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

United States Courts
Southern District of Texas
FILED
JAN 14 2002
Michael N. Milby, Clerk of Court

MARK NEWBY, Plaintiff, v. ENRON CORPORATION, ANDREW S. FASTOW, KENNETH L. LAY and JEFFREY J. SKILLING, Defendants.	Civil Action No. 01-CV-3624 (Consolidated)

AMENDED MOTION FOR APPOINTMENT OF
CO-LEAD PLAINTIFFS AND CO-LEAD COUNSEL

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

The Florida State Board of Administration ("FSBA") and the New York City Pension Funds (the "NYC Funds") hereby amend their respective motions previously filed and jointly move, pursuant to § 21D(a)(3)(B) of the Securities Exchange Act of 1934 (the "Exchange Act"), for an order appointing the FSBA and the NYC Funds as co-lead plaintiffs and approving counsel selected and retained by the FSBA and the NYC Funds as co-lead counsel to represent the Class.

The reasons for this Amended Motion are set forth in the accompanying Affidavit of Linda Lettera and Declaration of Leslie A. Conason.

The Amended Motion should be granted for all the reasons set forth in the FSBA's and the NYC Funds' previously submitted memoranda of law, affidavits and declarations, their responsive papers to be jointly filed on January 22, 2002, and their reply papers to be jointly filed on January 28, 2002, and such other written or oral argument as may be permitted by the Court.

Dated: January, 14, 2002

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Corporation Counsel of the City of New York
By: Leslie A. Conason,. Esq.
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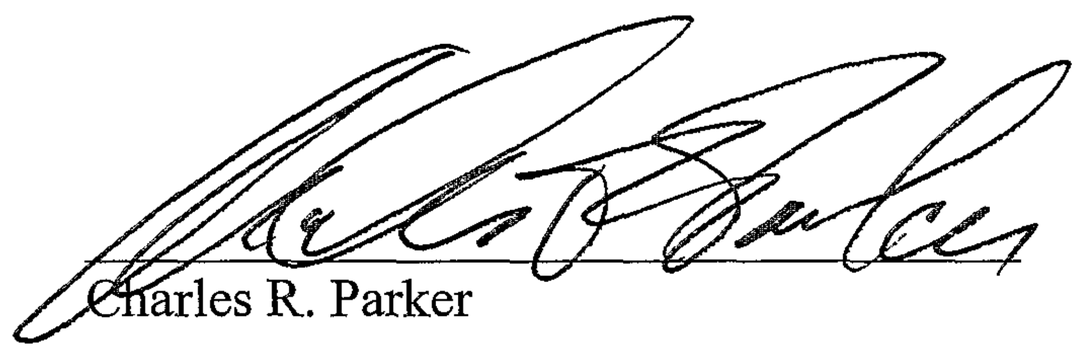
Counsel for the New York City Pension Funds

CERTIFICATE OF SERVICE

Pursuant to Rule 5(b) of the F.R.C.P., I hereby certify that a true and correct copy of the above and foregoing document was served on all counsel of record by First Class, United States mail, on this the 14th day of January, 2002.



Charles R. Parker

AFFIDAVIT OF LINDA LETTERA

STATE OF FLORIDA)
) SS
COUNTY OF LEON)

Linda Lettera, having been placed under oath, deposes and states as follows:

1. My name is Linda Lettera. I am the General Counsel for the Florida State Board of Administration ("FSBA"). I submit this Affidavit in support of the Amended Motion of the FSBA and the New York City Funds to serve as co-lead plaintiffs of this action.

2. I learned of the New York City Funds' interest in this litigation shortly before the deadline for the filing of the Lead Plaintiff Motions in December of 2001. On or about December 20, 2001, I had conversations with Phyllis Taylor, Deputy Comptroller for Legal Affairs/General Counsel for the Office of the New York City Comptroller, and Lorna Goodman, who was at the time Senior Assistant Corporation Counsel in the City of New York Law Department. During these conversations, we learned that we shared the same philosophy regarding the fiduciary role of lead plaintiffs in class action litigation and the issue of serving as co-lead plaintiffs in this action was discussed. These conversations took place without outside counsel's participation solely on a client-to-client basis.

3. After the lead plaintiff motions were filed, I continued to discuss a cooperative arrangement with my counterparts in New York. The focus of these communications was how we would direct this litigation if we agreed to act as co-lead plaintiffs. We discussed our view that the PSLRA requires active management of litigation by lead plaintiffs. We recognized early on in these discussions that we shared

the view that the lead plaintiffs should take an active role in the decision-making process in litigation such as this, and not simply delegate decisions to outside counsel.

4. We also discussed the resources that we bring to this litigation. In the case of the FSBA, we have an in-house legal department that I direct. We also have numerous investment professionals who assist in and direct the investment of more than $100 billion in pension funds.

5. Both the FSBA and the New York City Funds have had significant experience in managing class action litigation. During the course of our discussions, we recognize that there have been valuable lessons learned through the management of class actions in the past. We noted and discussed some of the critical decisions that the lead plaintiff must make during the course of litigation regarding what parties to name as defendants, what claims to assert, and the role of the lead plaintiff in the potential settlement of any litigation such as this.

6. Finally, we discussed attorneys' fees and the role generally of outside counsel. Both the FSBA and the New York City Funds had negotiated fee agreements with their outside counsel at rates substantially below what is typically sought in class actions. We agreed to exchange these fee agreements and attempt to achieve one fee agreement that would govern counsel for both the New York City Funds and the FSBA. That has now been done. With regard to the structure and organization of counsel, we discussed options that would avoid duplication of effort and result in an efficient and workable structure for the direction of this litigation with sufficient support and resources to effectively prosecute this case.

FURTHER AFFIANT SAYETH NAUGHT.

Linda Lettera, Esq.
General Counsel
Florida State Board of Administration

Sworn to and subscribed to this
11th day of January, 2002.

Notary Public

Janice S. Joanos
MY COMMISSION # CC733508 EXPIRES
August 7, 2002
BONDED THRU TROY FAIN INSURANCE, INC.

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

MARK NEWBY, Plaintiff, v. ENRON CORPORATION, ANDREW S. FASTOW, KENNETH L. LAY and JEFFREY J. SKILLING, Defendants.	)	Civil Action No. 01-CV-3624 (Consolidated) Judge Lee H. Rosenthal

**DECLARATION OF LESLIE A. CONASON
IN SUPPORT OF AMENDED MOTION OF
THE FLORIDA STATE BOARD OF ADMINISTRATION
AND THE NEW YORK CITY PENSION FUNDS FOR
APPOINTMENT OF CO-LEAD PLAINTIFFS AND CO-LEAD COUNSEL**

LESLIE A. CONASON, hereby declares, pursuant to 28 U.S.C. § 1746,

1. I am an Assistant Corporation Counsel in the Office of Michael A. Cardozo, Corporation Counsel of the City of New York (hereafter referred to as "the Law Department"). I make this declaration in support of the amended application of the New York City Pension Funds (the "NYC Funds") and the Florida State Board of Administration ("FSBA"), two of the

largest public pension funds in the United States, to serve as co-lead plaintiffs in this consolidated litigation.

2. The NYC Funds, which include the retirement accounts for New York City's firefighters, police officers, teachers, Board of Education and other City workers, seek appointment as lead plaintiff in this historic litigation for one principal reason: to actively control the course of the litigation in order to maximize the net recovery of absent class members.

3. Among the applicants for lead plaintiff in this litigation, the NYC Funds has distinguished itself as an active, able, and independent advocate for the class in major securities fraud class actions. The clearest example of our commitment to our role as a fiduciary on behalf of absent class members came in In re Cendant Litigation, 264 F.3d 201 (3rd Cir. 2001), where we demonstrated our willingness and ability to direct and "take an active role in and control the litigation and to protect the interests of the absentees," Berger v. Compaq Computer Corp., 257 F. 3d 475 at 479 (5th Cir. 2001), by challenging the use of an auction under the Private Securities Litigation Reform Act ("PSLRA") to supplant a preexisting retainer agreement and by opposing approval of attorneys' fees at the $76 million higher auction rate. The NYC Funds, alone amongst its co-plaintiffs, contested the fee application at the district court level, then appealed the issue to the Third Circuit. Due to our efforts, the net recovery to the class will be dramatically increased.

4. The NYC Funds' commitment to client directed class action litigation is the impetus for this motion. We concluded that the best chance the NYC Funds had of ensuring that this crucial litigation be client controlled, as Congress intended under the PSLRA, rather than attorney driven, was to explore combining both our losses as well as our experience, resources,

and public policy commitment with those of one or more of the other applicants for lead plaintiff.

5. The NYC Funds, while approached by various entities both prior to the filing of its lead plaintiff motion and afterwards, was committed not to lend its support to any group where there was a danger that the lawyers and not the class representatives would be directing and controlling the litigation. See Compaq Computer Corp., 257 F. 3d 475 (5th Cir. 2001). In this regard, we were cautious of joining with any group of plaintiffs with multiple members where the client's control might have a tendency to become diluted and subservient to the control by lead counsel. This was particularly true where the group members did not share a demonstrated history of being active, committed, and experienced class representatives in prior securities class actions. Furthermore, we were disinclined to join any group of plaintiffs whose chief connection appeared to be that of their attorneys.

6. Additionally, the NYC Funds were guided by which, if any, of the prospective lead plaintiffs shared the NYC Funds' goals of: (1) retaining highly qualified counsel at a competitive fee resulting from a hard fought, arm's length negotiation with the most favorable retention terms possible for the benefit of the class, (2) actively monitoring litigation strategy as well as all decision making, including but not limited to settlement negotiations, (3) approving no settlement or resolution less than the highest possible recovery for the class, and (4) where relevant, lobbying for changes in corporate governance as part of the settlement process.

7. The NYC Funds weighed these concerns against the various entities vying for lead plaintiff status in this litigation. In conjunction with the New York City Comptroller's Office, the Law Department decided to contact Linda Lettera, Esq., General Counsel for the FSBA, to

continue discussions about the possibility of our two public pension funds joining together on behalf of the Class to seek appointment as co-lead plaintiffs. Initial discussions between Ms. Lettera and my office had taken place just prior to the December 21, 2001 filing deadline

8. After several discussions between Ms. Lettera and myself, without involvement of our respective outside counsel, I felt comfortable that FSBA and NYC Funds shared the same goals in seeking to be lead plaintiff in this litigation. In addition, the FSBA, like the NYC Funds, has had extensive experience not only as a fiduciary generally but as lead plaintiff in important securities class action litigations. Both Florida and the NYC Funds are prepared to commit all of the personnel and resources necessary to adequately manage this litigation.

9. Ms. Lettera and I discussed the qualifications of the law firms each of us had already selected to represent the class in the event the FSBA or the NYC Funds were chosen as lead plaintiff. We determined that our respective outside counsel could work together efficiently and cooperatively. We also agreed that we would adopt whichever one of our respective fee agreements proved more favorable to the class. We exchanged our respective retainers in order to make that determination.

10. Based on these discussions, the NYC Funds and FSBA have agreed to work together for the best interests of the Class. Accordingly, we are amending our respective applications and move the Court for appointment as co-lead plaintiffs and for approval of our respective selections of outside counsel to act as co-lead counsel for the Class.

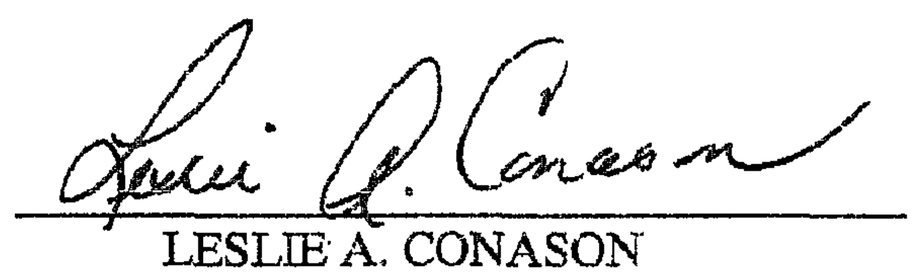
11. In this connection, the NYC Funds and FSBA have entered into a revised retainer agreement incorporating from each of our separate retainer agreements the fee schedule and the retainer terms most advantageous to the class. We are confident that this process has secured

highly experienced and qualified representation for the class at a competitive fee resulting in considerable savings to the class compared to benchmark fees normally awarded in cases like this. We will proudly submit this agreement to the Court for its in camera review.

12. While the retainer agreement affords the class skilled representation at a reasonable fee, the fee structure affords ample incentive to class counsel to achieve the highest recovery possible. In any event, both the NYC Funds and the FSBA are committed to approving no resolution of this important securities litigation at any amount less than the highest result possible under the circumstances. In order to safeguard against any increased costs and/or duplication of effort resulting from the retention of the four law firms which have already appeared in this action on behalf of the FSBA and the NYC Funds, the retainer requires regular submission of time, expense, and litigation reports which will be carefully monitored by both lead plaintiffs. Other protections in the retainer agreement include the requirement of written consent of both lead plaintiffs prior to the engagement by lead counsel of other law firms, consultants or experts. The FSBA and the NYC Funds retain the right to modify the fee at their sole discretion in light of the final recovery and the amount and quality of the legal work done to achieve it. Lead counsel have agreed not to submit any request for attorneys' fees without the prior consent of both public pension funds.

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on the14th day of January, 2002.



LESLIE A. CONASON