

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED
MAY 27 2003

Michael N. Milby, Clerk

In re ENRON CORPORATION SECURITIES
LITIGATION

Civil Action No. H-01-3624
(Consolidated)

CLASS ACTION

This Document Relates to:

MARK NEWBY, et al., Individually and On
Behalf of All Others Similarly Situated,

Plaintiffs,

vs.

ENRON CORP., et al.,

Defendants.

THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA, et al., Individually and On
Behalf of All Others Similarly Situated,

Plaintiffs,

vs.

KENNETH L. LAY, et al.,

Defendants.

**DEUTSCHE BANK'S RESPONSE TO LEAD PLAINTIFF'S RECENT FILINGS
REGARDING ITS PROPOSED AMENDED CONSOLIDATED COMPLAINT**

1436

Deutsche Bank AG and its affiliates and subsidiaries (“Deutsche Bank”) respectfully submit this response to Lead Plaintiff’s recent filings of April 25th, May 6th and 14th regarding its proposed amended consolidated complaint.

As per this Court’s Order on the Secondary Actors’ Motions to Dismiss, dated December 20, 2002, Deutsche Bank was dismissed entirely from this action. Subsequently, on April 25, 2003, Lead Plaintiff filed its “Motion for Leave to File the Consolidated Amended Complaint on June 16, 2003” (the “April 25 motion”), advising that Lead Plaintiff intended to add new parties and claims to the action pursuant to an amended consolidated complaint.

The Court responded to the April 25 motion in an order dated May 2, 2003 (the “May 2nd order”), which instructed Lead Plaintiff *inter alia* to “file a brief but adequately informative summary of the parties Lead Plaintiff wishes to add and the claims it wishes to assert against them,” which would serve as a “motion for leave to amend with new charges.”

Contrary to the Court’s instructions, Lead Plaintiff filed “Lead Plaintiff’s Response to Order Entered May 2, 2003,” dated May 6, 2003 (the “May 6 response”), in which it states that it plans only to “correct the deficiencies identified in the Court’s Orders on the motions to dismiss, make other clarifying amendments and [] add various subsidiaries of bank defendants, including investment bank subsidiaries, as named defendants in a complaint that will be filed on May 14, 2003.” The May 6 response did not disclose (and, arguably, intentionally failed to disclose) that Lead Plaintiff would rename Deutsche Bank as a defendant in its proposed amended consolidated complaint.

On May 14, 2003, Lead Plaintiff filed its proposed “First Amended Consolidated Complaint For Violation Of The Securities Laws,” a 649 page complaint (149 pages longer than the consolidated complaint), in which Lead Plaintiff attempts to rename Deutsche Bank as a

defendant in this action, as well as assert numerous new claims against Deutsche Bank, and others.

Given that Lead Plaintiff filed a new complaint, rather than a “brief but adequately informative summary” of a proposed complaint, and Deutsche Bank AG has not been served with that complaint,¹ Deutsche Bank is uncertain about the status of Your Honor’s May 2nd Order, which had provided twenty days from receipt of the “brief but adequately informative summary” to oppose what essentially is Lead Plaintiff’s motion to amend its consolidated complaint.

As a result, Deutsche Bank submits this response to notify the Court that it opposes Lead Plaintiff’s attempt to amend its consolidated complaint to rename Deutsche Bank AG and its affiliates and subsidiaries as parties to the action. Accordingly, Deutsche Bank will move to dismiss the proposed amended consolidated complaint on various grounds, including grounds of undue delay, *res judicata* and the expiration of the statute of limitations concerning (i) the addition of Deutsche Bank AG’s affiliates and subsidiaries, and (ii) the new allegations contained in the proposed amended consolidated complaint as to Deutsche Bank that are based upon matters that were publicly available to Lead Plaintiff at or near the time the consolidated complaint was filed in April 2002, and certainly many months before the Court’s December 2002 Order dismissing Deutsche Bank entirely from this action.

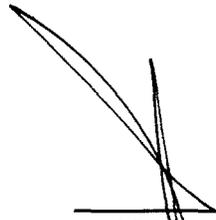
We understand that Lead Plaintiff and other parties to the *Newby* action are in the process of filing proposed pre-trial scheduling orders that address the issue of when defendants should respond to the proposed amended consolidated complaint. Unless instructed otherwise,

¹ The Deutsche Bank AG affiliates and subsidiaries named in the proposed amended consolidated complaint recently executed Waivers of Service of Summons that give those entities until July 16, 2003 to respond to the proposed amended consolidated complaint.

Deutsche Bank, accordingly, will brief fully both its arguments in opposition to Lead Plaintiff's motion to amend the consolidated complaint, and its arguments in support of a motion to dismiss the proposed amended consolidated complaint in accordance with the pre-trial schedule ordered by the Court after review of the proposed pre-trial schedules.

DATED: May 27, 2003

Respectfully submitted,



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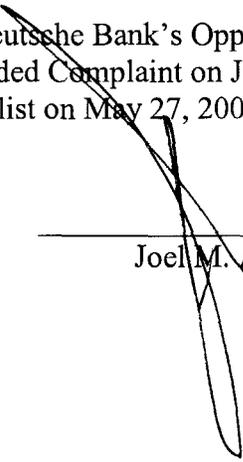
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ATTORNEYS FOR DEUTSCHE BANK AG

CERTIFICATE OF SERVICE

I certify that a true and correct copy of Deutsche Bank's Opposition to Lead Plaintiff's Motion for Leave to File the Consolidated Amended Complaint on June 16, 2003, has been served on counsel shown on the attached service list on May 27, 2003.



Joel M. Androphy