IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In Re Enron Corporation Securities, Derivative & "ERISA" Litigation	§	MDL-1446
MARK NEWBY, ET AL., Plaintiffs	§	
VS.	§	CIVIL ACTION NO. H-01-3624 CONSOLIDATED CASES
ENRON CORPORATION, ET AL., Defendants	§	
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, et al., Individually and On Behalf of All Others Similarly Situated, Plaintiffs,	§	
VS.	§	
KENNETH L. LAY, et al., Defendants.	§	

ORDER

Pending before the Court in the above referenced cause is Defendants Barclays PLC, Barclays Bank PLC, Barclays Capital, Inc., Canadian Imperial Bank of Commerce, CIBC World Markets Corp. (formerly known as CIBC Oppenheimer Corp.), CIBC World Markets PLC, Citigroup Inc., Citibank N.A., Citigroup Global Markets Inc. (formerly known as Salomon Brothers International Limited), Credit Suisse First Boston LLC (formerly known as Credit Suisse First Boston Corporation, Credit Suisse First Boston (USA), Inc., Pershing LLC (formerly known as Donaldson, Lufkin & Jenrette Securities Corporation), JPMorgan Chase Bank, N.A., JPMorgan Chase & Co., J.P. Morgan Securities Inc., Merrill Lynch, Pierce, Fenner

& Smith Incorporated, and Merrill Lynch & Co., Inc.'s (collectively, "the Bank Defendants'") motion to dismiss (instrument #3628) the counterclaims asserted in the following instruments as untimely filed under the Court's March 23, 2005 Order (#3267) clarifying the Court's March 1, 2005 Order (#3168) concerning the time for filing Third-Party Complaints and Cross-Claims: (1) Arthur Andersen LLP's Partial Answer to the Cross-Claims and Third-Party Complaint for Contribution and Indemnification and Counterclaims for Contribution and Indemnification (#3414), dated May 2, 2005; and (2) David B. Duncan's Partial Answer to the Cross-Claims and Third-Party Complaint for Contribution and Indemnification and Counterclaims for Contribution and Indemnification (#3417), dated May 3, 2005.

No responses have been filed to the motion to dismiss. Because it is therefore construed as unopposed and because facially these documents (#3414 and 3417) were not timely filed, the Court

ORDERS that Bank Defendants' motion to dismiss with prejudice (#3628) is GRANTED.

SIGNED at Houston, Texas, this 1st day of ~~November~~ December, 2005.

Melinda Harmon

MELINDA HARMON
UNITED STATES DISTRICT JUDGE