UNIVERSITY OF CALIFORNIA

FOR IMMEDIATE RELEASE
Monday, April 14, 2003
UC contact: Trey Davis, (510) 987-0056
trey.davis@ucop.edu
Amalgamated Bank: Ron Luraschi,
First Vice President, (212) 620-8621
Charlie Miller, Fenton Communications
(202) 822-5200

AOL & TIME WARNER EXECUTIVES ACCUSED OF POCKETING NEARLY $1 BILLION IN INSIDER TRADING

Media giant inflated stock prices with "tricks, contrivances and bogus transactions" while top executives hastily cashed in their shares for personal profits

AOL-Time Warner financial results inflated by more than $1 billion

Los Angeles – Immediately before and after AOL's merger with Time Warner in January 2001, top executives at the Internet company used "tricks, contrivances and bogus transactions" to inflate the value of AOL stock while liquidating their shares in a selling frenzy to enrich themselves to the tune of $936 million, according to a lawsuit filed today (Apr. 14) in California state court.

The lawsuit, filed by the University of California and Amalgamated Bank's LongView Collective Investment Fund, alleges that former AOL chairman Stephen Case and other top executives were primary beneficiaries of "illegal insider trading." The complaint also names as defendants a number of other past and present officers and directors at AOL Time Warner Inc., along with the company itself and its auditor, Ernst & Young LLP.

The lawsuit details a more deliberate and widespread scheme on the part of AOL executives than has previously been reported. Case and two of his AOL colleagues, Vice Chairman Kenneth Novack and President/COO Robert Pittman, are accused of carrying out a scheme to overstate the number of the company's Internet subscribers and inflate its e-commerce advertising revenues, profits and backlog of future business to help secure a merger with Time Warner.

While the stock was still at an artificially high level, AOL and Time Warner executives used the closing of the merger in January 2001 to take advantage of a "change of control" proviso to cash in millions of stock options on an accelerated basis. The merger triggered early vesting of 35 million shares valued at $1.7 billion for the five top AOL executives alone.

In the subsequent five months, company executives sold off 10.7 million shares from personal portfolios. During the same period, however, they spent $1.3 billion of the company's cash reserves to repurchase 30.2 million shares on the open market – in effect, using corporate money to prop up the stock's value so they could benefit personally and shield themselves from a stock collapse, according to the suit.

The lawsuit reports that repurchasing began on February 1, 2001, and the personal stock sales began the very next day.

AOL executives Case and Pittman received the highest gain from vesting their shares, selling off $157 million and $94 million, respectively, between July 2000 and November 2002.

AOL Time Warner's stock price ultimately plummeted from a high of $58.51 per share to a low of $8.60 per share, resulting in a combined loss of more than $500 million for the two plaintiffs.

“Under the law, a company issuing new stock, as the merged AOL Time Warner did, is liable to the purchasers of that stock for material misstatements that inflate the stock’s value,” said James E. Holst, UC general counsel “We believe that AOL Time Warner and its investment advisers must be held responsible for the admitted misstatement of AOL’s financial condition.”

The scheme began in the period leading up to the merger when AOL executives engaged in “falsifications” to create a “grossly distorted” e-commerce advertising business that pumped up AOL stock prices, according to the complaint. The advertising deals included swaps with other Internet companies that AOL misleadingly counted as revenues or transactions involving AOL’s own funds that were provided to purported customers. Many of the deals were also made with companies “that lacked the financial wherewithal to honor them.”

Even as other Internet competitors were reporting a slowdown in advertising, AOL continued to insist it was bucking the trend. Six months after the merger, former AOL chief executive officer Gerald Levin, who is also named a defendant, claimed ad revenues were “stabilizing” and that “we have several high growth areas.” Levin left the company a few months later with a $625 million retirement package.

The lawsuit alleges that AOL revenues from 2000-01 were overstated by almost $1 billion. AOL Time Warner has admitted that AOL may have overstated revenues by as much as $600 million, but the lawsuit argues that even this number is too conservative.

“The public may becoming numb to the stream of reports about accounting scandals and corporate fraud, but this case should fuel renewed concern about how America’s big corporations do business and earn the trust of investors,” said William S. Lerach, senior partner at Milberg Weiss Bershad Hynes & Lerach LLP, the plaintiffs’ counsel. “In this instance, had AOL truthfully reported its actual ad revenue at the time, the merger could never have taken place.”

The merger has been called “a terrible deal” by Dow Jones, the “worst deal of the century” by *Time* and “one of the great train wrecks in corporate history” by *Fortune*. The *New York Times* has said that Case “pulled off one of the sweetest deals in business history…by managing to acquire Time Warner with AOL’s inflated stock.” Richard Parsons, AOLTW’s current CEO has called the merger “silly” and a “mistake” based on “overly ambitious” forecasts that were “not real.” Due to overvalued assets, the merged company took a $100 billion loss in 2002, the largest in history.

Ernst & Young, the accounting firm that oversaw the auditing throughout the merger, has retained the account and is paid $52 million in annual fees.

“The merger itself turns out to have been a contrivance intended to benefit an unscrupulous few at the top of the corporate hierarchy,” said Bruce Raynor, Amalgamated Bank vice chairman.

At the time of the merger, UC owned more than 11.3 million shares of Time Warner stock worth approximately $800 million, and no shares of AOL. The reduction in the value of UC’s investment as a result of the subsequent decline in AOL Time Warner's share price is in excess of $450 million. The losses by Amalgamated Bank’s LongView Collective Investment Fund totaled $55.9 million.

”The University of California made a sound investment in a solid company when it invested heavily in Time Warner prior to its merger with AOL,” said David H. Russ, UC treasurer. “The value of that

investment was significantly impaired as a result of the merger.”

In addition to the lawsuit against AOL Time Warner, the company is facing a class action securities suit and investigations by the Securities and Exchange Commission and U.S. Department of Justice.

The 184-page complaint is available in pdf format at www.milberg.com and www.ucop.edu/news.

# # #