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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
SELIM ABBAD, JAMES ADAMS, DENNIS  
AUGHAVIN, KENNETH H. BASS, FRANCES J. :  
BASS, JAMES E. BEENE, JOHN C. BELTON, :  
ANTOLIN BLANCO, TRACY BOYKO, : 02 CV 4118 (LAP)(JCF)  
NICHOLAS BRUMMITT, BENT BUDDE, :  
BUSTELBERG EFFECTENKANTOOR B.V., : **FIRST AMENDED COMPLAINT**  
SARAH M. CASTOR, SANDRO CESTA, : **FOR VIOLATIONS OF**  
NANCY CHEW-WONG, BILLY SHAWN COBB, : **FEDERAL SECURITIES LAWS**  
ANDREW COFFEE, ARSALAN DARMAL, :  
KAMRAN DARMAL, PETER JOHN DAVIES, :  
STEVEN J. DEDINA, BAUER DERMEL, : **JURY TRIAL DEMANDED**  
DENNIS F. DORRIS, KIM M. DORRIS, BONNIE :  
EDWARDS, THOMAS EDWARDS, MICHAEL :  
FESS, SHARON D. FINLEY, HARRY S. FRANK, :  
JOHAN FRIIS, RICHARD GOLDSMITH, :  
DANNY GOSSETT, CONOR DAVID GREENE, :  
PAUL M. GROVES, KEITH A. GUILBEAU, :  
MICHAEL HAGENS, FARHAD HAGHIGHAT, :  
LAWRENCE D. HART, TRACEY E. HART, :  
SUZANNE R. HOOVER, ROBERT HORVATH, :  
MENG HUANG, ROBERT W. HUCKABY, :  
MICHAEL J. HUTH, PAT C. ISABELLA, JAMES :  
JONES, PATRICK M. KAIN, CHRISTINE M. :  
KAIN, DAVID E. KAPLAN, MICHAEL KELLY, :  
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JOHN S. KUBIAK, JR., LOTHAR LEHNARDT, :  
TOMMY LESTER, JAN LOEBER, ALBERT C. :  
LORRAINE, TERRY MACKENZIE, SEAN S. :  
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LOUISE MINERVINO, JOSEPH MOGRE, :  
ROBERT PIERRE NIEBORG, ERIC M. OLSON, :  
PER B. PETERSEN, DICKON POWNALL- :  
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POWNALL-GRAY, GWILLIAM ROGER PRICE, :  
QUANTES.COM SC, HALEH SAFAVI, KYAN :  
SAFAVI, ROKNEDIN SAFAVI, YAUSS :  
SAFAVI, HENRI L. SCHOUTEN, MARK E. :  
SCOTT, JOHN SCRIVENER, TOP SEN, :  
STANFORD L. SHOAF, CLAUS BERG :  
STEFFENSEN, GARRY J. SZYNDLAR, FRED C. :  
THOMPSON, CHIN-CHE TIN, CHIN-KHUAN :  
TEH TIN, ZAHRA TOOSI, LOUIS T. TOTH, :  
NAHN H. TOTH, ERNESTO VALDESOLO, :  
SCOTT J. VAN STEYN, ADI VENKITARAMAN, :  
JEAN-PAUL VOUELLER, DARDEN LEE WALL :  
JR., LOIS WALL, WAPPING HOLDINGS LTD., :  
ARNOLD WEITZMAN, EDWARD S. WEST, :  
SAMUEL WONG, JOHN W.H. WOODS, :

Plaintiffs,

-against-

ROBERT J. AMMAN, :  
DUNCAN LEWIS, :  
GRIER C. RACLIN, and :  
ROBERT A. SCHRIESHEIM, :

Defendants.

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**TABLE OF CONTENTS**

SUMMARY OF ACTION ..... 1

JURISDICTION AND VENUE ..... 10

PARTIES

    Plaintiffs ..... 11

    Defendants ..... 20

CONTROLLING PERSON LIABILITY ..... 22

GENERAL ALLEGATIONS

    GTS Appoints Amman to Implement the  
    Purported "Restructuring" ..... 23

    GTS Announces the Sale of its Stake in  
    Flag Atlantic Limited ..... 24

    The First Amendment of the Employment Agreements ..... 25

    The Public Announcement of the Restructuring and  
    the Dividing of GTS into Four "Stand Alone" Units ..... 29

    The Second Amendment to the Employment Agreements ..... 31

    GTS Hires Duncan Lewis and  
    Renames its Broadband Services Division "Ebony" ..... 33

    GTS is Advised that Its Stock May Be Delisted by the  
    New York Stock Exchange ..... 33

    The Weekly Reports Commence ..... 33

    The Formation of the GTS Investment Club ..... 37

    Lewis Begins Communicating with  
    Plaintiffs on Behalf of GTS with the  
    Knowledge of Amman, Schriesheim and Raclin ..... 38

    Lewis' February 28, 2001 E-mail  
    Communication with Plaintiff Isabella Regarding a  
    Failure to Pay Dividends on the Company's Preferred Stock ..... 41

The March 19, 2001 Weekly Report: "Reshaping the GTS and Ebone Organisations for the Future" .....	42
Agreement with Senior Noteholders of Esprit .....	44
The April 5, 2001 Press Release Falsely States that GTS had Access to E300 Million .....	45
Lewis' April 11, 2001 E-Mail Communication with Plaintiff Dedina .....	47
Amman Reports the Company to be "Off the Critical List and on Its Way to Becoming a Great Success" .....	47
The May 10, 2001 Weekly Report Fails to Disclose the Fact of the Liquidation .....	49
Defendants Fail to Disclose the True Intent of the Debt-for-Equity Swaps .....	51
Raclin Hides Central Europe Assets .....	53
Lewis' May 25, 2001 E-mail Communication with Plaintiff Isabella Discussing Rumors of Bankruptcy .....	54
Lewis' May 28, 2001 E-mail Communication with Stockholder Ryan Regarding Previously Undisclosed Debt-for-Equity Swaps .....	55
Lewis' May 30, 2001 E-mail Communication with Stockholder Casola Calling for Stockholder "Patience" and "Courage" .....	56
Negotiations with KPNQwest Resume and Employment Agreements are Amended a Third Time .....	57
GTS Elects Not To Pay Interest on Certain Bonds which Amman Falsely Describes as an Opportunity for All Stakeholders .....	59
Lewis' June 1, 2001 E-mail Communication with Stockholder Casola in which Lewis Falsely Portrays a GTS Bankruptcy as Producing Value for Stockholders .....	61
The NYSE Suspends Trading in GTS Shares .....	62
The June 4, 2001 Weekly Report: Raising the Profile of Ebone and Playing Down the GTS Restructuring .....	63

Lewis Makes Further Misleading Assurances in June 2001 E-mail Communications . . . . .	67
Houlihan Lokey Issues Report that Comports with Plan to Liquidate the Company and Amman Falsely Sets Forth Reasons for Pulling GTS Central Europe Off the Market . . . . .	71
2001 Annual Meeting of Stockholders Canceled to Avoid Investor Scrutiny about the Amended Employment Agreements and Restructuring . . . . .	72
GTS's Recapitalization Program . . . . .	72
The July 4, 2001 Weekly Report Falsely Depicts GTS as a Long-Term Concern . . . . .	73
Lewis' July 2001 E-mail Communication with Plaintiff Dedina Continues to Assure Investors . . . . .	74
The July 23, 2001 Weekly Report Instructs Employees to Convey to Customers that Discussions with Bondholders are Going Well in Order to Preserve Customer Base . . . . .	75
The Company Issues Its Second Quarter Form 10-Q and Fails to Disclose the Third Amendments to Amman, Raclin and Shriesheim's Employment Agreements . . . . .	79
Lewis' August 2001 E-mail Communications with Plaintiff Isabella Continue to Assure Investors and Falsely Represent the Effect of a Possible Bankruptcy . . . . .	80
The August 20, 2001 Weekly Report Repudiates the Second Quarter 10-Q . . . . .	84
On the Eve of the Sale to KPNQwest in a Prepackaged Bankruptcy, the September 3, 2001 Weekly Report Describes the Company as Being "Poised to Spring Into Action" . . . . .	86
Involuntary Petitions in Bankruptcy are Filed; Amman States Petitions are Just Negotiation Tactics by Certain Debtholders in an October 12, 2001 Press Release . . . . .	88
Amman Announces the Sale of Ebone and GTS Central Europe to KPNQwest, Leaving Nothing for Stockholders . . . . .	89
KPNQwest's CEO Admits Ebone's Customer Base was the Impetus for the Purchase . . . . .	90

The October 29, 2001 Weekly Report Admits the "Hard Truth" .....	90
To Effectuate the GTS/KPNQwest Deal, GTS Files for Bankruptcy .....	91
The SEC Acts to Preserve Stockholder Claims .....	91
KPNQwest's Deteriorating Financial Condition .....	91
NO SAFE HARBOR .....	93
CLAIMS FOR RELIEF	
COUNT I	
(Violations of Section 10(b) and	
Rule 10b-5 Promulgated Thereunder) .....	94
COUNT II	
(Violations of Section 20(a)	
of the Exchange Act) .....	97
JURY DEMAND .....	99

Plaintiffs herein ("Plaintiffs"), by their undersigned attorneys, for their complaint, allege upon personal knowledge as to themselves and their own acts, and upon information and belief as to all other matters, based upon the investigation made by and through their attorneys, which investigation included, among other things, a review of Securities and Exchange Commission ("SEC") filings by Global TeleSystems, Inc. ("GTS" or the "Company") and press releases, weekly reports to employees ("Weekly Reports"), e-mail communications, other publications to stockholders of the Company and discussions with certain former, high-ranking insiders of the Company, as follows.

### **SUMMARY OF ACTION**

1. This is a direct action for securities fraud on behalf of 103 investors who purchased common stock of the Company during the period from October 31, 2000 through October 19, 2001 (the "Period").

2. GTS described itself as a leading provider of eBusiness and borderless broadband services across Europe, serving businesses and carriers with a range of broadband, hosting, Internet/IP and voice services.

3. GTS filed a petition for relief under Chapter 11 of the United States Bankruptcy Code on November 14, 2001, following the Company's announcement that it had signed a definitive agreement to sell its remaining assets -- including its crown jewel, GTS Broadband Services (known as "Ebony"), and its Central European operations -- to KPNQwest NV ("KPNQwest"), in a transaction leaving no value for the Company's stockholders.

According to defendant Robert J. Amman, the Company's chief executive officer ("Amman"), the KPNQwest transaction was the consummation of a purported "restructuring" of the

Company, which the Company first announced on November 13, 2000. However, at the time of the November 2000 announcement, defendants Amman, Robert A. Schriesheim ("Schriesheim"), Grier C. Raclin ("Raclin") and, later, Duncan Lewis ("Lewis") (collectively, "Defendants") knew that immediately following the purported restructuring, the Company would be nothing but an empty shell, leaving nothing for stockholders. In an October 19, 2001 press release announcing the sale to KPNQwest, Amman admitted that the transaction represented "the completion of the consensual restructuring process" that GTS began "late last year" -- i.e., November 2000.

4. Plaintiffs are former stockholders of GTS, who, at the time of the GTS bankruptcy filing, collectively owned 30,711,347 shares of GTS common stock, representing nearly 12% of the Company's issued and outstanding shares. Many of the Plaintiffs were avid contributors to and readers of the Yahoo! Finance GTS message board, as well as members of the "GTS Club," an investment club on the Yahoo web-site which sponsored an on-line bulletin board devoted to GTS. Both the message board and the bulletin board (together, the "GTS Message Boards") were acknowledged to be monitored by Defendants and the Company. Plaintiffs purchased their shares during the Period in reliance upon a series of false and misleading statements deliberately made by Defendants about the Company's restructuring, its plans and its prospects. Such statements were posted, with Defendants' knowledge, on the GTS Message Boards.

5. The scheme to defraud GTS stockholders began on or about October 31, 2000 and continued through the end of the Period. Amman, Schriesheim and Raclin concluded by October 31, 2000 that the Company would not be able to survive as a going concern beyond

the third quarter of 2001. Thus, they formulated a plan to capture for themselves as much of the Company's remaining value as possible before the Company's planned collapse. To set the stage for the restructuring, the Company was divided into four stand-alone business units: Ebone, GTS Business Services (also known as "Esprit"), GTS Central Europe and Golden Telecom. The plan involved three major elements: first, conducting a fire sale of Company assets, not in order to restructure and streamline the Company so that it could go forward as Defendants represented to the investing public and other constituencies, but rather to generate the cash necessary to meet the Company's debt obligations over the next year until the Company's primary asset and core business -- the division that would become known as Ebone, with its highly valuable customer base -- could be sold off. The second element of the plan involved changing Defendants' compensation plans over the Period so that they could drain as much money as possible from the Company during its demise (a period which Defendants would refer to as the Company's "restructuring"), keeping these changes secret as long as possible to avoid tipping off the Company's stockholders, customers and other constituencies that something was amiss. The final element involved misleading the Company's constituencies into believing that the "restructuring" was working, persuading them to ignore whatever bad news appeared in the Company's SEC filings and thereby maintaining Ebone's customer base (and a market for GTS's common stock) until that asset could be sold off (to the Defendants' individual profit) in the third quarter of 2001.

6. Recognizing that the result of the "restructuring" would render their stock options and restricted stock worthless, Amman, Schriesheim, and Raclin -- only to their personal benefit, and at the expense of the Company's stockholders -- caused the Company to enter into

amended employment agreements with them, first on November 1, 2000, then again in January 2001, and then a third time on June 23, 2001. These agreements provided the three Defendants with the opportunity to reap, among other things, target bonuses and performance bonuses over the next year from the coming sales of the Company's assets and other designated "Restructuring Actions" that were planned steps on the road to the Company's liquidation. Although the Company has never disclosed the terms of the compensation of Lewis (the Company's president and chief operating officer from December 2000 to the end of the Period), former high-ranking GTS and KPNQwest employees have revealed that Lewis received severance and/or retention compensation of at least \$3 million (the "Lewis Bonus") in exchange for his agreement to facilitate the prenegotiated (or "prepackaged") bankruptcy and the sale to KPNQwest.

7. The November 1, 2000 and January 2001 employment agreements -- which Defendants kept secret and did not disclose until, respectively, the filing on April 13, 2001 of the Form 10-K for the year ended December 31, 2000 and the filing on April 30, 2001 of the amended Form 10-K -- also provided that Schriesheim's and Raclin's resignations from the Company on or after October 31, 2001, or upon 30 days' written notice to the Company following the completion of the Restructuring Actions, would be treated as a "Termination without Cause," entitling them to further bonus payments and other remuneration. Thus, Amman, Schriesheim, and Raclin engineered the amended employment agreements throughout the Period with the motive of ensuring their receipt of substantial bonuses from the coming restructuring, and allowed Schriesheim and Raclin to resign from the Company -- and secure additional bonus payments -- in the third quarter of 2001, when they knew that the Company would no longer remain a going concern.

8. Throughout the Period, Defendants issued and had knowledge of false and misleading statements about the Company's prospects, which ensured trading in GTS common stock and ensured that the customer base of the Company's main businesses (including the 48,000 Ebone customers) would not evaporate as a result of the Company's worsening financial condition as the restructuring progressed. In fact, after KPNQwest's agreement to acquire Ebone and GTS Central Europe was announced on October 18, 2001, KPNQwest's CEO admitted that KPNQwest was not primarily interested in acquiring Ebone's assets, but its customers, the "lifeblood of the business." Amman, Raclin and Schriesheim were motivated to take such efforts to guarantee the receipt of the bonuses in their employment agreements, which were tied not to the successful operation of the Company in the stockholders' interest, but to the successful dismantling and liquidation of the Company. Amman, Raclin and Schriesheim could profit only so long as they managed to fool the stockholders and customers.

9. To preserve the "lifeblood" of Ebone's business, Amman and Lewis issued a series of false and misleading statements -- contained in lengthy "Weekly Reports" to employees, which Defendants knew would be disseminated to stockholders over the Internet and posted on the GTS Message Boards and through an extraordinary series of direct e-mail communications to stockholders from Lewis, which Defendants also knew would be posted on the GTS Message Boards -- regarding the progress of the Company's purported restructuring and the Company's financial condition and prospects. These statements contained misrepresentations and omissions of material facts, as well as optimistic forecasts of Company prospects that Defendants themselves could not have believed and knew would be relied upon by the investing public.

10. In an effort to avoid stockholder scrutiny and to maintain the secrecy of the anticipated actual impact of the "restructuring," as well as stockholder inquiries concerning the Company's financial condition and compensation arrangements with Amman, Raclin and Schriesheim, the Company's 2001 annual meeting of stockholders was twice canceled with a promise of rescheduling. No meeting was ever held, in violation of Delaware law.

11. On May 31, 2001, Jeffrey H. Von Deylen ("Von Deylen"), GTS's Senior Vice President, Finance (Principal Accounting Officer) and Ebone's Chief Financial Officer resigned to join KPNQwest. Soon after Von Deylen's resignation, KPNQwest and GTS renewed secret negotiations for the sale of Ebone to KPNQwest, which had initially begun about one year earlier. By July 31, 2001, Ebone and KPNQwest entered into a second Confidentiality Agreement in connection with their negotiations (the first was signed on or about June 18, 2000), because it was Defendants' plan that Ebone, among other assets, would be sold to KPNQwest in a prepackaged bankruptcy that would strip the stockholders of all value.

12. To reap benefit from these planned events which would leave the stockholders with zero value, on or about June 23, 2001, Amman, Schriesheim, and Raclin caused the Company to amend their employment agreements in secret and for a third time. They stood collectively to receive almost \$18 million in annual salary and bonuses upon the completion of the sale of the Company's remaining assets to KPNQwest.

13. In addition, with the approval of the GTS's Board of Directors, these three Defendants would have received in the aggregate another \$3 million in "target bonuses" on top of the aforementioned \$18 million, bringing their total maximum cash compensation to almost \$21 million.

14. A summary of the pertinent compensation terms of the Amended and Restated Employment Agreements, the Letter Agreements and the Agreements Regarding Certain Compensation, including a depiction of how total maximum cash compensation increased sharply as the bankruptcy filing date came closer, is shown below:

**GTS EXECUTIVE COMPENSATION SUMMARY\***

15. The total annual salary and bonuses provided by these secretly amended employment agreements was equal to approximately 52% of the total market capitalization of the Company as of the date they were signed.

16. These amounts were extraordinary in light of the size and financial state of GTS. The GTS bonuses for Amman, Raclin and Schriesheim combined represented a much larger percentage of the market value of the Company (approximately 52%) than the notorious, and more widely publicized, executive compensation schemes at companies such as Enron and Global Crossing. For example, prior to its bankruptcy filing on December 2, 2001, it has been reported that Enron paid a total of \$55 million in retention payments to about 500 employees that it considered critical to its survival, or an average of \$110,000 each. Because Enron had a market capitalization of about \$3 billion in late November 2001, Enron's total retention payments

to its 500 employees was equal to about 2% of its market capitalization, compared to GTS's ratio of approximately 52% for payments to just three of the Defendants.

17. Because disclosure of the June 23, 2001 amended employment agreements would have been certain to alert GTS's customers, employees and stockholders that GTS's senior managers were gilding their parachutes in anticipation of an imminent bail out from GTS, the Company did not disclose the agreements until October 19, 2001 -- *after* the deal with KPNQwest had been announced and the prepackaged bankruptcy negotiated. The announcement resulted in a 93% plunge in GTS's stock price.

18. Because KPNQwest was primarily interested in acquiring Ebone's customer base, Defendants continued their scheme of issuing false and misleading statements about the Company's prospects in direct e-mail communications to stockholders, and in their Weekly Reports which were posted on the GTS Message Boards, to ensure that Ebone's customers would not become worried about an interruption in service and disperse as a result of the problems facing GTS. As Amman and Lewis admitted in writing in at least one of their Weekly Reports to employees, the purpose of the Weekly Reports was to "downplay" the financial problems facing the Company and to "raise the profile of Ebone." In reliance upon these false and misleading statements, many of which advised the recipients to disregard the negative public statements contained in the Company's public filings with the SEC and assured that GTS's stock price would rise following the restructuring -- assurances that Defendants themselves could not have believed -- Plaintiffs purchased worthless GTS common stock up to the conclusion of the Period, thereby causing Plaintiffs to suffer losses in connection with such purchases.

19. Although Amman, Raclin and Schriesheim received millions of dollars in bonuses and salary for their completion of the GTS "restructuring," GTS stockholders did not share in this "success." In fact, although Defendants repeatedly, deliberately and falsely assured Plaintiffs -- up to the conclusion of the Period -- that the restructuring would benefit all "stakeholders," specifically "equity holders," the restructuring ultimately resulted in the stockholders receiving nothing, following the sale of Ebone and GTS Central Europe to KPNQwest in a prepackaged bankruptcy.

20. It should come as no surprise that, in connection with the GTS bankruptcy filing that was the conclusion of their scheme, Defendants sought to secure immunity from liability for their misconduct. Defendants sought an order barring stockholders, like Plaintiffs, from asserting claims of securities fraud against them. Defendants' attempt to do so was, however, unsuccessful, because the SEC, in a letter to GTS's bankruptcy counsel, specifically demanded that the Bankruptcy Court Order approving the Debtors' Plan of Reorganization include language making clear that the plan would not act as a release or a discharge of liability of the Company's officers and directors. Following the SEC's demand, the February 21, 2002 Confirmation Order of the Bankruptcy Court included a provision assuring that GTS stockholders would have the right to assert direct claims of securities fraud against GTS's officers and directors. Plaintiffs are exercising that right through this case, which seeks redress for the extraordinary acts of fraud Defendants committed.

21. Although the transaction with KPNQwest effected through the prepackaged bankruptcy proceeding closed on or about March 18, 2002, it has subsequently become clear that the financial strength of KPNQwest had been vastly overstated by Defendants,

and, despite assurances to the bankruptcy court that KPNQwest would have the capability to close on the GTS/KPNQwest sale agreement and pay the Company's creditors in full, KPNQwest filed for bankruptcy shortly after the closing date, and GTS's creditors have not been paid. The United States Trustee has filed a motion with the bankruptcy court to convert the GTS Chapter 11 reorganization to a Chapter 7 liquidation.

### **JURISDICTION AND VENUE**

22. The claims asserted herein arise under and pursuant to §§ 10(b) and 20(a) of the Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. §§ 78j(b) and 78t(a), and Rule 10b-5 promulgated by the SEC under § 10(b) of the Exchange Act, 17 C.F.R. § 240.10b-5.

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

24. Venue is proper in this District pursuant to § 27 of the Exchange Act, 15 U.S.C. § 78aa, and 28 U.S.C. § 1391(b) in that acts and transactions in furtherance of the violations of the securities laws and regulations occurred in this District. Such acts and transactions included, (i) the dissemination of false and misleading statements in this District that are the subject of this action; (ii) the trading of GTS stock on the New York Stock Exchange ("NYSE") located in this District; (iii) the taking of action in furtherance of the scheme to defraud through the Company's office located in this District; (iv) the taking of action in furtherance of the scheme to defraud at GTS Board of Directors meetings and at meetings of committees thereof, including the compensation committee, which took place in this District; (v) the taking of action in furtherance of the scheme to defraud at meetings in this District among

Defendants and representatives of various GTS debtholders; and (vi) the conducting by Defendants of analyst conferences in this District.

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

## **PARTIES**

### **Plaintiffs**

26. Plaintiff Selim Abbad purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

27. Plaintiff James Adams purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

28. Plaintiff Dennis Aughavin purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

29. Plaintiff Kenneth H. Bass purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

30. Plaintiff Frances J. Bass purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

31. Plaintiff James E. Beene purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

32. Plaintiff John C. Belton purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

33. Plaintiff Antolin Blanco purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

34. Plaintiff Tracy Boyko purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

35. Plaintiff Nicholas Brummitt purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

36. Plaintiff Bent Budde purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

37. Plaintiff Bustelberg Effectenkantoor B.V. purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

38. Plaintiff Sarah M. Castor purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

39. Plaintiff Sandro Cesta purchased and sold GTS common stock during the Period as set forth on Schedule A and/or was damaged as a result thereof.

40. Plaintiff Nancy Chew-Wong purchased and sold GTS common stock during the Period as set forth on Schedule A and/or was damaged as a result thereof.

41. Plaintiff Billy Shawn Cobb purchased and sold GTS common stock during the Period as set forth on Schedule A and/or was damaged as a result thereof.

42. Plaintiff Andrew Coffee purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

43. Plaintiff Arsalan Darmal purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

44. Plaintiff Kamran Darmal purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.
45. Plaintiff Peter John Davies purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.
46. Plaintiff Steven J. Dedina purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.
47. Plaintiff Bauer Dermel purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.
48. Plaintiff Dennis F. Dorris purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.
49. Plaintiff Kim M. Dorris purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.
50. Plaintiff Bonnie Edwards purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.
51. Plaintiff Thomas Edwards purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.
52. Plaintiff Michael Fess purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.
53. Plaintiff Sharon D. Finley purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.
54. Plaintiff Harry S. Frank purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

55. Plaintiff Johan Friis purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

56. Plaintiff Richard Goldsmith purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

57. Plaintiff Danny Gossett purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

58. Plaintiff Conor David Greene purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

59. Plaintiff Paul M. Groves purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

60. Plaintiff Keith A. Guilbeau purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

61. Plaintiff Michael Hagens purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

62. Plaintiff Farhad Haghighat purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

63. Plaintiff Lawrence D. Hart purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

64. Plaintiff Tracey E. Hart purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

65. Plaintiff Suzanne R. Hoover purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

66. Plaintiff Robert Horvath purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

67. Plaintiff Meng Huang purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

68. Plaintiff Robert W. Huckaby purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

69. Plaintiff Michael J. Huth purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

70. Plaintiff Pat C. Isabella purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

71. Plaintiff James Jones purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

72. Plaintiff Patrick M. Kain purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

73. Plaintiff Christine M. Kain purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

74. Plaintiff David E. Kaplan purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

75. Plaintiff Michael Kelly purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

76. Plaintiff Jacobus A. Kemp purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

77. Plaintiff Caroline M. Kubiak purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

78. Plaintiff John S. Kubiak, Jr. purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

79. Plaintiff Lothar Lehnardt purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

80. Plaintiff Tommy Lester purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

81. Plaintiff Jan Loeber purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

82. Plaintiff Albert C. Lorraine purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

83. Plaintiff Terry MacKenzie purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

84. Plaintiff Sean S. Macpherson purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

85. Plaintiff Kevin J. McKeown purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

86. Plaintiff Jeffrey Mancini purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

87. Plaintiff Ramesh Mani purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

88. Plaintiff Pieter Mijer purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.
89. Plaintiff Greg Michalak purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.
90. Plaintiff Peter Miller purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.
91. Plaintiff Louise Minervino purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.
92. Plaintiff Joseph Mogre purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.
93. Plaintiff Robert Pierre Nieborg purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.
94. Plaintiff Eric M. Olson purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.
95. Plaintiff Per B. Petersen purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.
96. Plaintiff Dickon Pownall-Gray purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.
97. Plaintiff Ella Pownall-Gray purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.
98. Plaintiff Saskia Pownall-Gray purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

99. Plaintiff Gwilliam Roger Price purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

100. Plaintiff Quantes.com SC purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

101. Plaintiff Haleh Safavi purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

102. Plaintiff Kyan Safavi purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

103. Plaintiff Roknedin Safavi purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

104. Plaintiff Yauss Safavi purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

105. Plaintiff Henri L. Schouten purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

106. Plaintiff Mark E. Scott purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

107. Plaintiff John Scrivener purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

108. Plaintiff Top Sen purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

109. Plaintiff Stanford L. Shoaf purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

110. Plaintiff Claus Berg Steffensen purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

111. Plaintiff Garry J. Szyndlar purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

112. Plaintiff Fred C. Thompson purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

113. Plaintiff Chin-Che Tin purchased and/or sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

114. Plaintiff Chin-Khuan Teh Tin purchased and sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

115. Plaintiff Zahra Toosi purchased and sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

116. Plaintiff Louis T. Toth purchased and sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

117. Plaintiff Nahn H. Toth purchased and sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

118. Plaintiff Ernesto Valdesolo purchased and sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

119. Plaintiff Scott J. Van Steyn purchased and sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

120. Plaintiff Adi Venkitaraman purchased and sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

121. Plaintiff Jean-Paul Vouiller purchased and sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

122. Plaintiff Darden Lee Wall Jr. purchased and sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

123. Plaintiff Lois Wall purchased and sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

124. Plaintiff Wapping Holdings Ltd. purchased and sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

125. Plaintiff Arnold Weitzman purchased and sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

126. Plaintiff Edward S. West purchased and sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

127. Plaintiff Samuel Wong purchased and sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

128. Plaintiff John W.H. Woods purchased and sold GTS common stock during the Period as set forth on Schedule A and was damaged as a result thereof.

#### Defendants

129. GTS is not named as a defendant in this action as it filed for protection pursuant to Chapter 11 of the U.S. Bankruptcy Code and was discharged and released from any actions pursuant to an order confirming its Amended Joint Plan of Reorganization, entered February 21, 2002, in the United States Bankruptcy Court for the District of Delaware.

130. Defendant Amman served at all relevant times as a director of GTS. Amman also served as president of GTS from March 1999 until December 2000 and was chief executive officer and chairman of the board of directors of GTS from September 2000 until the end of the Period. According to disclosures made as part of the GTS bankruptcy proceedings, Amman received bonus payments of \$5,465,625 from February 28, 2001 through October 31, 2001, in addition to his salary for 2000 through 2001. Among other things, Amman was the source of numerous false and misleading statements, failed to disclose material facts, and was aware that Lewis repeatedly communicated via e-mail directly with certain of the Company's stockholders on behalf of the Company.

131. Defendant Lewis was president and chief operating officer of GTS from December 2000 to the end of the Period. Lewis received severance and/or retention compensation of at least \$3 million in connection with GTS's restructuring. Lewis was the source of numerous false and misleading statements, failed to disclose material facts, and repeatedly communicated via e-mail directly with the Company's stockholders on behalf of the Company.

132. Defendant Raclin at all relevant times was executive vice president, chief administrative officer, general counsel and corporate secretary of GTS. According to disclosures made as part of the GTS bankruptcy proceedings, Raclin received bonus payments of \$3,425,089 from February 28, 2001 through October 31, 2001, in addition to his salary for 2000 through 2001. Among other things, Raclin participated in the drafting of the Weekly Reports and was aware that Lewis was repeatedly communicating via e-mail directly with certain of the Company's stockholders on behalf of the Company. As the Company's executive vice president

and general counsel, Raclin signed documents pertinent to this Action which were filed with the SEC on behalf of the Company.

133. Defendant Schriesheim at all relevant times was executive vice president - corporate development, and chief financial officer of GTS. According to disclosures made as part of the GTS bankruptcy proceedings, Schriesheim received bonus payments of \$3,448,261 from February 28, 2001 through October 30, 2001, in addition to his salary for 2000 through 2001. Among other things, Schriesheim participated in the drafting of the Weekly Reports and was aware that Lewis was repeatedly communicating via e-mail directly with certain of the Company's stockholders on behalf of the Company. As the Company's principal financial officer, Schriesheim signed documents pertinent to this Action which were filed with the SEC on behalf of the Company.

#### **CONTROLLING PERSON LIABILITY**

134. It is appropriate to treat 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, Weekly Reports and e-mail communications as alleged herein are the collective actions of the small group of Defendants identified above.

135. Each Defendant, by virtue of his former high-level position within the Company, participated in the management of the Company and was privy to confidential proprietary information concerning the Company and its business, operations, products, growth, financial statements and financial condition, as alleged herein. Each Defendant played an active daily role in GTS's business and in the transactions described herein.

136. Defendants, because of their positions of authority as officers and/or directors of the Company, were able to and did control the content of the various SEC filings, press releases, Weekly Reports and e-mail communications pertaining to the Company during the Period. Each Defendant participated directly in the Company's purported "restructuring." Each Defendant was provided with copies of and/or had immediate access to the documents containing the statements alleged herein to be misleading prior to or shortly after their issuance and/or had the ability and/or opportunity to prevent their issuance or cause them to be corrected. Moreover, the misrepresentations and omissions made by the individual Defendants were made as part of their collective scheme and with the cooperation, knowledge and approval of the other Defendants.

137. Each Defendant is responsible for the accuracy of the public reports, releases, statements and communications detailed herein and is therefore primarily liable for the representations contained therein.

138. Defendants were, at the time of the wrongs alleged herein, controlling persons within the meaning of Section 20(a) of the Exchange Act.

### **GENERAL ALLEGATIONS**

#### **GTS Appoints Amman to Implement the Purported "Restructuring"**

139. H. Brian Thompson resigned as GTS's Chief Executive Officer and Chairman effective September 18, 2000. On that date, the GTS Board elevated Amman to replace Thompson, reportedly based upon Amman's prior restructuring experience.

## GTS Announces the Sale of its Stake in Flag Atlantic Limited

140. On October 31, 2000, the Company issued a press release announcing that it had reached an agreement to sell the 50% stake it had in FLAG Atlantic Limited ("FLAG Atlantic") to FLAG Telecom for \$175 million.

141. FLAG Atlantic was a 50/50 joint venture between GTS and FLAG Telecom to build FLAG Atlantic-1, a major subsea fiber network connecting the United States and Europe.

142. The October 31, 2000 press release quoted Schriesheim as saying:

This is an attractive agreement for GTS, particularly the large cash component. The \$175 million in cash and cost avoidance is the first significant step in our financing strategy. We currently anticipate announcing further steps in the near future.

143. Schriesheim's statement in the October 31, 2000 press release that the "\$175 million in cash and cost avoidance is the first significant step in our financing strategy" was false and misleading because it misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that under the Company's then-current plans, the Company intended to use the funds from the sale of FLAG Atlantic entirely to fund the anticipated divestment of its Business Services Division, Esprit, which the Company knew would cost at least \$190 million, and not in connection with any plans to finance the Company going forward.

144. The Company knew, at the time the October 31, 2000 press release was issued, that this divestment would cost approximately \$190 million based on the following:

- (a) At the time of the October 31, 2000 press release, Amman, Schriesheim, and Raclin knew that Esprit's operating costs were equal to a \$21.54 million per month. (GTS disclosed in its Form

10-Q for the quarter ended September 30, 2000 that the nine month cash drain from operating Esprit was \$193.8 million. This figure divided by 9 equals \$21.54 million.)

- (b) At the time of the October 31, 2000 press release, Amman, Schriesheim, and Raclin knew that the sale of Esprit would likely take six months to complete. (Defendants provided this estimate to analysts during a May 22, 2001 conference.)
- (c) At the time of the October 31, 2000 press release, Amman, Schriesheim, and Raclin knew that the expected costs associated with the divesting of Esprit would approach \$30 million. (Defendants disclosed these costs in the Company's Form 10-Q for the quarter ended September 30, 2000.)
- (d) At the time of the October 31, 2000 press release, Amman, Schriesheim, and Raclin knew that the Company would be required to fund the start-up costs for Esprit in connection with the divestment in the amount of approximately \$35 million. (GTS disclosed this requirement in its Form 10-Q for the quarter ended September 30, 2000.)

145. Moreover, Schriesheim's statement in the October 31, 2000 press release that the "\$175 million in cash and cost avoidance is the first significant step in our financing strategy" was also false and misleading because it misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that the Company's "financing strategy" was nothing more than Defendants' scheme for a systematic liquidation of the Company's assets, in a transaction leaving stockholders with no value.

#### The First Amendment of the Employment Agreements

146. By November 1, 2000, Defendants Amman, Raclin and Schriesheim knew that the Company could not survive as a going concern beyond the third quarter of 2001, and that

the Company's assets would need to be sold just to meet the Company's debt obligations over the next year.

147. In an effort to ensure that they would not suffer personally from what would ultimately be the demise of GTS, on or about November 1, 2000, Amman, Raclin and Schriesheim caused the Company to enter into Amended and Restated Employment Agreements with them, which significantly increased their compensation and, in particular, provided Raclin and Schriesheim with the opportunity to earn substantial bonuses following the completion of the fire sale of assets that ultimately resulted in the liquidation of the Company in a prepackaged bankruptcy. Compensation was linked not to Company success or the enhancement of stockholder value, but to the success of a restructuring that would profit management and leave stockholders with nothing.

148. The November 1, 2000 Amended and Restated Employment Agreement between Amman and GTS (the "Amman Amended Employment Agreement") increased Amman's annual base salary by 50% -- from \$400,000 to \$600,000 per year -- despite the Company's rapidly deteriorating financial condition.

149. The Amman Amended Employment Agreement also provided that Amman was eligible to receive a "Target Bonus," for each fiscal quarterly compensation period, in an amount up to one-quarter of 100% of Amman's annual base salary.

150. The November 1, 2000 Amended and Restated Employment Agreement between Schriesheim and GTS (the "Schriesheim Amended Employment Agreement") increased Schriesheim's annual base salary to \$400,000 per year.

151. The Schriesheim Amended Employment Agreement also provided that Schriesheim was eligible to receive a "Target Bonus," for each fiscal quarterly compensation period, in an amount up to one-quarter of 75% of Schriesheim's annual base salary.

152. The November 1, 2000 Amended and Restated Employment Agreement between Raclin and GTS (the "Raclin Amended Employment Agreement") provided that Raclin would receive an annual base salary of \$350,000 per year, and that Raclin was eligible to receive a "Target Bonus," for each fiscal quarterly compensation period, in an amount up to one quarter of 75% of Raclin's annual base salary.

153. The Schriesheim and Raclin Amended Employment Agreements also provided that Schriesheim and Raclin would be entitled to receive, in addition to their salary and the "Target Bonus," substantial "Severance Payments" following their "Termination without Cause" by the Company, in the amount of two times the sum of their annual base salary and "Target Bonus" for the entire year in which the "Termination" occurred.

154. The Schriesheim and Raclin Amended Employment Agreements made clear that Schriesheim's or Raclin's *voluntary resignations* from the Company after the third quarter of 2001, or following the completion of certain "Restructuring Actions," would be treated as a "Termination without Cause" by the Company:

- (a) Upon 30 days' written notice to the Company, following the completion of the Restructuring Actions; or
- (b) Upon 90 days' written notice delivered to the Company on or after October 1, 2001.

The new agreements thus provided Schriesheim and Raclin with a lucrative escape hatch following the Company's expected liquidation in the third quarter of 2001.

155. "Restructuring Actions" were defined in Paragraph 1(r) of the November 1, 2000 Schriesheim and Raclin Amended Employment Agreements as:

all of the following events: (i) the sale of some or all of the company's interest in Golden Telecom, Inc. (GTI) and/or all of the Company's interest in the company's Central European subsidiaries (GTS Hungaro, Inc., GTS Hungary Holding, Inc., GTS Poland Inc., GTS Czech, Inc., GTS Romania, Inc. and GTS Slovakia s.r.o.), or their assets, for at least \$150 million in total; (ii) the refinancing of Ebone with at least \$550 million from one or a combination of (1) bank financing, (2) other external debt or equity financing, or (3) the proceeds of asset sales, including the sale of GTI or the Central Europe Subsidiaries to the extent those proceeds exceed \$150 million; and (iii) the sale (to some or all of the holders of the publicly-traded bonds issued by Global TeleSystems (Europe) Ltd, or, with such bondholders' consent, to members of the Company's management or to a third party) or wind-down of substantially all of the companies and business currently constituting the Company's "Business Services" Division [*i.e.*, Esprit].

156. The November 1, 2000 Amended and Restated Employment Agreements were kept secret and not disclosed until April 13, 2001, when the Company filed its Form 10-K for 2000.

157. The inclusion in the Raclin and Schriesheim Amended Employment Agreements of provisions treating Raclin's and Schriesheim's resignation on or after October 1, 2001 as "Termination[s] without Cause" (entitling Raclin and Schriesheim to substantial "Severance Payments") demonstrates that Amman, Raclin and Schriesheim knew, by November 1, 2000, that GTS would not continue as a going concern beyond the third quarter of 2001. As shown below, Defendants embarked on a scheme to keep this information from GTS's employees, customers and the investing public in an effort to ensure that the secretly planned

dismemberment and dissolution of the Company would be implemented and that Amman, Raclin and Schriesheim would receive substantial bonuses under their employment agreements.

The Public Announcement of the Restructuring  
and the Dividing of GTS into Four "Stand Alone" Units

158. On November 13, 2000, GTS issued a press release reporting its third quarter 2000 results.

159. The November 13, 2000 press release also reported that the Company intended to commence the "restructuring":

GTS announced today that it will restructure its operations to focus on the company's core competency of providing broadband services to carriers, ISP's, ASPs, Web-centric entities and pan-European corporations. *The objective of the restructuring is to 1) unlock the value of this highly EBITDA positive business by creating a pure play data company which is today the leading provider of broadband services in Europe and 2) generate proceeds and reduce overall cash requirements from the potential sale of non-core, non-strategic businesses, which can be redirected to our core business.*

In order to implement this new strategy, GTS will manage the company as four "stand alone" business units: GTS Broadband Services; GTS Business Services; GTS Central Europe; and Golden Telecom. GTS will seek to sell its voice-based Business Services unit, as well as its Central Europe unit, and has retained CSFB to assist in the sale of these assets. (emphasis added)

160. The November 13, 2000 press release quoted Amman as saying:

By selling our Business Services and Central Europe units, we will focus on and leverage our position as Europe's leading broadband network solutions and services provider. Importantly, we will attack the pan-European corporate market by leveraging our strategic capabilities such as our Ebone backbone, robust optical network and our experience in serving Europe's most sophisticated customers. In addition, we will continue to provide carriers, ISPs, ASPs and Web-centrics with unparalleled managed bandwidth, data and IP services throughout Europe. We believe such a

focused strategy will yield significant benefits to our shareholders, customers and employees.

161. The November 13, 2000 press release quoted Schriesheim as saying:

Upon execution of this corporate restructuring, we simplify our structure and focus our resources on our highest value business -- a European data, pure play, highly EBITDA positive company, which is the leading provider of broadband services in Europe. Further, as a result of the restructuring activities, together with the recent FA-1 transactions, we expect to enhance our funding position by redirecting our resources to the broadband business.

162. The statement in the November 13, 2000 press release that the "objective of the restructuring" was to "generate proceeds and reduce overall cash requirements from the potential sale of non-core, non-strategic businesses, which can be redirected to our core business" was false and misleading because it misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that, under the Defendants' strategy, the proceeds generated from asset sales would not be "redirect[ed]" to the Company's "core business," but, rather, used to permit the Company to limp along until Defendants could complete the dismembering of the Company that would earn Amman, Raclin and Schriesheim substantial bonuses.

163. Amman's November 13, 2000 statement that the Company's "focused strategy" would "yield significant benefits to our shareholders, customers and employees" was false and misleading because it misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that under the Company's current "restructuring" strategy, GTS stockholders would receive no value from the restructuring and would be left holding worthless stock.

## The Second Amendment to the Employment Agreements

164. In January 2001, Amman, Raclin and Schriesheim again caused the Company to enter into further amendments of their employment agreements (the "Letter Agreements"). The Letter Agreements provided Amman, Schriesheim and Raclin with the opportunity to collect additional performance bonuses upon the completion of certain actions comprising the restructuring and additional financing of the Company.

165. Under the Letter Agreements, the Company agreed to provide Amman, Raclin and Schriesheim with "special performance" bonuses (in the amounts of, respectively, \$1.5 million, \$1.0 million and \$1.0 million), subject to the completion of certain "Triggering Events" tied to the plan to liquidate the Company.

166. The Letter Agreements provided that Amman, Raclin and Schriesheim would be entitled to cash payments equal to the following percentages of their "special performance" bonuses upon the occurrence of the following "Triggering Events":

1. Fifteen percent (15%) of the total Performance Bonus will be paid to you upon the consummation of the sales of some or all of the Company's interest in (i) the Central European subsidiaries of the Company, or businesses or assets owned by such subsidiaries . . . , or (ii) Golden Telecom, Inc., which sales in the aggregate provide cash or other consideration to the Company or its affiliates with a fair market value of at least one hundred fifty million dollars (\$150,000,000).
2. Twenty percent (20%) of the total Performance Bonus will be paid to you upon the Company's or its affiliates obtaining at least \$550 million of funding from one or more of: (i) the reaffirmation, modification or replacement of that certain Loan Agreement entered into by Global TeleSystems Holdings B.V. dated July 14, 2000 (the "Facility"),

reflecting the consequences of the Restructuring and the revised Ebone business plan; (ii) new equity financing on terms acceptable to the Board; or (iii) the proceeds of asset sales described (in "1") above to the extent that the sale proceeds exceed \$150 million;

3. Twenty percent (20%) of the total performance Bonus will be paid to you upon completion of (i) the currently-ongoing discussions with the holders of the publicly-traded bonds issued by Global TeleSystems (Europe), Ltd. ("Esprit") and the execution of a definitive agreement between Esprit and such Bondholders whereby the Bondholders either waive any then-existing defaults under such bonds or exchange such bonds for controlling equity in ; and (ii) the sale or winding up on terms acceptable to the Board of all or substantially all of the companies and businesses currently constituting the Company's Business Services Division.
4. Forty-five percent (45%), or the remainder, of the total Performance Bonus will be paid to you upon the completion of the last of "1", "2" and "3" above to be completed.

167. The Letter Agreements made clear that the "Performance Bonuses" payable therein were in addition to, and not in lieu of, the payments Amman, Raclin and Schriesheim were entitled to receive under the November 1, 2000 Amended and Restated Employment Agreements.

168. Although the Company entered into the Letter Agreements with Amman, Raclin and Schriesheim in January 2001, the Company did not disclose the Letter Agreements until April 30, 2001, when GTS filed with the SEC an amendment to its Form 10-K for 2000, following the cancellation of a scheduled annual meeting of GTS stockholders.

GTS Hires Duncan Lewis and  
Renames its Broadband Services Division "Ebony"

169. On or about January 15, 2001, Duncan Lewis joined GTS as its President and Chief Operating Officer.

170. On January 18, 2001, the Company announced in a press release that its main business unit, GTS Broadband Services, would be called "Ebony." Ebony was the name of GTS's Tier 1 IP backbone network and was a recognized brand in the broadband network services industry. The January 18, 2001 press release reported that the "re-naming [was] a direct result of GTS's 13 November 2000 statement, in which it announced a comprehensive restructuring to focus on its core business of broadband data and IP services."

GTS is Advised that Its Stock May Be  
Delisted by the New York Stock Exchange

171. On January 19, 2001, GTS received a notice from the NYSE, informing the Company that the NYSE might commence suspension and delisting procedures -- based on the failure of GTS to maintain a closing price for its common stock of at least \$1.00 over a period of 30 consecutive trading days.

172. The Company suppressed this information and failed to disclose the January 19, 2001 NYSE notice until April 13, 2001, when GTS filed with the SEC its annual report on Form 10-K for the year 2000.

The Weekly Reports Commence

173. Following the receipt of the NYSE notice, Defendants implemented a scheme to issue false and misleading statements about the restructuring and the Company's prospects in Weekly Reports to employees. One of the purposes of this scheme was to enlist

GTS employees in an effort to "get the word out" to Ebone customers (and prospective customers) that the restructuring would have no effect on Ebone's business, in an effort to ensure that these customers would not disperse while the restructuring was taking place, so that Defendants would be able to complete the asset sales that triggered the payment of substantial bonuses under their employment agreements. Defendants knew that if they lost the confidence of their customers, the Company could be forced by its banks, debtholders and creditors into an involuntary Chapter 7 bankruptcy, which would likely deprive them of their bonuses.

174. Defendants knew that their Weekly Reports would be distributed outside the Company and posted over the Internet to the general investing public, through, among other means, the GTS Message Boards (discussed below). Defendants knew that GTS stockholders would rely on the Weekly Reports when making decisions regarding their investments in the Company. Lewis, in fact, stated in a February 22, 2001 e-mail to Plaintiff Isabella that: "We do write to the whole company each week now, telling everyone what's going on. These letters will invariably slip out, but we feel it important to build confidence by open communication rather than hide!"

175. On March 10, 2001, Plaintiff Isabella informed Lewis via e-mail that she was "reading the latest update letter which has been posted on the board" and asked for his comments. Isabella included with her e-mail a quote from the Company's February 5, 2001 Weekly Report.

176. On April 22, 2001, Plaintiff Dedina informed Lewis via e-mail that the "GTS Club was created to allow meaningful discussion about the future of GTS . . . ." One week later, on April 30, 2001, stockholder Stefan Joris informed Lewis via e-mail: "You regularly

send [Weekly Reports] . . . to your employees, some of them make it to the private club board. Those are encouraging words and makes us believe our investment might make it after all."

177. On May 24, 2001, Plaintiff Dedina informed Raclin via e-mail that the "GTS Club is a public Yahoo message board that I founded for the purpose of providing a forum for meaningful discussion about GTS . . . . Our membership conservatively represents 7-10% of total shares outstanding, and offers a good bench mark of investor sentiment."

178. The first Weekly Report was distributed by the Company on January 22, 2001. The letter, which was signed by Amman and Lewis, stated in part:

We thought it might be helpful to everyone in GTS if we wrote more often to update you on how we are progressing with the restructuring of the company.

. . . [W]e have to ensure our customers understand that this is a business which generated substantial EBITDA last year *and for which we have the necessary financial resources to continue development over the foreseeable future.*

. . . .

We are entering the second week since Duncan has joined GTS with a great feeling of optimism. (emphasis added)

179. The statement in the January 22, 2001 Weekly Report that GTS had "the necessary financial resources to continue development over the foreseeable future" was false and misleading because it misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statements made not false or misleading -- that there was a substantial risk that the Company would not achieve profitability or positive cash flow in the future. In fact, the Company warned of this risk in its September 30,

2000 Form 10-Q, which was filed with the SEC on November 14, 2000 -- more than two months *before* the January 22, 2001 Weekly Report was issued:

The Company cannot assure you that its operations will achieve or sustain profitability or positive cash flow in the future. If the Company cannot achieve and sustain operating profitability or positive cash flow from operations, the Company may not be able to meet its debt service obligations or working capital requirements.

180. The statement in the January 22, 2001 Weekly Report that GTS had "the necessary financial resources to continue development over the foreseeable future" was also false and misleading because it misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that there was a substantial risk that the Company's subsidiary would default on its bond debt, having an adverse effect on the creditworthiness of the Company. In fact, the Company warned of this risk in its September 30, 2000 Form 10-Q, which was filed with the SEC on November 14, 2001:

If Esprit Telecom's available sources of funds are insufficient to make principal and interest payments on Esprit Telecom's debt, it may need to renegotiate the terms of, or refinance, such debt. If Esprit Telecom fails to make the required payments or to comply with the covenants under such debt, Esprit Telecom will default on those debt obligations. An event of default would permit holders of Esprit Telecom's debt to accelerate the maturity of that debt, which in turn could, absent GTS's receipt of the consents being solicited in the consent solicitation to the proposed amendments to the indenture governing the Notes and execution of the Supplemental Indenture, cause a potential cross-acceleration under such indenture. Such a cross-acceleration could have a material adverse effect on the creditworthiness of the Company . . .

### The Formation of the GTS Investment Club

181. On January 28, 2001, Plaintiff Dedina founded the GTS Club, a monitored bulletin board within the Yahoo domain. The GTS Club bulletin board was accessible to the general public, including all GTS stockholders via the Internet at no cost. Previously, stockholders of GTS could communicate by using the Yahoo! Finance GTS message board, which was also accessible to the general public via the Internet at no cost.

182. At all relevant times, Defendants were aware of the GTS Message Boards. On February 2, 2001, Dedina sent an e-mail message to Lewis, in which he stated: "I hold over 50,000 shares of GTS and am the founder of the GTS club . . . ." Dedina repeated this disclosure in an e-mail to Lewis on March 11, 2001, when he stated: "On January 28, 2001, I founded the GTS Club, a monitored message board within the Yahoo domain." In his March 11, 2001 e-mail, Dedina specifically asked Lewis to "craft an e-mail for public consumption that I could post at the GTS Club." Lewis stated in April 10, 2001 e-mail that "I -- and others -- do read the Investor Board . . . and more besides" and, as just discussed, Lewis was aware that he was publishing emails for public consumption on behalf of all Defendants and the Company. In addition, Amman and Lewis openly discussed the GTS Message Boards with Plaintiffs Kelly and Dedina during a May 22, 2001 analyst conference in New York.

183. The Company's Weekly Reports to employees, and Lewis' e-mail communications to Plaintiffs, were posted on the GTS Message Boards with Defendants' knowledge and consent.

184. Defendants regularly tracked the GTS Message Boards, and were aware of their contents. In fact, on April 20, 2001, GTS Investor Relations stated in an e-mail to stockholder Joris:

For your information, we regularly track the Yahoo message board and the Yahoo "GTS club site" and Investor Relations keeps our management informed about anything that may be relevant. You can be assured that we are doing our best to understand our shareholders.

Lewis Begins Communicating with  
Plaintiffs on Behalf of GTS with the  
Knowledge of Amman, Schriesheim and Raclin

185. As a result of the posting of the Company's Weekly Reports on the GTS Message Boards, certain GTS stockholders began communicating with Lewis and other GTS officers directly via e-mail regarding the GTS restructuring and the prospects of the Company. In furtherance of their scheme to mislead employees, customers and stockholders, Lewis, with the knowledge and approval of Defendants Amman, Schriesheim and Raclin, issued a series of false and misleading e-mail messages to Plaintiffs Dedina and Isabella and stockholder Gary Ryan (with copies of many of these messages being sent by Lewis to GTS's Investor Relations office). In an April 20, 2001 e-mail to stockholder Joris from GTS Investor Relations, the Company admitted that "Duncan Lewis, our CEO, spends a considerable amount of time responding to shareholder enquiries on an individual basis." Lewis' e-mail responses were posted on the GTS Message Boards, and entered the market for publicly traded securities. In an August 16, 2001 e-mail directed to Defendant Raclin but mistakenly also sent to one of the plaintiffs, Defendant Amman admitted "that Duncan does respond to e-mails and these responses get posted on the GTS message board." In an October 21, 2001 e-mail to Plaintiff Isabella,

Lewis admitted that "everything I say within the company and outside gets put on the bulletin boards and reported elsewhere."

186. On February 7, 2001, Lewis responded to Dedina's February 2, 2001 e-mail. Lewis' February 7, 2001 response was posted on the GTS Message Boards in or about February 2001. Lewis wrote:

Thank you for your recent e-mail and your ideas concerning GTS's capital structure. We are constantly evaluating opportunities as they relate to our capital structure and *how we can optimise it to the benefit of existing shareholders*. This is especially true in light of the recent price decline in both our share price and our other publicly traded securities. . . .

In light of these external events, *GTS management conducted an extensive strategic review of our businesses with the objective of determining the appropriate course of action to maximize value for shareholders*. This review has caused us to adjust and narrow the strategic direction of the company. . . .

*As part of this plan, we intend to seek buyers for our Business Services unit, and for our Central Europe retail operations*. We have retained Credit Swiss First Boston to assist us in these sales. *Our expectation is that the sale of Central Europe will generate cash to fund the broadband services expansion*. The sale of Business Services may generate some cash as well, but, most importantly, it will eliminate our need to fund the losses of this business. . . .

We believe that the changes detailed above will produce a simplified and more transparent business, which will make it easier for the investor community to understand and appreciate the value of our broadband services business. In short, *when this plan is fully executed, we plan to emerge as a high-growth, highly EBITDA positive, all data-business that is Europe's leading broadband data services company*.

As far as the company's capital structure is concerned, we constantly evaluate opportunities that will enhance shareholder value. Many of the issues surrounding such opportunities are often quite complex that are not readily apparent to outside investors.

But I can assure you that we are diligently reviewing all avenues to enhance shareholder value. (emphasis added)

187. Lewis' statements in the February 7, 2001 e-mail that: (1) the Company was seeking to "optimize" its capital structure "to the benefit of existing shareholders"; (2) GTS management "conducted an extensive strategic review of our businesses with the objective of determining the appropriate course of action to maximize value for shareholders"; (3) "[a]s part of this plan, we intend to seek buyers for our Business Services unit, and for our Central Europe retail operations"; and (4) "when this plan is fully executed, we plan to emerge as a high-growth, highly EBITDA positive, all data-business that is Europe's leading broadband data services company" were false and misleading because they falsely suggested that the Company was taking steps to enhance stockholder value, and misrepresented and/or omitted to state the material facts -- which then existed and the disclosure of which was necessary to make the statements made not false or misleading -- that under the Company's current restructuring plans, the Company would not continue as a going concern following the restructuring, any funds generated from the sale of Business Services and the Central Europe retail operations would not produce value for stockholders, and the purpose of the restructuring was to sell off the Company's non-core assets, preparatory to a liquidation.

188. Lewis' statement in the February 7, 2001 e-mail that the Company's "expectation is that the sale of Central Europe will generate cash to fund the broadband services expansion" was false and misleading because it misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that the sale of Central Europe, by itself, would not

raise sufficient cash to fund the expansion of the Company's broadband services. As the Company reported in its 2000 Form 10-K, which was filed with the SEC on April 13, 2001:

To address its longer-term funding needs, the Company is in the process of potentially divesting its Central European business operations *and* is seeking to refinance its indebtedness under the Amended Bank Facility (through a long term facility or otherwise), exploring opportunities to reduce its outstanding debt obligations *and* seeking additional funding, including through the issuance of new equity or debt securities. If the Company cannot raise additional capital through *these steps* or otherwise, however, the Company may be compelled to examine and pursue other alternatives, including instituting cash conservation measures, which may include a substantial curtailment of capital and other expenditures, a sale of assets (in addition to those assets the Company is trying to sell as part of the Restructuring), a sale of the Company, halting certain operations of the Company, or seeking the protection of applicable bankruptcy laws for units of the Company or the Company as a whole.

Lewis' February 28, 2001 E-mail  
Communication with Plaintiff Isabella Regarding a  
Failure to Pay Dividends on the Company's Preferred Stock

189. On February 28, 2001, GTS issued a press release announcing that the Company's Board of Directors elected not to pay dividends on the Company's 7-1/4 percent cumulative preferred stock that quarter.

190. Plaintiff Isabella communicated directly with Lewis later that day via e-mail, asking whether the decision not to pay dividends was indicative of the Company's financial results, and whether it would have an effect on the Company's stock price.

191. In his February 28, 2001 e-mail response (which was posted on the GTS Message Boards in or about February or March 2001), Lewis deliberately played down the import of the Company's announcement, describing the Company's decision not to pay dividends as "really a technical issue." Lewis' statement was false and misleading because it

misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that the Company's decision not to pay dividends was based on the Company's worsening financial conditions and dwindling cash reserves.

The March 19, 2001 Weekly Report:  
"Reshaping the GTS and Ebone Organisations for the Future"

192. In furtherance of their scheme to mislead customers, employees and stockholders about the restructuring, and the Company's prospects, Defendants issued another Weekly Report to employees on March 19, 2001. The March 19, 2001 Weekly Report was posted on the GTS Message Boards in or about March 2001.

193. The March 19, 2001 Weekly Report, which was signed by Amman and Lewis, stated in part that:

We explained in our last letter that we are now entering the final stages of the restructuring process. As a result, we are in exceptionally sensitive discussions with a number of parties right now. For this reason, we are not able to give you a great deal of additional detail in this status report as this could put those discussions at risk. Suffice to say that we continue making very good progress on all fronts and we will make any announcements as soon as the time is appropriate.

What we can say, however, is that we are *sufficiently confident of a successful outcome that we have begun reshaping the GTS and Ebone organisations for the future*. This was described in detail in the announcement that we put out on Thursday. . . .

. . . .

2001 is a year of transition for the company. *We are going to leave this year demonstrating to our customers, our shareholders and ourselves, that we have made the transition, and have established the basis of growth again.* (emphasis added)

194. The statement in the March 19, 2001 Weekly Report that the Company was "sufficiently confident of a successful outcome that we have begun reshaping the GTS and Ebone organisations for the future" was false and misleading because it misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that the Company was not confident that the Company would remain a viable entity at the conclusion of the restructuring. As the Company admitted in its 2000 Form 10-K, which was filed with the SEC on April 13, 2001, the success of the restructuring was hardly a foregone conclusion:

Our Common Stock may be delisted.

.....

We may be unable to meet our substantial debt obligations.

.....

As a result of our current high level of debt, we:

- Will need significant cash to service our debt, which will reduce funds available for operations, future business opportunities and investments in new or developing technologies and make us vulnerable to adverse economic conditions;

.....

- May not be able to refinance out existing debt or raise additional financing to fund future working capital, capital expenditures, debt service requirements, acquisitions or other general corporate requirements;

.....

We may continue to have substantial net losses indefinitely which may make it difficult to fund our operations.

Agreement with Senior Noteholders of Esprit

195. On March 28, 2001, the Company issued a press release announcing that it reached a consensual agreement with an unofficial committee of the senior noteholders of the Business Services Division (Esprit), under which the obligation to repay approximately \$500 million of senior debt owed to the noteholders would be exchanged for a 90 percent ownership interest in a new business unit comprised of Esprit and other GTS subsidiaries that comprised GTS's "Business Services" unit (the "Esprit Restructuring").

196. The March 28, 2001 press release reported that the Esprit Restructuring was to be accomplished through a "scheme of arrangement" under Part XIII of the UK Companies Act of 1985, and that it was conditioned upon at least 75% of the face value of the notes, and 50% of the number of noteholders, voting in favor of the scheme and the High Court of England and Wales approving it.

197. The March 28, 2001 press release quoted Schriesheim as saying:

Through this agreement, GTS limits its financial exposure while retaining an interest in possible future growth of the voice business. In addition, the agreement also enables GTS to focus its resources on developing Ebone, our high margin broadband and data business. We continue to work on other restructuring programs, including the sale of certain non-core assets that will enhance our funding position and Ebone's strategic position.

198. Schriesheim's statement in the March 28, 2001 press release that "[t]hrough this agreement, GTS limits its financial exposure while retaining an interest in possible future growth of the voice business" was false and misleading because it misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that the Company's financial

exposure was not "limited" as a result of the Esprit agreement, and that under the Company's current restructuring plan, the Company would not continue as a going concern.

199. Moreover, Schriesheim's statement in the March 28, 2001 press release that "[w]e continue to work on other restructuring programs, including the sale of certain non-core assets that will enhance our funding position and Ebone's strategic position" was false and misleading because it suggested that the Company would own Ebone following the restructuring, and misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that under the Company's current restructuring plan, Ebone would be sold as part of the restructuring in a transaction leaving stockholders no value.

The April 5, 2001 Press Release Falsely States that GTS had Access to E300 Million

200. On April 5, 2001, GTS issued a press release reporting its fourth quarter 2000 results.

201. The April 5, 2001 press release quoted Amman as saying:

Our 2000 financial results reflect the comprehensive restructuring programme that we announced last November. We have made great progress in that we have reached an agreement with a committee of Esprit noteholders to eliminate approximately \$500 million in debt and spin-off our voice businesses; we have sold, or have agreements to sell, non-strategic assets for a total of \$260 million; and we have *entered into an amended bank agreement which gives us access of up to E300 million over the next two years*. As a result of all these accomplishments, we are now funded into 2002 and have *excellent prospects for funding the Company well beyond that date*. In addition, our Ebone and Central European businesses had strong EBITDA positive performances in 2000 and have excellent prospects for 2001. (emphasis added).

202. Amman's statement that the Company had "entered into an amended bank agreement which gives us access of up to E300 million over the next two years" was false and misleading because it misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that by April 5, 2001, the Company had drawn down E200 million from the line of credit, and thus had "access" to only E100 million. In fact, Amman's statement was contradicted by the Company's March 31, 2001 Form 10-Q, which disclosed that "[a]s of March 31, 2001," the Company "had drawn down e200 million of these funds."

203. Amman's statement that the Company had "excellent prospects for funding the Company well beyond" 2002 was false and misleading because it misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that the Company's prospects for funding the Company beyond 2002 were uncertain. As the Company admitted in its 2000 Form 10-K, which was filed with the SEC on April 13, 2001 -- only eight days after Defendants issued the April 5, 2001 press release:

We may be unable to meet out substantial debt obligations.

We have incurred substantial debt and may incur substantial additional debt to implement our business plans. Our ability to make principal and interest payments on our debt, even if the Esprit Restructuring is completed, will depend upon, among other things, our future operating performance. Our future operating performance depends on a variety of factors, many of which are beyond our control. Because of this uncertainty, we cannot assure you that we will generate sufficient cash flow to make payments on our debt.

Lewis' April 11, 2001 E-Mail  
Communication with Plaintiff Dedina

204. On April 11, 2001, Plaintiff Dedina e-mailed Lewis, suggesting that the Company commence a share repurchase to "make the shareholders happy . . . ."

205. Lewis responded via e-mail that day:

Thank you for the time you spent writing to us. My colleagues and I do appreciate it. I am sure you realise that I cannot comment directly on what you say. However, I am sure you also realise that the new team is very conscious of all the parameters with which it is wrestling and *has one objective: to improve the company for our stockholders.* (emphasis added)

206. Lewis' statement that the sole objective of the "new team" was to "improve the company for our stockholders" was false and misleading because it misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that under the Company's current restructuring plans, the restructuring would not produce any value for stockholders.

Amman Reports the Company to be  
"Off the Critical List and on  
Its Way to Becoming a Great Success"

207. On or about April 5, 2001, Amman stated at an analysts conference, referring to the Company's purported 38% increase in revenues in 2000 over 1999, that the Company is "off the critical list and well on [its] way to becoming a great success."

208. Later, on April 30, 2001, stockholder Joris sent an e-mail to Lewis, asking him why the Company's stock price was "being 'boxed' in [an] undervalued price range."

209. In his April 30, 2001 e-mail response (which was posted on the GTS Message Boards in or about May 2001), Lewis stated, in part:

I am sure you understand that I am not allowed to answer your specific questions, because I may not put information into the hands of one shareholder which is not available to all shareholders.

That said, let me touch upon some general issues.

We were fairly silent during the first quarter of this year, as we wished to get on with the restructuring of the company along the lines we announced at the end of last year . . .

*We have extraordinary assets; extraordinary ranges of skills; and we are now very confident about our future.* Within the industry, we are now therefore taking a very pro-active approach on the public relations front. For example, we launched a major initiative last week to tackle what is known as 'access', and this has created a wide amount of interest amongst journalists and investment analysts. It is an expression of management's belief itself, in the company, in our customers, in our investors. (emphasis added)

210. Amman's statement on April 5, 2001 that the Company was "off the critical list and on [its] way to becoming a great success" and Lewis' statement in his April 30, 2001 e-mail that the Company was "very confident about [its] future" were false and misleading because they misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that management knew that it would not emerge from the restructuring as a going concern, and was, in fact, not confident at all about the Company's future. As the Company admitted in its 2000 Form 10-K, which had been filed with the SEC contemporaneously with these statements on or about April 13, 2001, the Company feared (i) its common stock would be delisted, (ii) it would be unable to meet its debt obligations, (iii) it would need significant cash to service debt (which would reduce funds available for operations and make the Company vulnerable to adverse economic conditions), (iv) it would not be able to refinance existing debt or raise additional financing to fund future working capital and other needs, and (v) it would continue to have substantial net losses indefinitely.

The May 10, 2001 Weekly Report Fails to Disclose the Fact of the Liquidation

211. On or about May 10, 2001, the Company issued another Weekly Report, again signed by Amman and Lewis. The May 10, 2001 Weekly Report was posted on the GTS Message Boards in or about May 2001.

212. In furtherance of Defendants' scheme to ensure that, while the restructuring was being implemented, (i) the Company's customer base would not disperse, (ii) trading in GTS stock would continue, and (iii) Amman, Raclin and Schriesheim would receive substantial "performance" bonuses tied to the "Restructuring Actions," the Weekly Report urged the Company's employees to "get the word out" to customers about the Company's bright prospects:

*Dear Colleagues, Now is the time to start raising the profile of the company even further. No other company in Europe has done what we have done in so short a time. The combination of our banking agreement, the sale of our stake in Golden Telecom, the restructuring of Business Services, and the reorganisation of Ebone give us a tremendous base from which to continue moving forward. To have done all of this so quickly and to have continued selling and delivering our products despite tough market conditions is a testament to the quality of our company . . . We are fed up hearing from our competitors how wonderfully they are doing, when they are using every trick in the accounting book to give the impression of revenue growth. More galling still is the fact that few - if any - are EBITDA positive, while Ebone stands alone as a generator of strong earnings before the costs of depreciation, amortization, interest and tax! Some have gone so far as to publicly say that they are gaining in the market at our expense. Rest assured, we have quickly and aggressively followed up these comments to set the record straight. (emphasis added)*

213. The statement in the Weekly Report that the "combination of our banking agreement, the sale of our stake in Golden Telecom, the restructuring of Business Services, and

the reorganisation of Ebone give us a tremendous base from which to continue moving forward" was false and misleading because it suggested that the Company's restructuring had been successful and misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statements made not false or misleading -- that Defendants had already begun to orchestrate the Company's liquidation, and that the "restructuring" was but a series of asset fire sales needed to keep the Company going until Defendants could complete their plan to sell off core assets of the Company. As the Company conceded in its Form 10-Q for the quarter ended March 31, 2001 (which was filed with the SEC on May 21, 2001):

Although the Company believes it has made significant progress to complete the Restructuring and to enhance its liquidity position, the future viability of the Company will depend upon the Company's ability to complete those aspects of the Restructuring, which will fund its operations through the first quarter of 2002, and to access additional capital to fund its operations after the first quarter of 2002.

214. On May 10, 2001, Plaintiff Isabella e-mailed a copy of the Weekly Report described above to Lewis. Isabella noted in her e-mail that the Weekly Report was "being circulated" and asked if it was authentic. In his May 10, 2001 response (which was posted on the GTS Message Boards in or about May 2001), Lewis said it was, and suggested that the Company's prospects were even better than portrayed in the letter. Neither Lewis nor any of the other Defendants in fact believed this was the case.

Defendants Fail to Disclose  
the True Intent of the Debt-for-Equity Swaps

215. Defendants were concerned that the Company's debt burden and substantial monthly interest payments would result in a default on its bonds and thus on its bank

facility due to the cross default provisions, which could permit bondholders or banks to file an involuntary Chapter 7 liquidation proceeding against the Company. An involuntary bankruptcy proceeding would obviously thwart the effectuation of the "restructuring" and the contemplated transaction with KPNQwest, and likely deny Defendants their anticipated bonuses.

216. To prevent adverse actions by the bondholders, Defendants commenced debt-for-equity swap negotiations with certain bondholders, which if effected would have prevented such bondholders from being able to initiate an involuntary Chapter 7 proceeding. Defendants never had any illusions that such debt-for-equity swaps would result in the elimination of all or substantially all of the Company's debt, but recognized that the on-going swap negotiations would not only convince the members of the bank facility syndicate and the bondholders that the financial condition of the Company was improving, but also further Defendants' message to its constituencies that the "restructuring" was proceeding and thus help maintain the critical customer base.

217. On April 18, 2001, the Company entered into an agreement with a third party to exchange the third party's holding of \$53,080,000 aggregate principal amount of the Company's 5.75% senior subordinated convertible debentures due 2010 (the "Debentures") for 10,616,000 shares of the Company's common stock.

218. On May 18, 2001, the Company entered into agreements with three third party holders of an additional \$51,415,000 aggregate principal amount of the Debentures for 11,876,865 shares of the Company's common stock. Following the exchange, the debentureholders immediately sold some of the shares of GTS common stock they received, resulting in a substantial reduction in the Company's stock price.

219. The Company did not announce the April 18 and May 18 debt-for-equity exchange until an analyst conference held in New York on May 22, 2001.

220. Later that day, after the conference and the bondholder meeting had concluded and the market responded to the news, Plaintiff Isabella sent an e-mail to Lewis, commenting that "this was truly a bad day for GTS stock." In his May 22, 2001 e-mail response (which was posted on the GTS Message Boards in or about May or June 2001, along with Isabella's May 22, 2001 e-mail), Lewis once again misrepresented the Company's financial condition and its prospects, and indicated that the Company's stock price would rise in the future:

We have to tell things as they are. There are two parts to turning around GTS. The financial restructuring and the operational restructuring. Both take time to work through. You cannot for example, change the cost base of the company over night - especially a network company where costs are quite fixed! I have been dealt a tough hand on revenues and costs from last year, and after four months, can only change what can be changed. I have warned however, of how things will turn. You have to bear in mind that a lot of stock flooded the market today as we continue to reduce the debt in the company. This will depress the share price for a period . . . *I remain convinced with all the management team, that we have a fine asset with a poor history of management, and we shall turn it along the lines I described today.*

Patience! My grandmother whom I adored, always said patience wins out. (emphasis added)

221. Lewis' statement that he remained "convinced with all the management team, that we have a fine asset with a poor history of management, and we shall turn it along the lines I described today" was false and misleading because it misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make

the statement made not false or misleading -- that management was not convinced that the Company would be able to emerge from the restructuring as a going concern.

#### Raclin Hides Central Europe Assets

222. Beginning in or about April 2001, in an effort to prevent the GTS bondholders from forcing the sale or spin off of its Central Europe operations, Defendants undertook a complex inter-company transfer of these operations to entangle them with other entities so the "restructuring" could be consummated. More specifically, Raclin ordered his staff to transfer the various subsidiaries comprising the Central Europe operations into a new entity, GTS Central Europe Holdings B.V., so as to frustrate an anticipated demand at a scheduled May 22, 2001 bondholder meeting in New York for a sale or spin off.

223. By mid-May 2001, the draft transfer agreements relating to the various subsidiaries were nearly completed, with a targeted execution time just hours before the bondholder meeting. However, in the rush to transfer the subsidiaries, there was confusion within the Company as to where the subsidiaries should be transferred, uncertainty as to what price should be assigned to the subsidiaries for the inter-company transfers and indecision as to whether and how far to back-date the transfers.

224. In an e-mail dealing with the confusion and uncertainty, Raclin wrote on Sunday, May 20, 2001:

"It just seems there are too many issues to resolve for us to transfer the [Central Europe] companies out of the Inc. by Tuesday[, May 22]. In addition, we seem to be risking accomplishing the transfer in a way we'll regret later. For example, in the rush, there seems to have been a miscommunication or misunderstanding somewhere that the companies should be transferred to Europe BV instead of CE Holdings BV. That would be far more trouble than it would be worth. Rather than rush and do it in a way that we regret -- and

while I appreciate the effort to be response [sic] to my desire to tell the bondholders its too late to worry about it -- let's just stand down from the immediate rush and transfer the companies to CE Holdings BV as soon as possible as we planned.

Lewis' May 25, 2001 E-mail Communication with Plaintiff Isabella Discussing Rumors of Bankruptcy

225. On May 24, 2001, Plaintiff Isabella sent an e-mail to Lewis, asking him to comment on a report she had read that "GTS would go chapter 11 rather than a buyout if it ever came." Isabella advised Duncan, "for the sake of many investors," not to file for bankruptcy court protection.

226. In his May 25, 2001 response (which was posted on the GTS Message Boards in or about May or June 2001, along with Isabella's May 24, 2001 e-mail), Lewis suggested that stockholders like Isabella had little to fear from a bankruptcy filing:

We shall always do what is right for the company. I think the fact is that few if any, would look at the company right now, as we have such a large debt burden. This is despite being one of the few companies in Europe in this sector which have positive earnings before the costs of interest and depreciation! And an exceptional network and the rest. I also think there is a lot of misunderstanding about Chapter 11. I know less about it than the European equivalents, despite a lot of US experience, but effectively, these procedures can be used to reorganise companies to be profitable long term.

227. Lewis' statement that U.S. bankruptcy court "procedures can be used to reorganise companies to be profitable long term" was false and misleading, because it suggested that stockholders would stand to gain from a GTS bankruptcy filing and misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that GTS stockholders would recover nothing if GTS sought bankruptcy court protection, because the market value of the Company

was far short of what would be necessary to repay the Company's publicly debtholders and other creditors and provide any value to the Company's stockholders.

Lewis' May 28, 2001 E-mail  
Communication with Stockholder Ryan  
Regarding Previously Undisclosed Debt-for-Equity Swaps

228. On May 28, 2001, stockholder Ryan sent an e-mail to Lewis, noting that he was "quite surprised to interpret that GTS has been selling their own equity (shares) into the marketplace to feed the current debt although so much trimming has already taken place on the restructuring and sell off." Ryan asked why the Company had not disclosed the debt-for-equity exchanges earlier.

229. In his response later that day (which was posted on the GTS Message Boards in or about May or June 2001, along with Ryan's May 28, 2001 e-mail), Lewis falsely stated that the depressive effect on the Company's stock price of the debt-for-equity exchanges was "short term":

We did use the investor relations conference last week to explain that we had recently been approached by debt holders to ask for us to issue shares to them in exchange for debt. *We concluded that this was the right thing to do, whilst there can be a short term depressive effect on the share price, in the longer term, it relieves the company of interest burdens and allows us to invest the cash in the business.* We have only issued a small amount of our total stock -- well within the rules -- and announced what had happened as soon as we could. (emphasis added)

230. Lewis' statement that the debt-for-equity exchange would have a "short term depressive effect on the share price" was false and misleading because it suggested that management believed the Company's stock price would rise in the future as a result of the restructuring and misrepresented and/or omitted to state the material fact -- which then existed

and the disclosure of which was necessary to make the statements made not false or misleading -  
- that management had no such expectation. As the Company had previously admitted in its  
2000 Form 10-K, which was filed with the SEC on April 13, 2001, "there can be no assurance  
that the market price [of GTS common stock] will recover to its former levels."

Lewis' May 30, 2001 E-mail  
Communication with Stockholder Casola  
Calling for Stockholder "Patience" and "Courage"

231. On May 30, 2001, stockholder Robert Casola sent an e-mail to Lewis, commenting on the address Lewis gave at the May 22, 2001 analysts' conference in New York. Casola stated that he was "confident you will bring back the shareholder value we have lost. Listening to you on your conference is very reassuring and again thank you for caring about your investors."

232. Lewis responded later that day via e-mail: "Thank you. We are now at the courage and patience stage! Kindest regards." Lewis' May 30, 2001 response was posted on the GTS Message Boards in or about June 2001.

233. Lewis' statement that the stockholder exercise "patience" and "courage" was false and misleading because it suggested that management believed the Company's stock price would rise in the near future as a result of the restructuring and it misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that management had no such expectation.

Negotiations with KPNQwest Resume and  
Employment Agreements are Amended a Third Time

234. On May 31, 2001, Von Deylen, GTS's Senior Vice President, Finance (Principal Accounting Officer) and Ebone's Chief Financial Officer, resigned to join KPNQwest.

Following Von Deylen's departure, GTS and KPNQwest renewed secret negotiations, initially begun in or about June 2000, for the sale of Ebone and GTS's Central Europe division to KPNQwest. On July 31, 2001, KPNQwest and the Company entered into a Confidentiality Agreement in connection with these negotiations.

235. Defendants knew that Von Deylen's departure for KPNQwest virtually ensured that KPNQwest would go forward with its plans to acquire GTS's Ebone and Central Europe divisions from the Company. To exploit this inside information, and to enrich themselves at stockholders' expense, Defendants Amman, Raclin and Schriesheim caused the Company to enter into further amendments to their employment agreements, dated as of June 23, 2001 (the "Agreements Regarding Certain Compensation"), providing for a 160% increase of their annual base salaries as of July 1, 2001 (i.e., to \$3.5 million from \$1.35 million) and the payment on July 1, 2001 of "retention bonuses" in the aggregate amount of \$5.5 million. The Agreements Regarding Certain Compensation also provided for the payment of an aggregate amount of up to \$2.975 million in satisfaction of the performance bonuses under the January 2001 Letter Agreements, and the payment of up to \$6 million to Defendants upon the completion of either of the following events: (1) a restructuring of the balance sheet of the Company and GTS Europe BV (collectively, the "Companies") pursuant to consensual written agreements between the Companies and formal or informal committees representing the holders of publicly traded debt, common stock and/or preferred shares of or issued by the Companies; and (2) the sale of all or substantially all of the equity in or assets of either of the Companies. Assuming payment of the full annual salaries and the target bonuses of \$3 million, these Defendants were

now poised to make \$20.975 million -- about 52% of the total market capitalization of the Company as of June 23, 2001.

236. Amman, Raclin and Schriesheim engineered the execution of the Agreements Regarding Certain Compensation because they knew that the Company would not continue as a going concern, and would seek the protection of the bankruptcy courts to consummate the planned sale of Ebone and Central Europe to KPNQwest.

237. A summary of the pertinent compensation terms of the Amended and Restated Employment Agreements, the Letter Agreements and the Agreements Regarding Certain Compensation -- which includes a depiction of how total maximum cash compensation increased sharply as the bankruptcy filing date came closer -- is set forth in the Summary of Action section of this Complaint.

238. While the Company has never publicly disclosed its compensation to Lewis, former high-ranking GTS and KPNQwest employees have revealed that Lewis received severance and/or retention compensation of \$3 million or more in connection with the restructuring.

239. The disclosure of the Agreements Regarding Certain Compensation and the Lewis Bonus would have alerted GTS's customers, employees and stockholders that the Company would not continue as a going concern and that management was preparing to bail out (and cash in), thereby jeopardizing the Company's ability to sell Ebone and Central Europe to KPNQwest. Therefore, Defendants kept secret the Agreements Regarding Certain Compensation and the Lewis Bonus and did not publicly disclose the former until October 19, 2001 -- *after* the deal with KPNQwest had been announced -- when the Company filed an

amended Form 10-Q for the quarter ended June 30, 2001. (The Lewis Bonus has never been publicly disclosed.) On Monday, October 21, 2001, the price of GTS's common stock closed at \$0.005 -- literally half a penny per share. This was a drop of 93% from the closing price of \$0.076 on Thursday, October 17, 2001, before the announcement of the KPNQwest transaction and the disclosure of the June 23, 2001 Agreements Regarding Certain Compensation.

GTS Elects Not To Pay Interest on  
Certain Bonds which Amman Falsely  
Describes as an Opportunity for All Stakeholders

240. On June 1, 2001 -- one day after Von Deylen resigned from GTS to join KPNQwest -- the Company and GTS Europe BV ("GTS Europe") issued a press release announcing their plans to initiate discussions with the holders of their public debt and preferred securities regarding a balance sheet recapitalization to reduce the debt and interest burden on the two companies. The press release noted that, "[i]n view of these pending discussions," GTS Europe "decided not to pay" certain cash interest payments on its bond debt.

241. The press release quoted Amman as saying:

We are taking these actions as a major step toward recapitalising the balance sheets of these companies at a time when our liquidity has been strengthened through our recent restructuring successes. We intend to begin consensual discussions next week with the holders of all of the public debt and preferred securities of GTS and GTS Europe BV. In these discussions, we will explore various options for reducing our E1.65 billion total public debt burden and the E158 million in associated annual cash obligations *in an effort to provide greater upside opportunities for all of our stakeholders.* (emphasis added)

242. Amman's statement that GTS was exploring options for reducing its debt burden "in an effort to provide greater upside opportunities for all of our stakeholders" was false and misleading because it suggested that there existed "upside opportunities" for equity holders

in connection with the options the Company was exploring to reduce its debt burden, and misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that under the Company's current restructuring plans, the opposite was the case. In fact, as discussed below, in its Form 10-Q for the quarter ended June 30, 2001, which was filed with the SEC on August 14, 2001, the Company admitted that following a consensual agreement between the Company and its bondholders, the Company's current stockholders would "likely" receive "minimal or no consideration for their GTS stock."

Lewis' June 1, 2001 E-mail Communication with Stockholder Casola in which Lewis Falsely Portrays a GTS Bankruptcy as Producing Value for Stockholders

243. On June 1, 2001, stockholder Casola sent an e-mail to Lewis, noting that he hoped "these rumors of [bankruptcy] are just some nightmare and not reality." The stockholder stated that "[a]ny comment would be appreciated."

244. In his June 2, 2001 e-mail response (which was posted, along with Casola's June 1, 2001 e-mail, on the GTS Message Boards in or about June 2001), Lewis stated that a GTS bankruptcy would produce value for stockholders:

I honestly cannot answer your question specifically at this stage, as the final capital structure of the company will result from the negotiations with the bondholders. *What I can say is that at the end, equity and debtholders will own a clean 'Ebony' as good as debt free, strong EBITDA, powerful position in Europe, tremendous management team, and everything to go for.* After a lot of personal thought (and some anguish), I truly believe it is better to clear the debt overhang, which will always hold the company back, and build from a stronger base. (emphasis added)

245. Lewis' June 2, 2001 statement that "at the end, equity and debtholders will own a clean 'Ebony' as good as debt free, strong EBITDA, powerful position in Europe, tremendous management team, and everything to go for" was false and misleading because it misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that under the Company's current restructuring plans, equity holders would not own any interest in Ebony following a GTS bankruptcy because the market value of the Company was far short of what would be necessary to repay the Company's publicly traded debt and provide any return to stockholders.

#### The NYSE Suspends Trading in GTS Shares

246. On June 4, 2001, the Company issued a press release announcing that the NYSE informed the Company that "trading in GTS shares has been suspended on the NYSE due to indications of an 'abnormally low selling price' for GTS's common stock" and that the NYSE "also informed the Company that it intends to seek to delist the Company's shares with the SEC." The Company stated in the June 4, 2001 press release that it did not believe the NYSE's decision was "well founded in the Exchange's rules" and that it was "thus immediately appealing the decision."

247. In furtherance of Defendants' scheme to mislead customers, employees and stockholders about the restructuring and the Company's prospects, the June 4, 2001 press release quoted Amman as saying:

The day to day operations of the company, including Ebony, our core business unit and Europe's leading provider of optical IP and broadband services, should not be adversely affected by this development. All relationships with customers, suppliers and

employees will continue in the normal course . . . as of 31 May, the Company had E288 million in consolidated cash, of which 50 million was subsequently used to reduce the outstanding balance of its 300 million bank credit facility to 150 million. We also do not expect this development to interfere materially with our restructuring plans. *Upon completion of the restructuring programme we will consider various options for the listing of our shares, including listing on a major bourse in Europe, where our operations are based.* (emphasis added)

248. Amman's June 4, 2001 statement that "[u]pon completion of the restructuring programme we will consider various options for the listing of our shares, including listing on a major bourse in Europe, where our operations are based" was false and misleading because it misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that under the Company's current restructuring plans, Ebone and Central Europe would ultimately be acquired by KPNQwest, and the Company would not be listed on any exchange following that transaction.

The June 4, 2001 Weekly Report:  
Raising the Profile of Ebone and Playing Down the GTS Restructuring

249. On June 4, 2001, the Company issued another Weekly Report to employees, commenting on the recent events involving the Company. The June 4, 2001 Weekly Report was posted on the GTS Message Boards in or about June 2001. In the letter, signed by Amman and Lewis, the Company admitted that it would "continue to . . . raise the profile of Ebone, while downplaying coverage of the GTS restructuring" and that the Company would "try to maintain a low profile and keep our negotiations with the public debt holders as much out of the press as possible."

250. Defendants wanted to raise Ebone's profile, while playing down the GTS restructuring and keeping the Company's negotiations with its debtholders as much out of the press as possible, to stave off disclosure of what was really happening at the Company and to ensure that Amman, Raclin and Schriesheim would receive substantial bonuses triggered by the sale of Ebone to KPNQwest. Because that sale -- and the lucrative bonuses payable to Amman, Raclin and Schriesheim arising from it -- would have been scuttled if Ebone's customer base dispersed and the market for GTS common stock collapsed as a result of fears arising from the GTS restructuring, Defendants issued a series of false and misleading statements in their Weekly Reports to employees "down playing coverage of the GTS restructuring."

251. The June 4, 2001 Weekly Report contained the following false and misleading statements regarding Ebone:

Our announcement last week that we are recapitalising the GTS, Inc. and GTS Europe BV balance sheets is the next logical stage in the financial restructuring of the company. The goal is for Ebone to emerge without our current high debt interest expense, and perhaps without any public debt at all, and thus have greater cash to further develop Ebone as Europe's premier broadband business. As we said in our letter on Friday, this is a process that we expect to conduct on a consensual basis with bondholders because it should help create more value in Ebone, thus benefitting all stakeholders.

252. The statements about Ebone in the June 4, 2001 Weekly Report were false and misleading because they suggested that the Company expected to emerge from the restructuring a going concern, with Ebone as its main asset, and misrepresented and/or omitted to state the material facts -- which then existed and the disclosure of which was necessary to make the statements made not false or misleading -- that under the Company's

current restructuring plans, Ebone would be acquired by KPNQwest, and the Company would not continue as a going concern following that transaction.

253. The statement in the June 4, 2001 Weekly Report that any agreement the Company would make on a "consensual basis" with its bondholders would benefit all stakeholders, was false and misleading because it misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that any consensual agreement with bondholders would not produce any value for stockholders.

254. In furtherance of Defendants' scheme to preserve Ebone's customer base and encourage continued trading of GTS stock -- and to ensure receipt of the substantial bonus payments -- the June 4, 2001 Weekly Report urged employees to allay any concerns expressed by the Company's customers about GTS's financial condition:

We have to make this clear to our customers and partners. If customers have any concern about our financial position, you only have to point them to our press release, which details the Company's cash position.

*When the restructuring process is complete, we will consider listing our shares on one of the main European stock exchanges, closer to our operations.* In response to Friday's announcement, we have had a lot of feedback from employees and customers. Most of our customers are pretty sophisticated and understand what we are doing. We will continue to communicate directly with them to make sure they understand what we are doing each step of the way. And we have had positive feedback from many employees, but also some questions that we shall try to address here. (emphasis added)

255. The statement that "[w]hen the restructuring process is complete, we will consider listing our shares on one of the main European stock exchanges" was false and

misleading because it misrepresented and/or omitted to state the material facts -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that under the Company's current restructuring plans, Ebone would ultimately be acquired by KPNQwest, and the Company would not be listed on any exchange following that transaction.

256. The June 4, 2001 Weekly Report also falsely assured stockholders that the Company's negotiations with its bondholders would allow them to maintain ownership of the Company. In this regard, the Weekly Report stated:

At the current time, the equity holders - the shareholders and employees with shares and options - "own" the company, just as when you buy a house, you "own" it. The public debt holders who have lent us cash to develop the business, as with a mortgage company, expect interest payments . . . . *But just as when someone with a mortgage finds himself or herself in financial difficulty, you can go to your mortgage company and make different arrangements long before the mortgage company repossesses your house, allowing you to keep your home on different payment terms. This is what we shall be doing with the holders of the public debt. We intend negotiating with them with the goal of converting most or all of our publicly traded debt into instruments that do not require us to pay interest for quite a while. This allows us instead to plow the cash generated by the business into the business so that all stakeholders -- equity holders, debt holders, employees and others realize the potential of the business to the greatest extent possible.* (emphasis added)

257. The statements that the Company's negotiations with debtholders would allow stockholders to "keep [their] home" and that the agreements reached with bondholders would allow the Company "to plow the cash generated by the business into the business so that all stakeholders -- equity holders, debt holders, employees and others realize the potential of the business to the greatest extent possible" were false and misleading, because they misrepresented

and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statements made not false or misleading -- that under the current restructuring plan, stockholders would not own any part of the Company following any agreement with bondholders. As the Company admitted in its Form 10-Q for the quarter ended June 30, 2001, following a consensual agreement between the Company and its bondholders, the Company's current stockholders would "likely" receive "minimal or no consideration for their GTS stock."

Lewis Makes Further Misleading  
Assurances in June 2001 E-mail Communications

258. Defendants continued making misleading assurances about the Company's future in direct communications with investors. For example, on June 4, 2001, Plaintiff Isabella sent an e-mail to Lewis, asking "What is happening?" Lewis responded that same day: "All the right things. Should emerge with a strong balance sheet, as good as debt free; strong business going forward." The e-mail exchange was posted on the GTS Message Boards in or about June 2001.

259. Lewis knew from previous direct communications with Isabella that she was a stockholder of the Company, and concerned about the value of her shares in the Company's common stock. Against this background, Lewis' statements that "[a]ll the right things" were happening, and that the Company "[s]hould emerge with a strong balance sheet, as good as debt free; strong business going forward" were false and misleading, because they suggested that the Company would continue as a going concern and that the Company's stock price would improve and misrepresented and/or omitted to state the material fact -- which then

existed and the disclosure of which was necessary to make the statements made not false or misleading -- that under the Company's current restructuring plans, the opposite was the case.

260. Lewis repeated this deception the next day, when he responded to an e-mail communication from Plaintiff Dedina, asking if Lewis had "the same level of confidence in the future viability of GTS that you displayed at the analyst conference in New York?" Lewis stated replied: "I still have, in every way. The sales force have tails up, people are tackling capex and operating costs; operationally we are now very focused." The e-mail exchange was posted on the GTS Message Boards in or about June 2001.

261. Lewis knew from previous direct communications with Dedina that he was a stockholder of the Company, and concerned about the value of his shares in the Company's common stock. Against this background, Lewis' statement that he was confident in the Company's future was false and misleading, because it suggested that the Company would continue as a going concern and that the Company's stock price would improve and it misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statements made not false or misleading -- that under the Company's current restructuring plans, the opposite was the case.

262. Plaintiff Isabella sent another e-mail to Lewis on June 13, 2001, commenting that the stock was "taking a beating" and that she was fielding messages about the stock's price from investors because her name was listed on the GTS Message Boards. Isabella stated that many GTS investors had "their life savings" in the stock, and asked Lewis what she should say to them. In this context, Isabella asked Lewis how the meetings with GTS bondholders were going, and whether it was "looking good for us."

263. Lewis' June 14, 2001 response was upbeat:

I personally have never felt better. The market is tough, but the team feels on top of things, and confident. I feel after five months, I am beginning to understand the business, getting good information now to move forward; long, long way to go when you are turning something around, but there are the real signs of momentum . . . .

The e-mail exchange was posted on the GTS Message Boards in or about June 2001.

264. Lewis knew from Isabella's June 13, 2001 e-mail that she was seeking information about the Company's stock price, and that she would convey this information to stockholders via the GTS Message Boards. Against this background, Lewis' statement that the Company was "turning . . . around" and that there were "real signs of momentum" were false and misleading, because they suggested that the Company would continue as a going concern and that the Company's stock price would improve and they misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that under the Company's current restructuring plans, the opposite was the case.

265. Lewis made similar misrepresentations about the Company's stock price in an e-mail communication with Plaintiff Dedina on June 14, 2001. On that date, Dedina sent an e-mail to Lewis, asking whether GTS intended "to maintain a presence on a U.S. exchange?"

266. In his e-mail response the same day, Lewis indicated that the Company "would look to list" in Europe:

We have said in recent press releases that we would look to list in Europe. Our advisors have consistently said that a European company should be listed in Europe as shareholders need to understand the business and can do so by being closer. This does not mean we would not be quoted in the USA. Cheers.

The e-mail exchange was posted on the GTS Message Boards in or about June 2001.

267. Lewis' statements that the Company "would look to list in Europe" and that it might "be quoted in the USA" were false and misleading because they misrepresented and/or omitted to state the material facts -- which then existed and the disclosure of which was necessary to make the statements made not false or misleading -- that under the Company's current restructuring plans, Ebone would ultimately be acquired by KPNQwest, and the Company would not be listed on any exchange following that transaction.

268. On June 19, 2001, stockholder Casola sent an e-mail to Lewis, inquiring about the Company's expected stock price over the long term, and asking for information "to assure investors that the company is here to stay." The stockholder stated in this e-mail:

One of our group members who also has been vested for quite some time is looking to invest another \$250,000 in the company. We are long term investors and our concern is not about tomorrow or even next year. One of his concerns is "will the stock be here two-three years from now". From our research we believe yes . . . I guess my question is what sort of information would "the company" provide to assure investors that the company is here to stay. How would you answer that question?

269. In his June 24, 2001 response (which was posted, along with Casola's June 19, 2001 e-mail, on the GTS Message Boards in or about June 2001), Lewis suggested that the Company's stock price could rise following the restructuring: "I think you realise that I really cannot predict the future!! Who knows what will happen if we succeed in the restructuring given our assets?" Lewis' statement was false and misleading because it misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that Lewis knew the Company would not emerge as a going concern following the restructuring, and that stockholders would not benefit at all

from the restructuring "success" because the market value of the Company was far short of what would be necessary to repay the Company's debtholders and other creditors and provide any value to stockholders.

Houlihan Lokey Issues Report that Comports  
with Plan to Liquidate the Company and Amman Falsely  
Sets Forth Reasons for Pulling GTS Central Europe Off the Market

270. On or about June 15, 2001, the Company's investment advisor, Lokey Howard & Zukin ("Houlihan Lokey"), issued a report to the Company which set forth Houlihan Lokey's evaluation of the Company's prospects and recommendation of three alternative courses of action. Each of the three alternatives -- consistent with Defendants' plan already in place -- entailed a "restructuring" that would result in stockholders receiving no value.

271. Days later, on June 19, 2001, the Company issued a press releasing announcing that it had "terminated discussions to sell its Central European Division because of unfavourable market conditions for the sale of its telecommunications business." The press release stated that GTS "had announced in November 2000 that it would consider selling its Central European unit as a part of its ongoing restructure effort, but determined to take the unit off the market in light of its recent sale of its majority interest in Golden Telecom, Inc."

272. The press release quoted Amman as saying:

While there have been a number of interesting proposals made for our Central European unit, we thought it best to take the asset off the market in light of relatively unattractive current market conditions and the liquidity provided from our recent sale of our interest in Golden Telecom.

273. The statements in the June 19, 2001 press release that GTS terminated discussions to sell Central Europe "because of unfavourable market conditions" and "in light of

its recent sale of its majority interest in Golden Telecom, Inc." were false and misleading because they misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statements made not false or misleading -- that GTS really terminated discussions to sell Central Europe to allow KPNQwest to acquire Central Europe -- along with Ebone -- in a prepackaged bankruptcy that was being arranged at the time the June 19, 2001 press release was issued.

274. GTS also reported in the press release that "it had initiated discussions with the holders of public debt and convertible preferred stock issued by it . . . with a view toward developing a consensual financial restructuring plan involving an exchange of non-cash paying securities for those outstanding securities." The Company also announced that it had met with legal and financial advisors representing informal committees of those bondholders, and that further discussions had been scheduled.

2001 Annual Meeting of Stockholders  
Canceled to Avoid Investor Scrutiny about the  
Amended Employment Agreements and Restructuring

275. The Company's 2001 annual meeting of stockholders scheduled to be held on June 14, 2001 was canceled and, despite assurances that it would be rescheduled, no subsequent meeting took place, in violation of Delaware law. The cancellation allowed Defendants to avoid inevitable questions from stockholders about the Company's worsening financial condition, purported restructuring, and compensation agreements with Defendants. In particular, it permitted Defendants to continue to act in secrecy and for their own selfish interests.

GTS's Recapitalization Program

276. On July 3, 2001, GTS issued a press release, announcing that representatives of informal committees representing holders of public debt and preferred stock securities issued by the Companies had retained independent advisors, that the advisors had begun their due diligence investigations, and that GTS planned to make a formal recapitalization proposal to these representatives in the near future. The press release stated that this was a "continuation of the process that began last month when the Companies announced plans to recapitalise their balance sheets by launching discussions with the holders of these securities to eliminate or reduce the E158 million in annual cash interest payment obligations of these companies."

The July 4, 2001 Weekly Report  
Falsely Depicts GTS as a Long-Term Concern

277. On July 4, 2001, the Company issued another Weekly Report to employees, commenting on the recent events involving the Company. The July 4, 2001 Weekly Report was posted on the GTS Message Boards in or about July 2001. In the letter, signed by Amman and Lewis, the Company indicated that its negotiations with its bondholders were part of a long term "plan" for the Company "going forward":

The plan underpinning this strategy describes: the organisation we have put in place to deliver this, including people's specific revenue and cost accountabilities; Our revenue and product mix objectives which now tie back to the Regional Sales objectives and expenditure/revenue ratios; *Our capital expenditure plans for the next five years*; Our marketing objectives and investments; Our general and administrative costs. Our projected funding requirements going forward. . . . We have set ambitious but realistic goals, in *which we aim to have half our revenues coming from the enterprise sector within two years*, and to grow our earnings after this year of transition. In the course of the plan, we shall see more of our operating cost and capital expenditure driven by customer demand, recognizing that we have now built our core

network. *The plan is to grow our enterprise revenues by an extra 20 percent, we will pay back our bank loan within three years!* (emphasis added)

278. The statements in the Weekly Report: (1) referring to the Company's "capital expenditure plans for the next five years;" (2) that the Company aimed "to have half [of its] revenues coming from the enterprise sector within two years;" and (3) that the Company would "pay back our bank loan within three years" were false and misleading, because they suggested that the Company would continue as a going concern beyond the third quarter of 2001 and misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statements made not false or misleading -- that, based on the Company's current restructuring plans, Defendants knew the Company would not continue as a going concern beyond the third quarter of 2001, and that it would likely be sold to KPNQwest as part of a prepackaged bankruptcy.

279. On July 11, 2001, the Company entered into (i) an agreement with a third party holder of an additional \$35,500,000 million aggregate principal amount of the Debentures to exchange such Debentures for 8,165,000 shares of the Company's common stock and (ii) a further agreement with the same third party to exchange such party's 4,349,950 Depository Shares representing common stock of the Company for 21,704,750 shares of the common stock of the Company.

Lewis' July 2001 E-mail Communication  
with Plaintiff Dedina Continues to Assure Investors

280. Defendants continued making misleading assurances about the Company's future in direct communications with investors throughout July 2001.

281. For example, on July 13, 2001, Plaintiff Dedina sent an e-mail to Lewis, asking "how are things overall?" Lewis responded: "Nice to have an industry first! Market is tough but suspect others have found it tougher! Everything else on track!" The e-mail exchange was posted on the GTS Message Boards in or about July 2001.

282. Lewis knew from previous direct communications with Dedina that he was a stockholder of the Company, and concerned about the value of his shares in the Company's common stock. Against this background, Lewis' statement that "[e]verything else on track!" was false and misleading, because it suggested that the Company was on track to emerge from the restructuring a going concern, and that the Company's stock price would improve, and misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statements made not false or misleading -- that Lewis knew, from the Company's current restructuring plans, that the opposite was the case.

The July 23, 2001 Weekly Report Instructs  
Employees to Convey to Customers that Discussions with  
Bondholders are Going Well in Order to Preserve Customer Base

283. On July 23, 2001, the Company issued another Weekly Report, commenting on the recent events involving the Company. The July 23, 2001 Weekly Report was posted on the GTS Message Boards in or about July or August 2001. In the Weekly Report, signed by Amman and Lewis, the Company asked its employees to "convey" to its customers that discussions with the bondholders were "going very well and according to schedule."

284. Defendants were encouraging employees to "convey" to GTS customers that discussions with bondholders were "going very well" to ensure that Defendants would receive the substantial bonuses triggered by the sale to KPNQwest. Because that sale would

have been scuttled if Ebone's customer base dispersed and stockholders sold off their GTS shares, Lewis and Amman volunteered in the letter to personally "jump on a plane or train" to reassure customers.

285. The July 23, 2001 Weekly Report stated in part:

We plan to announce our financial results on 14 August, so we are not allowed [to] say very much about our specific second quarter performance before that date. But we can talk a little about our order intake for the past quarter, which has now been finalised. Our sales teams have done tremendously well in achieving second quarter order intake just shy of the order intake for the first quarter.

. . . .

. . . We suspect the most important thing for everyone this quarter will be an announcement that we have an agreement to restructure the balance sheet. *All we can say at this point -- and you can convey this to customers -- is that discussions are going very well and according to schedule.* We have now put an initial proposal to the bondholders' advisors, and we shall have further discussions with them next week and ongoing until a deal can be reached. If there are any customers who need reassurance, both of us will willingly jump on a plane or train to accompany any sales person to any meeting . . . . (emphasis added)

286. On July 31, 2001, only three weeks after the revelation of the final debt-for-equity swap, the Company and KPNQwest entered into the Confidentiality Agreement in connection with the sale of Ebone and GTS's Central Europe division to KPNQwest in the prepackaged bankruptcy.

Amman Attempts to Downplay Affirmance of the  
NYSE's Decision to Delist GTS shares and Misleads  
Investors Regarding a Combination of Ebone and  
GTS Central Europe in an August 6, 2001 Press Release

287. On August 6, 2001, the Company issued a press release announcing that the NYSE's Review Committee upheld the NYSE's June 1, 2001 decision to suspend the trading of GTS shares and to seek a de-listing of GTS shares on the NYSE.

288. In furtherance of Defendants' scheme to preserve Ebone's customer base and maintain stockholder interest by making misleading statements about GTS's prospects – to ensure Defendants' receipt of their bonuses -- the press release quoted Amman as saying:

[W]e nonetheless want to emphasize that this latest development should have no effect whatsoever on the operations of the Company. Our core unit, Ebone, and our operations in Central Europe continue to be operationally strong, remain leaders in their respective markets and continue to meet all obligations to customers, staff and suppliers in the normal course.

. . . .

Our discussions with the holders of all of the public debt and preferred securities of GTS and GTS Europe BV are progressing as planned. . . . [W]e are exploring in these discussions various options for reducing our E1.65 billion total public debt burden and the E158 million in associated cash interest obligations. Taking these actions to recapitalize the balance sheet and strengthen the capital structure of GTS and GTS Europe are the *next logical steps in establishing the combination of Ebone and our Central Europe unit as a strong, well funded, EBITDA positive company that remains the market leader for broadband services in Europe.* (emphasis added)

289. Amman's statement that the Company's discussions with debtholders were the "next logical steps in establishing the combination of Ebone and our Central Europe unit as a strong, well funded, EBITDA positive company that remains the market leader for broadband

services in Europe" was false and misleading because it suggested that Ebone and Central Europe would remain assets of the Company following the recapitalization of the Company's balance sheet and misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that under the Company's current restructuring plans, the Company's remaining assets would be sold to KPNQwest, in a transaction leaving no value for stockholders because the market value of the Company was far short of what would be necessary to repay the Company's debtholders and other creditors and provide any value to stockholders.

290. In a further effort to "downplay" the Company's worsening financial condition, and to enlist the Company's employees in their scheme to preserve Ebone's and Central Europe's customer base and maintain stockholder interest by making false and misleading statements about GTS's prospects, on August 6, 2001, the Company issued an "Organizational Announcement" to employees, asking them to make sure that the NYSE's decision did not "distract" them from their work. The "Organizational Announcement" was posted on the GTS Message Boards in or about August 2001.

291. The August 6, 2001 "Organizational Announcement" stated in part:

We announced today that the NYSE has upheld its June 1, 2001 decision to suspend the trading of GTS shares and seek a de-listing of the shares from further trading on the Exchange. The company's shares will continue to trade Over the Counter Bulletin Board as they have since the NYSE suspended trading in June. *As we have said in the past, on completion of the restructuring, we will consider various possibilities for listing on a main European exchange . . . .* As we have seen since the shares were suspended from trading on 4 June, the NYSE decision should not directly impact the day-to-day operations of Ebone or Central Europe at all, nor do we expect it to have an adverse effect on the restructuring effort. The first order of business remains our plan to recapitalize

the company by exchanging most or all of our outstanding debt for non-cash interest bearing securities. We continue our discussion with bondholders and are making good progress in this plan. *It is critical that we don't allow today's news to distract us and, in particular, interfere with the selling process. We remain on track to successfully complete our restructuring with a strong balance sheet, little debt burden and, of course, superior services. We are off to a very strong start in the third quarter. Let's keep up the momentum!* (emphasis added)

292. The Company's August 6, 2001 statement that "on completion of the restructuring, we will consider various possibilities for listing on a main European exchange" was false and misleading because it suggested that Ebone and Central Europe would remain assets of the Company following the recapitalization of the Company's balance sheet and misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that under the Company's current restructuring plans, Ebone and Central Europe would ultimately be acquired by KPNQwest, and the Company would not be listed on any exchange following that transaction.

293. The Company's August 6, 2001 statements that: (1) "[w]e remain on track to successfully complete our restructuring with a strong balance sheet, little debt burden and, of course, superior services;" and (2) "[w]e are off to a very strong start in the third quarter. Let's keep up the momentum!" were false and misleading because they suggested that the Company was on track to emerge from the restructuring as a going concern and misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statements made not false or misleading -- that Defendants knew the opposite was

the case and, indeed, that the Company's dismemberment and impending bankruptcy had been planned and anticipated by Defendants for many months.

The Company Issues Its Second  
Quarter Form 10-Q and Fails to Disclose  
the Third Amendments to Amman, Raclin  
and Shriesheim's Employment Agreements

294. On August 14, 2001, GTS filed its Form 10-Q for the second quarter of 2001.

295. Although the Company had entered into the Agreements Regarding Compensation with Defendants Amman, Raclin and Schriesheim on June 23, 2001, the Form 10-Q disclosed neither the existence of those agreements nor, in particular, that a bonus for the three Defendants in an aggregate amount of \$6 million would be paid upon the sale of either GTS or Ebone.

296. The Company's June 30, 2001 Form 10-Q reported that "one possible consequence" of a consensual agreement between the Company and its bondholders was ownership of the Company by the bondholders. The Form 10-Q also reported that, under such an arrangement, the Company's current stockholders would "likely" receive "minimal or no consideration for their GTS stock."

Lewis' August 2001 E-mail Communications  
with Plaintiff Isabella Continue to Assure Investors  
and Falsely Represent the Effect of a Possible Bankruptcy

297. Defendants continued making misleading assurances (which they themselves did not believe) about the Company's future in direct communications with investors throughout August 2001.

298. For example, on August 12, 2001, Plaintiff Isabella sent an e-mail to Lewis, asking him to let her know "if things are going well."

299. In his e-mail response the same day, Lewis stated "[a]ll is fine. In past two weeks, have been to France, Italy, USA, Belgium, and other places." The e-mail exchange was posted on the GTS Message Boards in or about August 2001.

300. Lewis knew from previous direct communications with Isabella that she was a stockholder of the Company, and concerned about the value of her shares in the Company's common stock. Against this background, Lewis' statement that "[a]ll is fine" was false and misleading (and Lewis himself did not believe it) because it suggested that the Company was on track to emerge from the restructuring as a going concern and that the Company's stock price would improve, and misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that under the Company's plans the opposite was the case.

301. In fact, as discussed above, just two days after Lewis assured Isabella that "[a]ll is fine," the Company issued its Form 10-Q for the second quarter of 2001. In the Form 10-Q, the Company disclosed that it might be forced to file for bankruptcy given its debt burden.

302. One day after the Company issued its Form 10-Q, Plaintiff Isabella sent an e-mail to Lewis, asking: "Has GTS filed for bankruptcy . . . is it over?"

303. Lewis responded via e-mail on August 16, 2001:

*This is a complete misinterpretation.* When we have the deal with the bondholders, we have to file in the US and Dutch courts after we have the agreement with them, so that every bondholder is locked in. We may not find all of them at the end of the day, so there is a simple procedure to achieve this. This is what we just did with the Esprit bondholders. (emphasis added)

The e-mail exchange was posted on the GTS Message Boards in or about August 2001.

304. Lewis' August 16, 2001 statement that "[t]his is a complete misinterpretation" in response to Isabella's question "is it over" was false and misleading because it suggested that the Company would emerge from the restructuring as a going concern and misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statement made not false or misleading -- that under the Company's current restructuring plans, the opposite was the case because the market value of the Company was far short of what would be necessary to repay the Company's debtholders and other creditors and provide any value to stockholders.

305. Lewis' August 16, 2001 statement that "[t]his is what we just did with the Esprit bondholders" was false and misleading because it suggested that GTS stockholders would own a portion of GTS following negotiations with GTS bondholders, just as GTS had maintained a 10% equity interest in Esprit, its former subsidiary, following negotiations with Esprit bondholders.

The August 16, 2001 "All Staff Communication" Misrepresents the Company's Disclosures in its Recently Filed Form 10-Q

306. On August 16, 2001, the Company issued an "Inside GTS All Staff Communication," commenting on an article in *Reuters* the previous day, reporting on the possibility that the Company would be filing for bankruptcy. The "Inside GTS All Staff Communication" was posted on the GTS Message Boards in or about August 2001.

307. In furtherance of Defendants' scheme to ensure that, while the restructuring was being implemented, (i) the Company's customer base would not disperse, (ii)

trading in GTS stock would continue, and (iii) Defendants would receive substantial bonuses, the August 16, 2001 "All Staff Communication" misrepresented the import of the Company's disclosures in its Form 10-Q that it faced the prospect of bankruptcy.

308. The August 16, 2001 "All Staff Communication" stated:

You may have noticed an article from Reuters yesterday, and a follow up article today, which attempts to create a "bankruptcy" story around a phrase within our 10-Q filing with the SEC, which includes our Quarterly Earnings statement and a detailed review of the entire restructuring process. The restructuring process underway is proceeding well. We cannot share specific details. The discussions are however, consensual and constructive between the parties and the urgency and opportunity is continuing to be reinforced by the state of some of our competitors. The sentence from our SEC filing, on which the Reuters story was based, simply noted that our restructuring agreement with our bondholders "could be filed as part of a petition in bankruptcy or equivalent proceedings." Using a "bankruptcy or equivalent proceeding" would be an entirely normal step in a restructuring process because it would make the agreement with our bondholders binding on all bondholders, even those that could not be located or contacted (of which there are always a few). *Such a proceedings [sic] would be a consensual filing with our bondholders; would affect only the bondholders; and would not indicate or be filed with the purpose to allow GTS to not honour its obligations to other stakeholders, such as employees, customers, suppliers and others in the normal course.* This is precisely how we completed the Esprit deal, through a scheme of arrangement which was administered in the UK courts. In this case, we shall probably proceed through the US and Dutch courts in line with the process we described when we began the restructuring. This context was of course missed by an overzealous journalist looking for a sexy headline. (emphasis added)

309. The statements in the August 16, 2001 "All Staff Communication" that a bankruptcy proceeding "would affect only the bondholders" and "would not indicate or be filed with the purpose to allow GTS to not honour its obligations to other stakeholders" were false and misleading because they indicated that GTS's bankruptcy proceedings would not affect

stockholders and misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statements made not false or misleading - - that the proceedings *would* affect stockholders, and would result in their receiving minimal or no consideration for their GTS stock.

310. On August 16, 2001, Lewis received an e-mail communication from stockholder Joris, asking whether the "word 'SHAREHOLDERS' was deliberately omitted from the list you refer to as stakeholders?" in the "All Staff Communication."

311. In his August 16, 2001 response, Lewis stated: "No - It was not deliberately omitted." Lewis' response was false and misleading because it misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statements made not false or misleading -- that GTS's bankruptcy proceedings would result in stockholders receiving minimal or no consideration for their GTS stock. The e-mail exchange was posted on the GTS Message Boards in or about August 2001. The August 20, 2001 Weekly Report Repudiates the Second Quarter 10-Q

312. On August 20, 2001, the Company issued another Weekly Report to employees. The August 20, 2001 Weekly Report was posted on the GTS Message Boards in or about August 2001. In the report, signed by Amman and Lewis, the Company noted that the reference to a "bankruptcy" filing in the Company's second quarter Form 10-Q "caused a bit of a storm." In furtherance of their scheme to ensure that Ebone and Central Europe's customers would not disperse and that trading in GTS stock would continue while their sale to KPNQwest was being negotiated, Defendants attempted to quell the "storm" by claiming that the Form 10-Q

was written for a "narrow financial audience" and that the risks it described could be safely ignored.

313. The Weekly Report stated in part:

Last week we filed our second quarter 2001 financial results (in what is known as a "10-Q" report) with the Securities and Exchange Commission. . . . *[O]ur filing caused a bit of a storm, so we would like to do two things in this week's letter. First we will comment a bit more on the filing. Second we will comment on the results themselves. Unlike a press release, a 10-Q filing is not a public relations document; in fact, it can sometimes be seen as the exact opposite. One of the key purposes of SEC filings is to fully disclose -- in excruciating detail and in very unambiguous language that leaves no room for later claims of "misunderstanding" -- risks that a company might confront. It is often said, in fact, that no one would ever buy stock if all they read was the SEC registration statements setting forth the risks of investment. Though this may sound odd, the purpose is to protect both the company from claims and investors by disclosing material risks. The narrow financial audience who typically read SEC filings understand the text in this context. With the benefit of hindsight, however, we might have recognised that the lack of a press release could lead a wider audience than normal to read our SEC filing. We therefore might have taken greater care to explain the context in which we were using an evocative word like "bankruptcy", which can so easily be misinterpreted. As we explained in our brief note last week, an agreement in principle with bondholders could likely require a court-administered process to formalise it and make it binding on all parties. We have just completed exactly this process in the UK, where our restructuring agreement with Esprit bondholders was formalised through a court-managed process called a "scheme of arrangement". In the Netherlands and the US, the relevant procedure falls within the bankruptcy codes -- hence the wording in our 10-Q report -- even though we did not intend to suggest a potential liquidation of any sort. But regardless of our possible use of one or more of these procedures to make a consensual bondholder agreement binding on all parties, we would continue trading as we normally do raising revenues by winning new business and paying our bills and our staff as always. (emphasis added)*

314. The statements in the August 27, 2001 Weekly Report that "[i]t is often said, in fact, that no one would ever buy stock if all they read was the SEC registration statements setting forth the risks of investment," that "[t]he narrow financial audience who typically read SEC filings understand the text in this context" and "[w]e therefore might have taken greater care to explain the context in which we were using an evocative word like 'bankruptcy', which can so easily be misinterpreted" were false and misleading because they suggested that the risk disclosures in the Company's Form 10-Q filing could be safely ignored, when the opposite was the case.

315. The statements in the August 27, 2001 Weekly Report that "[w]e therefore might have taken greater care to explain the context in which we were using an evocative word like 'bankruptcy'" and that "regardless of our possible use of one or more of these procedures to make a consensual bondholder agreement binding on all parties, we would continue trading as we normally do raising revenues by winning new business and paying our bills and our staff as always" were false and misleading because they suggested that GTS's bankruptcy proceedings would not affect stockholders and misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statements made not false or misleading -- that the proceedings would affect stockholders, and would result in their receiving minimal or no consideration for their GTS stock because the market value of the Company was far short of what would be necessary to repay the Company's debtholders and other creditors.

On the Eve of the Sale to KPNQwest in a Prepackaged  
Bankruptcy, the September 3, 2001 Weekly Report  
Describes the Company as Being "Poised to Spring Into Action"

316. On September 3, 2001, the Company issued another Weekly Report to employees, commenting on the recent events involving the Company. The September 3, 2001 Weekly Report was posted on the GTS Message Boards in or about September 2001. The Weekly Report represented a continuation of Defendants' scheme to issue false and misleading statements about the Company's prospects in an effort to maintain the Company's customer base and to maintain stockholder interest, so that the sale of Ebone and Central Europe to KPNQwest would go forward, and Amman, Raclin and Schriesheim could secure the substantial bonuses payable under their secret employment agreements. Consistent with this scheme, the Weekly Report noted that "Duncan and other members of management spend a lot of time reassuring customers, and will always remain available to do the same for anyone in Sales who request such assistance with a customer."

317. The September 3, 2001 Weekly Report stated in part:

*As we move into the last part of the third quarter and into the busiest selling time of the year, the company feels -- as Mark Allan, Ebone's Treasurer said the other day -- "poised to spring into action". . . . [W]hy would we say we are "poised" when we have so much in place and are now working so smoothly? First, we all feel the overhang of the financial restructuring to some extent. As long as it is not completed, it is harder to sell. Duncan and other members of management spend a lot of time reassuring customers, and will always remain available to do the same for anyone in Sales who request such assistance with a customer. . . . The negotiations with the bondholders are complex, but continue to progress steadily. We are doing everything we can to bring this to a close as quickly as possible. In the meanwhile, we just want to thank everyone for the efforts they are putting in to make the business success in these challenging circumstances. And we both recognise that when the announcement comes, it will let the company "spring." (emphasis added)*

318. The statements in the September 3, 2001 Weekly Report that the Company was "poised to spring into action," and that, following negotiations with bondholders, the Company will "spring," were false and misleading because they suggested that the Company would continue as a going concern following negotiations with bondholders, and misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statements made not false or misleading -- that under the Company's current restructuring plans, the Company would not continue as a going concern following its negotiations with bondholders.

Involuntary Petitions in Bankruptcy are Filed;  
Amman States Petitions are Just Negotiation Tactics  
by Certain Debtholders in an October 12, 2001 Press Release

319. On October 11, 2001, three individual holders of GTS's convertible debentures filed an involuntary petition against the Company under Chapter 7 of the United States Bankruptcy Code.

320. The next day, the Company issued a press release announcing the filing. The press release quoted Defendant Amman as saying:

This action seems nothing more than a negotiating tactic by a small group of security holders who are involved in our restructuring discussions and who are simply trying to improve their bargaining leverage and recovery in those discussions. I want to make very clear that this action does not affect the day-to-day operations of the business in any way, and we will not allow it to stand in the way of our effort to negotiate a comprehensive restructuring plan. We still hope to complete this process very soon.

321. The statements in the October 12, 2001 press release that the involuntary bankruptcy filing was "nothing more than a negotiating tactic" that did not affect the "day-to-day operations of the business in any way" were false and misleading efforts to induce stockholders

to discount the warnings in the Company's SEC filings because they suggested that the Company would continue as a going concern following negotiations with bondholders and that the Company itself had no plans to commence a voluntary bankruptcy proceeding. These statements misrepresented and/or omitted to state the material fact -- which then existed and the disclosure of which was necessary to make the statements made not false and misleading -- that under the Company's current plans it would sell its remaining assets to KPNQwest in a prepackaged bankruptcy proceeding.

Amman Announces the Sale of Ebone and  
GTS Central Europe to KPNQwest, Leaving Nothing for Stockholders

322. On October 19, 2001, the Company issued a press release announcing that it had signed a definitive stock purchase agreement with KPNQwest. The agreement provided that KPNQwest would acquire Ebone and Central Europe in exchange for the issuance of approximately E210 million of new KPNQwest senior convertible notes and the assumption of bank debt and capital lease obligations upon closing. Notwithstanding the statements made by Defendants throughout the Period that the "restructuring" was intended to streamline the Company and to keep it operating as a going concern focused on the Ebone business, Amman admitted in the press release that the transaction in fact represented "the completion of the consensual restructuring process" that GTS began "late last year."

323. The October 19, 2001 press release also reported that GTS had reached agreements with the informal committees representing the holders of its publicly traded bonds with respect to the transaction with KPNQwest. The report noted that, to "ensure the binding nature of the sale agreement on all bondholders, GTS expects that the transaction will be effectuated through a 'pre-arranged' court proceeding by GTS and GTS Europe under United

States bankruptcy laws." The press release also noted that all of the consideration from KPNQwest would be allocated to GTS's bondholders, and that GTS stockholders would receive nothing.

324. The stock purchase agreement was signed on behalf of KPNQwest by Von Deylen, the former Chief Accounting Officer of GTS who had resigned from GTS just four and a half months earlier. Amman testified during a December 12, 2001 hearing in the GTS bankruptcy that he and Raclin were the "principal negotiators" with KPNQwest.

KPNQwest's CEO Admits Ebone's  
Customer Base was the Impetus for the Purchase

325. During a conference call with analysts to discuss the acquisition on October 19, 2001, Jack McMaster, KPNQwest's CEO, admitted that Ebone and Central Europe were "extraordinarily important" assets for KPNQwest because of their large customer base:

We believe that the company is an extraordinarily important asset for us; it adds 48,000 accounts . . . . Now, some people have been asking me why, why wouldn't you wait til Ebone went bankrupt and then go buy them even cheaper. And I think the answer to that question is: I don't want the assets. Assets without customers, without people, without the lifeblood of the business . . . don't really count for much.

The October 29, 2001 Weekly Report Admits the "Hard Truth"

326. On October 29, 2001, the Company issued another Weekly Report to employees.

327. In the October 29, 2001 Weekly Report, Defendants finally admitted the "hard truth" they had long misrepresented and they had long known -- that the "the market value of the company is far short of what would be necessary to repay the company's publicly traded debt and provide any return to preferred or common shareholders."

### To Effectuate the GTS/KPNQwest Deal, GTS Files for Bankruptcy

328. On November 14, 2001, the Companies (the "Debtors") filed petitions for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware. As the Company reported in its Form 10-Q for the third quarter of 2001, the Debtors' Plan of Reorganization called for no distribution "to be made to holders of the Company's common or preferred equity securities."

### The SEC Acts to Preserve Stockholder Claims

329. In connection with the Bankruptcy Court's confirmation of the Debtors' Plan of Reorganization, the SEC took steps to ensure that such plan did not foreclose GTS stockholders from commencing claims of securities fraud against GTS officers and directors.

330. On January 17, 2002, the SEC sent a letter to the Company's bankruptcy counsel, demanding that "the following provision be included in any confirmation order to be entered by the Bankruptcy Court":

ORDERED that no provision of the confirmed plan shall act as a release or discharge of any non-debtor party, including, but not limited to, any officer or director of the Debtors, KPNQwest, or its subsidiaries, from any direct claim brought against such person or entity by a shareholder or former shareholder of the Debtors.

331. Following the SEC's request, the February 21, 2001 Confirmation Order of the Bankruptcy Court includes a provision making clear that the confirmed plan does not bar stockholders, like Plaintiffs, from commencing direct claims against GTS officers and directors.

### KPNQwest's Deteriorating Financial Condition

332. As Defendants worked diligently to move the bankruptcy proceeding toward its conclusion -- to assure receipt of their final bonus payments under the Agreements

Regarding Certain Compensation -- KPNQwest's financial condition continued to deteriorate. On February 11, 2002, KPNQwest's auditors reported in a draft 2001 Annual Report that "there is substantial doubt regarding the Company's ability to continue as a going concern. Due to this uncertainty, the Report of Independent Accountants includes a modification in this respect." Despite this going concern warning, Defendants and KPNQwest management continued to pursue the approval of the GTS bankruptcy Confirmation Plan.

333. On or about March 18, 2002, the GTS/KPNQwest transaction supposedly closed, and Defendants "qualified" for their final bonus payment. On April 24, 2002, KPNQwest issued a press release citing severely deteriorating market conditions and announcing that it was exploring alternative means of recapitalizing its balance sheet. On May 15, 2002, KPNQwest disclosed for the first time that "KPNQwest believes that, in light of its deteriorating financial position and prospects, the value of its debt and equity securities have been severely impaired and could face significant future impairment. KPNQwest believes that there is substantial risk that there may be no underlying value to either its debt or equity securities." A week later, on May 23, 2002, KPNQwest announced that its Supervisory Board had resigned, and that the Company was seeking protection under Dutch moratorium law. One week later, on May 31, 2002, KPNQwest announced that it was converting the moratorium into a bankruptcy, and over the past three months virtually all of KPNQwest's assets have been liquidated by its bankruptcy trustees. Despite assurances in the GTS bankruptcy that all GTS creditors would be paid in full, most creditors have not been paid. In light of these developments, the United States Trustee filed a motion on June 3, 2002, in the GTS bankruptcy proceeding for reconsideration of all of the professional fees approved by the bankruptcy court on May 23, 2002, including \$8,030,016

to GTS's investment advisor, Houlihan Lokey. The United States Trustee filed a separate motion on July 22, 2002 to convert the GTS bankruptcy from a Chapter 11 restructuring to a Chapter 7 liquidation, essentially seeking to unwind the entire proceeding.

334. In sum, as a consequence of Defendants' "restructuring," GTS stockholders received nothing, GTS debtholders received nothing, other GTS creditors were not paid as promised, virtually all of GTS's employees were laid off, and GTS's customers were forced to seek new service providers. The only ones who benefitted from the purported restructuring were Defendants.

#### **NO SAFE HARBOR**

335. 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. The vast majority of the specific statements pleaded herein were not "forward-looking statements" but were "hard" statements of present fact. To the extent that the statutory safe harbor does apply to any forward-looking statements pleaded herein, Defendants are liable for those false forward-looking statements because at the time each of those forward-looking statements was made, the particular speaker did not himself believe the particular forward-looking statement and knew that it was false, and/or the forward-looking statement was authorized and/or approved by an executive officer of GTS who knew that those statements were false when made.

## CLAIMS FOR RELIEF

### COUNT I

#### (Violations of Section 10(b) and Rule 10b-5 Promulgated Thereunder)

336. Plaintiffs repeat and re-allege each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

337. During the Period, Defendants engaged in a plan, scheme, conspiracy and 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 Plaintiffs; made various untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and employed devices, schemes and artifices to defraud in connection with the purchase of securities. Such scheme was intended to, and, throughout the Period, did:

(a) conceal the adverse facts concerning the Company's restructuring and prospects;

(b) misrepresent the effect of the Company's restructuring and the Defendants' plans for the Company; (c) artificially inflate and maintain the market price of the Company's common stock; and (d) cause Plaintiffs to purchase the Company's common stock at inflated prices. Defendants benefitted in a concrete and personal way from this scheme.

338. Pursuant to the above plan, scheme, conspiracy and course of conduct, each of Defendants participated directly or indirectly in the preparation and/or issuance of the press releases, Weekly Reports and e-mail communications described above, which Defendants knew would, and were intended by Defendants to, become known and available to the general investing public, including Plaintiffs. Such statements were materially false and misleading in

that they failed to disclose material adverse information and misrepresented the truth about the Defendants' plans for the Company, the Company's financing, its restructuring and its prospects. Defendants knew facts or had access to information suggesting that the public statements were not accurate and/or failed to check information they had a duty to monitor to ensure that their public statements were truthful.

339. By virtue of their positions at the Company, Defendants had actual knowledge of the materially false and misleading statements and material omissions alleged herein and intended thereby to deceive Plaintiffs or, in the alternative, Defendants acted with reckless disregard for the truth in that they failed or refused to ascertain and disclose such facts as would reveal the materially false and misleading nature of the statements made, although such facts were readily available to them. Said acts and omissions of Defendants were committed willfully or with reckless disregard for the truth. In addition, Defendants knew or recklessly disregarded that material facts were being misrepresented or omitted as described above.

340. Information showing that Defendants acted knowingly or with reckless disregard for the truth is peculiarly within Defendants' knowledge and control. As senior officers and/or directors of the Company, Defendants had knowledge of the details of the Company's internal affairs.

341. Defendants are liable both directly and indirectly for the wrongs complained of herein. Because of their positions of control and authority, Defendants were able to and did, directly or indirectly, control the content of the statements of the Company. As officers and/or directors of a publicly-held company, Defendants had a duty to disseminate

timely, accurate, and truthful information with respect to the Company's businesses, restructuring, future financial condition and prospects.

342. As a result of the dissemination of the aforementioned false and misleading statements, the market price of the Company's securities was artificially inflated throughout the Period. In ignorance of the adverse facts concerning the Company's business and financial condition which were concealed by Defendants, Plaintiffs purchased the Company's securities at artificially inflated prices and relied upon the price of the securities, the integrity of the market for the securities and/or upon statements disseminated by Defendants and were damaged thereby. The act or omissions of Defendants as set forth herein caused the losses for which Plaintiffs seek to recover.

343. During the Period, the Company's securities were traded on an active and efficient market. Plaintiffs, reasonably relying on the materially false and misleading statements described herein, which Defendants made, issued or caused to be disseminated, or relying upon the integrity of the market, purchased the Company's securities at prices artificially inflated by Defendants' wrongful conduct. Had Plaintiffs known the truth, they would not have purchased said securities or would not have purchased them at the inflated prices that were paid. At the time of the purchases by Plaintiffs, the true value of the Company's securities was substantially lower than the prices paid by Plaintiffs. Plaintiffs' reasonably relied on the statements of Defendants set forth herein, and were damaged thereby.

344. Defendants' misstatements and omissions proximately caused the resulting damage to Plaintiffs.

345. By reason of the conduct alleged herein, Defendants knowingly or

recklessly, directly or indirectly, have violated Section 10(b) of the Exchange Act and Rule 10-5 promulgated thereunder.

## **COUNT II**

### (Violations of Section 20(a) of the Exchange Act)

346. Plaintiffs repeat and re-allege each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

347. During the Period, Defendants participated in the operation and management of the Company, and conducted and participated, directly and indirectly, in the conduct of the Company's business affairs. Because of their senior positions, Defendants knew the adverse non-public information about the Company's business.

348. As officers and/or directors of a publicly traded company, Defendants had a duty to disseminate accurate and truthful information with respect to the Company's financial condition and business operations, and to correct promptly any public statements issued by the Company that had become materially false or misleading.

349. Because of their positions of control and authority as senior officers and/or directors of the Company, Defendants were able to, and did, control the contents of press releases, Weekly Reports and e-mail communications which the Company disseminated in the marketplace during the Period concerning the Company's restructuring, plans, financial condition and prospects. Throughout the Period, Defendants exercised power and authority to cause the Company to engage in the wrongful acts complained of herein. Each of Defendants, therefore, was a "controlling person" of the Company within the meaning of Section 20(a) of the Exchange Act. In this capacity, they participated in the unlawful conduct alleged which artificially inflated

the market price of the Company's common stock, thereby causing Plaintiffs to suffer losses in connection with the purchase of the Company's common stock during the Period.

350. By reason of the above conduct, Defendants are liable pursuant to Section 20(a) of the Exchange Act for the violations of the Company.

WHEREFORE, Plaintiffs pray for judgment as follows:

- A. awarding Plaintiffs compensatory damages, together with appropriate prejudgment interest at the maximum rate allowable by law;
- B. awarding Plaintiffs their costs and expenses for this litigation, including reasonable attorneys' fees and other disbursements; and
- C. awarding Plaintiffs such other and further relief as may be deemed just and proper under the circumstances.

**JURY DEMAND**

Plaintiffs demand a trial by jury on all issues so triable.

Dated: September 6, 2002  
New York, New York

O'HARE PARNAGIAN LLP

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