

## COUNT IV

### **(Against the Group Defendants for Violation of Section 14(a) of the Exchange Act and Rule 14a-9 Promulgated Thereunder)**

540. Lead Plaintiff repeats and realleges each and every allegation above except those that allege Defendants' knowledge or reckless ignorance of the wrongdoing described herein.

541. This Count is brought pursuant to Section 14(a) of the Exchange Act, 15 U.S.C. § 78n(a), and Rule 14a-9 promulgated thereunder by the SEC, 17 C.F.R. § 240.14a-9, on behalf of the members of the Class against the Group Defendants.

542. The Defendants named herein violated Section 14(a) of the Exchange Act and Rule 14a-9 thereunder in that these Defendants solicited proxies or permitted the use of their names to solicit proxies from the members of the Class by means of a Notice of Meeting that contained statements that, at the time and in the light of the circumstances under which they were made, were false and misleading with respect to material facts, and omitted to state material facts necessary to make the statements therein not false or misleading.

#### **A. The 2001 Notices on Meeting**

##### **1. Shell Transport**

543. On April 5 and 6, 2001, Shell Transport and Royal Dutch each disseminated a Notice of Meeting for the annual meeting of shareholders to be held on May 17, 2001 in London and The Hague (the "2001 Shell Transport Notice" and the "2001 Royal Dutch Notice").

544. Resolution 5 of the 2001 Shell Transport Notice solicited proxies for the re-appointment of PwC as the Company's auditors. Resolution 6 called for authority to settle the remuneration of the auditors for 2001.

545. The 2001 Shell Transport Notice was materially false and misleading because it omitted material information about PwC's involvement in, and knowledge of, the misconduct

complained of herein, including the Companies' improper reserve classifications and related accounting and internal control deficiencies. Such information would be material in the context of PwC's re-appointment as Shell Transport's auditor and its remuneration in that capacity.

546. The 2001 Shell Transport Notice also sought adoption of the "Report of the Directors and the Accounts of the Company" for the year ended December 31, 2000 (Resolution 8). The Report of Directors is contained in the 2000 ST Annual Report. Importantly, the Report of Directors incorporates by reference the "report to Shareholders on Directors' Remuneration." The report on Directors' Remuneration contains the "Emoluments of Directors in office during 2000," including the compensation for Defendant Watts (£873,025). By asking shareholders to adopt the Report of Directors, which included the payments to the Individual Defendants, including Defendant Watts, Defendants were obligated to disclose all material facts, including the Individual Defendants' involvement in, and knowledge of, the wrongdoing alleged herein, and the true state of the Companies' reserves. This is especially true because such compensation was performance-based. Omission of such material information rendered the 2001 Shell Transport Notice materially false and misleading. As such, the adoption of the Report of Directors is a nullity, and the compensation paid to the Individual Defendants should be forfeited and/or rescinded.

**B. The 2002 Notices of Meeting**

547. On or about April 11, 2002, Shell Transport and Royal Dutch each disseminated a Notice of Meeting for the annual meeting of shareholders to be held on May 16, 2002 in London and The Hague (the "2002 Shell Transport Notice" and the "2002 Royal Dutch Notice").

## 1. Shell Transport

548. Resolution 5 of the 2002 Shell Transport Notice solicited shareholder approval for an increase of the sum available for the remuneration of Shell Transport's directors for 2002 and subsequent years. The 2002 Notice contained a statement of support for Resolution 5, which stated as follows:

### **Directors' Remuneration**

The current fee basis for the remuneration of your Company's Directors has not changed since 1997: it is an annual fee of £25,000 per Director plus an extra fee of £3,750 per annum per Committee for those Directors who are appointed as members of the Group Audit, Remuneration and Succession Review or Social Responsibility Committees. Shell Transport Directors who chair one of those Committees receive an additional £1,850 per annum. These Committee fees are increased pro-rata where the number of meetings of the Committee attended during the year exceeds three. Since 1992 the Chairman of the Board has received a fee of £40,000 per annum.

The Managing Directors believe that the fees of the non-executive Directors should be commensurate with the responsibilities borne by Directors of the Company and the time spent on the Company's affairs. The fees should also be at a level as to appear reasonable to the high calibre candidates that the Board seeks to recruit in competition with many comparable boards who currently pay in excess of the fees offered by the Company. We are therefore seeking shareholders' approval to an increase of £400,000 in the total sum available each year for Directors' remuneration.

Subject to the above increase, a Director's fee of £50,000 per annum but with no extra fees for Committee membership (except an additional £5,000 per annum for Committee chairmen) would be paid to each Director with effect from July 1, 2002. The Chairman of the Board in addition to the Director's fee would receive £25,000 per annum.

We believe that this structure would leave reasonable flexibility to adjust the number of Directors and fees in line with market levels without breaching the £900,000 maximum available.

549. With regard to Resolution 5, the 2002 Shell Transport Notice was materially false and misleading because it failed to disclose and/or misrepresented Defendants' wrongful conduct with regard to the improper classification and public reporting of proved reserves and the related accounting at the Companies. These issues are closely tied to Defendants' remuneration and would be material to shareholders in the context of increased compensation to such Defendants in light of Defendants' alleged misconduct.

550. The 2002 Shell Transport Notice sought adoption of the "Report of the Directors and the Accounts of the Company" for the year ended December 31, 2001 (Resolution 9). The Report of Directors is contained in the 2001 ST Annual Report. Importantly, the Report of Directors incorporates by reference the "report to Shareholders on Directors' Remuneration." The report on Directors' Remuneration contains the "Emoluments of Directors in office during 2001," including the compensation for Defendant Watts (£1,590,654). By asking the shareholders to adopt the Report of Directors, which included the payments to the Individual Defendants, such as Defendant Watts, Defendants were obligated to disclose all material facts, including the Individual Defendants' involvement in, and knowledge of, the wrongdoing alleged herein, and the true state of the Companies' reserves. This is especially true because such compensation was performance-based. Omission of such material information rendered the 2002 Shell Transport Notice materially false and misleading. As such, the adoption of the Report of Directors is a nullity, and the compensation paid to the Individual Defendants should be forfeited and/or rescinded.

551. Resolution 6 of the 2002 Shell Transport Notice solicited proxies for the re-appointment of PwC as the Company's auditors. Resolution 6 called for authority for the Shell

Transport Board to settle the remuneration of the auditors for 2002. The Statement in the 2002 Shell Transport Notice with respect to auditor's fees stated as follows:

**Auditors' fees**

For many years PricewaterhouseCoopers and their predecessors as Auditors of the Company have analysed their fees into two components – one for the Companies Act audit and the other for regulatory audit and review work such as reporting on the Summary Financial Statements and compliance with the Combined Code. These two components of the audit fee have been separately described as "audit fees" and "other fees" in the Annual Report each year. Since the two amounts can properly be regarded as covering audit related services and the "other fees" do not relate to consultancy services, the combined fee will in future be disclosed as audit fees. Fees in respect of any non-audit services performed by the Auditors will then be transparent and disclosed separately.

Further to a fee arrangement entered into in 1998 the Auditors' fee for the year 2000, on the basis set out above was £16,015. The Board now proposes a fee for 2001 of £25,500. The Directors consider that the work involved justifies this increase and is appropriate in all the circumstances. This fee covers the audit of Shell Transport itself and the fees payable to the joint auditors of the Royal Dutch/Shell Group of Companies are disclosed in the Group Financial Statements on page 67 of the Annual Report.

552. The 2002 Shell Transport Notice as to Resolution 6 was materially false and misleading because it omitted material information about PwC's involvement in, and knowledge of, the misconduct alleged herein, including the Companies' improper reserve classifications and related accounting and internal control deficiencies. Such information would be material in the context of PwC's re-appointment as Shell Transport's auditor and its remuneration in that capacity.

**2. Royal Dutch**

553. Resolution 5 of the 2002 Royal Dutch Notice solicited shareholder approval for an increase of the sum available for the remuneration of members of the Supervisory Board. The

2002 Royal Dutch Notice was materially false and misleading because it failed to disclose and/or misrepresented Defendants' wrongful conduct with regard to the improper classification and public reporting of reserves and related accounting at the Companies. These issues are closely tied to the Individual Defendants' remuneration and would be material to shareholders in the context of increased compensation to such Defendants in light of Defendants' alleged misconduct.

**C. 2003 Notices of Meeting**

554. On or about March 20, 2003, Shell Transport and Royal Dutch each disseminated a Notice of Meeting for the annual meeting of shareholders to be held on April 23, 2003 in London and The Hague (the "2003 Shell Transport Notice" and the "2003 Royal Dutch Notice").

**1. Shell Transport**

555. Resolution 3 of the 2003 Shell Transport Notice called for the re-election of Defendant Watts as a director. Resolution 9 called for the election of Defendant Boynton as a director.

556. Resolutions 3 and 9 of the 2003 Shell Transport Notice were materially false and misleading because they omitted material information about Defendant Watts' and Boynton's involvement in, and knowledge of, the Companies' improper reserve reclassifications and related accounting and internal control deficiencies. Such information would be material in the context of their fitness to serve as directors of Shell Transport and their remuneration in such capacity.

557. Indeed, Defendant Watts was paid £864,897 for 2003 his services to the Shell Group, and Defendant Boynton was paid £400,770 for her services during the same time period. Because their election to the Shell Board was improperly obtained, such amounts should be forfeited and distributed to Lead Plaintiff and members of the Class.

558. Furthermore, the 2003 Shell Transport Notice sought adoption of the “Report of the Directors’ and Accounts of the Company” for the year ended December 31, 2002 (Resolution 1). The report incorporated by reference the “report to Shareholders on Directors’ Remuneration,” contained in the 2002 ST Annual Report. The report contained the “Emoluments of Directors in office during 2002,” including £1,802,198 paid to Defendant Watts. By asking shareholders to adopt the Report of Directors, which included the payments to the Individual Defendants, including Defendant Watts, Defendants were obligated to disclose all material facts, including the Individual Defendants’ involvement in, and knowledge of, the wrongdoing alleged herein, and the true state of the Companies’ reserves. This is especially true because such compensation was performance-based. Omission of such material information rendered the 2003 Shell Transport Notice materially false and misleading. As such, the adoption of the Report of Directors is a nullity, and the compensation paid to the Individual Defendants should be forfeited and/or rescinded.

559. Resolution 14 of the 2003 Shell Transport Notice called for authorization for the directors to take action to implement and establish the “Shell Long Term Incentive Plan.” Specifically, Resolution 14 called for:

That the Directors be and are hereby authorised to take all actions that they consider necessary, desirable or expedient (1) to implement and establish the Shell Petroleum N.V. Long-term Incentive Plan and The Shell Petroleum Company Limited Long-term Incentive Plan (together the “Plans”) summarised in the Explanatory Notes forming part of this Notice and to be constituted by the draft rules produced to the Meeting and, for the purposes of identification, initialled by the Chairman, subject to such modifications as the Directors may consider necessary or desirable to take account of any applicable statutory or regulatory requirements or prevailing practice; and (2) to implement and establish further plans based on the Plans described above modified to take account of local tax, exchange controls or securities laws in overseas territories, provided that any shares made available under

such further plans are treated as counting against any limits on individual or overall participation under the Plans.

560. The 2003 Shell Transport Notice also contained “explanatory notes” about the

Plans that stated:

#### LONG-TERM INCENTIVE PLAN – EXPLANATORY NOTES

Shell Petroleum N.V. and The Shell Petroleum Company Limited each intend to adopt a new Long-term Incentive Plan (“the Plan”) for Group Managing Directors and other selected senior executives. The Plan for each of Shell Petroleum N.V. and The Shell Petroleum Company Limited will be identical except to the extent necessary to deal with different legal requirements applying to each company. A summary of the main features of the Plan is set out below, together with details of the way in which it is intended to operate. The remuneration policy under which the Plan will operate is set out in the Remuneration Report of the Annual Report and Accounts 2002 and pages 6 and 7 of the Summary Annual Report and Accounts 2002.

##### 1. Operation of the Plan

Awards under the Plan will normally only be made within a period of 14 days after the announcement of the “Royal Dutch/Shell Group of Companies Results” for a quarter or a year and it is intended to operate the Plan only once each year. However, the first awards are intended to be made as soon as practicable after the approval of the adoption of the Plan by the shareholders of Shell Transport and Royal Dutch.

##### 2. Eligibility

Group Managing Directors and other selected senior executives will be eligible to participate. Group Managing Directors will be selected for participation in the Plan on the recommendation of the Remuneration and Succession Review Committee (“REMCO”). The Board of Shell Petroleum N.V. or The Shell Petroleum Company Limited, as appropriate, will administer the Plan for other senior executives.

##### 3. Award

Under the Plan, participants will be made a conditional award of shares in either Shell Transport or Royal Dutch. The receipt of



shares comprised in the award will be conditional on the participant remaining in employment (subject to certain exceptions discussed in item 7 below) and on the satisfaction of performance targets over the performance period. The performance period will not be less than three consecutive financial years. In the case of Group Managing Directors, REMCO will make recommendations on the number of shares which may be conditionally awarded to a participant in any year. No participant will in any year receive an award in excess of two times base salary (including directors' fees) in force on the award date.

Benefits under the Plan are discretionary and are not pensionable.

#### 4. Performance targets

The receipt of shares will be conditional on the satisfaction of performance targets which will be determined ahead of any awards, and will be set in the first quarter of the financial year in which such awards are to be made. The performance targets for Group Managing Directors will be established at the recommendation of REMCO and will need to be agreed by both the Board of Directors of Shell Transport and the Supervisory Board of Royal Dutch.

If the adoption of the Plan is approved, the performance targets will be linked to the total shareholder return ("TSR", the average weighted share price performance plus dividends of Shell Transport and Royal Dutch) relative to two separate groups of comparator companies, over a performance period of three financial years. Two separate comparator groups have been chosen because REMCO considers that it is appropriate to test performance both against major home markets and industry competitors.

The first comparator group will consist of the largest twenty companies (by way of market capitalisation) in the FTSE 100 share index together with the largest ten companies (also by way of market capitalisation) in the AEX index, (in each case, at the beginning of the relevant performance period). As at January 1, 2003, the first comparator group, in addition to Shell Transport and Royal Dutch, was FTSE: Anglo American, AstraZeneca, Aviva, Barclays, BG Group, BP, British American Tobacco, BT Group, Diageo, GlaxoSmithKline, HBOS, HSBC Holdings, Lloyds TSB Group, National Grid Transco, Rio Tinto, The Royal Bank of Scotland, Tesco, Unilever PLC and Vodaphone Group; and AEX: ABN Amro, AEGON, Ahold, Akzo Nobel, Heineken, ING Group, KPN, Philips and Unilever N.V. In the case of Shell Transport and

Royal Dutch, and Unilever PLC and Unilever N.V., the weighted average TSR of the two companies will be used.

The second comparator group will be the five major international integrated oil companies, which, as at January 1, 2003, were BP, ChevronTexaco, ExxonMobil, the Royal Dutch/Shell Group and Total.

Half of each conditional award will be tested against the first comparator group and half against the second comparator group. These groups will be used for the first performance period (January 1, 2003 to December 31, 2005).

For the first comparator group, 100% of the shares tested against that group will be received for 75th percentile and above performance and 25% will be received for median performance with a straight-line calculation between those two points. No shares will be received for performance below median. This method of calculation has been chosen because it is consistent both with shareholders' expectations and market practice.

For the second comparator group, 100% of the shares tested against that group will be received if the Royal Dutch/Shell Group of Companies is in first place, 75% for second place and 50% for third place. No shares will be received for fourth or fifth place.

The performance targets may be amended if anything happens which causes REMCO, in the case of Group Managing Directors, to reasonably consider that changed performance targets would be a fairer measure of performance, and would not be more easy or difficult to satisfy.

At the end of the performance period, REMCO, in the case of Group Managing Directors, will determine the extent to which the performance targets have been satisfied and will calculate the number of shares (if any) a participant should receive in respect of an award.

## 5. Dividends

A participant will have no rights to dividends in respect of shares comprised in an award prior to the transfer of any such shares. However, awards will be adjusted for any payment of dividend by increasing the number of shares comprised in the award on the dividend payment date by applying a formula of which the numerator is the amount of gross dividend payable in respect of

these shares and the denominator is the market value of a share on the dividend payment date.

#### 6. Satisfaction of the awards

Awards will be satisfied by the transfer of existing shares or, in exceptional circumstances on the recommendation of REMCO, for awards made to Group Managing Directors, by means of a cash payment. No new shares will be issued under the Plan. Shares determined to be due pursuant to an award will be transferred to the participant free of charge. All personal taxes and social security contributions due in relation to the award and any transfer of shares or cash payments made pursuant thereto will be due and payable by the participant concerned.

#### 7. Cessation of employment

Generally, if a participant leaves the employment of the Royal Dutch/Shell Group of Companies, he will not receive any shares. However, if a participant leaves before the end of a performance period due to death, injury, ill-health or disability, he will receive a number of shares (if any) on cessation of employment calculated by applying the performance targets up to the end of the month prior to cessation, and, if REMCO so recommends, pro-rated to take account of the period between the date of the award and the date of cessation. If he leaves due to redundancy or by mutual agreement or due to the sale of his employing company then REMCO may recommend that he receive shares calculated as set out above.

If a participant leaves employment due to normal retirement in accordance with his employment contract then the award continues.

#### 8. Takeover and reconstruction

In the event of a takeover as defined in the Plan, participants will have shares transferred to them as soon as practicable after the takeover. The number of shares (if any) will be calculated by applying the performance targets up to the end of the month prior to the takeover.

In the event of a reconstruction as defined in the Plan, awards may be replaced with (as far as possible) equivalent new awards or shares in the new company or companies replacing Shell Transport or Royal Dutch as a result of that reconstruction. Performance targets may be amended as mentioned in item 4 above.

## 9. Variation of share capital

Awards may be varied to take account of variations in the share capital of Shell Transport or Royal Dutch.

## 10. Amendment

Any proposed change to the provisions of the Plan which would be to the advantage of participants or future participants and relates to the definition of the categories of persons to whom awards may be made under the Plan, the limit on individual awards discussed in item 3 above, or the rights of participants in the event of variation of capital of Shell Transport or Royal Dutch requires the prior approval of the shareholders of Shell Transport and Royal Dutch in general meeting. No such approval is required for other changes, including changes intended to benefit the administration of the Plan, or to comply with or take account of existing or proposed legislation or to secure favourable tax treatment for the companies of the Royal Dutch/Shell Group or participants.

## 11. Termination

The Plan may be terminated at any time and in any event no awards may be made after the tenth anniversary of the approval of the adoption of the Plan by the shareholders of Shell Transport and Royal Dutch.

561. Shell Transport's 2003 Annual Report (the "2003 ST Annual Report") states that, with regard to Shell Transport's Long-Term Incentive Plan, "REMCO recommended that each Group Managing Director be made a conditional award of performance shares with a face value of two times the individual's base pay, which took place on August 19, 2003. The actual number of shares received will be determined in 2006 and will be based on the Group's performance and competitive position over the period 2003-2005." Because of the wrongdoing alleged herein, no such awards should be made to any of the Individual Defendants and, to the extent that such awards were made, they should be rescinded and/or paid to Lead Plaintiff and members of the Class.

562. The 2003 ST Annual Report contains a disclosure that appears to indicate that Defendant Watts was granted 427,872 performance shares under the Long-Term Incentive Plan, valued at approximately £752,498, and that Defendant Boynton was granted 266,475 performance shares, valued at £468,650. Although a footnote to these awards states that none of Watts' shares "qualified for release," there is no indication of what actually has happened to these shares. Indeed, a conflicting press release indicates Watts and Boynton have forfeited these shares. Given the circumstances, Defendants Watts and Boynton should, at the very least, be required to forfeit such awards to the extent they have not already done so.

563. With regard to Resolution 14, the 2003 Shell Transport Notice was materially false and misleading because it failed to disclose and/or misrepresented Defendants' wrongful conduct with regard to the improper classification and public reporting of proved reserves, and related accounting at the Companies. These issues are closely tied to Individual Defendants' remuneration and would be material to shareholders in the context of increased compensation to such Defendants in light of Defendants' alleged misconduct.

564. Resolution 10 of the 2003 Shell Transport Notice solicited proxies for the re-appointment of PwC as the Company's auditors. Resolution 11 of the 2003 Shell Transport Notice called for authority for the Shell Transport Board to settle the remuneration of the auditors for 2003.

565. The 2003 Shell Transport Notice was materially false and misleading with regard to the resolutions concerning PwC because it omitted material information about PwC's involvement in, and knowledge of, the misconduct complained of herein, including the Companies' improper reserve reclassifications and related accounting and internal control

deficiencies. Such information would be material in the context of PwC's re-appointment as Shell Transport's auditor and its remuneration in that capacity.

566. Item 3 of the 2003 Royal Dutch Notice contained a "[p]roposal to approve the adoption of a new Long-term Incentive Plan." In the "explanatory notes" about the plan, the 2003 Royal Dutch Notice stated:

It is proposed to approve the adoption of a new Long-term Incentive Plan (the "Plan") for Group Managing Directors, including those who are also Managing Directors of Royal Dutch, and other selected senior executives.

The introduction of the Plan has been recommended by the Remuneration and Succession Review Committee ("REMCO"). REMCO is a joint committee of the Supervisory Board of Royal Dutch and the Board of Directors of Shell Transport, the two parent companies of the Royal Dutch/Shell Group of Companies (the "Group"). It has responsibility for making recommendations on remuneration of Group Managing Directors.

In recommending the Plan, REMCO made the following observations:

"Shell's practice, in terms of the long-term incentive opportunity it offers to its executives, is now substantially below that of the other major integrated oil companies, and the few comparable Dutch and UK companies of the Group's scope and size. Shell's approach to executive pay has always been conservative, and continues to be so. However, the level of competitive gap between Shell and its peers is no longer tenable. We therefore propose the introduction of a second element to our long-term incentive structure."

Under the Plan, Group Managing Directors and selected senior executives may receive a conditional award of shares in either Royal Dutch or Shell Transport. These shares are only released to the extent that the Group achieves challenging performance targets over the three financial years after award, and (subject to certain exceptions as set out in the Plan) the executive remaining in employment over the three-year period.

If adoption of the Plan is approved, the performance targets will be linked to the total shareholder return of the weighted average of the

parent companies of the Group relative to two separate groups of comparator companies.

567. The explanatory notes directed shareholders to the “Remuneration section of the Annual Report and Accounts 2002” and “of the Summary Annual Report and Accounts 2002” for the “[d]etails of the remuneration policy under which the Plan will be operated . . . .” Royal Dutch’s 2003 Summary Annual Report and Accounts states: “Participants will be made a conditional award of shares in either Royal Dutch or Shell Transport. The receipt of shares comprised in the award will be conditional on the participant remaining in employment (subject to certain exceptions, including normal retirement) and on the satisfaction of performance targets over the performance period. The performance period will not be less than three consecutive financial years.” Because of the wrongdoing alleged herein, no such awards should be made to any of the Individual Defendants and, to the extent that such awards were made, they should be rescinded and/or paid to Lead Plaintiff and members of the Class.

568. Item 6 of the 2003 Royal Dutch Notice seeks re-appointment of Defendant Jacobs to the Supervisory Board. The explanatory notes to Item 6 were materially false and misleading, as they omitted material information about Defendant Jacobs’ involvement in, and knowledge of, the wrongdoing complained of herein. Such information would be material in the context of his fitness to serve as a Supervisory Director and his remuneration in such capacity.

569. In 2003, Defendant Jacobs was paid € 77,000 in fees for his service on the Royal Dutch Supervisory Board. Because his election to the Supervisory Board was improperly obtained, such amounts should be forfeited and distributed to Lead Plaintiff and members of the Class.

**D. Remaining Section 14(a) and Rule 14a-9 Allegations**

570. Each Defendant named in this Count has engaged in some or all of the unlawful acts, transactions and activities alleged herein, including the preparation and/or distribution of false and misleading Proxy materials that failed to disclose facts necessary to make the statements therein not misleading in light of the circumstances under which they were made.

571. The Notices of Meeting described herein contained untrue statements of material fact and omitted to state material facts necessary to make the statements not misleading in light of the circumstances under which they were made. As a result, Lead Plaintiff and the members of the Class were denied the opportunity to make an informed decision in voting on the matters described herein.

572. By virtue of the foregoing, Lead Plaintiff and the other members of the Class were damaged. Accordingly, they are entitled to recover damages from the Defendants named in this Count and each of them, jointly and severally.

**COUNT V**

**(Against the Group Defendants for Violation of Section 14(a)  
of the Exchange Act and Rule 14a-9  
Promulgated Thereunder for Equitable Relief)**

573. Lead Plaintiff repeats and realleges each and every allegation above except those that allege Defendants' knowledge or reckless ignorance of the wrongdoing described herein.

574. This Count is brought pursuant to Section 14(a) of the Exchange Act, 15 U.S.C. § 78n(a), and Rule 14a-9 promulgated thereunder by the SEC, 17 C.F.R. § 240.14a-9, on behalf of the members of the Class against the Group Defendants. Lead Plaintiff seeks equitable relief in connection with this Count.



575. The Defendants named herein violated Section 14(a) of the Exchange Act and Rule 14a-9 thereunder in that these Defendants solicited proxies or permitted the use of their names to solicit proxies from the members of the Class by means of a Notice of Meeting that contained statements which, at the time and in the light of the circumstances under which they were made, were false and misleading with respect to material facts, and omitted to state material facts necessary to make the statements therein not false or misleading.

**A. The 2001 Notices of Meeting**

**1. Shell Transport**

576. As set forth herein, Resolution 8 of the Shell Transport 2001 Notice solicited proxies for the adoption of the Report of Directors for the year ended December 31, 2000. The Report of Directors, which is contained in the 2000 ST Annual Report, incorporates by reference Shell Transport's Statement on Corporate Governance. As set forth herein, certain statements contained in that section were materially false and misleading.

577. For example, the Corporate Governance section of the 2000 ST Annual Report, at pages 34-35, touts the purported enhancement of the Group's "risk and control reporting." Those pages contain the following information, inter alia, concerning the Companies' internal controls:

Risk management and internal control

The Group's approach to internal control is based on the underlying principle of line management's accountability for risk and control management. The Group's risk and internal control policy explicitly states that the Group has a risk-based approach to internal control and that management in the Group is responsible for implementing, operating and monitoring the system of internal control, which is designed to provide reasonable but not absolute assurance of achieving business objectives.

***Consistent with this policy, a number of existing processes were strengthened and formalised in 2000. . . .***

***[R]eview and reporting processes were enhanced [to] bring risk management into greater focus and to enable Conference (meetings between the members of the Supervisory Board and the Board of Management of Royal Dutch and the Directors of Shell Transport) to regularly review the risk and control management system and facilitate their full annual review of the system's effectiveness.***

\* \* \*

Each quarter, risk profiles which highlight the perceived impact and likelihood of significant risks are ***reviewed and discussed by the Committee of Managing Directors (CMD) and Conference***. Each risk profile is supported by a summary of key controls and monitoring mechanisms. . . .

\* \* \*

The Group's approach to internal control also includes a number of general and specific risk management processes and policies. Within the essential framework provided by the *Statement of General Business Principles*, ***the Group's primary control mechanisms are self-appraisal processes in combination with strict accountability for results***. These mechanisms are underpinned by controls including mandatory policies and defined procedures, guidelines and standards which relate to particular types of risk, structured investment decision processes, timely and effective reporting systems, and performance appraisal.

\* \* \*

A procedure for identification and reporting of business control incidents continues to enable management and the Group Audit Committee to monitor incidents that have caused a potential loss as a result of breakdown in controls and ***to ensure appropriate follow-up actions have been taken***. Lessons learned are captured and shared as a means of improving the Group's overall control framework.

\* \* \*

In addition, ***internal audit plays a critical role in the objective assessment of business processes and the provision of assurance***. Audits and reviews of Group operations are carried out by internal audit to provide the Group Audit Committee with ***independent***

*assessments* regarding the effectiveness of risk and control management.

Taken together, *these processes and practices provide confirmation to the Group Holding Companies that relevant policies are adopted and procedures implemented with respect to risk and control management.* [Emphasis added.]

578. As set forth herein, in ¶ 366, these statements were materially false and misleading when made.

**2. Royal Dutch**

579. Item 2.C. of the 2001 Royal Dutch Notice solicited proxies for the discharge of the Royal Dutch Managing Directors for “responsibility in respect of their management and the members of the Supervisory Board for their supervision for the year 2000.”

580. The 2001 Royal Dutch Notice as to Item 2.C. was materially false and misleading insofar as it omitted material information about the involvement in, and knowledge of, the misconduct alleged herein by the Individual Defendants, who then served on the Supervisory Board or the Board of Management. Such information would be material in the context of considering whether to discharge these board members from responsibility for their management of Royal Dutch and the Companies.

**B. The 2002 Notices of Meeting**

**1. Shell Transport**

581. As set forth herein, Resolution 9 of the 2002 Shell Transport Notice solicited proxies for the adoption of the Report of Directors for the year ended December 31, 2001. The Report of Directors, which is contained in the 2001 ST Annual Report, incorporates by reference Shell Transport’s Statement on Corporate Governance. As set forth herein, certain statements contained in that section were materially false and misleading. For example, the 2001 ST Annual

Report states that “The Board of the ‘Shell’ Transport and Trading Company, p.l.c. (Shell Transport) is committed to the highest standards of integrity and transparency in its governance of the Company . . . .”

582. The Corporate Governance section of the 2001 ST Annual Report also contains a cross-reference to page 43 of the Report to demonstrate “the approach in the Group to risk management and internal controls.” Page 43 of 2001 ST Annual Report states:

Risk management and internal control

The Group’s approach to internal control is based on the underlying principle of line management’s accountability for risk and control management. The Group’s risk and internal control policy explicitly states that the Group has a risk-based approach to internal control and that management in the Group is responsible for implementing, operating and monitoring the system of internal control, which is designed to provide reasonable but not absolute assurance of achieving business objectives.

*Established review and reporting processes bring risk management into greater focus and enable the Conference (meetings between the members of the Supervisory Board and the Board of Management of Royal Dutch and the Directors of Shell Transport) to regularly review the overall effectiveness of the system of internal control and to perform a full annual review of the system’s effectiveness.*

*At Group level and within each business, risk profiles which highlight the perceived impact and likelihood of significant risks are reviewed and discussed each quarter by the Committee of Managing Directors and by the Conference. . . .*

The Group’s approach to internal control also includes a number of general and specific risk management processes and policies. Within the essential framework provided by the Statement of General Business Principles, *the Group’s primary control mechanisms are self-appraisal processes in combination with strict accountability for results.* These mechanisms are underpinned by controls including Group policies, standards and guidance material that relate to particular types of risk, structured investment decision processes, timely and effective reporting systems, and performance appraisal.