

**OPENING STATEMENT OF
RANKING DEMOCRATIC MEMBER PAUL E. KANJORSKI
SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE,
AND GOVERNMENT SPONSORED ENTERPRISES
SECOND HEARING ON THE ENRON COLLAPSE
MONDAY, FEBRUARY 4, 2002**

Mr. Chairman, we have learned much since our last hearing in December about the factors contributing to the collapse of Enron. We have, for example, begun to understand how many of the checks and balances which are supposed to contain excesses in our capital markets either failed or short-circuited. We have also started to ascertain exactly how Enron's executives, directors, attorneys, and auditors contributed to the corporation's demise. We have further discovered more about how the decisions and actions of regulators, stock analysts, credit raters, and investment bankers helped to cause Enron's disintegration.

Many of my colleagues additionally helped to create the environment that resulted not only in the insolvency of Enron but also the bankruptcy of numerous other high-flying companies in recent years. In the 1990s, some of my colleagues successfully pushed for passage of deregulatory efforts and blocked the development of new regulatory safeguards. As we proceed, we therefore need to reflect on Congress's own culpability for the current events.

More than a decade ago, our Committee helped to clean up the savings and loan crisis. Deregulatory efforts contributed significantly to that debacle. Once again, it appears that we may have gone too far in deregulating. Enron's failure and the collapse of other companies may be the revenge of the rush of some to deregulate securities markets.

In light of recent events, the Private Securities Litigation Reform Act of 1995, which became law despite a presidential veto, deserves careful review. This statute, part of the so-called Contract with America, was supposed to prevent "frivolous" lawsuits. This law, however, has apparently helped businesses to manipulate their financial results. Evidence now indicates that earnings restatements by companies have more than tripled since the early 1990s. This law may also prevent investors from recovering the billions of dollars they lost in Enron.

And last year, before examining the resources needed by the Securities and Exchange Commission, many of my colleagues rushed to cut the fees collected on securities transactions. The Commission was and is the regulator with primary responsibility for overseeing Enron. Yet, it appears that the Commission failed to review Enron's financial disclosures since 1997. I want to know why that occurred. Moreover, it seems that the Bush Administration has decided to recommend an insufficient increase in the Commission's budget for fiscal 2003. To protect investors from other Enrons, we must significantly increase these resources in the months ahead.

The financial devastation caused by Enron warrants our thorough investigation. We need to examine quickly and comprehensively the deficiencies in our public policies that contributed to this corporate bankruptcy. We must also determine appropriate ways to reform our nation's securities laws and regulations.

There are, however, many of my colleagues who want to rush to pass legislation before we uncover the entire set of facts in this case. To each of them, I urge restraint. If we take our

time and learn the complete story, we have an opportunity to do something meaningful and responsible on a bipartisan basis. We should ultimately develop strong, effective, and appropriate policy to prevent similar debacles in the future, and gathering all of the pertinent facts will facilitate attaining this goal.

When we do consider a bill, I have already identified many issues that we should address. In addition to reviewing the consequences of the Private Securities Litigation Reform Act, we must fix the problem of auditor independence. My feeling is that no accounting firm should serve as both an auditor and a consultant to the same company. Although I applaud the efforts of the industry in recent days to mitigate these conflicts, we may need to pursue further reforms.

We must also improve supervision over the accounting profession. The current oversight system resembles a Rube Goldberg contraption. As a result, we must develop a new regulatory regime that involves genuine public oversight and real accountability. Moreover, we have learned of the excesses of Enron only because it failed. We should take this opportunity to better understand the problem of earnings management and how it affects other companies.

Many other issues fall firmly within our jurisdiction and demand our examination in the months ahead. We must return to the issue of analyst independence. We must also study the corporate governance systems of public companies. We must further scrutinize the financial disclosure requirements of American businesses. We must additionally analyze the flaws of our accounting standards and the deficiencies of credit rating agencies. Finally, we must review the responsibilities of the Securities and Exchange Commission.

In closing, Mr. Chairman, we must move with diligence to dissect what went wrong first and then take action to restore faith in our nation's capital markets. Accordingly, I look forward to hearing from each of our witnesses and yield back the balance of my time.
