended September 30, 1999, 2000 and 2001.
(c) Duman was also the Chief Financial Officer of Artios, Inc. (“Artios”), a company that in fiscal 2000, licensed three of TSA’s software products in exchange for monthly fees of $50,000 over a three-year term. Simultaneously, TSA entered into a three-year exclusive worldwide right to market Artios’ services to retailers and financial institutions at the same $50,000 per month. The sole purpose of the Artios transactions was to provide critical money to Artios so that TSA, in turn, could record the revenue from these “wash” transactions.

(d) Duman was involved in and suggested three sham transactions to James Egide (“Egide”), Digital Courier’s CEO. These sham transactions provided cash-strapped Digital Courier the money to enter into certain agreements with TSA so that TSA could record revenue. Indeed, Duman noted in a March 22, 2000 email that the transaction under discussion was a “trade off” and the amounts “essentially wash”. These transactions ultimately led to KPMG’s scrutiny, the termination of Duman, the reaudit and the restatement of TSA’s financial results.

20. Defendant Dwight Hanson (“Hanson”) was TSA’s Chief Accounting Officer and Vice President of Corporate Finance from 1997 until February 24, 2000, in which capacity he was, according to a February 24, 2000 TSA press release, responsible for the Company’s day-to-day accounting, finance, tax and corporate programs. On February 24, 2000, Hanson became TSA’s Chief Financial Officer and Senior Vice President of Finance and Administration, responsible for all aspects of TSA’s financial operations. As such, Hanson was responsible for the Company’s financial, treasury and accounting functions. From 1981 to 1991, Hanson was an auditor with Coopers & Lybrand.

(a) After the Digital Courier transactions came to light and the reaudit commenced, KPMG insisted that Hanson be demoted or terminated.

(b) Like Fisher and Duman, Hanson received an annual bonus based on achieving certain bonus objectives related to Company performance which represented a substantial portion of his annual compensation. For the fiscal years ended September 30, 1999, 2000 and 2001, Hanson
received a base salary of $113,750, $131,250 and $140,000, respectively, with a corresponding bonus of $66,368, $69,279 and $78,198, respectively.

(c) Hanson was a signatory to many of the Forms 10-Q described herein and the Forms 10-K for the fiscal years ended September 30, 1999, 2000 and 2001. Hanson was also frequently quoted in TSA’s financial press releases.


(a) Like the other officers of TSA, Russell received a large portion of his annual salary in the form of a bonus which was based on achieving certain bonus objectives related to Company performance. Thus, for the fiscal years ended September 30, 1998, 1999, 2000 and 2001, Russell received a base salary of $150,000, $172,500, $241,250 and $434,620, respectively, with a corresponding bonus of $154,255, $130,799, $118,714 and $51,932, respectively.

(b) Russell was a signatory to the Forms 10-K filed with the SEC for the fiscal years ended September 30, 1999 and 2000 and was frequently quoted in TSA’s financial press releases.

(c) Russell was fully aware that TSA entered into “wash transactions” and was the signatory to one involving a small start up company called ATM TIX, Inc. After the original equity investment and license agreement were entered into on June 24, 1998, TSA continued to recognize revenue from ATM TIX during the Class Period by providing ATM TIX with additional lines of credit.

22. Defendant Edward Fuxa (“Fuxa”) was TSA’s Controller and, on February 24, 2000, was appointed Chief Accounting Officer. Fuxa was a signatory to many of the Forms 10-Q described herein, and the Forms 10-K for the fiscal years ended September 30, 2000 and 2001.
23. Defendants Fisher, Hanson, Duman, Fuxa and Russell are collectively referred to hereafter as the “Individual Defendants”. During the Class Period, the Individual Defendants made various statements regarding TSA’s financial results and condition, and compliance with applicable accounting principles, in TSA press releases and in filings with the SEC which were relied upon by the investing public.

24. By reason of their positions with the Company, the Individual Defendants had access to internal Company documents, reports and other information, including periodic reports which contained the adverse non-public information concerning the Company’s financial condition and accounting, and further participated in management, board of directors’ meetings and audit committee meetings. As a result of the foregoing, they were responsible for the truthfulness and accuracy of the Company’s public filings and press releases described herein.

25. TSA and the Individual Defendants, as officers and directors of a publicly-held company, had a duty to promptly disseminate truthful and accurate information with respect to TSA and to promptly correct any public filings or statements issued by or on behalf of the Company which had become false or misleading.

26. Each of the Defendants knew or recklessly disregarded that the false and/or misleading statements and omissions complained of herein would adversely affect the integrity of the market for the Company’s stock and would cause the price of the Company’s common stock to become artificially inflated or maintained. Each of the Defendants acted knowingly or in such a reckless manner as to constitute a fraud and deceit upon Lead Plaintiff and the other members of the Class.

27. Defendants are liable, jointly and severally, as direct participants in and co-conspirators of, the wrongs complained of herein.

28. 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, interviews, and other statements, as alleged herein, were the collective actions of the Individual Defendants. Each of those officers and/or directors of TSA, by virtue of his high level position(s) 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, sales, growth, financial statements, and financial condition which was handled at TSA’s office in Omaha, in the form of budgets, projected financial reports and WINS reports and as alleged herein. Moreover, by virtue of their participation in periodic meetings, the Individual Defendants knowingly or recklessly made the materially false and misleading statements alleged herein; were involved in drafting, producing, reviewing and/or disseminating the statements; or approved or ratified the statements, in violation of the federal securities laws.

CLASS ACTION ALLEGATIONS

29. Lead Plaintiff brings this action as a class action pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3) on behalf of the class (the “Class”) consisting of all persons or entities who purchased TSA securities from January 21, 1999 through and including November 19, 2002. Excluded from the Class are the Defendants, members of senior management of TSA during the Class Period, their immediate families and any entity in which the Defendants have a controlling interest or is a parent or subsidiary of or is controlled by the Company. By order dated March 22, 2005, this Court certified this lawsuit as a class action on behalf of the Class for the period January 21, 1999 through November 18, 2002.\(^1\)

30. The members of the Class are so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to Lead Plaintiff at this time and can only be

\(^1\) Lead Plaintiff will move to amend the Class definition.
ascertained through appropriate discovery, Lead Plaintiff believes there are, at minimum, thousands of members of the Class who purchased or acquired TSA securities during the Class Period. As of August 12, 2002, the Company had approximately 35.4 million shares of its common stock outstanding and actively trading on the NASDAQ National Market, an efficient market.

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

(i) Whether the federal securities laws were violated by Defendants’ acts as alleged herein;

(ii) Whether the Company issued false and misleading financial information during the Class Period;

(iii) Whether Defendants acted knowingly or recklessly in issuing false and misleading financial information;

(iv) Whether the market price of the Company’s securities during the Class Period was artificially inflated because of the Defendants’ conduct complained of herein; and

(v) Whether the members of the Class have sustained damages and, if so, what is the proper measure of damages.

32. Lead Plaintiff’s claims are typical of the claims of the members of the Class as Lead Plaintiff and the other members of the Class sustained damages arising out of Defendants’ wrongful conduct in violation of federal law as complained of herein.

33. Lead Plaintiff will fairly and adequately protect the interests of the members of the Class and have retained counsel competent and experienced in class actions and securities litigation. Lead Plaintiff has no interests antagonistic to or in conflict with those of the Class.
34. A class action is superior to other available methods for the fair and efficient adjudication of the controversy since joinder of all members of the Class is impracticable. Furthermore, because the damages suffered by the individual Class members are relatively small, the expense and burden of individual litigation make it impossible for the Class members individually to redress the wrongs done to them. Lead Plaintiff anticipates no unusual difficulties in the management of this action as a class action.

SUBSTANTIVE ALLEGATIONS

TSA’s Adoption of SOP 97-2 and Overview

35. TSA’s flagship products during the Class Period were BASE24, a payment processing software utilized by financial institutions for automatic teller machines and other banking systems, and ICE software, a family of connectivity applications that operate on Tandem (now Hewlett Packard) hardware environments. Beginning in the early 1990s, most TSA software licensing arrangements had a five-year (60-month) license term with an initial licensing fee (ILF) paid at inception, monthly licensing fees (MLFs) paid over the 60-month term, and monthly maintenance fees (MMFs) paid over the post-contract customer support (PCS) period.

36. For fiscal year 1999, commencing October 1, 1998, TSA adopted SOP 97-2, Software Revenue Recognition, which requires among other things that a software vendor’s license fee be “fixed or determinable” before the vendor can recognize the fee as revenue when the software is delivered.

37. SOP 97-2 states that if a software licensing arrangement does not require significant production or customization of software, revenue can be recognized only when all of the following criteria are met:

1. Persuasive evidence of an arrangement exists;
2. Delivery has occurred;
3. The fee is fixed or determinable; and
4. Collectibility is probable.

38. For TSA, “persuasive evidence of an arrangement” was met when TSA had a contract signed by both the Company and the customer. Both Joseph Saporito, a senior partner at Arthur Andersen, Kenneth Long, the Arthur Andersen manager of the TSA audit, and John Jarrett, TSA’s revenue accounting manager, testified that SOP 97-2 requires a fully executed contract.

39. With respect to delivery, TSA would either physically install or ship software or provide the software pass code to its customer, according to defendant Russell. In order to recognize the revenue for a given quarter, delivery had to occur prior to the end of that quarter and the contract had to have a start date in that same quarter.

40. “Collectibility” relates not only to the other basic criteria for revenue recognition but also focuses on the customer’s creditworthiness.

41. The “fixed or determinable” criteria are defined in SOP 97-2 as “a fee required to be paid at a set amount that is not subject to refund or adjustment.” Such a refund or adjustment is broadly referred to as a “concession.” The issue of concessions and TSA’s failure to establish that it had a history of successfully collecting monthly license fees without making concessions is discussed below.

42. TSA’s accounting problems came to light in 2002 after Arthur Andersen imploded and TSA was forced to hire a new auditor, KPMG. Shortly after KPMG’s engagement, a former officer of Digital Courier informed TSA’s management that he intended to notify the SEC of certain transactions between TSA and Digital Courier that were designed, in part, by Duman to help TSA falsely record revenues on its books and records and in its financial statements. TSA management notified KPMG which thereafter examined the transactions the Company entered into beginning in 1999 with Digital Courier.
43. Digital Courier was in the business of e-commerce transaction processing. TSA’s transactions with Digital Courier, discussed in detail below, included not only software licensing agreements, but also included an investment by TSA in Digital Courier’s common stock and warrants and an agreement for TSA to distribute Digital Courier’s own software products. Once the Digital Courier “wash” transactions came to light, KPMG insisted TSA fire Duman due to his “integrity” issues and re-audit prior periods. TSA then restated its financial results for 1999, 2000, 2001 and the first three quarters of 2002.

**TSA Improperly Utilized SOP 97-2 From the Outset**

44. Paragraph 28 of SOP 97-2 provides as follows concerning the “fixed or determinable” requirement:

> [A]ny extended payment terms in a software licensing arrangement may indicate that the fee is not fixed or determinable. Further, if payment of a significant portion of the software licensing fee is not due until after expiration of the license or more than twelve months after delivery, the licensing fee should be presumed not to be fixed or determinable. However, this presumption can be overcome by evidence that the vendor has a standard business practice of using long-term or installment contracts and a history of successfully collecting under the original payment terms without making concessions. [Emphases added.]

SOP 97-2 requires, in other words, that before recognizing the revenue on extended payment terms up front, the software vendor (TSA) must possess evidence that the vendor successfully collected all payments on extended payment term contracts without granting concessions to the customer.

45. According to TSA’s Form 10-K for the fiscal year ended September 30, 1999 (“1999 10K”), concurrent with its adoption of SOP 97-2, TSA determined that for certain BASE24 and ICE software arrangements involving 60-month terms, the Company had overcome the presumption that monthly license fees were not fixed or determinable. Accordingly, TSA began recognizing the present value of such fees on an up-front basis.
46. This is called “recognizing up front,” or “RUFing” (pronounced roughing) contracts. SOP 97-2 required that an analysis be done before overcoming the presumption that fees were not fixed or determinable but Hanson admitted to the SEC after the restatement this analysis was never done. Numerous employees in TSA’s finance areas also admitted that they never performed such an analysis, nor were they asked to do so. However, to cover up its fraudulent scheme, TSA initially falsely advised Arthur Andersen that it had such a history. Arthur Andersen personnel testified that it accepted TSA’s word that it had prepared an extensive analysis to verify it did not grant concessions in extended term contracts.

47. At his March 5, 2004 deposition before the SEC, Hanson acknowledged that TSA never prepared any formal schedules or analysis to determine whether it could overcome the presumption. Instead, TSA held internal discussions and possibly looked at bad debt write-offs to conclude TSA had a “history” to overcome the presumption.

48. TSA applied RUF accounting after October 1, 1998 both to new arrangements, and to amendments to contracts entered into prior to October 1, 1998. If an amendment was executed after October 1, 1998 to a contract entered into prior to that date (which revenue had been originally recognized when due and payable for additional software), TSA improperly utilized RUF accounting even if the amendment provided for relatively minor modifications to the existing arrangement. As noted by KPMG, this practice had an immediate and inflationary impact on TSA’s revenues in the 1999 fiscal year.

49. Similarly, John Jarrett, TSA’s manager of revenue accounting when SOP 97-2 was adopted, never conducted any analysis at the outset to determine if TSA had a “history” of collecting payments without granting concessions. In fact, he testified that he was unsure what a concession was, but nonetheless used RUF accounting to recognize revenue on contracts. He also testified that he
never directed any members of his staff to do any analysis prior to, or through early 2000, when he ceased being revenue accounting manager, on whether concessions were being granted.

50. Nor did the finance head for TSA’s European, Middle East and Africa channel (“EMEA”), Ian Windley (“Windley”), perform any analysis for a “history” of collecting payments without concessions prior to the adoption of SOP 97-2. However, Windley, a former U.K. auditor and Chartered Accountant, acknowledged that a written analysis would have been required.

51. As was subsequently determined by KPMG on just a limited review, TSA had in fact granted numerous concessions in contract amendments prior to, and after, the adoption of SOP 97-2, which precluded utilizing RUF accounting for those contracts, contrary to TSA’s handling thereof.

52. Countless Arthur Andersen documents written in the two years after TSA adopted SOP 97-2 also confirm that TSA never performed any analysis to demonstrate that it had a “history” to overcome the fixed or determinable presumption. In an October 20, 1999 memorandum, Arthur Andersen documented that it had advised TSA to perform an assessment for concessions on RUF contracts that amended or superseded prior contracts.

53. Several weeks later, on December 7, 1999, Arthur Andersen reiterated that TSA had to prove it had a history of collecting extended payments without making concessions in order to RUF contracts. However, TSA again failed to perform any analysis. Nearly a year later, in a September 27, 2000 document, Arthur Andersen noted that TSA needed to “update” its support for a history of collecting payments without providing concessions. Significantly, a handwritten note on this same document states: “Needs to be done for B24 [BASE24].” Thereafter, on October 25, 2000, Arthur Andersen noted that TSA was “in the process of completing” its history of collecting on BASE24 contracts without providing concessions.

54. Finally, on December 15, 2000, Hanson wrote a self-serving memorandum to support the “fixed or determinable” requirement and claimed that an analysis had purportedly been undertaken
involving 900 contracts. Neither of TSA’s two revenue accounting managers (John Jarrett and Mark Favell) did any work on such an analysis, nor did they direct any member of their staffs to do so. The reason is obvious, as confirmed by Hanson in his testimony before the SEC—no such analysis was ever prepared.

55. Thus, two years after TSA adopted SOP 97-2, the Company still had not completed the analysis required to be undertaken before deciding to RUF contracts. Accordingly, TSA’s application of RUF accounting was plainly improper and violated GAAP.

TSA Granted Numerous Concessions to its Customers Beginning in 1999 and Responded Falsely to the SEC’s Inquiries on the Subject

56. Not only did TSA fail to conduct the searching analysis necessary to establish the “history” required to overcome the fixed or determinable presumption, but TSA in fact did grant significant concessions to its customers even after it adopted SOP 97-2.

57. On March 30, 2001, the SEC sent an inquiry letter to TSA regarding its SOP 97-2 practices. In response, on May 4, 2001, TSA told the SEC that the Company indeed had a history of successfully collecting payments on extended payment contracts without providing concessions. Hanson advised the SEC that “infrequent” concessions had been noted, and submitted a schedule (Exhibit 1) which was prepared by John Jarrett and listed all customers for which TSA used RUF accounting for BASE24 and ICE products. During his deposition, however, Jarrett could not explain how Exhibit 1 demonstrated that concessions had not been granted.

58. TSA compounded its misrepresentations in its July 31, 2001 follow-up letter to the SEC. Hanson stated that during fiscal years 1999, 2000 and 2001, only one concession had been granted; a concession during fiscal year 2000 amounting to a paltry $73,720. This grossly understated, both in number and dollar amount, the concessions that had been granted by TSA to customers.
59. Defendants were quite aware that other concessions had been granted. During the third quarter of 1999, Arthur Andersen brought at least two contracts (First Data and M&I Data) to Hanson and Fuxa’s attention that contained significant concessions. Hanson & Fuxa refused to take the proposed adjusting journal entries suggested by Arthur Andersen to record revenue on these contracts correctly.

60. In connection with its re-audit of TSA in 2002, KPMG quickly identified at least 16 contracts in which concessions were granted. KPMG specifically noted that it had not undertaken a complete investigation and many additional contracts may have included concessions. KPMG identified these contracts with concessions in a memorandum that analyzed the accuracy of TSA’s May 4, 2001 and July 31, 2001 responses to a March 30, 2001 inquiry letter from the SEC. Thus, KPMG’s analysis was not comprehensive, as it was done for a limited purpose and for a limited timeframe.

**Defendants Consciously Disregarded Applicable Provisions of GAAP and Andersen’s Dictates Concerning the Issue of Vendor Specific Objective Evidence**

61. Defendants consciously disregarded both applicable GAAP and Arthur Andersen’s advice on very simple rules in connection with establishing Vendor Specific Objective Evidence (“VSOE”) of the “fair value” of the separate elements of the software arrangement. Software licensing arrangements typically consist of multiple elements, including post-contract customer support (“PCS”), commonly referred to as maintenance. Because PCS is an “undelivered” element of the contract, TSA was required under GAAP to establish VSOE of the “fair value” of the PCS in order to account separately for the PCS revenue over the PCS term while recognizing revenue from license fees up front. Moreover, in order for the license fee payments to be “fixed or determinable” under SOP 97-2, the term of the PCS component could not \(i\) run contemporaneously with the term of the software license agreement, or \(ii\) be less than twelve months on a one-year contract.
62. TSA knew from the outset that in order to be able to properly RUF contracts, it would have to change its contract language to separate out the PCS element. On a handwritten document dated October 26, 1999, an Arthur Andersen employee noted that VSOE was “subjective” through September 30, 1999, but that such subjectivity ended on October 1, 1999 and TSA needed to change its business model (i.e., separate out maintenance in contracts) to achieve VSOE.

63. On December 6, 1999, Arthur Andersen concluded that TSA could not achieve VSOE by having the same guaranteed term of the software license for PCS. Rather, Arthur Andersen determined that PCS had to be 12-18 months on TSA’s 60 month contracts and then cancelable or renewable. The same day, Patrick Costello, the senior audit manager on the TSA audit team, advised Hanson that TSA’s contracts had to state “that the initial term of the PCS is for a relatively short period (say 12-18 months).”

64. In response, on December 8, 1999, Hanson faxed Costello new proposed language regarding PCS that had been prepared by Joseph F. Kenney, an in-house attorney at TSA. The proposed language provided that maintenance would be provided for an initial term of two years (i.e., 40% of the license term of 60 months) with automatic annual renewal unless otherwise terminated by the customer. A handwritten note on this document states:

Told Dwight on 12/8/99 that 24 months would be pushing acceptable length of term to be able to achieve VSOE. Anything longer would be detrimental to achieving VSOE.

65. On December 13, 1999, Michael DeFreece, the Arthur Andersen partner-in-charge of the TSA engagement, summarized the results of an internal discussion on VSOE. DeFreece stated in part that TSA had agreed to revise its business model in order to comply with the VSOE requirements on PCS by having a standard contract with a license term of 60 months and a maintenance agreement for two years with a 180-day cancellation privilege.
66. To the extent any possible degree of subjectivity could be involved in determining VSOE for PCS terms in a bundled software license arrangement, in May, 2000, the AICPA issued a series of Technical Practice Aids ("TPAs") to clarify SOP 97-2. Specifically, TPAs 5100.53 and 5100.54 mandate that a fair value of PCS is not reasonably valued a) in a term license arrangement (under 12 months) and b) that in a term license, if the initial bundled PCS element of a license arrangement is relatively long to that of the term of the license agreement, fair value cannot be established. Thus, by May, 2000, with both the advice of Arthur Andersen and the issuance of the TPAs, there was no ambiguity about PCS terms.

67. TSA deliberately disregarded GAAP and Arthur Andersen’s unequivocal advice. In the restatement, KPMG noted 32 contracts with initial bundled PCS terms greater than 50% of the license term (i.e., more than 30 months) for which the Company recognized all the revenue up front. Each contract was signed after Arthur Andersen’s 1999 advice and 25 were entered into after the May, 2000 issuance of the TPAs. The improperly recognized revenue from these contracts totaled more than $28.5 million.

68. Numerous contracts in each successive quarter violated the requirement that PCS terms not exceed 24 months. Both Arthur Andersen and KPMG agreed that PCS terms could not be longer than half the length of license terms (30 months in 5-year/60 month contracts). Thus, TSA recognized revenue up-front on numerous contracts in violation of the 24-month PCS requirement during the Class Period—in blatant disregard of Arthur Andersen’s repeated admonitions and GAAP.

69. Similarly, TSA RUFed 13 contracts totaling almost $12 million where the PCS term and the license term for less than a year ran contemporaneously, also in violation of SOP 97-2. TSA’s recognition of revenue on these contracts cannot be attributed to anything other than a deliberate violation of GAAP.
TSA Flagrantly Violated Basic Accounting Rules

70. TSA’s own internal documents establish that Defendants knew that certain basic accounting principles had to be observed in order to properly recognize revenue up front, and other evidence categorically demonstrates that TSA personnel ignored these accounting principles and violated GAAP in a “quest for recognizable revenue.” These GAAP violations were pervasive and implicated certain long-standing and elementary principles that exist independently of SOP 97-2.

Persuasive Evidence of an Arrangement

71. TSA’s internal “Revenue Recognition Guidelines” as of March, 2001, provided that in order to recognize revenue in a given quarter, TSA had to have a signed contract with an effective start date in that quarter. The guidelines stated that “contracts not signed within the quarter cannot be counted. We need a date stamped, signed contract . . . no later than 11:59 p.m. of the last calendar day of the quarter.”

72. Jarrett testified, however, that he often recognized revenue at quarter-end on contracts without signatures, knowing that doing so was a violation of SOP 97-2. Both Jarrett and Theresa Breeden, TSA’s former tax accounting manager, attended an October 14, 1999 meeting with other TSA and Arthur Andersen personnel wherein Breeden took contemporaneous notes indicating that Arthur Andersen stated that revenue was recognized on unsigned contracts and that some contracts faxed to TSA Omaha appeared to be backdated. Breeden testified that backdating contracts could not be accidental. Moreover, numerous quarterly “Closing Agendas” prepared by Andersen during the Class Period and attended by, inter alia, defendants Hanson and Fuxa, note that signatures on contracts (or the lack thereof) was a topic of discussion.

TSA Blatantly Ignored Delivery Requirements

73. TSA ignored the “delivery” requirement of SOP 97-2 so it could recognize revenue up-front. TSA’s Revenue Recognition Guidelines provide that revenue cannot be recognized until delivery
is made to the end customer and, for contracts having such a provision, until customer acceptance occurs. A RUF contract with Fleet Services was signed on December 31, 1999 (the end of TSA’s first quarter of fiscal year 2000). But while the revenue on the Fleet contract was recognized in the first quarter of 2000 (the quarter ended December 31, 1999), the code for Fleet to access the software had not been e-mailed to Fleet until January 11, 2000, two weeks later.

74. Similarly, TSA shipped software code to a customer, Speedway SuperAmerica LLC ("Speedway"), on December 29, 2000 (the Friday before the long New Year’s weekend) for the explicitly stated purpose of recognizing revenue, despite the fact that Speedway could not use the software because Speedway lacked compatible hardware. The software was not installed until the second quarter of 2001. The revenue on the Speedway contract that TSA recognized up-front for the quarter ended December 31, 2000, was reversed in the restatement.

75. These delivery requirements under GAAP were not complex, subjective or susceptible to interpretation. Yet TSA improperly recognized more than $4 million in revenue up-front on seven contracts where delivery had not been completed.

**TSA Improperly Recognized Revenue on Contracts Including Future Unspecified Deliverables**

76. TSA’s Revenue Recognition Guidelines also stated that contracts promising “future unspecified deliverables” might cause TSA to defer revenue—in other words, those contracts would not be eligible for RUF treatment. Defendants ignored their own revenue recognition criteria as evidenced by the Bank of America (“B of A”) contract signed on March 31, 1999 (at the end of TSA’s second quarter of fiscal year 1999). In the contract, B of A had the right to receive unspecified future products as elected by it, and further had the right to receive a credit in the event that B of A’s transaction fees did not exceed the annual base fees. Both provisions would prohibit RUF accounting on this contract. Nonetheless, an internal TSA document setting forth all RUF contracts recognized in the second quarter of 1999 lists this same B of A contract.
77. Arthur Andersen advised TSA that it could not RUF the B of A contract. Arthur Andersen concluded that RUF accounting originally used by TSA on the B of A contract should be reversed for two reasons: B of A’s right to receive credits (mandating revenue recognition over the contract term rather than RUF), and B of A’s right to receive unspecified future products (mandating that subscription accounting apply). Despite Arthur Andersen’s recommendation, TSA refused to reverse the RUF accounting for the B of A contract in the second quarter of 1999.

78. Arthur Andersen revisited the B of A contract during the third quarter of 1999. An Arthur Andersen workpaper contains a summary of proposed adjusting journal entries (PAJEs) attached to a July 21, 1999 Closing Agenda attended by defendants Hanson and Fuxa among others. The Closing Agenda notes:

8. Revenue Recognition issues:

b. Status of B of A contract (subscription accounting issues)

79. On the PAJEs attached to the Closing Agenda, Arthur Andersen lists a reversal of license fee revenues of more than $3.2 million “to reverse revenue on B of A contract as it should be accounted for as a subscription which recognizes revenue ratably over the term of the contract—TH 7/99.” On this same page under the heading “Disposition per Discussion w/Client (identify)” is the following notation:

Pass, per Ed Fuxa and Dwight Hanson. However, carry forward.

TSA overrode its own auditor’s objections to ensure that the B of A contract would be RUFed.

80. During the 1999 year-end audit, Arthur Andersen again advised TSA that the B of A contract had a subscription accounting issue due to the agreement to deliver unspecified additional products in the future, and noted further that the B of A credit might destroy the fixed or determinable presumption. Despite Arthur Andersen’s repeated advice to reverse the accounting on the B of A contract, TSA refused to make adjustments.
81. TSA internally acknowledged that the B of A contract contained provisions that required deferral of revenue recognition. In a document written by Hanson no earlier than the fourth quarter of 1999, Hanson provided specific examples of accounting issues that had surfaced, including issues concerning the B of A contract. He noted:

Contracts that allow customers to have access to unspecified future products . . . without paying any additional license fees are not recognizable up-front. Revenue under these types of contracts is required to be recognized ratably over the contract term. Examples of this type of contract are B of A and ACS signed in the U.S. in FY99.

* * *

The B of A contract also allowed the customer to receive future credits if licensed capacity is not reached. Revenue under these types of deals isn’t recognizable until the credits expire or are utilized.

82. Despite conceding that RUF accounting was improper for the B of A contract, TSA nonetheless did RUF the B of A contract and resisted all efforts by Arthur Andersen to reverse the accounting. Ultimately, the revenue on the B of A contract was reversed in the restatement.

**TSA Ignored Cancellation Clauses in Contracts**

83. SOP 97-2 explicitly states that fees are neither fixed or determinable until any cancellation provisions lapse. FASB No. 5 provides that revenue cannot be recognized until earned.

84. TSA’s Revenue Recognition Policy dated March 2, 1999, outlining RUF accounting, was premised in part upon the fact that TSA negotiates contracts without cancellation provisions. In fact, the Revenue Recognition Policy explicitly states that certain circumstances were required to be present in order to overcome the presumption that fees are not fixed or determinable, including that “[t]he contract must be non-cancelable and there must be no reason to suspect that all future [fees] will not be collected in the future.”

85. Despite this clear guidance, TSA recognized revenue of more than $28.6 million on 24 contracts containing cancellation clauses.
TSA Improperly Recognized Revenue on Contracts With Terms Exceeding 60 Months

86. TSA improperly determined at the time it adopted SOP 97-2 that its standard 60-month contract qualified for RUF accounting because the Company purportedly had a history for successfully collecting license fees without making concessions on 60-month contracts. At the same time, as conceded by Jarrett and Hanson, TSA never established that it had a history of successfully collecting license fees on standard extended payment-term (60-month) contracts without granting concessions and, therefore, from the outset fees for such contracts were not fixed or determinable.

87. It was crystal clear to TSA that it could not RUF contracts with terms longer than 60 months. Despite the fact that the term of the agreement is the easiest element of the agreement to determine, TSA improperly recognized revenue on 13 contracts totaling almost $20.5 million for contracts with terms ranging between 72 and 102 months. Indeed, in order to RUF contracts TSA’s Finance Department had to calculate the net present value of the term of the contract. Thus, Defendants blatantly ignored their own policies and GAAP principles to report revenue.

Defendants Ignored Goodwill and Software Impairment in the Acquisition of MessagingDirect Ltd.

88. In January 2001, TSA acquired MessagingDirect Ltd. (“MDL”) for more than $50 million. TSA originally recorded goodwill of $36 million. In the restatement, TSA wrote-off $30.4 million of goodwill and an additional $8.9 million in related software assets related to MDL.

89. MDL’s 2000 revenues were $5,079,000, with a net loss of $7,223,000. In 2001, MDL reported revenues of $3,475,000 (a 30% decline from the prior year) and a net loss of $16,861,000.

90. For the 2001 fiscal year, TSA did not record any impairment in the value of MDL goodwill recorded on TSA’s books. However, effective October 1, 2001, just one day after the close of its 2001 fiscal year, TSA adopted SFAS No. 142, governing the accounting for goodwill and other intangible assets.
For 2001, TSA prepared unrealistic cash flow projections for MDL’s operations over a 15-year period (through September 30, 2016). The use of 15-year projections was a flagrant abuse to delay recording an impairment charge. TSA used a five-year life to amortize goodwill from the MDL acquisition, the same useful life being espoused by the SEC. Consequently, when TSA adopted SFAS No. 142 one day after the close of its 2001 fiscal year and MDL was appraised at $9,500,000, TSA then was forced to record an impairment charge for the quarter ended December 31, 2001 of $25.7 million.

TSA also used the same faulty projections to determine if software acquired in the MDL acquisition was impaired at September 30, 2001. MDL’s two products were launched in October 1999 and January 2000, respectively. Despite the lack of a market history for its products, TSA again used an estimated economic life of 15 years in its impairment analysis. This is in stark contrast to the estimated economic life used by TSA for more mature software products acquired by TSA in other acquisitions (SDM and Insession).

In the restatement, TSA revised its estimate of the economic life of MDL’s software to five years and recorded an impairment loss of $8.8 million related to capitalized software in fiscal year 2001. TSA knew that the MDL assets required a write-down and determined to use a valuation date in 2002 in order to avoid taking the write-down in the 2001 fiscal year financial statements.

The False Financial Information Disseminated to Investors

The improper application of GAAP to TSA’s financial results were disseminated in press releases and SEC filings to the investing public, as well as in conference calls with analysts. Thus, investors who purchased TSA securities during the Class Period relied on the integrity of the market, and the quality of the information publicly provided by defendants. Each release of financial information, as detailed below, artificially inflated or sought to maintain the price of TSA stock.

As revealed by the restatement, TSA fraudulently overstated its revenues for fiscal 1999 by 27%. The fraudulent overstatement of revenues continued throughout 2000, however in a lessening
degree as TSA began to deplete the stable of contracts that it could amend and RUF. Revenues for fiscal 2000 were overstated by 19%. Though the Company continued to report net income for most of fiscal 1999 and 2000, TSA began to miss analysts’ revenue growth expectations. Thus, there began a slow series of partial disclosures or “leaks,” in the form of missed expectations which, while still maintaining TSA stock at an inflated level, nonetheless began to reflect the market’s relatively more accurate, albeit still misleadingly incomplete, assessment of the TSA’s true financial condition, resulting in a diminution, but not elimination of TSA’s stock price inflation.

96. However, in the absence of full knowledge of the fraudulent scheme and its impact on TSA’s financial results, the market remained materially misinformed about the Company, which was reflected in the continued inflation of TSA’s stock price. It was only at the end of the Class Period on November 19, 2002, when TSA announced it would restate its financial results for the prior 3 ¾ years that the market price of TSA stock was fully corrected.

97. On January 21, 1999, TSA issued a press release regarding the Company’s financial results for its first quarter of fiscal 1999 ended December 31, 1998. For the first quarter of 1999, the Company reported record revenue of $86.1 million, an increase of 25 percent over the same quarter in the prior year. Pro forma net income for the quarter was $9.8 million and $.31 per share (diluted), compared with $7.7 million, or $.25 per share in the first quarter fiscal year 1998. Operating income was reported as $15.0 million for the quarter compared to operating income of $11.9 million for the same quarter last year, an increase of 26 percent. Compared to net income and earnings per share for first quarter 1998, the current increase was 26 percent and 24 percent, respectively. With respect to these financial results, defendant Fisher commented, “[w]e are pleased with our first quarter results of strong revenue and earnings growth as it provides a solid start for fiscal year 1999.” (Emphasis added.)
98. TSA’s reported earnings beat analysts’ estimates by one cent. Since ‘TSA met analysts’ expectations (because defendants fraudulently overstated revenues by 26.9%), there was no immediate impact of the earnings announcement on the price of TSA stock. Had the truth been told, TSA would have reported a net loss of $2,534,000 and its stock price would have fallen significantly. Moreover, as a result of this misleading statement, analysts forecast significant revenue growth on TSA’s part for the upcoming periods, thus sustaining the inflated price for an extended period of time.

99. TSA subsequently filed its Form 10-Q with the SEC on February 12, 1999, which reiterated the financial results announced in its January 21, 1999 press release (“1Q99 10Q”). The 1Q99 10Q, was signed by defendant Hanson and represented that it reflected all adjustments which were, in the opinion of management, necessary for a fair presentation of its financial position and operating results for the interim periods.

100. In the 1Q99 10-Q, TSA represented:

    The **growth in software license fee revenue** is the result of increased demand for the Company’s BASE24 and System Solutions products accompanied by the continued growth of the installed base of customers paying monthly license fee (MLF) revenue. Contributing to the strong demand for the Company’s products is the continued worldwide growth of electronic payment transaction volume and the growing complexity of electronic payment systems. MLF revenue was $12.0 million in the first quarter of fiscal 1999 compared to $10.0 million in the first quarter of fiscal 1998.

    **The growth in services revenue** for the first quarter of fiscal 1999 is the result of increased demand for technical and project management services which is a direct result of the increased installed base of the Company’s products.

    **The increase in maintenance fee revenue** for the first quarter of fiscal 1999 is a result of the **continued growth** of the installed base of the Company’s products.

(Emphasis added).

101. The statements referenced above in paragraphs 97 and 99 through 100 were each materially false and misleading when made because they failed to disclose and/or misrepresented the
following adverse facts, among others: (i) the “strong revenue and earnings growth” lauded by Fisher and the “growth” in software license and maintenance fees were the result of knowing violations of GAAP; (ii) the Company’s revenues, operating income and net income for the 1999 first quarter were materially overstated due to, inter alia, defendants’ improper revenue recognition policy; (iii) the Company lacked sufficient internal controls and therefore was unable to report its true financial results; (iv) because of the pervasive accounting errors and fraudulent booking of revenue, TSA’s balance sheet and income statement in the 1Q99 10Q were materially misstated at all relevant times; (v) the 1Q99 10Q did not reflect all necessary adjustments as represented by defendants; and (vi) TSA, on a systematic and regular basis, was not adhering to GAAP.

102. As a result of TSA’s solid first quarter 1999 financial results, analysts were upbeat on the Company. For example, Gary Craft, an analyst at BancBoston Robertson Stephens, rated TSA a “Strong Buy” on February 8, 1999, noting, “[w]e are enthusiastically recommending the shares of [TSA] as a way to play the exciting industry of electronic payments . . . . Having significantly underperformed the market over the past two years, these shares could easily trade to $60-65, in our view, before being considered fairly valued.”

103. On April 22, 1999, after the close of the market, TSA announced its financial results for the second quarter of fiscal 1999 ended March 31, 1999. The Company reported record earnings of $10.9 million or $.34 per share (diluted) on revenue of $87 million, compared with $8.3 million or $.27 per share (diluted) in the second quarter 1998. Operating income was $17 million for the quarter, compared with operating income of $12.5 million for the same quarter in the prior year.

104. Defendant Fisher stated:

Our second quarter results reflect the underlying strength in our unique financial model. We continue to build on our strong financial performance based on our high retention of blue chip global customers that consistently add functionality and volume capacity to meet the growing electronic payments environment.
105. Although TSA's earnings beat analysts' expectations by 1 cent (because defendants fraudulently overstated revenues by 26.9%), analysts were very disappointed by TSA's reported revenue. Several analysts downgraded TSA stock, citing the significantly lower than expected revenues. The market reaction was immediate; on April 23, 1999 over 4.2 million shares traded (average daily trade volume was approximately 240,000) and the stock, which closed at $37 per share on April 22, closed on April 23, 1999 at $31, a decline of 16.2% (and 16.8% net of market and industry effects which was statistically significant). Thus, the announcement served as a partial, though far from complete, leakage of the impact of defendants' prior misinformation and provided the market with a more accurate assessment of TSA's financial condition. Had analysts known that TSA's reported revenues, though less than expected, were nonetheless materially overstated and that TSA in fact had sustained a net loss of $2,917,000, the stock decline would have been even more dramatic.

106. Subsequently, TSA filed its Form 10-Q with the SEC on or about May 17, 1999, which reiterated the financial results announced in its April 22, 1999 press release (“2Q99 10Q”). The 2Q99 10Q, signed by defendant Hanson, represented that the financial results reflected all necessary adjustments.

107. In the 2Q99 10Q, defendants discussed revenue recognition pursuant to SOP 97-2 which, although newly adopted, merely sought to remove any subjectivity pertaining to software revenue recognition in the precursor principle, SOP 91-1:

In the first quarter of fiscal 1999, the Company adopted American Institute of Certified Public Accountants Statement of Position 97-2, “Software Revenue Recognition” (SOP 97-2). SOP 97-2 provides guidance on applying generally accepted accounting principles in recognizing revenue for software arrangements entered into by the Company after September 30, 1998. The Company has analyzed the revenue recognition requirements of SOP 97-2 and has concluded that the Company’s previous revenue recognition policy was primarily in compliance with SOP 97-2.
Under SOP 97-2, one requirement for recognizing revenue under software arrangements is that the software fees are fixed or determinable. SOP 97-2 specifies that extended payment terms in a software licensing agreement may indicate that the software fees are not deemed to be fixed or determinable and, if so, the software fee should be recognized as the payments become due. However, SOP 97-2 specifies that if the company has a standard business practice of using extended payment terms in software arrangements and has a history of successfully collecting the software fees under the original payment terms of the arrangement without making concessions, the Company can overcome the presumption that the software fees are not fixed or determinable. If the presumption is overcome, the Company is required to recognize the software fees when the other SOP 97-2 revenue recognition criteria are met.

The Company has concluded that for certain fiscal 1999 software arrangements with extended payment terms, revenue should be recognized upon delivery in accordance with the provisions of SOP 97-2 as previously described. Software license fee revenue, net of third party royalties, recognized for the three and six months ended March 31, 1999, related to these arrangements totaled $14.4 million and $18.6 million, respectively.

108. The statements referenced above in paragraphs 103-104 and 106-107 were each materially false and misleading when made because they failed to disclose or misrepresented the following adverse facts, among others: (i) TSA’s “strong financial performance” was the result of improperly recognizing revenue; (ii) TSA’s 2Q99 10Q did not reflect all necessary adjustments, as represented by defendants; (iii) the Company’s revenues, operating income and net income for the second quarter of 1999 were materially misstated due to pervasive accounting errors and the booking of revenue in violation of GAAP, including the improper application of SOP97-2; (iv) the 2Q99 10Q balance sheet and income statement were materially misstated at all relevant times; (v) TSA’s revenue recognition policy was not in compliance with SOP 97-2, as represented in the 2Q99 10Q as TSA did not have a history of collecting software fees without making concessions; (vi) the Company lacked sufficient internal controls and therefore was unable to report its true financial condition; and (vii) TSA, on a systematic and regular basis, was not adhering to GAAP.
109. On July 22, 1999, the Company announced its financial results for the third quarter ending June 30, 1999. The Company reported net income of $11.8 million, or $.36 per share (diluted), on revenues of $489.1 million for the current quarter as compared with $8.6 million or $.27 per share (diluted) in the third quarter 1998. Operating income was $18.6 million for the quarter, compared with operating income of $13.1 million for the same quarter last year, an increase of 42 percent.

110. With respect to these financial results, defendant Fisher commented in the July 22, 1999 press release:

    We have completed another strong quarter, with record revenues, operating margin and net income and excellent operating cash flow. We are continuing to invest in our software solutions and building ACI Worldwide’s direct sales and distribution channel in the international markets. We believe TSA is strategically positioned with best of breed software solutions for the continued shift from paper to electronic payments and commerce.

    (Emphasis added).

111. The third quarter revenue results were again disappointing to analysts (even though revenues were again overstated by 26.9%). Several analysts questioned the Company’s ability to meet future expectations, and therefore lowered their forecasts. After closing at $36.06 on July 22, 1999, TSA stock closed on July 23, 1999 at $31.25 per share on volume of 3,697,000. The decline was 13.3%, or 13.1% net of market and industry effects, which was statistically significant. Thus, the announcement served as a partial, though far from complete, leakage of the defendants’ prior misinformation and provided the market with a more accurate assessment of TSA’s financial condition. Had analysts known that TSA’s reported revenues, though less than expected, were nonetheless materially overstated, and that the Company in fact had sustained a net loss of $3,175,000, its stock price would have fallen even further.

112. Subsequently, TSA filed its Form 10-Q with the SEC on or about August 16, 1999, which reiterated the financial results announced in its July 2, 1999 press release ("3Q99 10Q"). The
3Q99 10Q was signed by defendant Hanson and represented that all necessary adjustments had been taken.

113. The statements referenced above in paragraphs 109-110 and 112 were each materially false and misleading when made because they failed to disclose or misrepresented the following adverse facts, among others: (i) the Company’s revenues, operating income and net income for the third quarter of 1999 were materially overstated due to the pervasive accounting errors and the booking of revenue in violation of GAAP and SOP 97-2, (ii) TSA’s “strong quarter” with “record revenues, operating margin and net income” was the result of improperly recognizing revenue, in violation of GAAP; (iii) defendants did not make all necessary adjustments to the financial results set forth in the 3Q99 10Q, as represented; (iv) the balance sheet and income statement in the 3Q99 10Q were materially misstated; (v) TSA lacked sufficient internal controls and therefore, was unable to report its true financial condition; and (vi) TSA, on a systematic and regular basis, was not adhering to GAAP.

114. The market continued to be unaware of TSA’s true financial condition. On September 30, 1999, an analyst at Robert W. Baird & Co., Inc., L. L. Needles, opined:

[TSA] should be able to sustain a 25%+ growth rate over the next several years, as demand for [TSA’s] software continues to be strong, and the company is well positioned for the shift from paper to electronic payments and commerce.

115. On October 28, 1999, the Company announced its financial results for the fourth quarter and full fiscal year ending September 30, 1999. The Company reported record earnings of $12.5 million or $.38 per share (diluted) on record revenues of $92.6 million for the fourth quarter of fiscal year 1999, compared with net income $6.8 million or $.22 per share (diluted). For the fourth quarter of 1999, software license fees of $60.1 million increased 33 percent over the fourth quarter of fiscal year 1998. Operating income was $19.7 million for the quarter, compared with operating income of $14.0 million for the same quarter last year, an increase of 41 percent. For the 1999 fiscal year, TSA reported revenues of $354.8 million compared to $299.2 million in 1998, operating income of
$70.3 million, compared with $51.5 million for fiscal year 1998 and net income of $44.6 million or $1.38 per share, compared with $31.4 million or $1.01 (diluted) for 1998.

116. In the October 28, 1999 press release, Defendant Fisher commented on these financial results as follows:

We are pleased to report our fourth quarter results with record highs in revenue, operating margin and net income. We are cautiously optimistic for fiscal year 2000 with projected revenue of $390 million to $410 million. Our projected revenue is based on a pipeline of business and contracted but not yet recognized backlog for fiscal year 2000. Based on our revenue projections, our estimates for earnings per share on a diluted basis are $1.65 to $1.75 for fiscal year 2000.

(Emphasis added)

117. In response to these reported results, which were in line with analyst expectations, TSA stock, which closed on October 28, 1999 at $29.25 per share on volume of 517,300 shares, rose to $30.75 per share on volume of 2,011,200. These reported results were achieved by deceit. Revenues were overstated for the quarter and year by 26.9%. TSA actually lost $3,352,000 for the quarter, and $11,978,000 for the year. But for these fraudulent financial results, TSA stock would have plummeted, rather than risen.

118. Thereafter, TSA filed a Form 10-K with the SEC on or about December 29, 1999 (“1999 10K”) which reiterated the financial results for fiscal year 1999 that were disseminated in the Company’s October 28, 1999 press release detailed above. This filing was signed by, inter alia, defendants Russell, Fisher, Duman and Hanson.

119. In the 1999 10-K, TSA expanded upon its earlier description concerning its method of product pricing and revenue recognition as follows and which was also set forth in each subsequent quarterly and annual SEC filing by TSA described herein:

PRODUCT PRICING AND REVENUE RECOGNITION.

The Company’s primary software license fees pricing method is transaction sensitive, whereby products are priced based upon the
number of transactions processed by the customer (“transaction-based pricing”). Under this method, customers license the product by paying an Initial License Fee (ILF), where the customer pays a significant portion of the total software license fees at the beginning of the software license term, and a Monthly License Fee (MLF), where the customer pays a portion of the software license fees over the software license term. The payment of the ILF and MLF allows the customer to process a contractually predetermined maximum volume of transactions per month for a specified period of time. Once the transaction volume exceeds this maximum volume level, the customer is required to pay an additional license fee which is in the form of a Capacity License Fee (CLF), collected at the beginning of the period the customer contracts for an incremental volume level, and a Capacity Monthly License Fee (CMLF), collected over the software license term. There is a separate license fee for each incremental volume level. In addition to transaction-based pricing, the Company offers a hardware specific pricing method whereby the product is priced on a per copy basis and tiered to recognize different performance levels of the processing hardware (“designated equipment group pricing”). Under designated equipment group pricing, the customers pay a license fee (in the form of an ILF and MLF) for each copy of the software the customers have licensed for a specified period of time. Under both the transaction-based pricing method and the designated equipment group pricing method, the Company offers a paid up front (PUF) payment option, whereby the present value of the MLF or CMLF is due at the beginning of the software license term. The standard software license term under either pricing method is typically 60 months, but may extend over a shorter or longer period. Other elements of the software licensing arrangement typically include post-contract customer support (maintenance) and, occasionally, services.

Beginning in fiscal 1999, the Company adopted American Institute of Certified Public Accountants Statement of Position 97-2, “Software Revenue Recognition” (SOP 97-2). SOP 97-2 provides guidance on applying generally accepted accounting principles for software revenue recognition transactions. The primary software revenue recognition criteria outlined in SOP 97-2 include: evidence of an arrangement; delivery; fixed or determinable fees; and collectibility.

SOP 97-2 specifies that extended payment terms in a software licensing arrangement may indicate that the software license fees are not deemed to be fixed or determinable. In addition, if payment of a significant portion of the software license fees is not due until more than twelve months after delivery, the software license fees should be PRESUMED not to be fixed or determinable, and thus should be recognized as the payments become due. However, SOP 97-2 specifies that if the Company has a standard business practice of using extended payment terms in software licensing arrangements and has a history of
successfully collecting the software license fees under the original terms of the software licensing arrangement without making concessions, the Company can overcome the presumption that the software license fees are not fixed or determinable. If the presumption is overcome, the Company should recognize the software license fees when all other SOP 97-2 revenue recognition criteria are met.

The Company has concluded that for certain software arrangements entered into after October 1, 1998 with extended guaranteed payment terms, the “fixed or determinable” presumption has been overcome and software license fees should be recognized upon meeting the SOP 97-2 revenue recognition criteria (“guaranteed software license fees”). The present value of the guaranteed software license fees, net of third party royalties, recognized in fiscal 1999 totaled approximately $60.5 million. The discount rates used to determine the present value of the guaranteed software license fees, representing the Company’s incremental borrowing rates, ranged from 9.5% to 10.25%. The portion of the guaranteed software license fees that has been recognized by the Company, but not yet billed, is reflected in accrued receivables in the accompanying consolidated balance sheets.

Failing to overcome the “fixed or determinable” presumption would have resulted in the Company recognizing the ILF and CLF components of the software license fees related to these certain software arrangements when the software was delivered (or in the reporting period that the incremental volume 18 level was effective), and the MLF and CMLF components of the software license fees would have been recognized ratably over the software license term as they were billed. Software license fees related to those software arrangements that would have been recognized in fiscal 1999 had the Company not been able to overcome the presumption that the software license fees were not fixed or determinable fees would have been approximately $5.1 million.

(Emphasis added).

120. The statements referenced above in paragraphs 115-116 and 118-119 were each materially false and misleading when made because they failed to disclose or misrepresented the following adverse facts, among others: (i) Fisher’s statement that TSA had achieved “record highs in revenue, operating margin and net income” was false, as those results were the result of violating GAAP; (ii) TSA had no basis to conclude that it had overcome the “fixed and determinable” presumption under SOP 97-2 as represented in the 1999 10-K; (iii) the Company’s revenues, operating
and net income for the fourth quarter and fiscal year 1999 were materially overstated due to the pervasive accounting errors and premature booking of revenue in violation of GAAP; (iv) the Company lacked sufficient internal controls and was unable to report its true financial condition; (v) Fisher had no reasonable basis to proffer projections for fiscal year 2000 given the insufficiency of TSA’s internal controls and the accounting irregularities; (vi) TSA’s balance sheet and income statement in the 1999 10K were materially misstated at all relevant times because of defendants’ violations of GAAP; and (vii) TSA, on a systematic and regular basis, was not adhering to basic GAAP, which resulted in $75.2 million of improperly recognized revenue and $56 million of improperly recognized net income.

121. On December 15, 1999, TSA issued a press release on its first quarter 2000 ending December 15, 1999. In the press release, TSA stated that financial results were expected to be below analyst estimates due to “Y2K issues.” On this news, TSA stock fell from $32 on December 14, 1999 on volume of 544,400 shares to close at $27.5625 on December 15, 1999 on volume of 7,519,300. By December 16, 1999, TSA stock closed at $25.9375 per share.

122. Thereafter, on January 20, 2000, TSA issued a press release announcing its financial results for the first quarter of 2000 ended December 31, 1999. For the quarter, TSA reported revenues of $67.1 million, net loss of $1.4 million or $.04 per share, compared with net income of $9.4 million or $.30 per diluted share for the same period in the prior year. The Company reported an operating loss of $3.3 million, compared with operating income of $15 million for the same period in the prior year.

123. In the January 20, 2000 press release, defendant Russell stated:

While we are disappointed with the results of our first quarter, we feel strongly that it is primarily the result of an event we won’t face again . . . Our position in the market continues to expand, and we expect great success from key initiatives under way to address the exploding e-commerce and e-payments marketplace. Our confidence, in part, stems from the fact that our backlog remains strong, and positions us for success during the balance of 2000.
124. The market was disappointed by TSA’s announcement. Forewarned regarding potential revenue decreases due to Y2K problems, analysts had already lowered their forecasts, but were surprised when the results were even below those diminished expectations. In reaction thereto, on January 21, 2000, TSA stock closed at $24.81 (compared to the prior day’s closing price of $26.87) on volume of 3,717,200 (compared to the volume on the prior day of 769,800). The decline was 7.7%, or -8.0% net of market and industry effects, which was statistically significant. Thus, the announcement served as a partial, though far from complete, leakage of the defendants’ prior misinformation and provided the market with a more accurate assessment of TSA’s financial condition. Had analysts known that TSA’s reported revenues, though less than expected, were nonetheless overstated by 10.54%, and that the Company in fact had sustained a loss seven times larger than that reported (i.e., $8,643,000), its stock price would have fallen even further.

125. TSA subsequently filed its Form 10-Q for the quarter ended December 31, 1999 with the SEC on February 14, 2000 (“1Q00 10Q”). The 1Q00 10Q was signed by defendant Hanson and represented that the financial statements contained therein reflected all necessary adjustments.

126. The statements referenced above in paragraphs 121-123 and 125 were each materially false and misleading when made because they failed to disclose or misrepresented the following adverse facts, among others: (i) that the Company’s revenues, operating income and net income for the first quarter of 2000 were materially overstated by $6.5 million, $6.3 million, and $7.2 million, respectively, due to the pervasive accounting errors and early booking of revenue in violation of GAAP; (ii) because of these accounting irregularities, the balance sheet and income statement in the 1Q00 10Q were materially misstated at all relevant times; (iii) TSA, on a systematic and regular basis, was not adhering to GAAP; (iv) the Company lacked sufficient internal controls which not only made it unable to report its true financial condition but made it impossible for Russell to predict that TSA was positioned for
success in 2000; and (v) the financial statements in the 1Q00 10Q did not reflect all necessary adjustments, as represented therein.


128. On April 25, 2000, TSA issued a press release announcing its financial results for the second quarter of fiscal 2000 ended March 31, 2000. The Company announced revenues of $75.4 million and net income of $1.6 million or $.05 per diluted share, compared to net income of $10.9 million or $.34 per share in 1999. Operating income was $2 million for the quarter, compared with $17 million for the same period in the prior year. The results included software and goodwill amortization from the acquisitions of SDM International Inc. and Insession Inc.

129. In the April 25, 2000 press release, defendant Russell stated:

    We . . . have now structured the company to help create greater focus and drive higher overall growth, based on significant prospective investment in our newer business units.

* * *

Our products and technologies, we believe, are in a strong position to address our customers’ emerging e-payment needs, and we will continue to expand our footprint in the financial services segment.

We are confident that our new strategy designed to drive growth will pay dividends for our shareholders. We are already seeing exciting market activity and wins in our new business units. As you can see in the segmented financials in this release, we saw nice revenue growth year over year in several of our new business units without significant investment. With a higher level of investment in all of our new businesses, we believe that we can position each of them to enjoy the same level of success we have had with ACI Worldwide over the years.

(Emphasis added.)
In this same press release, defendant Hanson noted in relevant part:

In addition, as we shift our business model to put an increased emphasis on new products and new markets which have longer sales and delivery cycles, we expect revenue recognition will get pushed out over longer time periods as compared to revenue recognized for our traditional products. Looking forward to the third fiscal quarter, we expect gradual improvement in our core business, and expect revenue to be $75 to 80 million for fiscal Q3.

(Emphasis added.)

The market punished TSA for its announcement. On April 26, 2000, TSA stock closed at $13.31 per share on volume of 11,412,000, compared to the prior day’s closing price of $25.00 per share on volume of 477,000. The decline was 46.8%, or -46.7% net of market and industry effects, which was statistically significant. Thus, the announcement served as a partial, though far from complete, leakage of the defendants’ prior misinformation and provided the market with a more accurate assessment of TSA’s financial condition. Had analysts known that TSA’s reported revenues, though less than expected, were nonetheless overstated by 18.03%, and that the Company in fact had sustained a loss of $12,185,000, its stock price would have fallen even further.

Thereafter, on May 15, 2000, TSA filed its Form 10-Q for the second quarter, which reiterated the financial information contained in the April 25, 2000 press release (“2Q00 10Q”). The 2Q00 10Q was signed by defendant Fuxa and represented that the financial statements therein reflected all necessary adjustments.

The statements referenced above in paragraphs 128-130 and 132 were each materially false and misleading when made because they failed to disclose or misrepresented the following adverse facts, among others: (i) the “nice revenue growth year over year” discussed by defendant Russell was the result of improper accounting practices, not TSA’s revamped restructured business; (ii) defendant Hanson, due to the improper accounting practices and lack of sufficient internal controls, had no reasonable basis to project third quarter revenues in the stated amount; (iii) the Company’s revenues,
operating income and net income for the second quarter of 2000 were materially overstated by $11.5 million, $14.6 million, and $13.7 million, respectively, due to the pervasive accounting errors and early booking of revenue in violation of GAAP; (iv) TSA’s balance sheet and income statement in the 2Q00 10Q were materially misstated; (v) TSA, on a systematic and regular basis, was not adhering to GAAP; and (vi) all necessary adjustments in the financial statements in the 2Q00 10Q had not been taken, as represented by defendants therein; and (vii) GAAP had not been properly applied in the presentation of information of SDM International Inc. and InSession Inc.

134. In June 2000, TSA announced the filing of a registration statement for a proposed initial public offering of InSession Technologies, Inc., a wholly owned subsidiary of the Company. On July 7, 2000, the SEC sent a letter to InSession providing 84 separate comments on the registration statement, of which approximately one-half consisted of questions on InSession’s revenue recognition policies. Ultimately, on September 14, 2000, TSA “postponed” the planned IPO of InSession due to “unfavorable market conditions.”

135. On July 20, 2000, the Company issued a press release announcing its third quarter results for the period ended June 30, 2000. The Company announced revenue of $78.9 million and net income of $1 million or $.03 per diluted share, compared with net income of $11.8 million or $.36 per diluted share. Operating income was $1.9 million, compared with $18.6 million for the same quarter in the prior year.

136. In the July 20, 2000 press release, defendant Fisher stated:

We are retaining our already strong position with our core customer base, and we are gaining market share. We also had a nice up tick in our services revenue during the quarter, associated with new customer projects, new product sales and new services engagements with our current customers.

* * *

Consistent with our belief that momentum is returning to our core business, we expect revenue of $80-$85 million and pro forma EPS of
$.10-.14 for the fourth quarter of fiscal 2000. For 2001, we expect revenue of $340 million to $365 million and a pro forma EPS of $.55-$1.70. We are excited about the increase in activity in our core markets, and are confident in our ability to leverage our position to win in the emerging world of e-commerce and e-payments.

(Emphasis added)

137. On this news, TSA rose from its closing price of $18.75 per share on July 20, 2000 to close at $19.50 per share on July 21. Had the market known that TSA’s reported revenues were inflated by 21.68%, and that the Company had actually sustained a loss of $16,073,000, the stock price would have plummeted.

138. The Company filed its Form 10-Q for the third quarter 2000 with the SEC on or about August 18, 2000 (“3Q00 10Q”). The 3Q00 10-Q reiterated the financial results announced in its July 20, 2000 press release and was signed by defendant Fuxa. The 3Q00 10-Q represented that the financial statements therein reflected all necessary adjustments.

139. The statements referenced above in paragraphs 135-136 through 138 were each materially false and misleading when made because they failed to disclose or misrepresented the following adverse facts, among others: (i) defendant Fisher’s representations that TSA was retaining its “strong position,” “gaining market share” and experiencing an increase in revenues were materially false and misleading in that defendants violated GAAP to achieve the reported financial results; (ii) the Company’s revenues, operating income and net income for the third quarter of 2000 were materially overstated by $14 million, $18.1 million, and $17 million, respectively, due to the pervasive accounting errors and early booking of revenue in violation of GAAP; (iii) the Company lacked sufficient internal controls and therefore was unable to report its true financial condition; (iv) because of these problems, the amounts reported in TSA’s balance sheet and income statement in the 3Q00 10Q were materially misstated at all relevant times; (v) the 3Q00 10Q did not reflect all necessary adjustments in the financial statements; and (vi) TSA, on a systematic and regular basis, was not adhering to GAAP.
140. On October 26, 2000, the Company announced its financial results for the fourth quarter and fiscal year 2000, for the period ending September 30, 2000. TSA reported revenue of $82.2 million for the fourth quarter and net income of $928,000 or $.03 per diluted share, compared with $12.5 million or $.38 per diluted share for the fourth quarter 1999. Operating income was $1.2 million, compared with $19.7 million in the prior year.

141. For the 2000 fiscal year, defendants reported revenues of $304 million and net income of $2.1 million or $.07 per diluted share, compared with revenue of $355 million and net income of $44.6 million or $1.38 per diluted share in the prior year in the October 26, 2000 press release.

142. In the October 26, 2000 press release, defendant Fisher stated:

> For the year ending September 30, 2001, we expect the momentum in our business to drive our financials in the core business to historical levels. We are focusing to make sure it is a year our shareholders have come to expect. **Continued growth in our core business**, our recently announced acquisition of MessagingDirect and sound cost management processes will help us succeed. Based on that, we are raising our revenue forecast for fiscal 2001 to between $345 million and $370 million, an increase of between 13 percent and 22 percent over fiscal 2000. We are leaving our pro forma EPS expectations the same, at between $.55 and $.70, which reflects an improvement to our previously forecasted EPS, offset by the expected dilution of the MessagingDirect acquisition. We continue to believe in our business model, and are committed to making it work for our shareholders.

(Emphasis added).

143. Analysts were disappointed with these results. TSA stock, which closed at $15 per share on October 26, 2000, fell to $12.69 per share on October 27, 2000. The decline was 15.4% or -16.2% net of market and industry effects, which was statistically significant. Thus, the announcement served as a partial, though far from complete, leakage of the defendants’ prior misinformation and provided the market with a more accurate assessment of TSA’s financial condition. Had analysts known that TSA’s revenues for the quarter had been inflated by 25.71%; that it had sustained a loss for the quarter of $13,158,000; that for the fiscal year, TSA’s revenues had been fraudulently inflated by 19.17%; and
that the Company had sustained an annual loss of $50,059,000, its stock price would have declined even further.

144. TSA filed its Form 10-K with the SEC on or about December 29, 2000 (“2000 10K”) which reiterated the financial results for fiscal year 2000 that were disseminated in the Company’s October 26th press release detailed above. This filing was signed by, *inter alia*, defendants Fisher, Russell, Duman, Hanson and Fuxa.

145. The statements referenced above in paragraphs 140-142 and 144 were each materially false and misleading when made because they failed to disclose or misrepresented the following adverse facts, among others: (i) TSA’s “continued growth in the core business” was due to violating GAAP; (ii) defendant Fisher had no reasonable basis to raise TSA’s revenue forecast, as the Company had inadequate internal controls and lacked the ability to accurately report actual results, much less project future financial results; (iii) the Company’s revenues, operating income and net income for the fourth quarter and 2000 fiscal year were materially overstated due to the pervasive accounting errors and early booking of revenue in violation of GAAP; (iv) the balance sheet and income statement in TSA’s 2000 10K were materially misstated at all relevant times; (v) TSA’s revenue recognition policy was not in compliance with SOP 97-2 as represented; (vii) TSA, on a systematic and regular basis, was not adhering to basic GAAP and had to restate fiscal 2000 net income from approximately $2.1 million to a loss of over $50 million, including the write-off of $49 million of improperly recognized revenue; and (viii) TSA was not appropriately accounting for companies acquired.

146. On January 18, 2001, the Company announced its financial results for the first quarter 2001 for the period ending December 31, 2000. The Company announced that its revenue for the first quarter of fiscal 2001 increased 11 percent over revenue for the first quarter of fiscal 2000, to $74.6 million. TSA reported a net loss for the quarter of $14.4 million or $.45 per diluted share, compared with a net loss of $1.4 million or $.04 per diluted share for the first quarter of 2000.
Software license fees for the quarter were $42.5 million, an increase of 20 percent from the prior year.

Software license fees for the quarter for ACI Worldwide, the consumer e-payments unit, were $33.5 million, an increase of 38 percent from the same quarter last year.

147. With respect to these financial results, defendant Fisher commented as follows:

We’re pleased with our overall results in Q1. … **TSA’s leadership position continues to grow** in the consumer e-payments market. We are winning in the face of significant competition from traditional and new competitors.

* * *

We were at the low end of our revenue expectations for Q1, but our pro forma EPS was better than expected …. We expect revenue for the second quarter to be between $75 and $80 million, and pro forma EPS of $.04 to $.08 per share. In addition, we are reducing our fiscal 2001 guidance to $320 to $340 million in revenue, with pro forma EPS of $.50 to $.65.

(Emphasis added).

148. Analysts were again disappointed with these results. TSA stock, which closed at $13.56 per share on January 18, 2001 on volume of 165,200 shares fell to $11.75 per share on January 19, 2001 on volume of 676,300. The decline was 13.4%, or –13.9% net of market and industry effects, which was statistically significant. Thus, the announcement served as a partial, though far from complete, leakage of the defendants’ prior misinformation and provided the market with a more accurate assessment of TSA’s financial condition. Had analysts known that TSA’s reported revenues, though less than expected, were nonetheless fraudulently overstated by 5.57%, and that the Company in fact had sustained an even greater loss, its stock price would have fallen even further.

149. The Company filed its Form 10-Q with the SEC on or about February 14, 2001 (“1Q01 10Q”), which reiterated the financial results announced in its January 18th press release. The 1Q01 10Q was signed by Fuxa and represented that all necessary adjustments had been taken.
150. The statements referenced above in paragraphs 146-147 and 149 were each materially false and misleading when made because they failed to disclose or misrepresented the following adverse facts, among others: (i) defendant Fisher’s statement that “TSA’s leadership position continues to grow . . .” was materially false and misleading, as any “growth” was attributable to improper accounting practices; (ii) the Company lacked sufficient internal controls to have a basis for Fisher to project future results; (iii) the Company’s revenues and net income for the 2001 first quarter were materially overstated by $3.9 million and $4 million, respectively, due to the pervasive accounting errors and early booking of revenue in violation of GAAP; (iv) TSA’s balance sheet and income statement in the 1Q01 10Q were materially misstated at all relevant times; (iv) the 1Q01 10Q financial statements did not reflect all necessary adjustments; (v) TSA, on a systematic and regular basis, was not adhering to GAAP.

151. On May 1, 2001, TSA announced its financial results for the second quarter of fiscal 2001, for the period ending March 31, 2001. The Company announced that revenue was $76.5 million, with pro forma earnings of $.06, in line with guidance and $.01 better than analysts’ consensus estimates. Operating cash flow was $8 million, the best cash flow results since the quarter ending September 30, 1999.

152. With respect to these financial results, defendant Hanson commented:

   Overall, we are pleased with our results this quarter. In what continues to be a tough market, we were able to meet our objectives for the quarter. We were able to generate over $8 million in operating cash flow, our best cash performance since the fourth quarter of fiscal 1999.

(Emphasis added).

153. The Company also announced on May 1, 2001 that Fisher was stepping down as Chairman and Chief Executive Officer.
154. These results beat analysts’ earnings forecasts, prompting a favorable market response. On May 2, 2001, TSA stock closed at $10.73 per share on volume of 567,000, compared with the prior day’s closing price of $8.35 per share on volume of 119,900. But for the fraudulent scheme, TSA’s stock price would not have risen.

155. The Company filed its Form 10-Q with the SEC on or about May 15, 2001, which reiterated the financial results announced in its May 1st press release (“2Q01 10Q”). The 2Q01 10Q was signed by defendant Fuxa and represented that all necessary adjustments had been taken.

156. The statements referenced above in paragraphs 151-152 and 155 were each materially false and misleading when made because they failed to disclose or misrepresented the following adverse facts, among others: (i) TSA did not “meet its objectives,” or generate over $8 million in operating cash flow as noted by Hanson, as defendants achieved these results solely from violating GAAP; (ii) TSA’s balance sheet and income statement in the 2Q01 10Q were materially misstated at all relevant times; (iii) the 2Q01 10Q did not reflect all necessary adjustments; (iv) TSA, on a systematic and regular basis, was not adhering to basic GAAP.

157. On June 7, 2001, analyst Ryan Sailer at Kirkpatrick Pettis initiated coverage of TSA with a “Hold” rating, due in part to the change in management at the Company. Sailer noted that in the face of a difficult year 2000, TSA “…managed to post revenue growth in the first two quarters of fiscal 2001” and opined that the worst was behind TSA.

158. On July 9, 2001, after market close, TSA announced a restructuring and a related charge for the third quarter of fiscal 2001, and lowered its revenue and earnings guidance. In response, at least one analyst dramatically reduced his projections. On July 10, TSA’s stock price dropped 14.0%, or -13.5% net of market and industry effects, which was a statistically significant return. Thus, TSA’s announcement served as a partial, though far from complete, leakage of the defendants’ prior misinformation and provided the market with a more accurate assessment of TSA’s financial condition.
Had analysts known the full amount by which TSA had been inflating its reported revenues, and that
the Company in fact had sustained a loss, its stock price would have fallen even further.

159. On July 31, 2001, the Company announced its financial results for the third quarter of
fiscal 2001 ending June 30, 2001. The Company reported that revenue was $73.7 million, in line with
revised guidance of $72 to $74 million. Pro forma earnings per diluted share were $.04, at the high end
of the Company's revised earnings guidance range. Operating cash flow $15 million, purportedly the
best cash flow results since the quarter ending September 1999.

160. With respect to this, Hanson commented as follows:

We generated over $15 million in operating cash flow, our best
cash performance in the past two fiscal years, and our cash
balance is now $28 million, current billed receivables are down 19
percent compared to the third quarter of fiscal 2000, and down 20
percent sequentially from the second quarter of fiscal 2001. In
addition, we had favorable improvement in our DSO and DBO levels,
with our DBO levels at their lowest point in over two years, and well
below our goal of 60 days. We began to see some benefit from our
restructuring efforts in Q3, with pro forma expenses down two percent
year-over-year. This should improve more in Q4 and into next year.
(Emphasis added).

161. The Company filed its Form 10-Q with the SEC on or about August 14, 2001 ("3Q01
10Q"), which reiterated the financial results announced in its July 31st press release. The 3Q01 10Q
was signed by defendant Fuxa and represented that the financial statements contained therein reflected
all necessary adjustments.

162. The statements referenced above in paragraphs 159-161 were each materially false and
misleading when made because they failed to disclose or misrepresented the following adverse facts,
among others: (i) defendant Hanson's recitation of financial results was materially false and misleading,
as the operating cash flow and purported “benefit from restructuring efforts,” was, in fact, the result of
accounting improprieties; (ii) the Company’s revenues, operating income and net income for the third
quarter of 2001 were materially overstated by $5.7 million, $2.5 million, and $5.6 million, respectively,
due to the pervasive accounting errors and early booking of revenue in violation of GAAP; (iii) TSA’s balance sheet and income statement in the 3Q01 10Q were materially misstated at all relevant times; (iv) the Company lacked sufficient internal controls and therefore was unable to understand its true financial condition; and (v) the 3Q01 10Q did not reflect all necessary adjustments.

163. On October 3, 2001, the Company announced its financial results for the fourth quarter and fiscal year 2001 ended September 30, 2001. The Company announced that revenue for the fourth quarter of fiscal 2001 was $75 million. TSA reported a quarterly net loss of $3.5 million or $.10 per diluted share, compared with net income of $928,000 or $.03 per diluted share for the 2000 fiscal year. For the fiscal year, TSA reported revenue of $300 million, and a net loss of $43 million or $1.26 per diluted share, compared with revenue of $303.5 million and net income of $2.1 million or $.07 per share for the 2000 fiscal year.

164. These reported results were materially inflated. In contrast to the $3.5 million for the fourth quarter loss that TSA reported, the Company actually sustained a $31.9 million loss. Whereas the Company reported a fiscal year 2001 loss of $43 million, the actual $80 million loss it sustained was nearly double that amount. Had the truth been disclosed, TSA’s stock price would have plummeted.

165. On December 27, 2001, TSA filed its Form 10-K for the 2001 fiscal year with the SEC, which was signed by, *inter alia*, defendants Hanson, Duman and Fuxa.

166. The statements referenced above in paragraphs 163 and 165 were each materially false and misleading when made because they failed to disclose or misrepresented the following adverse facts, among others: (i) the Company’s revenues, operating income and net income for the fourth quarter and 2001 fiscal year were overstated due to the pervasive accounting errors and early booking of revenue; (ii) TSA’s balance sheet and income statement in the 2001 10K were materially misstated at all relevant times; (iii) TSA’s revenue recognition policy was not in compliance with SOP 97-2 as represented; (iv) TSA was not appropriately accounting for companies acquired during its aggressive
acquisition binge during the Class Period; (v) TSA, on a systematic and regular basis, was not adhering to GAAP, which ultimately led TSA to restate 2001 net income from a loss of $43 million to a loss of over $80 million; and (vi) the Company lacked sufficient internal controls and therefore was unable to report its true financial condition.

167. On January 2, 2002, after market close, TSA announced that revenues and earnings for the first quarter of fiscal 2002 would be below prior guidance. The Company’s revised guidance caused analysts to reduce their fiscal year 2002 forecasts. On January 3, the stock price declined 11.4%, or -12.4% net of market and industry effects, which was a statistically significant return. Thus, TSA’s announcement served as a partial, though far from complete, leakage of the defendants’ prior misinformation and provided the market with a more accurate assessment of TSA’s financial condition. Had analysts known the full amount by which TSA had been fraudulently inflating its prior results, its stock price would have fallen even further.

168. On January 29, 2002, TSA issued a press release announcing its results for the 2002 first quarter ended December 31, 2001. Revenue for the 2002 first quarter was $65.3 million. The Company reported a loss of $28.5 million or $.81 per share. Operating cash flow was reported as $14.2 million.

169. According to the January 29, 2002 press release, the first quarter results reflected the adoption of new generally accepted accounting principles regarding goodwill impairment for which TSA had independent appraisals performed on each unit that contained goodwill. As a result, TSA wrote down $25.7 million of goodwill from the acquisition of MessagingDirect, Ltd. The Company also recorded a write down in the carrying value of TSA’s investment in Nestor, Inc.

170. In the January 29, 2002 press release, defendant Hanson stated:

For the second quarter, we expect revenue to be in the range of $66 to $70 million and pro forma EPS of $.04 to $.10. In addition, we are updating our fiscal 2002 guidance to $270 to $290 million in revenue with pro forma EPS of $.33 to $.49. This guidance for the
second quarter and the full year reflects our view of the impact of the ongoing reduction in IT spending levels that we have seen in the marketplace.

(Emphasis added).

171. Thereafter, the Company filed its Form 10-Q with the SEC on or about February 12, 2002, which reiterated the financial results announced in its January 29, 2002 press release (“1Q02 10Q”). The 1Q02 10Q was signed by defendant Fuxa and represented that all necessary adjustments had been taken.

172. Also on January 29, 2002, Credit Suisse First Boston issued a report with a “Hold” rating on TSA due to the weak economy, but left unchanged Credit Suisse First Boston’s 2002 quarterly earnings estimates, which were in line with TSA guidance.

173. The statements referenced above in paragraphs 167 through 171 were each materially false and misleading when made because they failed to disclose or misrepresented the following adverse facts, among others: (i) the write-down of MessagingDirect, Ltd. and Nestor was insufficient, as GAAP had not been properly applied; (ii) Hanson had no basis to forecast future financial results, as TSA lacked sufficient internal controls, was unable to report its true financial condition, and had no reasonable basis for the forecast; (iii) TSA’s balance sheet and income statement in the 1Q02 10Q were materially misstated at all relevant times; and (iv) TSA, on a systematic and regular basis, was not adhering to GAAP.

174. On April 30, 2002, TSA issued a press release announcing its financial results for the 2002 second quarter ended March 31, 2002. The Company reported revenue of $65.7 million and net income of $4.5 million or $.13 per share. Operating cash flow was reported to be $11.3 million.

175. In the April 30, 2002 press release, Greg Derkacht stated:

  We had solid results for the quarter, despite continued softness in the IT spending environment, revenue was up slightly on a sequential basis, even considering the sale of Regency during the quarter. Our operating cash flow was again very strong, and our balance sheet
is in good shape. The management team is working hard to drive internal efficiencies and, consequently, our margins have improved. We will continue these efforts to ensure that we gain the leverage inherent in our model once the market picks up.

(Emphasis added).

176. Commenting on the 2002 second quarter results, defendant Hanson stated:

For the third quarter, we expect revenue to be in the range of $61.0 to $66.0 million and pro forma EPS of $.03 to $.09. In addition, we expect fourth quarter revenue to be $62.5 to $67.5 million and pro forma EPS of $.08 to $.13. To help manage through these uncertain times, we will continue to adjust our cost structure to levels that allow us to maintain and improve profitability and cash flow. The Company has turned the corner in terms of its ability to generate profits and cash flow. Now we will move to the next stage of our strategy, which is to increase our recurring revenue levels, increase our operating margins and position ourselves for sustained long-term growth. TSA has proven that it can generate ongoing recurring sources. Continued strengthening of our financial metrics will not only allow us to deliver stronger earnings, but give us better flexibility in terms of our strategic new markets that can drive us to the next level of corporate growth and shareholder value. (Emphasis added).

177. These forecasts for the third and fourth quarter represented a downward revision from prior forecasts issued by the Company. As a result, analysts lowered their forecasts. This resulted in a price decline on May 1, 2002 of 6.1% or -6.3% net of market and industry effects, which was a statistically significant return. Thus, TSA’s announcement served as a partial, though far from complete, leakage of the defendants’ prior misinformation and provided the market with a more accurate assessment of TSA’s financial condition. Had analysts known the full amount by which TSA had been historically inflating its reported revenues and income, its stock price would have fallen even further.

178. The Company filed its Form 10-Q with the SEC on or about May 13, 2002, reiterating the financial results for the second quarter (“2Q02 10Q”). The 2Q02 10Q was signed by defendant Fuxa and represented all necessary adjustments had been taken.

179. The statements referenced above in paragraphs 174-176 and 178 were each materially false and misleading when made because they failed to disclose or misrepresented the following adverse
facts, among others: (i) TSA’s strong operating cash flow and state of the Company’s balance sheet were only achieved through repeated GAAP violations; (ii) defendant Hanson had no reasonable basis for his third quarter forecast, as the Company lacked sufficient internal controls to accurately forecast; (iii) the 2Q02 10Q did not reflect all necessary adjustments in the financial statements; and (iv) the balance sheet and income statement were materially misstated in the 1Q02 10Q.

180. On July 30, 2002, the Company announced its financial results for the 2002 third quarter for the period ending June 30, 2002. The Company reported revenue of $65.0 million and pro forma net earnings of $1.3 million or $.12 per diluted share. Operating cash flow for the quarter was $10.5 million, the sixth consecutive quarter with strong operating cash flow, and the ending cash balance was $59.3 million. Had Defendants disclosed the historical inflation of TSA’s revenues and earnings, its stock price would have plummeted.

181. With respect to the quarterly financial results, Derkacht commented:

We had a good quarter in a clearly difficult market for information technology spending. Licensing activity with existing customers improved, as customers reconfirmed their commitment to our e-payment platforms, driven by continued increases in e-payment transaction volume. Our operating margin has increased throughout this fiscal year, and our cash balance is the highest it has been in over two years. We made good progress on a number of fronts. I am pleased with the overall progress we have made in the last several quarters.

(Emphasis added).

182. The Company filed a Form 10-Q with the SEC on or about August 14, 2002, which reiterated the financial results announced in its July 30th press release (‘‘3Q02 10Q’’). The 3Q02 10Q was signed by defendant Hanson and represented all necessary adjustments had been taken.

183. The statements referenced above in paragraphs 180 through 182 were each materially false and misleading when made because they failed to disclose or misrepresented the following adverse facts, among others: (i) the Company’s representation about TSA’s operating margin was false and
misleading, as it was only achieved through improper accounting practices; (ii) TSA’s balance sheet and income statement in the 3Q02 10Q were materially misstated at all relevant times; and (iii) the 3Q02 10Q financial statements did not reflect all necessary adjustments.

THE FULL REVELATIONS

184. Arthur Andersen had been TSA’s auditors for many years. In fact, Defendant Duman had previously been employed by Arthur Andersen. However, following the Enron debacle, coupled with subsequent disasters involving Waste Management, WorldCom and Adelphia, Arthur Andersen was effectively shut down by federal authorities for its role in these massive accounting scandals, and in late May 2002, TSA was forced to hire KPMG. Within just two and a half months, KPMG determined that improprieties with respect to the transactions with Digital Courier required that Duman be fired; a “reportable condition” existed at TSA with respect to its internal controls; and that a re-audit of prior periods was necessary, thus evidencing the very basic nature of the accounting improprieties engaged in by defendants.

185. On August 14, 2002, after the close of the market, TSA revealed that TSA management was reviewing several transactions involving the Company’s customers that occurred during fiscal 1999 and 2000, to determine whether they had been accounted for appropriately. Although not announced at the time, the transactions referred to were with Digital Courier and involved attempts to improperly record revenue on TSA’s financial statements when, in actuality, TSA received no economic benefit. TSA further announced that: (i) the Company would conduct a re-audit of the financial statements for fiscal years 1999, 2000 and 2001, years previously audited by Arthur Andersen, who was terminated by the Company on May 29, 2002; (ii) the re-audits would likely result in the restatement of the Company’s financial statements; (iii) KPMG was not able to certify the accuracy of TSA’s interim financial statements for the third quarter of 2002 pursuant to the newly enacted Sarbanes-Oxley Act of 2002;
and (iv) Duman, the Company’s Chairman of the Board of Directors, had resigned effective August 13, 2002.

186. In response to the news that TSA’s previously reported financial results would likely be restated, TSA’s shares fell almost 20%, or $2.22 per share (from the prior day’s closing price of $10.72 per share), to $8.50 per share on August 15, 2002 on volume of 1,678,800.

187. The reaudit, precipitated by the revelation of improper recognition of revenue from transactions with Digital Courier, primarily involved software license agreements, a distribution agreement and investment in Digital Courier’s common stock and warrants. The transactions that occurred in the second quarters of fiscal 1999 and 2000 resulted in revenues of approximately $4,375,000 and $4,250,000, respectively.

188. The Company also acknowledged that it had invested $11,700,000 in Digital Courier, which entitled TSA to designate a member of the Digital Courier Board of Directors. Defendant Duman was designated to serve on the Digital Courier Board and did so from January 2000 until he resigned from the Digital Courier Board in 2001. As such, Digital Courier was an “affiliate” of TSA beginning in June of 1999. Therefore, all transactions between TSA and Digital Courier should have been scrutinized as such and disclosed in the financial statements as related party transactions in accordance with Regulation S-X and FAS 57 (which requires that the nature and amount of related party transactions be disclosed and that control relationships be disclosed as well).

189. On August 19, 2002, the Company announced the further news that it had received a letter from the NASDAQ Stock Market, informing the Company that it was in violation of NASDAQ Marketplace Rule 4310(c)(14), which requires the Company to obtain a review of interim financial information from the Company’s independent auditor. Upon discovering that the financial results for the three years were likely to be restated, the Company was unable to certify the accuracy of its third quarter financial statements.
190. On October 15, 2002, the Company announced that it had received provisional permission to continue trading on the NASDAQ market, subject to the Company providing NASDAQ with its completed June 30, 2002 interim financial information no later than November 29, 2002. The Company further advised that it would announce its fourth quarter and September 30, 2002 fiscal year results in conjunction with the announcement of the results of the re-audit, which the Company assured would be completed by the November 29, 2002 deadline.

191. On November 19, 2002, the Company announced that, during the review of the Company’s financial statements, the Company identified certain “material” accounting adjustments that would, in fact, result in the restatement of its financial statements for fiscal years 1999, 2000 and 2001, as well as the restatement of its previously issued quarterly results for 2000 through the third quarter of 2002 because TSA improperly recognized revenue in conjunction with its software licensing arrangements. As a result, previously reported software license revenues and net income would decrease substantially in fiscal 1999, 2000 and 2001.

192. Further, the Company announced that as a result of these adjustments, it was not possible to complete the re-audit prior to the November 29, 2002 deadline set by NASDAQ. The Company requested an extension from NASDAQ until December 31, 2002 to complete the re-audit process.

193. Following TSA’s November 19, 2002 announcement, the trading price of TSA’s shares fell from a closing price on November 18, 2002 of $9.50 per share to a low of $6.50, closing on November 20th at $7.35.

THE RESTATEMENT

194. On or about January 13, 2003, TSA filed its Form 10-K for the fiscal year ended September 30, 2002 (“2002 10K”) which set forth TSA’s actual restated financial results, as set forth below in summary format:
<table>
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<th></th>
<th>As Originally Reported</th>
<th>As Restated</th>
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</thead>
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<tr>
<td></td>
<td>(in thousands)</td>
<td>(in thousands)</td>
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<tr>
<td></td>
<td>1999</td>
<td>2000</td>
</tr>
<tr>
<td>Total Revenues</td>
<td>$354,794</td>
<td>$303,565</td>
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<tr>
<td>Total Expenses</td>
<td>$284,534</td>
<td>$301,823</td>
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<tr>
<td>Operating Income</td>
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<td>Total Other Income</td>
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<td>$1,851</td>
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<tr>
<td>Net Income (loss)</td>
<td>$44,700</td>
<td>$2,111</td>
</tr>
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195. As reflected above, contrary to originally reported 1999 net income of $44.7 million, TSA actually suffered a loss of almost $12 million, a difference of approximately $56 million, or a 125% reduction in reported net income. Similarly, while TSA originally reported 2000 net income of $2.1 million, in fact, the Company suffered a huge loss of over $50 million. Likewise, TSA’s reported loss for 2001 almost doubled, increasing from $43 million to more than $80 million. The differences between reported results and the restated results are staggering.

196. A large portion of TSA’s restatement is attributable to improper revenue recognition. As set forth above, in 1999, TSA originally reported full year revenue of $354,794,000; actual restated revenues in 1999 were $279,579,000 or a reduction of more than $75.2 million. Similarly, TSA
originally reported 2000 revenues of $303,565,000, when actual revenues were $254,728,000, or a reduction of more than $48.8 million. The difference between 2001 reported revenue and actual revenue was $4.2 million. Thus, collectively for 1999 through 2001, TSA overstated its revenues by a massive $128.2 million. Over that same period, reported net income was overstated by $145 million.

**TSA’s VIOLATIONS OF GAAP**

197. TSA’s announcement that it was restating its financial statements for fiscal years 1999, 2000 and 2001, as well as each quarter during fiscal 2000, 2001 and 2002 contains an admission that the financial statements originally issued, as described above, were false and that the overstatement of revenue and income and understatements of expenses were material. GAAP provides that financial statements should only be restated in limited circumstances; that is, when there is a change in reporting entity, there is a change in accounting principles used, or to correct a material error in previously issued financial statements. TSA’s restatements were not due to a change in reporting entity or a change in accounting principles, but rather to correct accounting irregularities in previous financial statements. Therefore, the restatements are admissions by TSA that its previously issued financial results and its public statements regarding those statements were materially false.

**Revenue Adjustments**

198. In its 2002 10K, TSA provided explanations for the revenue restatement, admitting it had violated all four criteria set forth in SOP 97-2, despite repeated representations of compliance throughout the Class Period.

199. With respect to Delivery/Term Commencement, Defendants admitted:

Delivery/Term Commencement. The Company has identified certain arrangements in which delivery of the software products and/or commencement of the license term had not occurred prior to revenue being recognized. The Company has restated its consolidated financial statements for these arrangements to recognize revenue upon delivery to the customer and commencement of the license term.
The restatement required TSA to decrease revenues by $1,047,000 and $1,268,000 for 2000 and 2001, respectively, for this violation.

200. Defendants also admitted that TSA had failed to meet the “acceptance” provision of SOP 97-2 as follows:

Customer Acceptance. Certain of the Company’s software arrangements (primarily those in the Asia/Pacific region) include payment terms that are enforceable only upon the passage of time or customer acceptance. Historically, for most of the software license arrangements that contain customer acceptance provisions, the Company recognized software license fee revenue upon delivery of the software products, assuming that all other revenue recognition criteria had been met. The Company’s consolidated financial statements have been restated to recognize revenues under software license arrangements in which acceptance did not ultimately occur, this restated treatment resulted in a reduction in previously recognized revenues.

The restatement required TSA to decrease revenues by $2,190,000 and $197,000 for 2000 and 2001, respectively, for this violation.

201. Defendants also admitted that TSA’s prior representation of “fixed or determinable” fees had been false, and that TSA had, in fact, granted concessions to customers, thereby precluding TSA from RUFing the accounting for the contracts:

Fixed or Determinable. In fiscal 1999, the Company adopted SOP 97-2, which requires that a software vendor’s fee be fixed or determinable before it can recognize the license fee revenue upon shipment of the software. SOP 97-2 states that if payment of a significant portion of the software license fee is not due until after expiration of the license or more than twelve months after delivery, the license fee should be presumed not to be fixed or determinable. However, SOP 97-2 provides that the software vendor can overcome the presumption that the software license fees are not fixed or determinate if the vendor has a standard business practice of using long-term or installment contracts and has a history of successfully collecting the software license fees under the original payment terms of the software license arrangement without making concessions.

Previously, the Company concluded that for certain BASE24 and ICE software arrangements where the customer is contractually committed to make license payments that extend beyond twelve months, the fixed or determinable presumption had been overcome and software license
fee revenue should be recognized upon delivery of the software, assuming that all other revenue recognition criteria had been met. Software license fee revenues recognized under these arrangements were referred to in the Company’s previous filings with the SEC as “Recognized-Up-Front” MLFs (“RUFs”). Software license fee revenues previously recognized as RUFs totaled approximately $21.3 million and $30.3 million for fiscal 2001 and 2000, respectively.

Subsequently, it was determined that upon adoption of SOP 97-2, the Company lacked a history of successfully collecting software license fees under the original terms of the software license arrangement without making concessions, which would have enabled it to recognize software license fee revenue upon delivery of the software products. In addition, certain contracts previously accounted for under the RUF policy contained cancellation clauses and MLFs that vary with customer usage (i.e., usage-based fees). Therefore, license fees for these arrangements were also not fixed and determinable at the outset of the arrangement. As a result, the Company’s consolidated financial statements have been restated to recognize revenues under software license arrangements with extended payment terms over the term of the underlying license arrangements, as payments become due and payable rather than up-front (or ratably for subscription arrangements).

(Emphasis added). The restatement required TSA to decrease 2000 revenues by $16,937,000 and increased 2001 by $10,457,000 for this violation.

202. Finally, defendants also admitted that TSA’s financial statements had previously recorded revenue when collectibility was in question:

Collectibility. It has been determined that certain software license revenue was recognized for which collection was not reasonably assured. The Company’s consolidated financial statements have been restated to recognize revenue from these arrangements as cash was received. For those software license arrangements in which collectibility was not probable at the onset of the arrangement and for which the Company received no cash or only a portion of the fees, this restated treatment resulted in an reduction of previously recognized revenues and bad debts expense.

(Emphasis added.) The restatement required TSA to decrease 2000 and 2001 revenues by $6,767,000 and $1,417,000, respectively.
203. The above-noted revenue restatements stemmed from multiple violations of American Institute of Certified Public Accountants (“AICPA”) Statement of Position (“SOP”) 97-2 “Software Revenue Recognition.” SOP 97-2 incorporates four basic revenue recognition principles that must be met to recognize revenue with software arrangements, including (a) persuasive evidence that an arrangement exists; (b) delivery has occurred; (c) the vendor’s fee is fixed or determinable; (d) collectibility is probable.

204. Based upon the information disclosed in the 2002 10K, the Company admits that it violated each of the four basic revenue recognition principles enumerated in SOP 97-2:

(a) TSA recognized revenue prior to “commencement of the license term” in violation of the first revenue recognition principle of SOP 97-2, for if the license term has not yet commenced, the revenue has not yet been earned and there is no arrangement or enforceable contract at the time revenue was recorded. (SOP 97-2.15-17).

(b) TSA acknowledged that it recognized revenues upfront prior to delivery, in violation of SOP 97-2.18-25. TSA originally recorded revenue upon delivery of the software in certain software arrangements containing customer acceptance provisions, in which acceptance never occurred in violation of SOP 97-2.20.

(c) TSA improperly recognized revenue upon shipment in situations where the license fee was not fixed or determinable. That recognition violated GAAP because (i) the Company had no history of collecting its license fees without making concessions or (ii) certain contracts contained cancellation clauses and monthly licensing fees that varied with customer usage and, as such, were not fixed or determinable. (SOP 97-2.26-31). Indeed, a KPMG workpaper details 65 contracts entered into between December 31, 1998 through September 30, 2002 totaling almost $88 million which were improperly RUFed.
(d) TSA recognized revenue from customers in which collectibility was not probable at the outset of the arrangement, instead of recognizing payments when received, in violation of SOP 97-2.26.

205. On software license arrangements that include both the licensing of software and providing of post-contract customer support (“PCS”), the separate components typically each have distinct stated terms. The software license, although generally ranging from 12 to 60 months, had some arrangements extending beyond 60 months. The PCS term, generally 12 to 24 months, in certain cases had terms as long as the software arrangements (i.e. up to 60 months). Arthur Andersen repeatedly advised TSA it could not RUF contracts where the PCS term was over 40% of the license. Defendants blatantly ignored this advice to continue to attempt to meet analyst expectations.

206. SOP 97-2 requires that if a software arrangement includes multiple elements (i.e., license and support), the fee should be allocated to the various elements based upon vendor-specific objective evidence (“VSOE”). VSOE of fair value is limited to: i) the price charged when the element is sold separately ii) for an element not sold separately, a price established by management having relevant authority. The fees from software arrangements with multiple elements must be allocated to the various elements based on VSOE of fair value, regardless of the separate prices for each element stated in the contract. If the seller is unable to establish adequate VSOE, all revenue from the arrangement must be deferred until the earlier of (a) adequate VSOE is obtained for all elements of the arrangement or (b) all elements of the arrangement have been delivered. (SOP 97-2.09-.13). TSA violated these requirements as follows:

(a) TSA provided “bundled” software arrangements to include the right to PCS services in the future or unspecified upgrades/enhancements. According to TSA’s restatement disclosure, the PCS terms were generally 12-24 months. TSA originally recorded all of the revenue associated with PCS at the inception of the arrangement without having adequate VSOE. SOP 97-2.58
states that if VSOE does not exist to allocate the fee to the separate element and the only undelivered element is PCS, the entire arrangement fee should be recognized ratably over (a) the contractual PCS period or (b) the period during which PCS is expected to be provided. (SOP 97-2.56-.59). Thus, TSA should not have recognized all the revenue upfront, but rather, ratably over the 12-24 months they were obligated to provide PCS.

(b) Similarly, for multiple element arrangements whereby TSA agreed to deliver only a portion of the software products to the customer initially and deliver additional specified software products in the future, TSA violated SOP 97-2.12 by recording at the inception of the arrangement license fee revenue relating to the delivered products as determined by stated contract values rather than fair value. The fees from these types of arrangements must be allocated to each element based on VSOE, regardless of stated values. Because TSA was unable to establish adequate VSOE of fair value for the undelivered elements (products in the future), TSA ultimately restated 2000 and 2001 revenues by $14,701,000 and $8,821,000, respectively, on a total of 14 contracts to defer revenue recognition for the entire arrangement for this violation.

207. Further, TSA entered into certain software arrangements whereby it agreed, in connection with multiple-element arrangements, to deliver software immediately and deliver unspecified additional software products in the future. These types of arrangements are accounted for as subscriptions pursuant to SOP 97-2.48-49. The proper accounting treatment is to recognize the software revenue over the term of the arrangement beginning with the delivery of the initial product. TSA violated subscription accounting by recording all of the revenue associated with the contract upon delivery of the first product despite having a future obligation to make deliveries. According to the 2002 10K, TSA decreased 2000 and 2001 revenues by $1,047,000 and $1,268,000, respectively, for this violation alone.
208. In addition, TSA entered into certain software arrangements which require significant production, modification or customization. SOP 97-2 requires that these types of arrangements be accounted for in accordance with ARB 45, “Long-Term Construction-Type Contracts” issued by the AICPA Committee on Accounting Procedure in 1955 and the guidance in SOP 81-1, “Accounting for Performance of Construction-type and Certain Production-Type Contracts.” TSA violated SOP 97-2 by (i) recognizing revenue up front upon delivery when it should have been recognized under the percentage-of-completion method; and (ii) including in revenue amounts that were actually due under extended payment terms. SOP 97-2.74-.91, ARB 45, para. 4-8, SOP 31-1.01-.04. The restatement required TSA to decrease 2000 and 2001 revenues by $337,000 and $1,473,000, respectively, for this violation alone.

Operating Expense Adjustments

Goodwill and Software Impairment

209. TSA originally evaluated the goodwill of MDL for impairment by comparing the undiscounted estimated future cash flows to the carrying amount of the goodwill based on a faulty 15-year life, and concluded that there was no impairment to goodwill as of the end of fiscal year 2001. One day later, TSA revised its goodwill impairment analysis to only “consider undiscounted cash flows during the estimated useful life of the asset” (i.e., the original useful life of 15 years was not realistic and was not based on an analysis based on reasonable and supportable assumptions). In connection with the MDL acquisition, TSA also ultimately wrote off the MDL software to impairment of long-lived assets. TSA, for both the goodwill and software adjustments, violated SFAS No. 121, “Accounting for the Impairment of Long-Lived Assets And For Long-Lived Assets To Be Disposed Of.” The restatement required TSA to recognize software impairment of $8,880,000 and goodwill impairment of $36,618,000 in 2001.
Capitalized Software Costs

210. TSA’s wholly owned subsidiary, Regency Systems, Inc. (“Regency”) previously capitalized costs associated with the internal development of an internet banking product. SFAS No. 86, “Accounting for the Costs of Computer Software to Be Sold, Leased or Otherwise Marketed,” states in relevant part that capitalization of software costs must cease once the product is available for general release to customers. Regency, in violation of SFAS No. 86, para. 6, continued to capitalize costs once the internet banking software was made available for sale to customers. The effect of this improper accounting was to understate Regency’s (and TSA’s) liabilities and overstate Regency’s (and TSA’s) net income.

211. TSA also improperly capitalized software development costs associated with the IntraNet CO-ach software product. However, the IntraNet CO-ach was connected to a project pursuant to which TSA was recognizing revenue using the percentage of completion contract accounting method. Accordingly, such costs should have been charged to operations as revenue from the contract was recognized rather than being recorded as an asset on the balance sheet. SOP 81-1.69-.72 ARB 45 para. 4-8.

Restructuring Liabilities Adjustment

212. TSA embarked upon a restructuring in fiscal 2001. The issue of restructuring costs was a hot topic with the SEC as part of the “big bath” practice in which companies clean up their balance sheets to improve their future earnings. For fiscal 2001, TSA improperly accrued restructuring costs of about $1,168,000 that did not meet the criteria in EITF 94-3, “Liability Recognition For Certain Employee Termination Benefits and Other Costs to Exit an Activity (Including Certain Costs Incurred in a Restructuring).”

213. In order to accrue restructuring costs, management must approve and commit the company to either an exit or termination plan. EITF 94-3 establishes specific criteria to be met to
qualify as an exit plan, as follows: (1) prior to the date of the financial statements, management approves and commits to the exit plan; (2) the exit plan specifically identifies all significant actions to be taken to complete the plan, which activities will not be continued, and the expected completion date; and (3) the plan is near enough to implementation that changes to the plan are unlikely. In fiscal 2001, TSA did not comply with the above discussed criteria and essentially wrote off operating expenses that should have been charged against earnings, thereby artificially inflating the Company’s operating income.

214. Similarly, in accounting for employee termination costs, in fiscal 2001 TSA violated EITF 94-3, because it failed to meet the criteria for an exit plan in that it did not meet the notification requirements that must be made to employees whose benefit arrangements are scheduled to be terminated.

**Accrued Liabilities Adjustments**

215. According to the 2002 10K, TSA discovered accounting differences with respect to the recorded amount of accrued liabilities when compared to amounts actually paid. In other words, TSA apparently underestimated its actual liabilities and therefore overstated its net income.

**Understatement of Goodwill**

216. According to the 2002 10K, TSA materially misstated the purchase prices of certain acquisitions, SDM International, Inc. (“SDM”) and MessagingDirect Ltd. (“MDL”). In the acquisitions, TSA issued shares of its Class A common stock, but used improper stock prices, which caused the goodwill TSA recorded to be understated, along with goodwill amortization expense for all periods prior to the adoption of SFAS No. 142 on October 1, 2001. ABP 16, para. 87, “Business Combinations” explains that an acquiring corporation should allocate the cost of an acquired company to the assets acquired and liabilities assumed based on the fair market values of the assets and liabilities acquired. APB 16 and EITF 95-19 state that the market price of securities for a reasonable period of
time before and after the two companies have reached agreement on the purchase price and the proposed transaction is announced (a few days before and after). In the SDM acquisition, TSA used its stock price on the third day subsequent to the announcement of the acquisition. For the MDL acquisition, TSA used an average of its stock price one day prior to and four days after the announcement of the transaction. In the restatement, TSA properly used the average of the stock price two days prior to and two days after the announcements of the transactions, resulting in an understatement of goodwill. As a result, the Company’s amortization expense was artificially low and its net income artificially high. Failure to follow this basic accounting principle is indicative of the Company’s reckless and intentional disregard for GAAP.

**TSA’s Lack of Internal Controls**

217. In its 2002 Form 10-K, TSA disclosed that management and KPMG, TSA’s new auditors, advised TSA’s audit committee that during the course of KPMG’s audit, they noted several deficiencies in internal controls; including controls over revenue recognition procedures, controls over policies and procedures for significant transactions and the lack of timely reconciliation of general ledger accounts. These internal control deficiencies constituted reportable conditions and, collectively, a material weakness. A reportable condition is defined in Statement Auditing Standards No. 60 entitled, “Communication of Internal Control Related Matters Noted in an Audit” as “... significant deficiencies in the design or operation of internal control, which could adversely affect the organization’s ability to initiate, record, process, and report financial data consistent with the assertions of management in the financial statements ....” Deficiencies in internal controls generally do not occur all at once but occur slowly over a long period of time. Thus, the above internal deficiencies very likely existed throughout the entire Class Period as evidenced by the fact that TSA restated its financial statements going back to 1999.
The Digital Courier “Exchanges”

218. In Note 19 to the 2002 consolidated financial statements, contained in the 2002 10-K, TSA disclosed for the first time a series of related party transactions with Digital Courier. TSA had previously disclosed the fact that it had made equity investments in Digital Courier in the 1999 Form 10-K, but did not disclose a series of transactions recognized as revenue by TSA immediately preceding and following the equity infusion by TSA into Digital Courier. In 2000, the companies executed or extended software license and distribution agreements that resulted in each of the companies improperly recognizing revenues. Specifically, a March 31, 2000 agreement between TSA and Digital Courier provided that Digital Courier would pay TSA $5 million in software license fees for the agreement in June and September 2000. An April 14, 2000 agreement between TSA and Digital Courier provided that TSA would guarantee Digital Courier $6 million of royalties to be paid in five annual installments. Pursuant to the restatement, the accounting for these two agreements was restated to account for these transactions as non-monetary exchanges, with no revenues recognized for what was essentially a swap transaction that involved two related entities transferring cash back and forth between themselves in order to create the impression of generating revenues.

SCIENTER ALLEGATIONS

219. The facts alleged herein establish that TSA and the Individual Defendants made material false and misleading statements to the investing public with scienter in that TSA and the Individual Defendants knowingly or recklessly issued or disseminated public statements in the name of the Company that were materially false and misleading; knew or recklessly disregarded that such statements would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements as primary violators of the federal securities laws. The Individual Defendants knowingly or recklessly caused TSA to engage in irregular accounting practices, which, in turn, caused TSA to report artificially inflated financial results.
220. Defendants were under significant pressure to inflate reported earnings in order to meet analysts’ expectations. Defendants issued false and misleading financial information to maintain the illusion that TSA was well-positioned even as the industry began to crater, in order to remain in favor with Wall Street, aid TSA in its acquisition strategy wherein it used its stock as currency, and enable TSA officers to almost double their annual compensation by achieving bonuses which were based on achieving certain financial objectives including sales, revenue, backlog and/or cash flow (“bonus objectives”).

221. The ongoing fraudulent scheme described herein, which culminated in a massive restatement, could not have been perpetrated over a four-year period of time, involving as it did the improper application of at least 12 basic, generally accepted accounting principles, without the knowledge and complicity of the Individual Defendants, the most senior executives of the Company.

The Digital Courier Transactions

222. There is substantial specific evidence of Defendants’ scienter. As noted above, the genesis of TSA’s restatement was a series of deals the Company entered into in 1999 with Digital Courier, a small technology company. Digital Courier was a developer of software products used to process payments made over the Internet. TSA’s business, in contrast, centered on “brick and mortar” credit card and banking transactions and had no substantial Internet presence. TSA’s transactions with Digital Courier included not only software licensing agreements, but also an investment by TSA in Digital Courier’s common stock and warrants and an agreement for TSA to distribute Digital Courier’s own software products. Ultimately, Defendants’ fraud surrounding the Digital Courier transactions—involving what Duman (who was then TSA’s Chairman of the Board) called a “quest for recognizable revenue”—was so pervasive that KPMG required TSA either to fire Duman or find a new auditing firm.
223. On March 25, 1999, Digital Courier obtained a license from TSA to use BASE24 for approximately $4.4 million, to be paid (as was standard) monthly over a five-year period (the “1999 License Agreement”). On June 3, 1999, TSA and Digital Courier signed a distribution agreement giving TSA the right to use and distribute certain Digital Courier software products. The 1999 License Agreement said nothing about where, geographically, Digital Courier could or could not use BASE24. On June 14, 1999, Digital Courier sold 1,250,000 shares of its common stock, and warrants to purchase an additional 1,000,000 shares of its common stock, to TSA for $6.5 million (the “Securities Purchase Agreement”). The Securities Purchase Agreement obligated Digital Courier to use this money to make continued monthly payments on the 1999 License Agreement. As part of the investment transaction, Duman became a member of Digital Courier’s Board of Directors.

224. In late 1999 or early 2000, Digital Courier was planning to expand its operations by opening an office in England. Duman told James A. Egide, CEO of Digital Courier, that even though the 1999 License Agreement contained no express geographic restrictions, he did not believe the 1999 License Agreement permitted Digital Courier to use BASE24 outside of the United States. Duman asked that Digital Courier enter into a second license agreement that would explicitly grant Digital Courier the right to use BASE24 in Europe.

225. Such a license agreement would require Digital Courier to pay TSA an additional $5 million in license fees. Egide did not believe this second license agreement was necessary and, in any event, Digital Courier lacked the funds to pay TSA an additional $5 million. Duman then suggested three linked transactions to Egide, involving: (a) the additional license agreement for Digital Courier’s use of BASE24 outside the United States, (b) TSA’s exercise of the warrants to purchase Digital Courier stock, and (c) the extension of TSA’s Distribution Agreement.

226. As a result, on March 31, 2000 (the end of TSA’s second quarter of fiscal year 2000), Digital Courier and TSA signed an additional License Agreement, specific to the use of BASE24
internationally for $5 million to be paid over a six-month period. At or about the same time, Digital Courier and TSA, as a “trade-off to [this] revenue deal,” extended the term of the Distribution Agreement, for which TSA agreed to pay Digital Courier $6 million over a five-year period. Further, because Digital Courier did not have the cash to pay any additional license fees, TSA agreed to exercise its warrants to purchase 1,000,000 additional shares of Digital Courier common stock. In exercising the warrants, based on the exercise price, TSA paid Digital Courier approximately $5 million. Digital Courier used this money to pay for the new license. As Duman explained to TSA management, a key purpose of these arrangements was to ensure that “the revenue [TSA] will recognize on the license fee deal and the [sic] expense on the extension of the distribution agreement essentially wash.”

227. At a July 11, 2000 Digital Courier Board meeting, the General Counsel of Digital Courier informed the Board that TSA had exercised its warrants at the full exercise price of $5.20 per share. However, the Digital Courier Board was also reminded it was due to make a $2.5 million payment to TSA on July 15, 2000 under the amended license agreement, while TSA was scheduled to make a $1.2 million payment to Digital Courier on September 1, 2000 pursuant to the amended distribution agreement. The Digital Courier Board determined to request an extension from TSA from its obligation to make a July payment until September 15, 2000, or two weeks after TSA would pay Digital Courier.

228. One of the restatement adjustment categories concerning revenue recognition set forth in TSA’s 2002 Form 10-K is “Subscription Accounting.” Expressly referring to Digital Courier, TSA disclosed that it had “certain software license arrangements in which the customer has the ability to receive additional unspecified products over a limited period.” Noting that SOP 97-2 requires under that circumstance (i.e., a promise of unspecified products at an unspecified future time) that revenue be recognized ratably over the term of the arrangement beginning with delivery of the first product, TSA admitted nevertheless that it had originally recognized the revenue up front.
229. Defendants knowingly misrepresented the truth to enable TSA to recognize revenue up-front on the Digital Courier contracts. In an e-mail dated March 27, 2000, Joseph F. Kenney, one of TSA’s in-house attorneys, circulated a “new attachment A-1” for the new international license that was being negotiated. As Kenney explained, the new agreement was “identical to the old” 1999 License Agreement except for Kenney’s deletion of the following language dealing with delivery of unspecified products:

Plus any and all application software modules owned by ACI which Customer [Digital Courier] chooses to use in its Internet Payment processing business.

230. Kenney noted that he deleted this language expressly “because it could cause an auditor issue.” Close examination of the contracts, however, demonstrates that these manipulations were nothing more than an elaborate subterfuge.

231. The original 1999 License Agreement, numbered B1606, annexes a list of the software products subject to the license and additional terms. The list of software products ends with the language: “Plus any and all application software modules owned by ACI which Customer chooses to use in its Internet payment processing business.” This quoted language involves the provision of unspecified future products to Digital Courier which, is contrary to the “fixed and determinable” requirement of SOP 97-2.

232. On March 22, 2000, Duman sent an e-mail, bearing the legend “STRICTLY CONFIDENTIAL – DO NOT FORWARD THIS MESSAGE TO ANYONE ELSE OR DISCUSS WITH ANYONE NOT ON THIS DISTRIBUTION LIST,” to a number of recipients including Kenney and David Stokes, TSA’s chief in-house counsel, as well as Defendants Fisher, Russell and Fuxa. Duman proudly reported in the e-mail that “[g]iven our quest for recognizable revenue this quarter, I struck the following verbal deal with Jim Egide,” and proceeded to describe the linked transactions.
described above. Moreover, Duman specifically noted his concern that “the auditors may look at the
two transactions as a trade and therefore try to separate the transactions between several entities.”

233. Duman also asserted in the March 22 e-mail that the 1999 License Agreement “doesn’t
clearly spell out the fact that Digital Courier can use BASE24 internationally.” However, the original
license agreement plainly contains no geographic or territorial limitations. A restrictive covenant, like a
geographic limitation, must be in writing to be effective. With no specific, express geographic
limitation, the license logically covered the entire world.

234. Five days later, on March 27, 2000, Kenney sent the e-mail referenced above attaching
the new license agreement. The 2000 License Agreement, dated March 29, 2000 and numbered
B1606A, is virtually identical to the original 1999 License Agreement except that paragraph 2.0 grants
the license to use software products solely “in Europe.” The schedule of software products subject to
this license corresponds to the schedule in the 1999 License Agreement, except that the new schedule,
consistent with Kenney’s March 29 e-mail, omitted the language contemplating delivery of unspecified
additional software.

235. Just two days later, however, on March 31, 2000 (the end of TSA’s second quarter of
fiscal year 2000), TSA and Digital Courier entered into an Amendment #1 to the original 1999 License
Agreement No. B1606. This amendment granted a license “within the United States and international
markets” for all the software originally licensed in 1999, plus:

[...]ny and all application software modules owned by ACI which
Customer chooses to use in its Internet payment processing business.

236. Each of the license agreements and attachments in 1999 and 2000 bear the stamp on
the signature page:

APPROVED
AS TO FORM
LAW DEPT.
J.F.K. [Joseph F. Kenney]
Tying all of this together, Duman, with Kenney’s assistance, concocted a subterfuge in March 2000 whereby a new, unnecessary contract, providing international rights (which had never been restricted in the first place) was granted to Digital Courier and removed references to a license for unspecified products because that language would result in Arthur Andersen’s insistence that revenue be recognized over time rather than up front. Because TSA’s deal with Digital Courier always anticipated that future unspecified products would be included, the March 31 amendment to the original license agreement, which was never shown to Arthur Andersen, had to be created artificially to protect Digital Courier’s “rights.”

In the footnotes to the consolidated financial statements in TSA’s 2002 Form 10-K, Defendants described on the Digital Courier transactions and admitted:

The accounting for the 2000 Software License Agreement [as amended on March 31, 2000] and the Amended DIGITAL COURIER Distribution Agreement has been restated to account for these transactions as non-monetary exchanges, with no revenues or expenses initially recognized for an anticipated exchange of equal amounts of cash. In May 2001, the Company and DIGITAL COURIER amended the Amended DIGITAL COURIER Distribution Agreement to eliminate the Company’s obligation to pay the remaining fees due under the Agreement. As a result of the May 2001 amendment, the Company was entitled to retain the net fees collected from DIGITAL COURIER of $3.8 million. The Company is now recognizing revenue ratably over the remaining PCS term of the 60-month arrangement because the license arrangement entitles DIGITAL COURIER to future unspecified deliverables (a subscription arrangement) . . .

Scienter is further shown by Duman’s attempt, in light of the acknowledged “auditor issues,” to mislead Arthur Andersen concerning the nature and structure of the transactions. Duman told Arthur Andersen in an October 1999 memorandum that TSA entered into three separate transactions with Digital Courier, namely: (a) TSA licenses software to Digital Courier, (b) TSA distributes Digital Courier software, and (c) TSA invests in Digital Courier. Arthur Andersen relied on Duman’s representation in determining that revenue from the licensing agreement could be recognized up-front.
240. But Duman’s March 22, 2000 e-mail makes abundantly clear that he negotiated the three inter-connected agreements with Egide as a single “deal” and he viewed them as a one package. Indeed, the e-mail also noted that no sales credits would be offered to TSA sales representatives as part of the transactions with Digital Courier. This further evidences that the licensing agreement was not considered a separate sale at all but that there was one agreement—a “swap” which under GAAP would not produce recognizable revenue. And David Stokes, TSA’s chief in-house counsel and one of the recipients of Duman’s March 22 e-mail, wrote in a June 10, 1999 memorandum—which preceded Duman’s memorandum to Arthur Andersen—TSA’s investment in Digital Courier was one part of a “three-part deal.” Jim Kever, a member of TSA’s Audit Committee similarly testified that the Digital Courier transaction had multiple components.

241. Because the deal between TSA and Digital Courier had originally been counted as three separate agreements rather than one, the original accounting provided for recognized up-front revenue with respect to the license agreement. These documents, sent by and among various named Defendants as well as TSA’s own in-house lawyers, demonstrate that Defendants intentionally created phony agreements in order to falsely recognize revenue they needed but knew was not real.

242. KPMG replaced Arthur Andersen as TSA’s outside auditor on May 29, 2002 after Arthur Andersen was indicted in the Enron debacle. KPMG found TSA’s recognition of revenue from the Digital Courier transactions so improper as to be indefensible. On August 9, 2002 (a Friday), the Audit Committee of TSA’s Board of Directors held a meeting concerning the Digital Courier transaction and KPMG’s position as TSA’s new auditor. During the meeting, KPMG representatives informed the Audit Committee that they had reviewed the Digital Courier transaction and discussed it with KPMG’s National Office. As instructed by the National Office, KPMG advised the Audit Committee that regardless of whether the accounting treatment of the Digital Courier deal was ultimately found to be appropriate, KPMG would not continue to serve as TSA’s auditor unless
Duman, TSA’s Chairman of the Board, resigned immediately and TSA submitted to a re-audit of its financial statements for the previous two fiscal years.

243. On August 13, 2002 (the next business day), the Audit Committee reconvened to discuss KPMG’s refusal to continue its engagement as TSA’s auditor so long as Duman remained on the Board. Choosing its new outside auditor over its own Board Chairman, the Audit Committee decided to recommend to the full Board that Duman be fired and that KPMG proceed with the re-audit. Duman promptly “resigned,” and the following day, August 14, TSA publicly announced the re-audit.

244. KPMG caught Defendants “with their pants down” with respect to the Digital Courier deal. Defendants’ subterfuge led KPMG to re-audit TSA’s financial statements, at which point the full extent of TSA’s accounting irregularities came to light. TSA’s gamesmanship and willful improper recognition of revenue in connection with Digital Courier was matched only by the Company’s willful improper recognition of revenue with respect to its software license agreements in general, as discussed above.

TSA “Managed” Its Revenue

245. TSA was under enormous pressure to meet quarterly and year-end analyst expectations. Arthur Andersen recognized that TSA was a “revenue driven” company. In a December 12, 1999 memorandum, Costello advised certain Arthur Andersen personnel:

The way TSA contracts for its software license fees has been and continues to be “revenue driven.” In other words, TSA knows what its total revenue goal is for the quarter. Based upon what TSA has already sold in the past, but will be recognized in the current quarter, TSA knows what “new” revenue it will need to generate in the current quarter to meet the total revenue goal.

The size of the “gap” between the total revenue goal and the revenues already sold determines what instructions are given to the sales force.

* * *
Being able to rely on “RUF” accounting, TSA was able to instruct its sales force to emphasize the MLF-type contracts rather than attempting to get all the cash upfront. . . .

In other words, TSA’s motivation in this whole process was to contract for its revenues in a manner that would result in TSA achieving its total revenue goal.

246. The ability to “plan” revenue, coupled with the rapid decline of the market, caused Andersen to initiate a fraud-risk review of TSA in August 2000. Arthur Andersen noted that TSA used “aggressive” accounting practices.

247. Hanson conceded to Andersen that TSA managed market expectations and struggled during fiscal year 2000. Thus, the ability to manage earnings to meet analyst expectations provides significant motive to falsify financial results.

**Defendants’ Compensation**

248. Each of the Individual Defendants had a personal motive to report inflated financial results at TSA. Although TSA executives did not receive salaries comparable to those at such infamous companies as WorldCom and Enron, each of the Individual Defendants virtually doubled their annual compensation by receiving bonuses that were based upon the Company’s achieving certain specified financial objectives. And Defendants ensured that the financial objectives would be met by, as Fisher and Mark Vipond, a Senior TSA executive, testified, incentivizing the sales force to push different types of payment schedules or products at various times to achieve these goals. By incentivizing the sales force and at the same time “massaging” earnings, Defendants could achieve the financial objectives to reach their bonus targets.

249. Defendant Fisher, a founder of TSA, essentially “retired” in May 2000 and was replaced as CEO by Defendant Russell. The Board, however, was disappointed in Russell and begged Fisher to return. To entice Fisher to return, TSA, pursuant to a December 2000 verbal agreement, loaned Fisher
$3 million. Half of the principal and interest would be forgiven if the Company’s stock reached certain price targets (i.e., $35 per share and $55 per share) within a three-year period.

But in May 2001, less than six months later, after agreeing to serve for at least a minimum three year term, Fisher was ousted. Why he was ousted is unclear. What is clear, however, is that the verbal $3 million loan, which contemplated Fisher’s service as CEO for at least three years, was mostly forgiven nonetheless. Ultimately, Fisher was required to repay only $550,000 of the loan.

**TSA Stock As Currency**

During the Class Period, TSA was engaged in an aggressive acquisition strategy which contemplated the use of TSA’s stock as currency. Thus maintaining or inflating the price of TSA stock, which was dependent in large part on sales closed and reported financial results, was crucial in this acquisition campaign. Companies acquired by TSA for stock during the Class Period include:

(i) In March, 1999, TSA purchased 72% of InSessions, Inc. stock for 666,000 shares of TSA Class A common stock (TSA stock trading at about $38 per share);

(ii) In July, 1999, TSA acquired SDM International, Inc. for 475,000 TSA Class A common stock (TSA stock trading at approximately $31 per share);

(iii) In May, 2000, TSA acquired Workpoint Systems, Inc. for 164,680 TSA Class A common stock (TSA stock trading at approximately $13 per share);

(iv) In June, 2000, TSA acquired Hospital Health Plan Corp. of Minneapolis (“HHPC”) (TSA stock was trading at approximately $17 per share);

(v) In October, 2000, TSA acquired MessagingDirect, Ltd. for 3,357,351 shares of TSA Class A common stock for $49.5 million (TSA stock trading at approximately $15 per share).

Thus, it was critical for defendants to maintain the illusion of growth, in order to bolster or maintain TSA’s stock price so that it could be used as currency to fund the acquisition growth.
TSA Credit Lines

252. Additionally, throughout the Class Period, TSA maintained a line of credit with various banking institutions which required TSA to meet certain criteria, including maintaining set levels for receivables. As of the time of the filing of the Amended Complaint in this matter, the line was secured by certain receivables and required the Company to maintain a net worth of $145 million and a minimum working capital of $67 million. Initially, in the fiscal year ended September 30, 1998, the Company had a $10 million revolving line of credit, scheduled to expire in June 1999, pursuant to which it had no borrowings. By the fiscal year ended September 30, 2000, TSA had a $25 million line of credit with outstanding borrowings of $18 million. Subsequent to September 30, 2000, TSA increased its borrowing availability to $35 million, but by the filing of the 1Q01 10Q, TSA reported a $30 million line of credit with outstanding borrowings of $29 million. On June 28, 2001, TSA entered into a credit line with U.S. Bank National Association in the amount of $25 million, on which there were outstanding borrowings of $21.2 million. Subsequently, by amendment dated June 27, 2002, the bank reduced TSA’s line of credit from $25 million to $15 million. Thus, while the credit line became increasingly important to TSA due to the use of RUF accounting which negatively impacted cash flow, the Company struggled to meet its banker’s minimum requirements. As a result of the restatement, TSA’s accrued receivables for 2001 fell from $50,932,000 to $23,414,000 and TSA was no longer in compliance with the terms of the credit line.

253. TSA’s need to increase its credit lines were directly related to its improper RUF accounting. By recognizing revenue up front, TSA did not collect cash in equivalent amounts to revenue recognized. Yet, TSA continued to run up expenses requiring cash payments. Thus, for example, Theresa Breedon testified that TSA was required to pay yearly income taxes based upon the amount of revenue recognized, even if cash was not collected. TSA’s improper RUF accounting policies thus had a negative impact on cash flow. Among other things TSA was forced to sell
receivables at a discount to revenue claimed (i.e. factor the receivables), increase its borrowings and eventually engage in a restructuring laying off numerous employees, selling off divisions as well as selling the Company’s private jet. Although TSA did not announce that its accounting had been improper until November, 2002, these negative facts. directly attributable to defendants’ fraudulent conduct, impacted TSA’s stock price during the Class Period causing it to gradually decline until the steep declines immediately following the public announcement that there would be a re-audit and that Duman had resigned.

254. Furthermore, Mark Vipond, Senior Vice-President in charge of sales testified that in 2001, TSA, recognizing that its RUF accounting policies had caused these serious cash flow issues, changed the plan by which it compensated its sales personnel. New form contracts were put into place and incentives were provided to sales employees to enter into contracts with customers that would result in customers paying cash up front for the extended term contracts rather than over time. The result of the change to Paid Up Front (“PUF”) contracts was that over ensuing quarters, revenue began to decline because customers paying in advance for 5 year term contracts demanded discounts to the amounts they could have paid over time. Thus, after the policy emphasizing PUF contracts was put in place, the percentage amount by which TSA overstated its revenues began to decline adding to the aforementioned gradual decline in the Company’s stock price before the August 14, 2002 announcement. Again, this shows a direct link between the defendants’ fraud and the movement of TSA’s stock price.

255. The nature of the GAAP violations, the wide variety of the GAAP violations, the huge size of the GAAP violations, and the length of time during which those GAAP violations were in place, all strongly suggest intentional behavior on the part of defendants.
NO STATUTORY SAFE HARBOR

256. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the false statements pleaded in this Complaint because none of the statements pleaded herein are “forward-looking” statements nor were they identified as “forward-looking statements” when made. Nor did meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in any purportedly forward looking statements. In the alternative, to the extent that the statutory safe harbor does apply to any statements pleaded herein which are deemed to be forward-looking, Defendants are liable for those false forward-looking statements because at the time each of those statements was made the speaker actually knew those forward-looking statements were false and/or the statement was authorized and/or approved by an executive officer of TSA who actually knew that the statements were false when made.

COUNT I

(VIOLATION OF SECTION 10(b) OF THE EXCHANGE ACT AND RULE 10b-5 BROUGHT AGAINST ALL DEFENDANTS)

257. Lead Plaintiff repeats and reiterates each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

258. During the Class Period, defendants directly engaged in a common plan, scheme, and unlawful course of conduct, pursuant to which they knowingly or recklessly engaged in acts, transactions, practices, and courses of business which operated as a fraud and deceit upon members of the Class, and made various deceptive and untrue statements of material facts and omitted to state material facts in order to make the statements made, in light of the circumstances under which they were made, not misleading to members of the Class. The purpose and effect of the scheme, plan, and unlawful course of conduct was, among other things, to deceive the investing public, including members of the Class, and to induce members of the Class to purchase TSA securities during the Class Period at artificially inflated prices.
During the Class Period, defendants, pursuant to said scheme, plan, and unlawful course of conduct, knowingly and/or recklessly issued, caused to be issued, participated in the issuance of, the preparation and/or issuance of deceptive and materially false and misleading statements to the investing public as particularized above.

As a result of defendants’ dissemination of and/or failure to correct the false and misleading statements set forth above, the market price of TSA common stock was artificially inflated or maintained during the Class Period. Unaware of the false and misleading nature of the statements described above and the deceptive and manipulative devices and contrivances employed by defendants, Lead Plaintiff and the other members of the Class relied to their detriment on the integrity of the market price of the stock in purchasing TSA common stock. Lead Plaintiff sold prior to the close of the Class Period, but nonetheless sustained damages as set forth in pleadings filed herein, in an amount to be determined at trial. The Proposed Intervenor Plaintiff purchased 11,300 shares of TSA Common Stock on December 31, 2001 and held these shares through the end of the Class Period and was thereby damaged. The degree of inflation at the time of purchase and sale that was caused by Defendants’ misrepresentations will be determined by expert testimony. Had Lead Plaintiff, and the other members of the Class known the truth, they would not have purchased TSA stock or would not have purchased them at the prices that they did.

Lead Plaintiff, and the other members of the Class, have suffered damages as a result of the wrongs herein alleged in an amount to be proved at trial.

By reason of the foregoing, defendants have violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder and are liable to Lead Plaintiff, and the other members of the Class, for damages which they suffered in connection with their purchases of TSA stock during the Class Period.
COUNT II

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

263. Lead Plaintiff repeats and reiterates each and every allegation contained in each of the
foregoing paragraphs as if set forth fully herein.

264. The Individual Defendants acted as controlling persons of the Company within the
meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions,
and active participation in and/or awareness of the Company’s day-to-day operations, and/or intimate
knowledge of the Company’s expansion plans and implementation thereof, each Individual Defendant
had the power to influence and control and did influence and control, directly or indirectly, the
decision-making of the Company, including the content and dissemination of the various statements
that Lead Plaintiff alleges 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 herein 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.

265. In particular, the Individual Defendants had direct and supervisory involvement in the
day-to-day operations of the Company and, therefore, are 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.

266. 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 the wrongful
conduct, Lead Plaintiff and the other members of the Class suffered damages in connection with their
purchases of the Company’s securities during the Class Period.
WHEREFORE, Lead Plaintiff, on its behalf and on behalf of the Class, prays for judgment as follows:

A. Declaring this action to be a proper class action and certifying, Lead Plaintiff and Proposed Intervening Plaintiff Louisiana as class representatives pursuant to Rule 23 of the Federal Rules of Civil Procedure;

B. Awarding monetary damages against all of the Defendants, jointly and severally, in favor of Lead Plaintiff, and the other members of the Class, for all losses and damages suffered as a result of the wrongdoings alleged herein, including punitive damages where appropriate, together with interest thereon;

C. Awarding Lead Plaintiff the fees and expenses incurred in this action, including the reasonable allowance of fees for Plaintiffs’ attorneys and experts; and

D. Granting Lead Plaintiff and the other members of the Class such other and further relief as the Court may deem just and proper.

JURY DEMAND

Lead Plaintiff hereby demands a trial by jury.

Dated: May 31, 2006

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CERTIFICATE OF SERVICE

I hereby certify that on May 31, 2006, I caused true and correct copies of the foregoing Third Amended Consolidated Class Action Complaint For Violation of the Federal Securities Law to be filed electronically via the CM/ECF system, which will send notification of such filing to following counsel:

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