

Edgar Filing: NEWMARK HOMES CORP - Form 10-Q

NEWMARK HOMES CORP
Form 10-Q
May 15, 2001

1

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF
THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended March 31, 2001

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF
THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

COMMISSION FILE NUMBER: 000-23677

NEWMARK HOMES CORP.

(Exact name of Registrant as specified in its charter)

Delaware

76-0460831

(State or other jurisdiction of
incorporation or organization)

(I.R.S. Employer
Identification No.)

1200 Soldiers Field Drive
Sugar Land, TX 77479

(Address of principal executive offices) (Zip code)

281-243-0100

(Registrant's telephone number, including area code)

Not applicable

(Former name, former address, and former fiscal year,
if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports
required to be filed by Section 13 or 15(d) of the Securities Exchange Act of
1934 during the preceding 12 months (or for such shorter period that the
registrant was required to file such reports), and (2) has been subject to such
filing requirements for the past 90 days. Yes X No _____

APPLICABLE ONLY TO REGISTRANTS INVOLVED IN BANKRUPTCY
PROCEEDINGS DURING THE PRECEDING FIVE YEARS:

Indicate by check mark whether the registrant has filed all documents and
reports required to be filed by Section 12, 13 or 15(d) of the Securities
Exchange Act of 1934 subsequent to the distribution of securities under a plan

Edgar Filing: NEWMARK HOMES CORP - Form 10-Q

confirmed by a court.

Yes ____ No ____

APPLICABLE ONLY TO CORPORATE REGISTRANTS

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the latest practicable date.

Title	Outstanding
Common Stock, par value \$.01	11,500,000 shares as of March 31, 2001

2

NEWMARK HOMES CORP.
INDEX

PART I. Financial Information.....

ITEM 1. Financial Statements.....

Condensed Consolidated Statements of Financial Position.....

Condensed Consolidated Statements of Operations.....

Condensed Consolidated Statements of Stockholders' Equity.....

Condensed Consolidated Statements of Cash Flows.....

Notes to the Condensed Consolidated Financial Statements.....

ITEM 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.....

ITEM 3. Changes in Information About Market Risk.....

PART II. Other Information.....

ITEM 1. Legal Proceedings.....

ITEM 2. Changes in Securities.....

ITEM 3. Defaults Upon Senior Securities.....

ITEM 4. Submission of Matters to a Vote of Security Holders.....

ITEM 5. Other Information.....

ITEM 6. Exhibits and Reports on Form 8-K.....

Exhibits.....

Reports on Form 8-K.....

Signatures.....

Edgar Filing: NEWMARK HOMES CORP - Form 10-Q

3

PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS.

NEWMARK HOMES CORP. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF FINANCIAL POSITION
(IN THOUSANDS, EXCEPT SHARE AND PER SHARE AMOUNTS)

ASSETS	MARCH 31, 2001
	----- (unaudited)
Cash.....	\$ 9,332
Receivables.....	15,731
Inventory.....	251,982
Investment in unconsolidated subsidiaries.....	2,275
Other assets, net.....	12,273
Goodwill, net of accumulated amortization of \$1,980 and \$1,594 in 2001 and 2000, respectively.....	44,969
Total assets.....	----- \$336,562 =====
LIABILITIES AND STOCKHOLDERS' EQUITY	
Construction loans payable.....	\$142,341
Acquisition notes payable.....	7,370
Other payables to affiliates.....	3,224
Accounts payable and accrued liabilities.....	26,042
Dividends payable.....	6,210
Other liabilities.....	17,223
Total liabilities.....	----- \$202,410 -----
Stockholders' equity:	
Common stock -- \$.01 par value; 30,000,000 shares authorized, 11,500,000 shares issued and outstanding.....	115
Additional paid-in capital.....	106,855
Retained earnings.....	27,182
Total stockholders' equity.....	----- 134,152 -----
Total liabilities and stockholders' equity.....	----- \$336,562 =====

See accompanying notes to the condensed consolidated
financial statements.

Edgar Filing: NEWMARK HOMES CORP - Form 10-Q

NEWMARK HOMES CORP. AND SUBSIDIARIES
 CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
 (IN THOUSANDS, EXCEPT SHARE AND PER SHARE AMOUNTS)
 (UNAUDITED)

	THREE MONTH ENDED MARCH
	----- 2001 -----
Revenues.....	\$132,816
Cost of sales.....	106,964

Gross profit.....	25,852
Equity in earnings from unconsolidated subsidiaries.....	155
Selling, general and administrative expenses.....	(15,972)
Depreciation and amortization.....	(1,183)

Operating income.....	8,852
Other income (expense):	
Interest expense.....	(1,075)
Other income, net.....	8

Income before income taxes.....	7,785
Income taxes.....	2,732

Net income.....	\$5,053
	=====
Earnings per common share:	
Basic.....	\$ 0.44
	=====
Diluted.....	\$ 0.44
	=====
Weighted average number of shares of common stock equivalents outstanding:	
Basic.....	11,500,000
	=====
Diluted.....	11,500,000
	=====

See accompanying notes to the condensed consolidated
 financial statements.

Edgar Filing: NEWMARK HOMES CORP - Form 10-Q

NEWMARK HOMES CORP. AND SUBSIDIARIES
 CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
 (IN THOUSANDS, EXCEPT PER SHARE AMOUNTS)
 (UNAUDITED)

	Common Stock	Additional Paid-In Capital	Retained Earnings
	-----	-----	-----
Balance, December 31, 2000.....	\$ 115	\$106,855	\$28,339
Net Income.....	-	-	5,053
Dividends declared (\$0.54 per share).....	-	-	(6,210)
	-----	-----	-----
Balance, March 31, 2001	\$ 115	\$106,855	\$27,183
	=====	=====	=====

See accompanying notes to the condensed consolidated financial statements.

5

6

NEWMARK HOMES CORP. AND SUBSIDIARIES
 CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
 (IN THOUSANDS)
 (UNAUDITED)

	Three Months Ended March 31,	
	2001	2000
	-----	-----
Cash flows from operating activities:		
Net income.....	\$ 5,053	\$ 5,053
Adjustments to reconcile net income to net cash used in operating activities:		
Depreciation and amortization.....	1,183	1,183
Net (gain) loss on sale of property, premises and equipment....	46	46
Equity in earnings from unconsolidated subsidiaries.....	(155)	(155)
Changes in operating assets and liabilities:		
Inventory and land held for development, net.....	(5,117)	(6,210)
Receivables.....	(953)	(953)
Other assets.....	(1,635)	(1,635)
Payable to affiliates.....	2,524	1,183
Accounts payable and accrued liabilities.....	(7,795)	(4,053)
Other liabilities.....	1,526	1,183

Edgar Filing: NEWMARK HOMES CORP - Form 10-Q

Net cash provided (used) in operating activities.....	(5,323)	(2,
Cash flows from investing activities:		
Purchases of property, premises and equipment.....	(1,403)	(
Proceeds from sales of property, premises and equipment.....	88	
Decrease in goodwill.....	0	
Investment in unconsolidated subsidiaries.....	(100)	
Distributions from unconsolidated subsidiaries.....	186	
Net cash used in investing activities.....	(1,229)	
Cash flows from financing activities:		
Proceeds from advances on construction loans payable.....	65,323	89,
Principal payments on construction loans payable.....	(50,528)	(84,
Principal payments on acquisition notes payable.....	(3,685)	(3,
Net cash provided by financing activities.....	11,110	1,
Increase (decrease) in cash.....	4,558	(1,
Cash, beginning of period.....	4,774	8,
Cash, end of period.....	\$ 9,332	\$ 6,
Supplemental disclosures of cash flow information:		
Cash paid for:		
Interest.....	\$ 4,363	\$ 4,
Income taxes.....	\$ 313	\$ 1,

Noncash

The Company declared dividends of \$6.2 million at March 31, 2001 which were paid subsequent to the quarter end.

See accompanying notes to the condensed consolidated financial statements.

NOTES TO THE CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

ORGANIZATION

Newmark Homes Corp. and subsidiaries (the "Company") is an 80% owned subsidiary of Technical Olympic USA, Inc. ("TOUSA") as of December 15, 1999. The Company was formed in December 1994 to serve as a real estate holding company.

The Company's primary subsidiaries are as follows:

Edgar Filing: NEWMARK HOMES CORP - Form 10-Q

SUBSIDIARY -----	NATURE OF BUSINESS -----
Newmark Home Corporation ("Newmark").....	Single-family residential homebuilding Tennessee and North Carolina - formed in 1
Westbrooke Communities, Inc. ("Westbrooke").....	Single-family residential homebuilding lot developer in South Florida - formed in
Pacific United Development Corporation ("PUDC")....	Residential lot development in Texas and formed in 1993.

BASIS OF PRESENTATION

The consolidated financial statements include the accounts of the Company and its subsidiaries. The accounting and reporting policies of the Company conform to generally accepted accounting principles and general practices within the homebuilding industry. All significant intercompany balances and transactions have been eliminated in the consolidated financial statements.

The preparation of financial statements in accordance with generally accepted accounting principles requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates.

INTERIM PRESENTATION

The accompanying condensed consolidated financial statements have been prepared by the Company and are unaudited. Certain information and footnote disclosures normally included in financial statements presented in accordance with generally accepted accounting principles have been omitted from the accompanying statements. The Company's management believes the disclosures made are adequate to make the information presented not misleading. However, the financial statements included as part of this 10-Q filing should be read in conjunction with the financial statements and notes thereto included in the Company's December 31, 2000 Annual Report on Form 10-K. The accompanying unaudited consolidated financial statements reflect all adjustments that, in the opinion of the management of the Company, are considered necessary for a fair presentation of the financial position, results from operations and cash flows for the periods presented. Results of operations achieved through March 31, 2001 are not necessarily indicative of those which may be achieved for the year ended December 31, 2001.

EARNINGS PER SHARE

Basic Earnings Per Share is computed by dividing earnings attributable to common shareholders by the weighted average number of common shares outstanding for the period. Diluted Earnings Per Share reflects the potential dilution that could occur if securities or other contracts to issue common stock were exercised or converted into common stock or resulted in the issuance of common stock that then shared in the earnings of the Company. The following table reconciles the computation of basic and diluted Earnings Per Share for the three months ended March 31, 2001 and 2000 (in thousands, except per share amounts):

Edgar Filing: NEWMARK HOMES CORP - Form 10-Q

	THREE MONTHS ENDED MARCH 31,	
	2001	2000
Income available to common shareholders (Numerator).....	\$5,053	\$5,324
Weighted average of shares outstanding (Denominator).....	11,500	11,500
Basic and diluted Earnings Per Share.....	\$.44	\$.46
Diluted Earnings Per Share.....	\$.44	\$.46

8

9

NOTE 2. INVENTORY

Inventory balances as of March 31, 2001 and December 31, 2000 consist of the following:

	Number of Homes		
	March 31, 2001	December 31, 2000	March 31, 2001
Completed	186	178	\$44,9
Under construction	909	824	112,8
Models	74	73	18,8
Residential lots.....	-	-	75,3
Total.....	1,169	1,075	\$251,9

NOTE 3. CAPITALIZED INTEREST

A summary of interest capitalized in inventory is as follows (in thousands):

THREE MONTHS ENDED MARCH 31,	
2001	2000

Edgar Filing: NEWMARK HOMES CORP - Form 10-Q

Interest capitalized, beginning of period....	\$6,917	\$6,266
Interest incurred	3,690	3,904
Less interest included in:		
Cost of sales.....	2,256	2,553
Other income (expense).....	1,075	744
	-----	-----
Interest capitalized, end of period	\$7,276	\$6,873
	=====	=====

NOTE 4. COMMITMENTS AND CONTINGENCIES

The Company is subject to certain pending or threatened litigation and other claims. Management, after review and consultation with legal counsel, believes the Company has meritorious defenses to these matters and that any potential liability from these matters would not materially affect the Company's consolidated financial statements.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

This Quarterly Report on Form 10-Q may contain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, Section 21E of the Securities Exchange Act of 1934, as amended and the Private Securities Litigation Reform Act of 1995. Such matters involve risks and uncertainties, including the Company's exposure to certain market risks, changes in economic conditions, tax and interest rates, increases in raw material and labor costs, weather conditions, and general competitive factors that may cause actual results to differ materially.

RESULTS OF OPERATIONS

The following tables set forth certain operating and financial data for the Company:

	NEW SALES CONTRACTS, NET OF CANCELLATIONS		HOME CLOSINGS	
	THREE MONTHS ENDED MARCH 31,		THREE MONTHS ENDED MARCH 31,	
	2001	2000	2001	2000
	----	----	----	----
Houston.....	201	165	121	128
Austin.....	107	187	133	165
Dallas/Ft. Worth.....	46	38	34	29
San Antonio.....	26	12	12	4
Ft. Lauderdale,				

Edgar Filing: NEWMARK HOMES CORP - Form 10-Q

Palm Beach, Miami.....	290	173	139	210
Nashville.....	53	31	24	17
Charlotte.....	4	5	1	4
Greensboro/Winston-Salem.....	5	6	4	6
	---	---	---	---
Total	732	617	468	563
	===	===	===	===

10

11

	As a Percentage of Revenue Three Months	
	----- Ended March 31, -----	
	2001	2000
	-----	-----
Cost of sales.....	80.5%	83.0%
Gross profit.....	19.5%	17.0%
Selling, general and administrative expenses..	12.0%	9.9%
Income before income taxes.....	5.9%	6.1%
Income taxes (1)	35.1%	36.1%
Net income.....	3.8%	3.9%

(1) As a percent of income before income taxes.

THREE MONTHS ENDED MARCH 31, 2001 COMPARED TO THREE MONTHS ENDED MARCH 31, 2000

Revenues decreased by 2.6% to \$132.8 million in the three months ending March 31, 2001 from \$136.4 million in the three months ending March 31, 2000 due to the net effect of a decrease in units closed, an increase in the average selling price and an increase in land sales. The number of homes closed by the Company decreased by 16.9% to 468 homes in the three months ending March 31, 2001 from 563 homes in the three months ending March 31, 2000. The Company's average selling price of homes closed in the three months ending March 31, 2001 was \$265,038, an increase of 10.2% from the \$240,449 average selling price in the three months ending March 31, 2000 due to product mix within the subdivisions closing homes. The average selling price of a Newmark (R) home closed in the three months ending March 31, 2001 was \$261,662, an increase of 7.7% from the \$242,914 average selling price in the three months ending March 31, 2000. The Fedrick, Harris Estate Homes average selling price of homes closed in the three months ending March 31, 2001 was \$479,228, an increase of 7.8% from the \$444,253 average selling price in the three months ending March 31, 2000. In the South Florida market, Westbrooke's average selling price of homes closed in the three months ending March 31, 2001 was \$207,290, an increase of 4.2% from the \$198,913 average selling price in the three months ending March 31, 2000. In addition, revenue from land sales in the three months ending March 31, 2001 increased to \$8.8 million from \$1.1 million in the three months ending March 31, 2000.

New net sales contracts increased 18.6% to 732 homes for the three months ended March 31, 2001 from 617 homes for the three months ended March 31, 2000. The dollar amount of new net sales contracts increased 15.1% to \$188.2 million.

Edgar Filing: NEWMARK HOMES CORP - Form 10-Q

The Company was operating in 79 subdivisions at March 31, 2001 compared to 77 subdivisions at March 31, 2000. As of March 31, 2001, the Company's backlog of sales contracts was 1,109 homes, a 5.4% increase over comparable figures at March 31, 2000.

Cost of sales decreased by 5.5% to \$107.0 million in the three months ended March 31, 2001 from \$113.2 million in the comparable period of 2000. The decrease was attributable to the decrease in revenues as described above. Cost of land sales for the three months ended March 31, 2001 increased to \$6.0 million from \$.9 million for the comparable period of 2000. As a percentage of revenues, cost of sales for the three months ended March 31, 2001 decreased to 80.5% in 2001 from 83.0% in 2000.

Selling, general and administrative ("SG&A") expense increased by 17.7% to \$16.0 million in the three months ended March 31, 2001, from \$13.6 million in the comparable period of 2000. The increase was primarily caused by increased construction and sales activity in the new markets of Nashville, Tennessee; Charlotte and Greensboro, North Carolina as well as in the Company's existing Texas and Florida markets, as indicated by the increase in the backlog and the 10.3% increase in the homes under construction at the end of March 2001 versus March 2000. As a percentage of revenues, SG&A expense increased to 12.0% in the three months ended March 31, 2001 from 9.9% in the comparable period of 2000.

Interest expense, net of interest capitalized, totaled \$1.1 million in the three months ended March 31, 2001 compared to \$.7 million in the comparable period of 2000. The Company follows a policy of capitalizing interest only on inventory under construction or development. During the three months ended March 31, 2001 and 2000, the Company expensed a portion of interest incurred and other financing costs on those

11

12

completed homes held in inventory. This expense increased due to the increase in the average number of completed homes held in inventory for the quarter ending March 31, 2001. Capitalized interest and other financing costs are included in cost of sales at the time of home closings. In addition, interest on certain acquisition notes has increased pursuant to the Second Amendment to Stock Purchase Agreement and the related Amended and Restated Note Agreements.

The Company's provision for income taxes decreased as a percentage of earnings before taxes to 35.1% for the three months ending March 31, 2001 compared to 36.1% for the three months ending March 31, 2000. The Company recognized federal income tax expense amounting to \$2.5 million for the three months ending March 31, 2001 compared to \$2.9 million for the three months ending March 31, 2000. The decrease in income taxes is primarily due to reduced earnings for the three months ending March 31, 2001 compared to the three months ending March 31, 2000.

Net income decreased by 5.12% to \$5.1 million in the three months ended March 31, 2001, from \$5.3 million in the comparable period of 2000. The decrease was attributable to the decrease in revenues as described above.

FINANCIAL CONDITION, LIQUIDITY AND CAPITAL RESOURCES

At March 31, 2001, the Company had available cash and cash equivalents of \$9.3 million. Inventories (including finished homes and construction in progress, developed residential lots and other land) at March 31, 2001 increased by \$5.1 million from \$246.9 million at December 31, 2000 due to a general increase in business activity and the expansion of operations in the newer market areas. Because of increased business activity and expansion of operations in the newer markets, the Company's ratio of construction loans payable to total capital

Edgar Filing: NEWMARK HOMES CORP - Form 10-Q

assets increased to 55.0% at March 31, 2001 from 50.5% at December 31, 2000. The equity to total assets ratio decreased during the three months to 39.9% at March 31, 2001 from 41.7% at December 31, 2000 primarily due to the dividends declared of \$6.2 million at March 31, 2001.

The Company's financing needs depend upon the results of its operations, sales volume, inventory levels, inventory turnover, and acquisitions. The Company has financed its operations through borrowings from financial institutions and through funds from earnings.

At March 31, 2001, the Company had lines of credit commitments for construction loans totaling approximately \$253.0 million, of which \$19.0 million is available to draw down.

The Company's growth requires significant amounts of cash. It is anticipated that future home construction, lot and land purchases and acquisitions will be funded through internally generated funds and new and existing borrowing relationships. The Company continuously evaluates its capital structure and, in the future, may seek to further increase secured debt and obtain additional equity to fund ongoing operations as well as to pursue additional growth opportunities.

Except for ordinary expenditures for the construction of homes and, to a limited extent, the acquisition of land and lots for development and sale of homes, at March 31, 2001, the Company had no material commitments for capital expenditures.

12

13

SEASONALITY AND QUARTERLY RESULTS

The homebuilding industry is seasonal, as generally there are more sales in the spring and summer months, resulting in more home closings in the fall. The Company operates in the Southwestern and Southeastern markets of the United States, where weather conditions are more suitable to a year-round construction process than other areas. The Company also believes its geographic diversity to be somewhat counter-cyclical, with adverse economic conditions associated with certain of its markets often being offset by more favorable economic conditions in other markets. The seasonality of school terms has an impact on the Company operations, but it is somewhat mitigated by the fact that many of the Company's buyers at the higher end of the Company's price range, including Fedrick, Harris Estate Homes, no longer have children in school. As a result of these factors, among others, the Company generally experiences more sales in the spring and summer months, and more closings in the summer and fall months. Likewise, Westbrooke has experienced seasonality in its revenues, generally completing more sales in the spring and summer months and more closings in the fourth quarter.

The Company historically has experienced, and in the future expects to continue to experience, variability in revenues on a quarterly basis. Factors expected to contribute to the variability include, among others: (i) the timing of home closings; (ii) the Company's ability to continue to acquire land and options on acceptable terms; (iii) the timing of receipt of regulatory approvals for the construction of homes; (iv) the condition of the real estate market and general economic conditions; (v) the cyclical nature of the homebuilding industry; (vi) prevailing interest rates and the availability of mortgage financing; (vii) pricing policies of the Company's competitors; (viii) the timing of the opening of new residential projects; (ix) weather; and (x) the cost and availability of materials and labor. The Company's historical financial performance is not necessarily a meaningful indicator of future results and the Company expects its

Edgar Filing: NEWMARK HOMES CORP - Form 10-Q

financial results to vary from project to project and from quarter to quarter.

ITEM 3. CHANGES IN INFORMATION ABOUT MARKET RISK

The Company is exposed to market risk primarily related to potential adverse changes in interest rates as discussed below. The company does not enter into, or intend to enter into, derivative financial instruments for trading or speculative purposes. The Company's exposure to market risks is changes to interest rates related to the Company's construction loans. The interest rates relative to the Company's construction loans fluctuate with the prime and Libor lending rates, both upwards and downwards.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

The Company is involved in various claims and legal actions arising in the ordinary course of business. In the opinion of the Company's management, the ultimate disposition of these matters is not expected to have a material effect on the financial condition or results of operations of the Company.

ITEM 2. CHANGES IN SECURITIES

None. No disclosure required.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None. No disclosure required

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

None. No disclosure required

ITEM 5. OTHER INFORMATION

None. No disclosure required.

13

14

ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K

(a.) Exhibits.

Exhibit Number -----	Exhibit -----
10.1	First Amendment to the Credit Agreement among Newmark Homes, L.P. and Bank of America, N.A. as Administrative Agent, Swing Line leader and Letter of Credit Issuing Lender and Other Financial Institutions Party Hereto dated January 1, 2001

(b) Reports on Form 8-K.

Report on Form 8-K dated as of March 23, 2001 pertaining to the Registrant's Agreement and Plan of Merger between Newmark-Nevada and Newmark Homes Corp.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

NEWMARK HOMES CORP.

May 15, 2001

By: /s/ Terry C. White

Terry C. White, Senior Vice President, Chief
Financial Officer, Treasurer and Secretary

INDEX TO EXHIBITS

Exhibit Number -----	Exhibit -----
10.1	First Amendment to the Credit Agreement among Newmark Homes, L.P. and Bank of America, N.A. as Administrative Agent, Swing Line leader and Letter of Credit Issuing Lender and Other Financial Institutions Party Hereto dated January 1, 2001