United States Courts
Southern District of Texas
FILED

MAR 3 1 2003

Michael N. Milby, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re ENRON CORPORATION SECURITIES, DERIVATIVE AND "ERISA" LITIGATION	§	MDL-1446
MARK NEWBY, et al., Plaintiffs, vs. ENRON CORP., et al. Defendants.	§	Civil Action No. H-01-3624 (Consolidated)
This document relates to: WASHINGTON STATE INVESTMENT BOARD, et al., Plaintiffs, vs. KENNETH L. LAY., et al. Defendants.	§	Civil Action No. H-02-3401

SUPPLEMENTAL RESPONSE BY BANK DEFENDANTS TO PLAINTIFFS' OPPOSITION TO CERTAIN DEFENDANTS' MOTION TO STRIKE THE WASHINGTON STATE INVESTMENT BOARD CLASS ACTION COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

In Plaintiffs' opposition to the motion filed by certain Director Defendants to strike the complaint, Plaintiffs contend that the *Washington* complaint is timely filed

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by virtue of the Sarbanes Oxley Act, which was enacted in July of 2002. The Bank Defendants did not join in the motion filed by the Director Defendants.[1]

The Bank Defendants file this response to Plaintiffs' opposition for the limited purpose of alerting the Court that the Bank Defendants believe that the new extended statute of limitations for securities fraud contained within the Sarbanes Oxley Act does not apply to this case. Although the position will be fully briefed in the Bank Defendants' motion to dismiss, Bank Defendants intend to argue in that motion, *inter alia*, that the Sarbanes-Oxley Act does not revive claims (like those in *Washington*) which were already time barred before the statute was enacted. Although it is unclear to the Bank Defendants whether the Court needs to determine the applicability of the Sarbanes Oxley Act in order to adjudicate the pending motion, if the Court deems it necessary to address the issue in order to decide this motion, we request the Court to *defer* ruling on the motion until all parties have had the opportunity to fully brief the issue, in the context of their motions to dismiss. In that way, the Court can insure that the parties have been fully heard and that the Court is fully informed before ruling on the issue.

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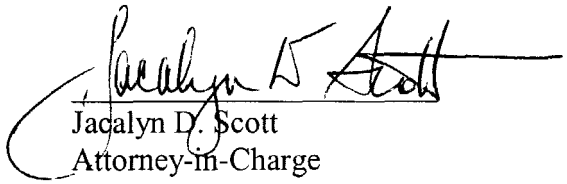
[1] On March 24, 2003, Bank Defendants filed a pleading which stated that "[t]he Bank Defendants take no position on Certain Defendants' Motion. If the Court does not strike the Complaint, the Bank Defendants expect to move to dismiss the Complaint on statute of limitations and other grounds once the Court-ordered stay is lifted and the Court permits responsive pleadings to be filed." Response of Bank Defendants at 2. The same day, Plaintiffs filed their opposition, which has necessitated this brief supplemental response.

March 31, 2003

Respectfully submitted,



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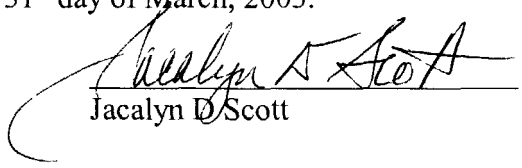
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served upon all known counsel via the esl3624 website or as otherwise required by the Court's prior orders on this the 31st day of March, 2003.



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