

February 26, 2009

Senator Corker:

Thank you very much for your breakfast presentation at Le Peep on Thursday morning. I enjoyed the presentation of your ideas and perspectives on how to address some of the financial problems we face. I respect your values and the intellect you bring to these daunting challenges.

The purpose of this letter is to earn the opportunity to discuss with you or a member of your staff a novel approach to addressing the challenge of restoring confidence in our capital markets.

We believe the key to restoring confidence in the markets is restoring the integrity of the capital markets and the information available to the public. Restoration of integrity relies, ultimately, on individuals believing they can trust what they are being told about investment opportunities.

As a "Wall Street" analyst for fifteen years, I am well versed in the ways that Wall Street and Corporate America manipulate accounting rules to *doctor* earnings and undermine the integrity of the markets.

My firm, New Constructs, measures the level of "doctored earnings" for all publicly traded stocks. Our unique capability is based on a comprehensive analysis of the entire Annual Report for each company, especially the Notes to the Financial Statements where many key financial facts are buried.

In the process of analyzing 10K filings, we see many transgressions go unnoticed...and unpunished.

1. **Omission of required disclosures** - such as entire sections of the Financial Footnotes
2. **Unethical assumptions used in the calculation of earnings** - such as volatility estimates that are far below their true level in order to reduce the cost of option expense reported in earnings<sup>1</sup>.
3. **Exploitation of grey areas in accounting** - such as the use of operating leases to hide debt off-balance sheet<sup>2</sup>.
4. **Misrepresentation of profitability** - the heavy reliance on reported EPS could be mitigated by offering a more comprehensive and standardized measure of profitability for all U.S. stocks.

Regulators need help. "A Senate study in 2002 found that the SEC had managed to fully review just 16 percent of the nearly 15,000 annual reports that companies submitted in the previous fiscal year; the recently disgraced Enron hadn't been reviewed in a decade."<sup>3</sup>

It is time to spend taxpayer dollars more wisely.

**Main point:** New Constructs' ability to identify and rectify accounting manipulations would meaningfully enhance not only the enforcement capabilities of the SEC but also the integrity of the markets.

Please call or email to arrange a meeting at 917-513-3377 or david.trainer@newconstructs.com.



David Trainer, Chief Executive Officer

<sup>1</sup> Forbes and BusinessWeek leveraged our research to write articles on this Issue. Copies are on our website.

<sup>2</sup> We are the only firm in the world to publish a report detailing the level of off balance sheet debt for all U.S. stocks. FASB called and asked for a copy b/c it was the best reference they had.

<sup>3</sup> "Road Map for Financial Recovery: Radical Transparency Now!"; [http://www.wired.com/techbiz/it/magazine/17-03/wp\\_reboot](http://www.wired.com/techbiz/it/magazine/17-03/wp_reboot)