

United States Courts
 Southern District of Texas
 FILED
 JAN 18 2002
 Michael M. Milby, Clerk

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF TEXAS
 HOUSTON DIVISION

MARK NEWBY,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. H-01-3624
)	and Consolidated Cases
ENRON CORP., et al.,)	(Securities Suits)
)	
Defendants.)	

**MOTION FOR INTERVENTION ON BEHALF OF INDIVIDUAL
 PLAINTIFFS RONALD FRANGIONE, ET AL. TO INTERVENE
 AND BE HEARD ON THE MOTION OF THE FLORIDA STATE BOARD
 OF ADMINISTRATION AND NEW YORK CITY PENSION FUNDS FOR
 A TEMPORARY RESTRAINING ORDER PROHIBITING ARTHUR ANDERSEN
 LLP FROM DESTROYING EVIDENCE AND A LIMITED LIFTING OF THE
 DISCOVERY STAY AND MEMORANDUM OF LAW IN SUPPORT**

Plaintiff, Ronald Frangione, et al., through his counsel, hereby respectfully requests that he be permitted to intervene in the Motion of the Florida State Board of Administration and New York City Pension Funds for a Temporary Restraining Order Prohibiting Arthur Andersen LLP (“Arthur Andersen”) From Destroying Evidence and a Limited Lifting of the Discovery Stay. Plaintiff seeks to intervene in the Motion for the limited purpose of modifying the relief sought to permit Plaintiff to conduct discovery of Arthur Andersen regarding certain documents or information provided to non-parties. As grounds for the intervention and requests to be heard on the foregoing Motion, Plaintiff states as follows:

1. The Florida State Board of Administration and New York City Pension Fund filed a Motion on January 14, 2002 seeking a temporary restraining order and leave to take certain limited

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discovery against Defendant Arthur Andersen to prevent the further destruction of evidence and information pertaining to Enron and Arthur Andersen's role as auditor and consultant of Enron.

2. Arthur Andersen has publicly admitted that there has been a "substantial" destruction of evidence concerning Arthur Andersen's audits of Enron by individuals within Arthur Andersen.

3. It has been publicly reported that David Duncan, who oversaw Enron's audits from the Houston office of Arthur Andersen, organized a document destruction effort shortly after he learned that the Securities & Exchange Commission was asking Enron for accounting information. It was also reported that Arthur Andersen had stripped four (4) of its partners in its Houston office including one of its managing partners of management responsibilities.

4. Arthur Andersen has essentially admitted that it has not been in complete control of documents relating to Enron. Furthermore, it was reported that the law firm of Sullivan & Cromwell has stated that David Duncan's directions to destroy Enron related documents was based upon instructions he received from Arthur Andersen's attorneys.

5. In prior public statements, spokesmen for Enron stated that "all of those partnerships [referring to the partnerships that had been set up by Enron executives to hold off-balance sheet debt] had been through review processes and approval processes that were set up with and, in many cases, worked out with Arthur Andersen as our outside auditors, plus outside legal counsel"

6. It also has been publicly reported that Enron had asked its outside counsel to determine whether a broader investigation was needed into certain of Enron's accounting practices. Enron's outside counsel, Vinson & Elkins, concluded that no further investigation was warranted.

7. Plaintiff adopts and restates as if fully stated herein, the Motion of the Florida State Board of Administration and New York City Pension Funds for a Temporary Restraining Order filed

January 14, 2002.

8. Plaintiff represents himself and other individual shareholders who have seen their life savings evaporate due to the Enron debacle. Plaintiff will obviously be irreparably injured as a result of the admitted document destruction by Arthur Andersen and will further be irreparably injured by document destruction of any other professionals or consultants who were retained by Enron or who had documents in their possession concerning Enron's financial condition, including the off-balance sheet financing and partnerships.

9. Plaintiff seeks to be able to preserve documents that are of paramount importance to allow Plaintiff and the other investors, including the retirees, who have lost their money in this unprecedented securities and accounting fraud to properly prosecute their claims.

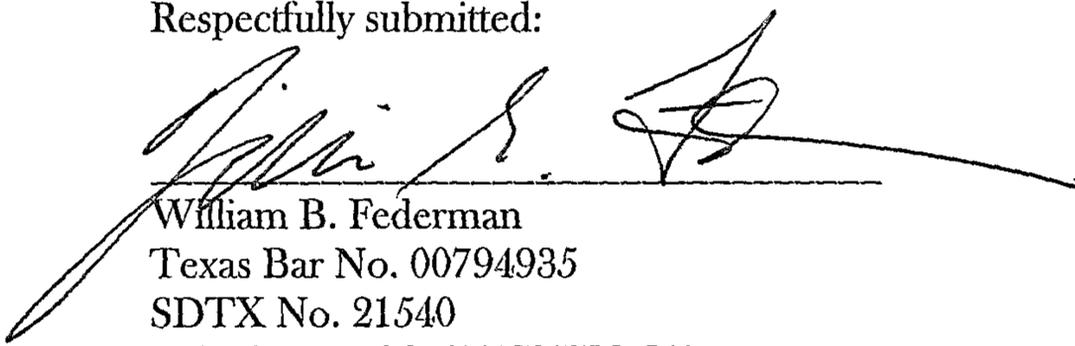
10. The Florida State Board of Administration and New York City Pension Fund narrowly tailored their request to determine what evidence has already been destroyed, by whom and the efforts being undertaken to re-create and/or recover the destroyed evidence. Plaintiff requests that the relief sought be expanded to include identification by Arthur Andersen of all additional outside consultants, including law firms and investment bankers, that would have either received duplicate copies of the information that Arthur Andersen destroyed or who would have received information directly from Enron and its employees during the course of any investigation and wrongful acts as outlined in the Complaint filed with this Court; and that Plaintiffs be granted the right to conduct one or more depositions, pursuant to Fed. R. Civ. P. 30(b)(6), and to serve subpoenas on third parties to determine when and what documents which were destroyed by Arthur Andersen or may no longer be in existence were received by third-party consultants or other professionals, as well as where and how existing documents are stored and what procedures have

been and will be implemented to prevent destruction of such documents or any other evidence relating to Enron's financial statements and those of the related partnerships.

CONCLUSION

For all of the foregoing reasons, as well as those stated in the Motion of the Florida State Board of Administration and New York City Pension Fund, Plaintiff requests that the Court grant the Motion for a temporary restraining order prohibiting Arthur Andersen and any subsequently identified third party consultants or professionals from destroying evidence and a limited lifting of the discovery stay. A proposed Order has been submitted contemporaneous with this Motion.

Respectfully submitted:



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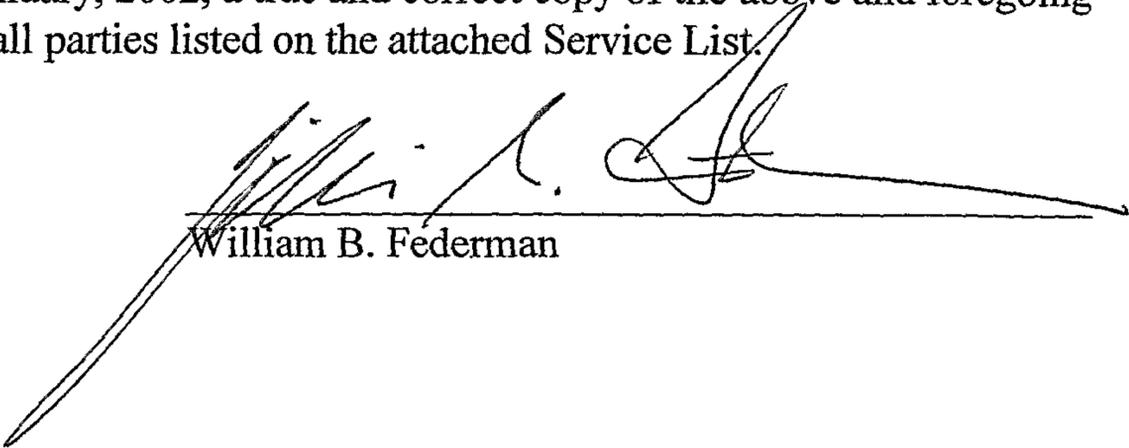
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CERTIFICATE OF SERVICE

On this 17th day of January, 2002, a true and correct copy of the above and foregoing was served by First Class mail to all parties listed on the attached Service List.



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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MARK NEWBY,)
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 vs.) Civil Action No. H-01-3624
) and Consolidated Cases
 ENRON CORP., et al.,) (Securities Suits)
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 Defendants.)

**[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR
INTERVENTION ON BEHALF OF INDIVIDUAL PLAINTIFFS RONALD
FRANGIONE, ET AL. TO INTERVENE AND BE HEARD ON THE MOTION
OF THE FLORIDA STATE BOARD OF ADMINISTRATION AND NEW
YORK CITY PENSION FUNDS FOR A TEMPORARY RESTRAINING ORDER
PROHIBITING ARTHUR ANDERSEN LLP FROM DESTROYING
EVIDENCE AND A LIMITED LIFTING OF THE DISCOVERY STAY**

The Florida State Board of Administration's and New York City Pension Funds' motion for a temporary restraining order prohibiting Arthur Andersen LLP ("Arthur Andersen") from destroying evidence and a limited lifting of the discovery stay is hereby GRANTED. It is further ORDERED that:

1. Arthur Andersen preserve all documents and evidence with respect to its audits and engagements concerning Enron from 1997 through the present;
2. Arthur Andersen identify to this Court, and whomever is appointed as Lead Plaintiff and Lead Counsel, the documents and evidence that were destroyed and the individuals responsible for the destruction;
3. The FSBA and New York City Funds are granted the right to conduct one or more depositions, pursuant to Fed. R. Civ. P. 30(b)(6), to determine when and what

documents were destroyed, where and how existing documents are stored and what procedures have been and will be implemented to prevent further destruction of documents or other evidence in accordance with the preservation order requested by this motion;

4. Arthur Andersen is to inform this Court, and whomever is appointed as Lead Plaintiff and Lead Counsel, what efforts have been and are being undertaken to recover, retrieve, and re-create the evidence that has already been destroyed;
5. Arthur Andersen is to inform this Court, and whomever is appointed as Lead Plaintiff and Lead Counsel, the identity of any other third-party consultant or professional who received or could have received, duplicate copies of the documents that were destroyed by Arthur Andersen.
6. Plaintiffs are granted the right to conduct one or more depositions, pursuant to Fed. R. Civ. P. 30(b)(6), and to serve subpoenas on third parties to determine when and what documents which were destroyed by Arthur Andersen or may no longer be in existence were received by third-party consultants or other professionals, as well as where and how existing documents are stored and what procedures have been and will be implemented to prevent destruction of such documents or any other evidence relating to Enron's financial statements and those of the related partnerships.

SIGNED on January _____, 2002, at Houston, Texas

MELINDA HARMON
UNITED STATES DISTRICT JUDGE