

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

In re ENRON CORPORATION  
SECURITIES, DERIVATIVE & "ERISA"  
LITIGATION

MDL 1446

United States Courts  
Southern District of Texas  
FILED

APR 17 2003

Michael N. Milby, Clerk

MARK NEWBY, ET AL.,

Plaintiffs,

CIVIL ACTION NO. H-01-3624 AND  
CONSOLIDATED CASES

v.

ENRON CORPORATION, et al.

Defendants.

United States Courts  
Southern District of Texas  
ENTERED

APR 21 2003

Michael N. Milby, Clerk of Court

SILVERCREEK MANAGEMENT INC.;  
SILVERCREEK LIMITED  
PARTNERSHIP; SILVERCREEK II  
LIMITED; OIP LIMITED and PEBBLE  
LIMITED PARTNERSHIP,

Plaintiffs,

CIVIL ACTION NO. H-02-3185

v.

SALOMON SMITH BARNEY, INC.;  
GOLDMAN SACHS & COMPANY;  
BANC OF AMERICA SECURITIES LLC;  
ARTHUR ANDERSEN LLP,

Defendants.

**STIPULATION AND ORDER**

IT IS HEREBY STIPULATED, by and between the undersigned, that  
Defendants Salomon Smith Barney, Inc. ("Salomon") and Banc of America Securities  
LLC ("Banc of America") consent to Plaintiffs' Motion for Leave to File First Amended  
Complaint (the "Motion"), provided that:

# 1343

(i) if any other defendant opposes the Motion and the Court denies the Motion, then such denial shall be deemed to apply to Defendants Salomon and Banc of America, the First Amended Complaint shall be deemed withdrawn, and the original Complaint shall be the operative complaint in this matter;

(ii) irrespective of whether the Motion is denied, the parties agree to seek an order from the Court consolidating the above-captioned matter with Silvercreek Management Inc., et al. v. Citigroup, Inc., et al., Civ. A. No. H-02-815 (S.D. Tex.) ("Silvercreek II"), consent to a uniform schedule for the two consolidated Silvercreek cases, and stipulate that the claims in Silvercreek II do not relate back to the filing of the original complaint in the above-captioned matter; and

(iii) Defendants will have forty-five days from the date the Court enters an order lifting the stay in Newby, et al. v. Enron Corp., et al., Civ. Action No. H-01-3624 and Consolidated Cases (S.D. Tex.), or the date the Court decides the Motion, whichever is later, to move, answer, or otherwise respond to the operative complaint in this matter and to the First Amended Complaint in Silvercreek II, with the understanding that, if the Court denies the Motion, Defendants may elect to rely on their motions to dismiss currently pending in this matter. This provision is without prejudice to Plaintiffs' right to seek that the stay be lifted as to its cases and the Defendants' right to seek to argue that the stay should remain in effect.

Nothing in this Stipulation and Order waives any defense that any Defendants may have, including, but not limited to, lack of personal jurisdiction, improper venue, insufficiency of process or insufficiency of service of process.

Dated: April 17, 2003

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Attorneys for Defendant Banc of America  
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SO ORDERED:

April 17, 2003  
Melinda Harmon  
Hon. Melinda Harmon, U.S.D.J.

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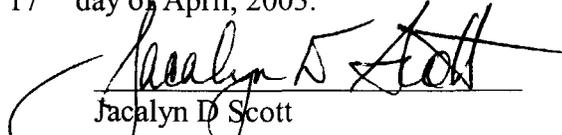
SO ORDERED:

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Hon. Melinda Harmon, U.S.D.J.

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 es13624 website or as otherwise required by the Court's prior orders on this the 17<sup>TH</sup> day of April, 2003.

  
Jacalyn D Scott