United States Courts
Southern District of Texas
FILED
MAY 19 2003
Michael N. Milby, Clerk

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

MARK NEWBY et al.,	§	**CONSOLIDATED LEAD. NO. H-01-3624**
Plaintiffs,	§	
	§	
v.	§	
	§	
ENRON CORP., et al.,	§	
Defendants.	§	
	§	
This pleading concerns:	§	
	§	
DAVID JOSE, et al.	§	**CIVIL ACTION NO. H-03-1087**
	§	
Plaintiffs,	§	
v.	§	
	§	
ARTHUR ANDERSEN, L.L.P., et al.	§	
	§	
Defendants.	§	

DEFENDANT BRUCE WILLISON'S ORIGINAL ANSWER
TO PLAINTIFFS' ORIGINAL COMPLAINT

Defendant Bruce Willison files its Original Answer to Plaintiffs' Original Complaint and states as follows:

GENERAL STATEMENTS AND RESPONSES

1. This Answer addresses the allegations in Plaintiffs' Original Petition that was filed in Texas Court format in the 57th Judicial District of Bexar County, Texas. Bruce Willison will attempt to respond to Plaintiffs' allegations in the format required under the Federal Rules of Civil Procedure.[1] *See* FED. R. CIV. P. 81(c). However, due to their vagueness and total failure to make particular or understandable allegations against Defendant Willison, Plaintiffs should be required to re-plead in Federal form and satisfy the heightened pleading standards under FED. R.

[1] Hereinafter and elsewhere in this Answer, Plaintiffs' Original Petition. Application for Temporary Restraining Order and Temporary Injunction will be referred to as "Plaintiffs' Original Complaint" or "Complaint."

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CIV. P. 9(b). Bruce Willison expressly reserves the right to file a Motion for More Definite Statement under FED. R. CIV. P. 12(e), and/or a Motion to Dismiss.

2. Allegations that state a legal conclusion do not require a response; to the extent that a response to legal allegations is required, such allegations are denied. Plaintiffs' Complaint also contains excerpts from a number of third party publications. Bruce Willison lacks knowledge or information sufficient to determine whether Plaintiffs have quoted these publications correctly or in their full context.

RESPONSES TO SPECIFIC PARAGRAPHS IN THE PETITION

3. Since this case has been removed to Federal Court, no response to Paragraph 1 regarding the appropriate discovery plan is required. To the extent a response is required, Bruce Willison denies the allegations in Paragraph 1.

4. The allegations in Paragraphs 2-35 relate to the location and identity of the parties to this lawsuit. These Paragraphs do not relate to Bruce Willison, and no response is required. To the extent a response is required, Bruce Willison is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 2-35.

5. As to Paragraph 36, Defendant Bruce Willison was a member of Enron's Audit Committee from August 1997 to December 31, 1998. He currently resides at 1221 Ocean Ave., #401, Santa Monica, CA 90401. The remaining allegations in Paragraph 36 are denied.

6. The allegations in Paragraphs 37-42 relate to the location and identity of the parties to this lawsuit. Since these paragraphs do not relate to Bruce Willison, Bruce Willison is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 37-42.

7. As to Paragraph 43, Bruce Willison is without knowledge or information sufficient to form a belief as to the truth of whether Plaintiffs' investments have been reduced or whether they will be unable to use their invested funds. Bruce Willison denies the remaining allegations of Paragraph 43.

8. Bruce Willison admits that Plaintiff defines "Enron Defendants" as those referred to in Paragraphs 41-68 of its Original Petition, but denies the appropriateness of that term and the remaining allegations of Paragraph 44.

9. The allegations in Paragraph 45 do not relate to Bruce Willison, and no response is required.

10. Bruce Willison denies the global allegations in Paragraph 46.

11. Paragraph 47 states a legal conclusion, and no response is required. To the extent a response is required, Bruce Willison denies the global allegations in Paragraph 47.

12. Bruce Willison denies the global allegations in Paragraph 48.

13. Bruce Willison denies the global allegations in the first and second sentences of Paragraph 49. The third sentence states a legal conclusion, and does not require an answer. To the extent an answer is required, Bruce Willison denies the allegations in the third sentence of Paragraph 49.

14. Bruce Willison admits the allegations in the first sentence of Paragraph 50. Bruce Willison denies the allegations in the second sentence of Paragraph 50. The remainder of this Paragraph states a legal conclusion, and no response is required. To the extent an answer is required, Bruce Willison denies the allegations in the third sentence of Paragraph 50.

15. Bruce Willison admits the allegations in the first sentence of Paragraph 51. Bruce Willison does not have knowledge or information sufficient to form a belief as to the truth of the allegations in the last sentence of Paragraph 51.

16. Bruce Willison denies the global allegations in Paragraph 52.

17. Paragraph 53 states a legal conclusion, and no response is required. To the extent a response is required, Bruce Willison denies the allegations in Paragraph 53.

18. Paragraph 54 states a legal conclusion, and no response is required. To the extent a response is required, Bruce Willison is without knowledge or sufficient information to form a belief as to the place of legal residence for Mr. LeMaistre and denies the remaining allegations in Paragraph 54.

19. Paragraphs 55-99 do not relate to Bruce Willison, and no response is required. In fact, the allegations in these Paragraphs specifically reference events that, if they occurred, occurred well after Bruce Willison's resignation from Enron's board, effective December 31, 1998. To the extent a response is required, Bruce Willison is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 55-99.

20. Bruce Willison denies the allegations in Paragraph 100.

21. The allegations in Paragraph 101 do not relate to Bruce Willison, and no response is required. To the extent that a response is required, Bruce Willison is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 101.

22. Bruce Willison is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 102-103.

23. The allegations in Paragraph 104 do not relate to Bruce Willison, and no response is required. To the extent that a response is required, Bruce Willison is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 104.

24. Bruce Willison denies the allegations in the first sentence of Paragraph 105. As to the second sentence of Paragraph 105, Bruce Willison admits that AALLP provided accounting services to Enron for the period of 1997-1998. The remaining allegations in Paragraph 105 do not relate to Bruce Willison, and no response is required. To the extent a response is required, Bruce Willison is without knowledge or information sufficient to form a belief as to truth of the remaining allegations in Paragraph 105.

25. Bruce Willison believes the allegations in the first sentence in Paragraph 106 to be true. Bruce Willison is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 106.

26. Bruce Willison incorporates by reference his responses to Paragraphs 1-106 that are re-alleged in Paragraph 107.

27. Bruce Willison denies the allegations in Paragraph 108-115.

28. Most of the allegations in this Paragraph state legal conclusions, and no response is required. To the extent a response is required, Bruce Willison denies the allegations in Paragraph 116.

29. Bruce Willison incorporates by reference his responses to Paragraphs 1-116 that are re-alleged in Paragraph 117.

30. The allegations in Paragraphs 118-126 do not relate to Bruce Willison, and no response is required. To the extent a response is required, Bruce Willison is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 118-126.

31. Bruce Willison incorporates by reference his responses to Paragraphs 1-126 that are re-alleged in Paragraph 127.

32. Bruce Willison denies the allegations in Paragraphs 128-129.

33. Bruce Willison admits that Enron's Board of Directors functioned, in part, through an Audit & Compliance Committee, the duties of which, if any, were defined by its charter. Bruce Willison denies the first sentence to the extent it is inconsistent with that charter. Bruce Willison is without knowledge or information sufficient to form a belief as to the truth of the second sentence of Paragraph 130. The third sentence of Paragraph 130 does not relate to Bruce Willison, and no response is required. To the extent that a response is required, Bruce Willison is without knowledge or information sufficient to form a belief as to the truth of the third sentence of Paragraph 130. Bruce Willison admits the allegations in the fourth sentence of Paragraph 130 for the limited period he was on the Audit Committee. As to the fifth sentence of Paragraph 130, Bruce Willison was on Enron's Audit Committee only from August of 1997 until his resignation, effective December 31, 1998, and he does not have knowledge or information sufficient to form a belief as to what happened after he left. Bruce Willison denies the allegations in the sixth sentence of Paragraph 130.

34. The allegations in the first sentence of Paragraph 131 state a legal conclusion, and no response is required. To the extent an answer is required, Bruce Willison is without knowledge or information sufficient to form a belief as to the truth the allegations in the first sentence of Paragraph 131. Bruce Willison is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 131, except as to the allegations in the fifth sentence, which he believes to be true.

35. The allegations in Paragraphs 132-135 do not relate to Bruce Willison, and do not require a response. To the extent a response is required, Bruce Willison is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 132-135.

36. Paragraphs 136-137 do not contain allegations, rather, they are requests made to the Texas State Court from which this case was removed, and no response is required. To the extent a response is required, Bruce Willison does not have sufficient information to admit or deny the allegations in Paragraphs 136-137.

37. Bruce Willison denies the allegations in Paragraphs 138-140.

38. The allegations in Paragraph 141 state a legal conclusion, and no response is required. To the extent a response is required, Bruce Willison denies the allegations in Paragraph 141.

39. Paragraph 142 does not contain allegations; rather, it contains requests made to the Texas State Court from which this case was removed, except for part (d) which does not relate to Bruce Willison, and no response is required. To the extent a response is required, Bruce Willison denies that Plaintiffs are entitled to the relief sought.

TEXAS GENERAL DENIAL

40. As permitted in response to a Texas petition, and except as otherwise expressly admitted above, Bruce Willison denies the material allegations contained in Paragraphs 1-142, and requests that Plaintiffs be required to prove the same, if they can, by a preponderance of the evidence.

AFFIRMATIVE DEFENSES

First Affirmative Defense: Failure to State A Claim for Relief

41. Plaintiffs fail to state a claim upon which relief can be granted against Bruce Willison, and further, have failed to comply with the requirements of Rule 9(b) of the Federal Rules of Civil Procedure.

Second Affirmative Defense: Statute of Limitations

42. Plaintiffs' claims are barred, in whole or in part, by applicable statutes of limitation.

Third Affirmative Defense: Laches and Adequate Remedy at Law

43. Plaintiffs are barred from obtaining injunctive relief by the doctrine of laches and because an adequate remedy exists at law for their alleged injury.

Fourth Affirmative Defense: Reasonable Diligence and Reliance on Management

44. During his time on the Enron Board and any committees of the Board, Bruce Willison was entitled to, and did, rely upon recommendations, statements and representations of Enron's management in connection with their decisions to authorize the transactions challenged in Plaintiffs' Complaint. As a result of that reasonable reliance, Bruce Willison did not know, and in the exercise of reasonable diligence could not have known, and had no reasonable grounds to believe that Enron's public filings contained material misrepresentations or omissions.

Fifth Affirmative Defense: Reasonable Diligence and Reliance Upon Arthur Andersen

45. During his time on the Enron Board and any committees of the Board, Bruce Willison was entitled to, and did, rely upon recommendations, statements, and representations of Arthur Andersen in connection with their decisions to authorize the transactions challenged in Plaintiffs' Complaint. As a result of that reasonable reliance, Bruce Willison did not know, and

in the exercise of reasonable diligence could not have known, and had no reasonable grounds to believe that Enron's public filings contained material misrepresentations or omissions.

Sixth Affirmative Defense: Reliance upon Expertised Opinions

46. Bruce Willison was entitled to, and did, rely upon the opinions of professionals, experts and outside counsel in affixing his signature to, and authorizing the filing of, various offering documents by Enron, to the extent he did so. Bruce Willison believed that such experts were, in fact, experts in their field and were competent to render the opinions they had provided. Bruce Willison had no notice that the opinions provided by these experts were in any way inadequate, unfounded or incorrect as to the matters on which the experts opined.

Seventh Affirmative Defense: Standing

47. Certain Plaintiffs lack standing to pursue the claims that they have sought to pursue against Bruce Willison.

Eighth Affirmative Defense: Knowledge and Lack of Diligence by Plaintiffs

48. Enron's public filings and public statements disclosed to Plaintiffs the facts they now contend were concealed from, or misrepresented to, them. Plaintiffs also failed to exercise due care with respect to the transactions on which their claims are premised.

Ninth Affirmative Defense: Reasonable Diligence by Bruce Willison

49. Plaintiffs' claims are barred because Bruce Willison at all times acted with reasonable care and diligence with respect to the matters Plaintiffs now contend were misrepresented by, or omitted from, Enron's public filings and public statements.

Tenth Affirmative Defense: Lack of Proximate Cause

50. The actions or inactions of Bruce Willison were not the sole proximate cause, the joint proximate cause or the producing cause of any of the injuries alleged by Plaintiffs.

Eleventh Affirmative Defense: Lack of Transaction Causation

51. The actions or inactions of Bruce Willison were not the sole, partial or proximate cause of any decision by any Plaintiff to purchase or sell Enron securities.

Twelfth Affirmative Defense: Superceding or Intervening Causation

52. Plaintiffs' claims against Bruce Willison are barred because the injuries Plaintiffs sustained, if any, were caused by the actions or inactions of parties other than Bruce Willison, actions or inactions by parties outside the control of Bruce Willison, or economic events that were, likewise, outside Bruce Willison's control. These actions, inactions and events were intervening or superceding causes of Plaintiffs' alleged damages.

Thirteenth Affirmative Defense: Assumption of the Risk

53. Plaintiffs' claims against Bruce Willison are barred, in whole or in part, because they assumed the risks disclosed in Enron's public disclosures and those risks came to fruition to cause Plaintiffs' losses. On information and belief, Plaintiffs who purchased with knowledge of these risks, or knowledge of adverse events at Enron, likewise assumed the risks that there would be further deterioration in the price or value of Enron's securities, such that their damages are not recoverable as a matter of law.

Fourteenth Affirmative Defense: Failure to Mitigate

54. Enron's stock declined over a prolonged period of time as a result of market circumstances and disclosed business reversals suffered by Enron. These events continued to cause Enron's securities to decline in price over time. Plaintiffs who failed to sell their Enron securities, in the face of this disclosed information, failed to take reasonable steps to mitigate their damages and therefore cannot recover all or part of the damages they seek to recover from Bruce Willison.

Reservation of Right to Amend

55. Consistent with the Federal Rules of Civil Procedure, Bruce Willison reserves his right to plead further and to allege additional defenses in response to amended pleadings filed by Plaintiffs, where discovery indicates such pleadings are supported or as justice may require.

Respectfully submitted,

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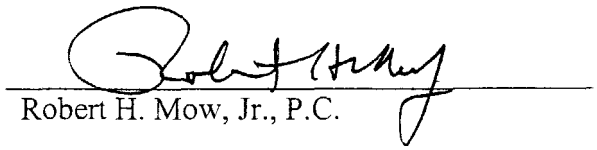
ATTORNEYS FOR DEFENDANT BRUCE G. WILLISON

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon all counsel listed on the attached Service List via the www.esl3624.com website or by certified mail for the party which does not accept service via the website, on this 15th day of May, 2003.



Robert H. Mow, Jr., P.C.

The Service List

May be Viewed

in the

Office of the Clerk