

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

United States Courts
Southern District of Texas
FILED

JUL 18 2003



Michael N. Milby, Clerk of Court

**In re ENRON CORPORATION
SECURITIES LITIGATION,**

This Document Relates To:

**MARK NEWBY, et al., individually
and on behalf of all others similarly
situated,**

Plaintiffs,

VS.

ENRON CORPORATION, et al.,

Defendants.

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

**AMERICAN NATIONAL INSURANCE
COMPANY; AMERICAN NATIONAL
INVESTMENT ACCOUNTS, INC.;
SM&R INVESTMENTS, INC.;
AMERICAN NATIONAL PROPERTY
AND CASUALTY COMPANY;
STANDARD LIFE AND ACCIDENT
INSURANCE COMPANY; FARM FAMILY
LIFE INSURANCE COMPANY; FARM
FAMILY CASUALTY INSURANCE
COMPANY; and NATIONAL WESTERN
LIFE INSURANCE COMPANY**

Plaintiffs

v.

ROYAL BANK OF CANADA

Defendant

Civil Action No. G-03-481

DEFENDANT ROYAL BANK OF CANADA'S NOTICE OF CONSOLIDATION

Prior to the filing of this Notice of Consolidation, Defendant Royal Bank of Canada filed a Notice of Removal of this action (See Exhibit 1 annexed hereto). Pursuant to 28 U.S.C. §§ 1441, 1332, 1334 and 1452, this action was removed from the 212th Judicial District Court of

1576

Galveston County, Texas to the Galveston Division of the United States District Court for the Southern District of Texas.

1. By Order of Consolidation entered on December 12, 2001 in the consolidated Enron-related cases now pending before Judge Harmon in the Houston Division, Judge Rosenthal, who was then presiding, ordered the consolidation of all "actions involving or related to the financial difficulties of Enron Corporation, pending in the Southern District of Texas" into Newby v. Enron Corporation, et al., Civil Action No. H-01-3624, including those "actions later filed in this district relating to the same core of operative facts and issues." (See Exhibit 2 annexed hereto).

2. This action "involves" and "relates" to the financial difficulties of Enron. Pursuant to the December 12, 2001 Order of Consolidation, this action therefore should be consolidated with Newby v. Enron Corporation, et al., currently pending before Judge Harmon in the Houston Division.

3. Consolidation previously has been ordered in actions brought by the same Plaintiffs as those herein, involving similar claims, including American National Ins. Co., et al. v. J.P. Morgan Chase and Co., Civil Action No. G-02-0299 (Order entered on May 14, 2002).

Dated: July [18], 2003

Respectfully submitted,

By: Claude L. Stuart III
Claude L. Stuart, III
Attorney-in-charge
Texas State Bar No.: 19426620
Southern District of Texas Bar No.: 13824
3040 Post Oak Boulevard, Suite 900
Houston, Texas 77056
Telephone: (713) 626-1386
Telecopier: (713) 626-1388
Attorneys for Defendant Royal Bank of Canada

OF COUNSEL:
PHELPS DUNBAR LLP

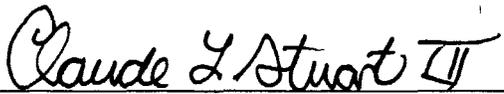
WHITE & CASE LLP
Cyrus Benson III
Aloke Ray
1155 Avenue of the Americas
New York, New York 10036
(212) 819-8200

SEWARD & KISSEL LLP
Michael J. McNamara
Mark D. Kotwick
Anne C. Patin
One Battery Park Plaza
New York, New York 10004
(212) 574-1200

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(b), I certify that a copy of the foregoing pleading has been served, by hand delivery, this 18th day of July, 2003, to the following:

Andrew J. Mytelka
John S. McEldowney
Joe A.C. Fulcher
David Le Blanc
Steve Windsor
Greer, Herz & Adams LLP
One Moody Plaza, 18th Floor
Galveston, Texas 77550



Claude L. Stuart, III

EXHIBIT 1

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

AMERICAN NATIONAL INSURANCE)
COMPANY; AMERICAN NATIONAL)
INVESTMENT ACCOUNTS, INC.;)
SM&R INVESTMENTS, INC.;)
AMERICAN NATIONAL PROPERTY)
AND CASUALTY COMPANY;)
STANDARD LIFE AND ACCIDENT)
INSURANCE COMPANY; FARM FAMILY)
LIFE INSURANCE COMPANY; FARM)
FAMILY CASUALTY INSURANCE)
COMPANY; and NATIONAL WESTERN)
LIFE INSURANCE COMPANY)
Plaintiffs)
v.)
ROYAL BANK OF CANADA)
Defendant)

Civil Action No.

09-481

United States Courts
Southern District of Texas
FILED

JUL 01 2003

Michael N. Milby, Clerk of Court

DEFENDANT ROYAL BANK OF CANADA'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441, 1332, 1334 and 1452, Defendant Royal Bank of Canada ("RBC") hereby removes the above-captioned action to the Galveston Division of the United States District Court for the Southern District of Texas.

1. The Galveston Division of the Southern District of Texas is the judicial division and district in which the District Court of Galveston County, Texas, is located and in which this action is pending. See 28 U.S.C. §§ 124(b)(1); 1441(a); 1446(a).
2. Plaintiffs commenced this action by filing an Original Petition and Request for Disclosures on or about June 8, 2003 in the District Court of Galveston County, Texas under Cause Number 03CV0915 (the "Petition"). (See Exhibit B.) Plaintiffs served the Petition upon RBC by personal delivery at its Houston, Texas office on June 16, 2003. This Notice of

Removal is filed within 30 days of receipt of the Plaintiffs' Original Petition and Request for Disclosures, and is therefore timely filed under 28 U.S.C. § 1446(b).

3. Pursuant to 28 U.S.C. § 1441(a), removal is proper for “any civil action brought in a State court of which the district courts of the United States have original jurisdiction” For the reasons set forth below, this action is properly removable under 28 U.S.C. § 1441(a) because this Court has original jurisdiction under 28 U.S.C. § 1332 in that there is complete diversity of citizenship between the Plaintiffs and the Defendant and more than \$75,000, exclusive of interest and costs, is in controversy. Alternatively, jurisdiction exists under 28 U.S.C. §§ 1334 and 1452 in that the claims or causes of action asserted in this action are related to an action currently pending under the United States Bankruptcy Code.

Diversity Jurisdiction

4. Pursuant to 28 U.S.C. § 1332(a)(2), this Court has original jurisdiction of all civil actions where, inter alia, “the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between-- . . . (2) citizens of a State and citizens or subjects of a foreign state;”

5. Plaintiffs are each citizens of a State. As alleged in the Petition:

(a) Plaintiff American National Insurance Company is a Texas company, with its principal place of business in Galveston, Texas.

(b) Plaintiff American National Investment Accounts, Inc. is a Maryland corporation, with its principal place of business in League City, Texas.

(c) Plaintiff SM&R Investments, Inc. is a Maryland corporation, with its principal place of business in League City, Texas.

(d) Plaintiff American National Property and Casualty Company is a Missouri company, with its principal place of business in Springfield, Missouri.

(e) Plaintiff Standard Life and Accident Insurance Company is an Oklahoma company, with its principal place of business in League City, Texas.

(f) Plaintiff Farm Family Life Insurance Company is a New York company, with its principal place of business in Glenmont, New York.

(g) Plaintiff Farm Family Casualty Insurance Company is a New York company, with its principal place of business in Glenmont, New York.

(h) Plaintiff National Western Life Insurance Company is a Colorado company, with its principal place of business in Austin, Texas.

6. Defendant Royal Bank of Canada is a citizen or subject of a foreign state. RBC is a financial institution duly organized and licensed under the laws of Canada, with its principal place of business in Toronto, Canada.

7. There is therefore complete diversity of citizenship between the Plaintiffs and the Defendant in this action. More than \$75,000, exclusive of interest and costs, is in controversy.

8. Plaintiffs admit and aver in the Petition that “[t]he amount in controversy is within the jurisdictional limits of this Court and the citizenship of the Plaintiffs and Defendant is diverse.” (Petition, ¶ 11)

9. Removal on the basis of diversity of citizenship is not precluded by the provisions of 28 U.S.C. § 1441(b) because none of the parties in interest properly joined and served as a defendant is a citizen of the State of Texas, the State in which this action was brought.

Bankruptcy Jurisdiction

10. Under 28 U.S.C. § 1452(a), “[a] party may remove any claim or cause of action in a civil action . . . to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claims or causes of action under § 1334 of this Title.” 28 U.S.C. § 1334(b) provides that the district courts shall have “jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.” In the alternative, this action is removable because Plaintiffs’ claims are related to the Enron Chapter 11 bankruptcy.

11. This Court (Houston Division) has considered and ruled on this precise issue in American National Ins. Co., et al. v. J.P. Morgan Chase and Co., Civil Action No. G-02-0299 (Harmon, J.), a case brought by the same Plaintiffs as those herein and asserting claims against JPMorgan Chase similar to those asserted against RBC herein. In its Memorandum and Order entered August 12, 2002, the Court held that removal was proper because JPMorgan Chase's potential claims against Enron for contribution and indemnity could "have an effect on the bankruptcy estate" and "both alter the rights, obligations, and choices of action of the debtor and have an effect on the administration of the estate and the debtor's reorganization." (Memorandum and Order, p. 15)

12. As with JPMorgan Chase, if Plaintiffs are successful herein, RBC will have claims for contribution against Enron and various of its former officers and directors. These claims are sufficiently "related to" the Enron bankruptcy to invoke federal bankruptcy jurisdiction.

13. To the extent this Court assumes "related to" jurisdiction, this matter is a non-core bankruptcy matter. RBC does not consent to entry of final orders or judgment by the bankruptcy judge.

Other Removal Prerequisites

14. Pursuant to Local Rule 81, attached hereto as Exhibit A is an index of all state court filings.

15. Pursuant to 28 U.S.C. § 1446(a), all state-court process, pleadings, and orders served on RBC at the time of removal, consisting of the Summons and Petition, are attached hereto as Exhibit B.

16. Pursuant to Local Rule 81, attached hereto as Exhibit C is a certified copy of the civil docket sheet.

17. Pursuant to Local Rule 81, attached hereto as Exhibit D is a list of all counsel of record, including addresses, telephone numbers and the parties represented.

18. Pursuant to 28 U.S.C. § 1446(d), RBC will promptly give Plaintiffs written notice of the filing of this Notice of Removal.

19. By Order of Consolidation entered on December 13, 2001 in the consolidated Enron-related cases now pending before Judge Harmon, it is directed that all actions "filed in this district relating to the same core of operative facts and issues [i.e., those involving or related to the financial difficulties of Enron Corporation] will also be consolidated in this court [i.e., Southern District of Texas, Houston Division]."

20. Simultaneous with the filing of this Notice of Removal, RBC is filing a Notice of Consolidation. RBC requests that the Clerk of this Court transfer this action to Judge Harmon's docket in the Houston Division.

Dated: July [1], 2003

Respectfully submitted,

By: Claude L. Stuart III

Claude L. Stuart, III

Attorney-in-charge

Texas State Bar No.: 19426620

Southern District of Texas Bar No.: 13824

3040 Post Oak Boulevard, Suite 900

Houston, Texas 77056

Telephone: (713) 626-1386

Telecopier: (713) 626-1388

Attorneys for Defendant Royal Bank of Canada

OF COUNSEL:
PHELPS DUNBAR LLP

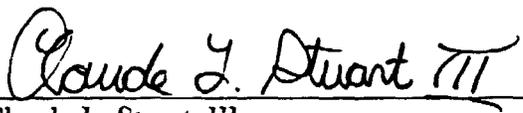
WHITE & CASE LLP
Cyrus Benson III
Aloke Ray
1155 Avenue of the Americas
New York, New York 10036
(212) 819-8200

SEWARD & KISSEL LLP
Michael J. McNamara
Mark D. Kotwick
Anne C. Patin
One Battery Park Plaza
New York, New York 10004
(212) 574-1200

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(b), I certify that a copy of the foregoing pleading has been served, by First Class, United States Mail, properly addressed and postage prepaid, this 1st day of July, 2003, to the following:

Andrew J. Mytelka
John S. McEldowney
Joe A.C. Fulcher
David Le Blanc
Steve Windsor
Greer, Herz & Adams LLP
One Moody Plaza, 18th Floor
Galveston, Texas 77550



Claude L. Stuart, III

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

**AMERICAN NATIONAL INSURANCE)
COMPANY; AMERICAN NATIONAL)
INVESTMENT ACCOUNTS, INC.;)
SM&R INVESTMENTS, INC.;)
AMERICAN NATIONAL PROPERTY)
AND CASUALTY COMPANY;)
STANDARD LIFE AND ACCIDENT)
INSURANCE COMPANY; FARM FAMILY)
LIFE INSURANCE COMPANY; FARM)
FAMILY CASUALTY INSURANCE)
COMPANY; and NATIONAL WESTERN)
LIFE INSURANCE COMPANY)
Plaintiffs)
v.)
ROYAL BANK OF CANADA)
Defendant)**

Civil Action No. _____

EXHIBIT A: INDEX OF ALL STATE COURT FILINGS

1. Plaintiffs' Original Petition and Request for Disclosures filed June 2, 3003; and
2. Civil Citation with executed Officer's Return filed on June 19, 2003.

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

AMERICAN NATIONAL INSURANCE)
COMPANY; AMERICAN NATIONAL)
INVESTMENT ACCOUNTS, INC.;)
SM&R INVESTMENTS, INC.;)
AMERICAN NATIONAL PROPERTY)
AND CASUALTY COMPANY;)
STANDARD LIFE AND ACCIDENT)
INSURANCE COMPANY; FARM FAMILY)
LIFE INSURANCE COMPANY; FARM)
FAMILY CASUALTY INSURANCE)
COMPANY; and NATIONAL WESTERN)
LIFE INSURANCE COMPANY)
Plaintiffs)
v.)
ROYAL BANK OF CANADA)
Defendant)

Civil Action No. _____

EXHIBIT B: ALL STATE COURT PROCESS, PLEADINGS AND ORDERS

NO. 0300915

2003 JUN -2 PM 4:05
IN THE DISTRICT COURT OF
Lorely Stella *Rich Whelan*
DISTRICT CLERK
GALVESTON COUNTY, TX.

AMERICAN NATIONAL INSURANCE §
COMPANY; AMERICAN NATIONAL §
INVESTMENT ACCOUNTS, INC.; §
SM&R INVESTMENTS, INC.; §
AMERICAN NATIONAL PROPERTY §
AND CASUALTY COMPANY; §
STANDARD LIFE AND ACCIDENT §
INSURANCE COMPANY; FARM FAMILY §
LIFE INSURANCE COMPANY; FARM §
FAMILY CASUALTY INSURANCE §
COMPANY; and NATIONAL WESTERN §
LIFE INSURANCE COMPANY §
Plaintiffs §

v. §

ROYAL BANK OF CANADA §
Defendant §

GALVESTON COUNTY, TEXAS

212^T JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION AND
REQUEST FOR DISCLOSURES

Plaintiffs American National Insurance Company; American National Investment Accounts, Inc.; SM&R Investments, Inc.; American National Property And Casualty Company; Standard Life and Accident Insurance Company; Farm Family Life Insurance Company; Farm Family Casualty Insurance Company; and National Western Life Insurance Company (collectively, the "Plaintiffs") file this their Original Petition complaining of Defendant Royal Bank of Canada ("Defendant", or "RBC"). Pursuant to Texas Rule of Civil Procedure 190, discovery is to be conducted under Level 3.

I.
Parties

1. American National Insurance Company is a Texas insurance company with its principal place of business at One Moody Plaza, Galveston, Galveston County, Texas 77550.

#109990 v1 - RBC-Petition

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6/11/03 called atty for 8/11 Coded

6/11/03 ISS / CIT-8800 (Ph) - RBC

2. American National Investment Accounts, Inc. is a Maryland corporation with its principal place of business at 2450 South Shore Boulevard, Suite 400, League City, Galveston County, Texas 77573.

3. SM&R Investments, Inc. is a Maryland corporation with its principal place of business at 2450 South Shore Boulevard, Suite 400, League City, Galveston County, Texas 77573.

4. American National Property And Casualty Company is a Missouri insurance company with its principal place of business at 1949 East Sunshine, Springfield, Missouri 65808.

5. Standard Life and Accident Insurance Company is an Oklahoma insurance company with its principal place of business at 2450 South Shore Boulevard, Suite 500, League City, Galveston County, Texas 77573.

6. Farm Family Life Insurance Company is a New York insurance company with its principal place of business at 344 Route 9W, Glenmont, New York 12077.

7. Farm Family Casualty Insurance Company is a New York insurance company with its principal place of business at 344 Route 9W, Glenmont, New York 12077.

8. National Western Life Insurance Company is a Colorado insurance company with its principal place of business at 850 East Anderson Lane, Austin, Travis County, Texas 78752.

9. Defendant Royal Bank of Canada ("RBC") is an institution organized under the laws of Canada with an office in Houston, Texas. RBC can be served process c/o Linda Stevens, Managing Director, 2800 Post Oak Blvd., 57th Floor, Houston, Texas 77057.

II. **Jurisdiction & Venue**

10. The Court has jurisdiction over the parties and subject matter of this cause, and has jurisdiction to grant all relief requested by Plaintiffs.

11. The amount in controversy is within the jurisdictional limits of this Court and the citizenship of the Plaintiffs and Defendant is diverse.

12. Defendant RBC has an office in Houston and regularly does business in the State of Texas.

13. Venue is proper in the Southern District of Texas because a substantial part of the events or omissions giving rise to the claims occurred in Galveston County.

III. Nature of the Case

14. This action seeks equitable and/or monetary relief pursuant to the Texas Securities Act, Tex. Rev. Civ. Stat. Ann. art. 581-1 *et seq.*, (the "Texas Blue Sky Laws"), the Texas Business & Commerce Code section 27.01 (statutory fraud), and the Texas common law of fraud, conspiracy, aiding and abetting, negligence, and all other applicable statutory and common law of the State of Texas.

15. This suit arises out of Defendant's wrongful acts and omissions in aiding and abetting Enron in defrauding Plaintiffs. Defendant, for its own pecuniary gain, wrongfully and purposely concealed Enron's true financial condition to the detriment of Plaintiffs and other investors in Enron securities.

16. Defendant helped devise and implement complex sham transactions to mask hundreds of millions of dollars of debt that Enron was accumulating. Defendant secretly financed a financial "shell game" whereby assets were rapidly moved – often on the same day – through a series of Enron-controlled companies to camouflage the debt. These complex transactions served no legitimate business purpose; their sole function was to allow Enron to overstate its income and hide its debt. Defendant, after making profits on the transactions, then attempted to foist the ultra-high risk debt upon unsuspecting investors.

17. Defendant, pursuant to banking regulations and in accordance with its own internal procedures, was required to carefully scrutinize and analyze the risks involved in the transactions. Defendant's top executives knew Enron's true financial condition, knew that the inaccurate financial reports furnished to the public by Enron were false and misleading, and knew that their participation in the sham transactions aided and abetted Enron to perpetrate its fraud. Nonetheless, even as Enron's stock price was plunging and the manipulative sham deals were beginning to come to light, Defendant never made its knowledge and wrongful involvement in Enron's Ponzi scheme known to Plaintiffs or to the investing public. Indeed, RBC's investment arm throughout the relevant period continued to recommend Enron securities as a "buy" or "strong buy."

18. Defendant made huge profits as a result of its wrongful conduct while the Plaintiffs suffered staggering losses. Plaintiffs, by their lawsuit, seek to recover losses caused by Defendant.

IV. Factual Background

19. Enron originally was an energy company with operations focused in the natural gas industry. In 1990, Enron launched an ambitious and aggressive program of diversification and expansion which included making acquisitions and entering into new areas of business. The energy business at the time was undergoing major changes as a result of the trend toward deregulation of energy utilities. Enron's expansion plans were highly capital intensive and required billions of dollars raised from debt and equity issues.

20. By late 1999, Enron's actual performance was lagging stock analysts' predicted performance. Enron needed increasingly large amounts of "fresh" money to pay off old debts, cover losses and finance ongoing operations. To avoid the necessity of publicly announcing disappointing financial results, Enron and RBC engaged in a Ponzi scheme aimed at hiding debt and increasing reported revenue. The scheme could continue only if Enron maintained an investment-grade credit

rating, which in turn depended upon financial reports indicating strong current results and containing optimistic financial forecasts.

21. RBC aided and abetted Enron by participating in a number of multi-million dollar transactions that concealed Enron liabilities. The purpose of these transactions was to allow Enron to falsely report positive financial results in SEC filings and to inaccurately state Enron's financial condition in various other financial reports.

22. RBC profited by collecting fees and interest from Enron. Top RBC executives also personally profited by participating in these sham deals. As long as the Ponzi scheme continued, RBC could continue collecting fees from Enron as a result of the sham transactions designed to hide Enron's debt. RBC, however, took steps to avoid the risk of a possible – or probable - Enron collapse by shifting the risk to the owners of Enron stocks and bonds and to other investors who were advised by the banks to invest in the sham schemes. The key to winning big in the Ponzi scheme was knowing when to get out. RBC was more successful than most at timing its exit from this shell game.

23. RBC was involved in implementing and using partnerships and/or special purpose entities (together, "SPEs") and other sham transactions to aid Enron in its scheme. The SPEs and their associated transactions were vehicles employed to hide liabilities by keeping liabilities "off the books" of Enron, thus allowing Enron and RBC to report that Enron had a higher net worth, and much greater profits, than actually were the case. Many of these transactions were termed "FAS 140" transactions, so named for the accounting loophole that was supposed to make the accounting treatment of the transactions appear "legitimate."

24. In addition to disguising the debt, the structure was used by RBC and Enron to enable Enron to re-characterize loan proceeds as "cash flow from operations," thereby further overstating

the health and financial condition of Enron's underlying business operations. RBC knew that these transactions did not meet the accounting criteria for "off the books" treatment. RBC knew that transactions and accounting practices employed were improper because Enron had complete control of the SPEs.

25. RBC was involved in at least three transactions or series of transactions that allowed Enron to hide multiple millions of dollars of debt. These went by the names "Cerberus", "Hawaii", and "LJM".

RBC AND RBC'S SENIOR MANAGEMENT DEvised
AND APPROVED OF THE SCHEMES

26. RBC and its senior management were active and knowing participants in fraudulent schemes employed by Enron. RBC's structuring and lending activities made it possible for Enron to conceal its true financial condition and performance. RBC knew of, and made possible, the fraudulent misrepresentations Enron made in public statements, press releases, financial statements and regulatory filings, and knew that Plaintiffs and other investors would rely upon Enron's pronouncements.

27. At least three RBC senior managers, Giles Darby, David Bermingham, and Gary Mulgrew, actively worked with Enron in devising and implementing the fraudulent transactions. Darby, Bermingham and Mulgrew were recruited from Greenwich NatWest Bank, where they had previously dealt with Enron in devising "structured" deals that helped Enron hide debt. The three were recruited in May 2000 for the specific purpose of structuring unconventional financing arrangements with and for Enron. Mulgrew was appointed Managing Director of RBC's Global Structure Finance Group. RBC hired Darby, Bermingham and Mulgrew based on their relationship with Enron and RBC's desire to engage in structured finance transactions with Enron and others.

28. Once at RBC, Darby, Bermingham and Mulgrew, together with other senior RBC managers, helped structure phony “asset sales” which hid debt and created opportunities for Enron to overstate income. Because of the large size of these transactions, RBC’s practice and regulatory requirements required a complete review of the loan transactions at the most senior levels of the bank.

Cerberus, Heracles and the RBC Loan Facility

29. RBC devised one of Enron’s largest debt-concealment schemes. This set of transactions has gone by the various names of “Cerberus,” “Heracles” and the “RBC Loan Facility.” Like most of Enron’s “off the books” debt-concealment schemes, the transaction was complex. In essence, RBC agreed to loan \$517 million to an SPE named Heracles Trust, which through an SPE named Cerberus had a partial interest in an Enron affiliate known as Aeneas L.L.C. Heracles provided the money to Aeneas in exchange for shares in EOG Resources, Inc., a spin-off SPE created by Enron in 1999. The funds then flowed from Aeneas into an Enron subsidiary, Enron Asset Holdings, L.L.C.

30. Heracles was established as a legal trust owned and directed by Enron insiders. Based on experience as a business lender, RBC was intimately familiar with structured “off balance sheet” transactions and knew that independent control was a requirement if the SPE was not to be included in Enron’s consolidated financial reports. RBC, moreover, knew that Heracles failed to meet another critical accounting requirement for non-consolidation – a minimum of 3% ownership by outside investors. RBC, accordingly, knew that its \$514 million dollar loan to Heracles was attributable to Enron.

31. Specifically, in November 2000, Darby, Bermingham and Mulgrew worked out the complex transaction. The three individuals, on behalf of RBC, structured and arranged a loan facility

from RBC to Heracles Trust, a Delaware business trust. Working with Enron executives, the loan facility agreement was utilized to fund a structure that would achieve off-balance sheet financing for Enron's holdings of EOG shares. At the time of the loan to Heracles, RBC knew that Heracles had no assets except EOG shares and that these publicly traded shares could fluctuate below the value of the RBC loan. RBC and Enron also knew that the dividend income from the EOG shares was insufficient to pay the principal and interest on the RBC loan. RBC, under the guidance of Darby, Bermingham and Mulgrew, accordingly structured the loan to provide guarantees that Enron itself would ultimately be liable for all payments of principle and interest on the Heracles loan.

32. The Heracles transaction enabled Enron to falsify its financial condition for its year 2000 annual financial reports. Enron claimed to realize a gain on the value of the EOG stock through Heracles "hedges." Enron then accounted for the proceeds of the RBC loan as "cash flow" and recorded the gain in value of the EOG shares as income. Enron later booked additional profits on the increase in the market value of the Heracles-owned EOG share, but failed to record as losses a subsequent decline in the market value of those shares. RBC obtained and reviewed copies of Enron's financial reports and knew that the reporting of the loan proceeds as "cash flow" was fraudulent.

33. Loans of over \$1/2 billion dollars, such as RBC's loan to Heracles, are rare even for the world's largest lending institutions. Banks, including RBC, employ internal procedures which scrutinize the risks involved in making such large loans. RBC's lending, moreover, is supposed to be conducted according to standard industry "best practices" and is governed by various regulatory bodies including the Canadian Office of the Superintendent of Financial Institutions and the Canadian Deposit Insurance Corporation. Regulatory bodies require supervision that includes

review of major risk control functions such as financial analysis, compliance, internal audit, risk management plus senior management and board oversight.

34. In its 2001 Annual Report, RBC proclaims its commitment to use of industry-best practices. According to RBC, "the board is committed to supervising and working with management to understand, monitor and oversee the company's goals, risk management and strategic direction." Plainly, RBC and its senior executives could not have structured a loan, much less the \$1/2 billion loan to Heracles, without knowing the precise nature of the transaction.

35. RBC's documented internal procedures establish that a review of the Heracles loan would, at a minimum, have been conducted by RBC's Risk Management Committee, Ethics and Compliance Committee, and Conduct Review and Risk Policy Committee of the Board of Directors. The Risk Management Committee was required to assess the loan's impact on portfolio quality and the Conduct Review and Risk Policy Committee of the Board of Directors was required to review the major risk policies and counterparty, country and sector exposures. At the time of the Cerberus transaction, Suzanne B. Labarge, RBC's Corporate Vice-Chairman and Chief Risk Officer, chaired all three of these review committees.

36. RBC and its review committee knew that Heracles was controlled by Enron and thus should have been included in Enron's consolidated financial statements. RBC only had the rights to EOG dividends by its ownership in "class B" shares. Control, and therefore price risk, had remained with Enron through its retention of "class A" voting shares held by another Enron-controlled SPE.

37. RBC clearly had no reasonable expectation that Heracles would be capable of making principal and interest payments on the loan. Heracles' sole source of income was an uncertain quarterly dividend of approximately \$450,000. Quarterly interest on the RBC loan, however,

exceeded \$6 million. As a consequence, RBC insisted that various guarantees be incorporated in the structure of the loan.

38. First, RBC structured a total return swap which obligated Enron to make all payments of principal and interest on the Heracles loan directing, in exchange for receiving EOG dividend payments from Heracles. Second, RBC included a "put" option which required another Enron subsidiary to buy back the Heracles "class B interest" at the full value of the loan upon RBC's demand. These guarantees had the effect of transferring the full risk of the Heracles loan to Enron. RBC plainly knew that Enron's reported accounting for the Cerberus transaction was fraudulent.

39. Senior RBC management was required to conduct periodic reviews of the Heracles loan. Because the loan appeared on RBC's "top thirty" borrowers list, not only was the initial transaction approved by RBC's Senior Lending Committee, this committee also was required to make periodic reviews of the loan. In short, RBC for its own gain knowingly and purposely participated in the scheme to defraud Enron investors. RBC executives also profited personally from their dealings with Enron. Darby, Bermingham and Mulgrew have been indicted for siphoning approximately \$7.3 million into their personal bank accounts.

40. RBC knew of the very high risk associated with the loan. Even before funding, therefore, RBC had determined to relieve itself of any exposure to Enron credit or the risk of consolidation of EOG shares by transferring that exposure to a party or parties who lacked knowledge of Enron's financial irregularities and potential for financial collapse. It is unclear whether securitization of the debt was considered. In early November 2000, RBC, through Bermingham and Darby, proposed to Rabobank to enter into two transactions that would transfer the risk to Rabobank, a large Dutch bank. In January 2001, Rabobank agreed to take over the loan in a swap agreement with RBC.

LJM

41. RBC also participated in what is known as the LJM SPEs. LJM1 was created in June of 1999 and LJM2 was created in October of the same year for the purpose of conducting various phony asset sales and "hedging" transactions with Enron using structures designed to conceal the true nature of those transactions. The LJM entities entered into over twenty transactions with Enron, allowing Enron to overvalue assets, report hedges that did not in fact exist, and conceal hundreds of millions of dollars of debt.

42. RBC was one of six lender banks that provided structuring and funding for Enron's LJM transactions. The details of some of the transactions have been well publicized.

43. LJM2 was structured and employed in late 1999 to allow Enron to report strong earnings in its year-end financial reports. Run by Enron's Chief Financial Officer Andrew Fastow (Fastow), LJM2 was used to complete a number of year-end "deals" which boosted Enron's reported profits. In particular Enron "sold" a number of "assets" – assets that Enron had been unable to sell to legitimate buyers – to the LJM2 entity. This mixed bag of essentially unmarketable assets included, among other things, majority interest in a Polish power plant and an interest in a Gulf of Mexico natural gas system. Enron reported a profit on the sales of these assets to LJM2. Later, Enron repurchased the assets.

44. In other words, RBC helped set up the clandestine SPE, which was controlled by Enron, to facilitate the phony sales of overvalued Enron assets. As a result, Enron and RBC were able to deceive investors by moving billions of dollars of debt off Enron's balance sheet and artificially inflating the value of Enron securities.

45. The various banks involved collected huge fees for setting up LJM2. Not only did they profit from setting up the sham entity, they profited by investing in it. Select investors were promised at least a 30% annual return on their investments.

46. The effect of LJM2 and other SPEs was to eliminate losses of approximately \$95,000,000 in 1999 and \$8,000,000 in 2000 from Enron's financial statements. Enron, accordingly, greatly understated its liabilities and overstated its profits for these two annual accounting periods.

47. RBC, from the start, knew that the structure, the purpose, and Enron's control of LJM2 was improper. Because Fastow made LJM2's management and investment decisions, the potential conflict of interest between those that invested in LJM2 and those that invested in Enron stocks and bonds was obvious.

48. Any claims by RBC that it did not know of the conflicts-of-interest or the wrongful purpose of LJM2 do not withstand scrutiny. Further, and in any event, RBC fails to explain why, once they determined that the conflicts existed and that LJM2 was being improperly managed, they kept on promoting the sale of Enron securities instead of publicly revealing the sham. Thus, even if RBC claims that it did not know that LJM2's organization and controls were improper at the time of LJM2's inception, RBC nonetheless perpetrated the fraud by concealing the true facts after becoming aware of them.

49. LJM2, in sum, was a vehicle used to accommodate Enron's fraud and to enrich RBC, RBC's executives, Enron's executives, and certain selected LJM2 investors. RBC and the other syndicated banks made a quick, huge return on their investments while Enron stock and bond owners were left holding the bag and are now paying for these financial shenanigans.

Hawaii Trusts

50. The success of Cerberus and LJM encouraged Enron and RBC to standardize and accelerate the fraudulent loan-concealed-as-asset-sale process. RBC was a syndicate member and lender to the "Hawaii Trusts," as they were called, which were borrowing SPEs that conducted transactions similar in nature and purpose to the Cerberus and LJM transactions. In all, the Hawaii Trusts participated in twenty-two transactions between March and October of 2001. In all, the various syndicated banks provided the Hawaii Trusts with approximately \$500 million in lines of credits.

51. Similar to Cerberus, the transaction involved various over-valued assets of Enron and its subsidiaries and featured various guarantees by Enron. In each case Enron accounted for the loan proceeds as a form of income and treated the Hawaii Trusts as "off balance sheet" entities that were not consolidated in Enron's public financial reports.

52. Also similar to Cerberus and LJM lending, RBC was required both by its own internal guidelines and by regulatory mandates, to carefully scrutinize the transactions and assess the risk of each transaction. The fees and interest collected by RBC, however, were so lucrative that RBC decided to participate in the scheme.

Defendant Continued to Perpetuate Fraud

53. By mid-2001, Enron's stock price was in a steady decline and questions about Enron's operations and accounting methods had surfaced in the media. Defendant, nonetheless, did not publicly reveal its participation in the various fraudulent schemes and its investment advisory departments or subsidiaries continued to recommend the purchase of Enron securities. Thus, even as Enron was crumbling, Defendant was still recommending Enron securities and still portraying Enron as a highly efficient, well managed and financially sound company.

54. An article in THE WALL STREET JOURNAL on October 17, 2001 explained the nature of the “structured finance arrangements with a previously disclosed entity” that was mentioned in an Enron press release. According to the article, the structured finance arrangements involved limited partnerships that were managed by Fastow, Enron’s Chief Financial Officer. The article stated in part:

The two partnerships, LJM Cayman L.P. and the much larger LJM2 Co-Investment L.P., have engaged in billions of dollars of complex hedging transactions with Enron involving company assets and millions of shares of Enron stock. It isn’t clear from the Enron filings with the Securities and Exchange Commission what Enron received in return for providing these assets and shares. In a number of transactions, notes receivables were provided by partnership related entities.

55. The next day THE WALL STREET JOURNAL reported that “Enron ... shrank its shareholder equity by \$1.2 billion as the company decided to repurchase 55 million of its shares that it had issued as part of a series of complex transactions with an investment vehicle” connected to Fastow.

According to Rick Causey, Enron’s chief accounting officer, these shares were contributed to a “structured finance vehicle” set up about two years ago in which Enron and LJM2 were the only investors. In exchange for the stock, the entity provided Enron with a note. The aim of the transaction was to provide hedges against fluctuating values in some of Enron’s broadband telecommunications and other technology investments.

56. In spite of a continuing stream of other public revelations in the media, and despite Defendant’s knowledge of Enron’s true financial condition and participation in LJM, Defendant kept recommending the purchase of Enron securities.

57. Equally disturbing, RBC executives kept perpetrating and profiting from the debt-hiding shell game late into 2001. In total, executives were able to improperly and illegally divert

over \$7 million into their personal accounts – this in addition to the generous salaries they received from RBC.

58. Enron descended into bankruptcy December 2, 2001. The conduct of RBC and others involved in various deceptive Enron “deals” is currently under investigation by both the SEC and by Congress.

59. RBC allowed Enron to direct false information about Enron’s finances to Plaintiffs including, and in particular to, American National Insurance Company and SM&R Investments, Inc., in Galveston County, Texas.

60. RBC knew, but recklessly disregarded, that the SPEs and other transactions were shams, that employees and officers of Enron had interests in and control over the SPEs, that the prepay and other “off balance sheet” transactions improperly hid Enron’s true financial picture from investors, and that the SPEs and the other transactions should have been reported in Enron’s consolidated financial reports. Simply put, RBC knew that the SPEs and various other sham transactions were designed to misstate Enron’s true financial picture and that, as a result of their participation, Enron’s books had been “cooked.”

61. Plaintiffs relied on the misrepresentations and/or omissions devised by RBC on Enron’s behalf.

62. Plaintiffs seek monetary and/or equitable relief from Defendant RBC for the harm suffered as a result of Defendant’s wrongful conduct.

V.
Causes of Action

VIOLATIONS OF THE TEXAS SECURITIES ACT

63. Defendant is liable to Plaintiffs for violating the Texas Securities Act, Tex. Rev. Civ. Stat. Ann. Art. 581-1 *et seq.*, in particular Article 581-33.

64. Defendant solicited to sell, offered to sell, attempted to sell, and did sell Enron securities.

65. Defendant's pronouncements and recommendations materially misrepresented or failed to disclose numerous material facts.

66. Defendant violated, conspired to violate and/or aided and abetted violations of Article 581-33 by making untrue statements of material facts and/or omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading. In particular, Defendant knowingly participated in a plan for making false and misleading statements and omissions about Enron's financial condition in SEC filings and other Enron financial reports. That Defendant actively aided and abetted Enron is confirmed by Defendant's conduct whereby, rather than attempting to correct these misrepresentations by promulgating information to make the false statements and omissions true, Defendant continued to conceal the true nature of the fraudulent transactions and to recommend purchase of Enron securities until Enron's collapse.

67. Plaintiffs suffered substantial damages and are thus entitled to relief by reason of Defendant's misrepresentations and omissions in violation of Article 581-33 of the Texas Securities Act.

STATUTORY FRAUD IN STOCK TRANSACTIONS

68. In addition or in the alternative, Plaintiffs assert this cause of action for violations of section 27.01 of the Texas Business & Commerce Code.

69. The facts alleged show that Defendant has violated, conspired to violate, aided and/or abetted violations of section 27.01 by making false representations of past or existing material facts

or omitting to state past or existing material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

70. Such false representations were made for the purpose of inducing Plaintiffs to enter into contracts for the purchase and sale of the Enron securities in question. Plaintiffs relied upon such false representations in entering into such contracts.

71. Defendant:

- a. made such false representations knowingly and with actual awareness of the falsity thereof, and/or
- b. (i) had actual awareness of the falsity of the representations made by one or more other Defendants,
(ii) yet failed to disclose the falsity of the representations, and
(iii) benefited from the false representations.

72. Plaintiffs suffered substantial damages as a result.

FRAUD

73. In addition or in the alternative, Defendant is liable to Plaintiffs for fraud (including fraud in the inducement, fraud in the transaction, conspiracy to defraud, aiding and abetting a fraud, and fraudulent concealment).

74. Defendant engaged in fraud by:

- a. employing devices, schemes, conspiracies and artifices to defraud;
- b. making untrue statements of material facts or omitting to state material facts necessary to make the statements made in light of the circumstances under which they were made, not misleading; and/or
- c. engaging in acts, practices and a course of business which operated as a fraud or deceit upon Plaintiffs in connection with their purchases of Enron securities.

79. As a result of Defendant's fraudulent concealment of material facts, Plaintiffs were unaware that Enron securities should not be purchased and that the Enron securities in their portfolios should have been sold.

80. In ignorance of the false and misleading nature of Defendant's various representations, Plaintiffs relied to their detriment on these representations.

81. The value of the securities purchased by Plaintiffs declined materially upon the final public disclosure of the true and material facts which had been misrepresented or concealed.

82. Plaintiffs suffered substantial harm as a result of Defendant's fraudulent conduct and are entitled to damages and/or equitable relief.

NEGLIGENCE AND PROFESSIONAL MALPRACTICE

83. In addition or in the alternative, Defendant is liable to Plaintiffs as a result of Defendant's common law negligence and professional malpractice.

84. Defendant held itself out as an analyst and financial advisor that could be trusted.

85. Defendant is knowledgeable of its duty to provide true and accurate information. Defendant is bound by Texas security regulations to comply with Texas law. Defendant, therefore, must be held to a standard of care commensurate with the duties imposed by its profession.

86. The complained-of conduct fell far short of the required standard of care for securities brokers. Further, and in any event, Defendant's conduct was so outrageous that it breached even a minimal standard of care.

87. Plaintiffs were harmed by Defendant's breach of its duty of care and are entitled to damages.

88. Defendant, moreover, exhibited such an entire want of care as to indicate that the acts and omissions in question were the result of conscious indifference to the rights, welfare or safety of

Plaintiffs and other persons affected by them so as to constitute gross negligence. Plaintiffs are therefore entitled to an award of exemplary or punitive damages.

VI.
Conclusion

89. As a result of Defendant's wrongful conduct, Plaintiffs suffered substantial harm and are entitled to actual damages and/or equitable relief. Plaintiffs are also entitled to special damages.

90. As part of their actual damages, Section 581-33 of the Texas Blue Sky Law entitles Plaintiffs to reasonable and necessary attorneys' fees, expert witness fees, cost for copies of depositions, and court costs.

91. In addition to actual damages, Section 581-33 of the Blue Sky Laws and the common law of Texas entitle Plaintiffs to recover punitive damages. Defendant's conduct was done fraudulently, knowingly, with actual awareness, malice and intent, and/or with such an entire want of care as to indicate that the acts and omissions in question were the result of conscious indifference to the rights, welfare or safety of the persons affected by them, including Plaintiffs, such that Plaintiffs are entitled to an award of exemplary or punitive damages.

92. Plaintiffs are entitled to prejudgment interest on its damages as provided by law.

93. Nothing Plaintiffs did or failed to do contributed to the damages sustained or affect the equitable relief to which they are entitled.

94. Suit was timely instituted. All conditions necessary, if any, for the bringing of this suit or the recovery of damages have occurred or will have occurred prior to judgment.

95. Plaintiffs respectfully demand a trial by jury, for which proper fees have been tendered.

VII
Requests for Disclosures

96. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendant is requested to disclose, within 30 days of service of this request, all the information or material described in Rule 194.2.

VIII.
Prayer

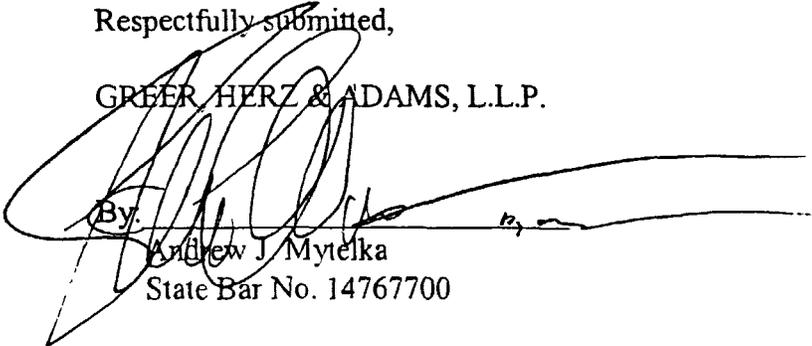
97. Plaintiffs pray that Defendant be cited to appear and answer herein, and that upon trial of this cause, judgment be rendered for Plaintiffs as follows:

- a. All direct, consequential, and special damages;
- b. All equitable relief to which they may be entitled;
- c. Prejudgment interest as provided by law;
- d. Punitive damages as provided by statutory and common law;
- e. Attorneys' fees and legal expenses (including expert fees);
- f. Post judgment interest; and
- g. Costs of court.

98. Plaintiffs further pray for general relief and such other and further monetary or equitable relief to which they may be entitled.

Respectfully submitted,

GREER, HERZ & ADAMS, L.L.P.

By: 

Andrew J. Mytelka
State Bar No. 14767700

John S. McEldowney
State Bar No. 13580000
Joe A.C. Fulcher
State Bar No. 07509320
M. David Le Blanc
State Bar No. 00791090
Steve Windsor
State Bar No. 21760650
One Moody Plaza, 18th Floor
Galveston, Texas 77550
(409) 797-3200
(409) 766-6424 (FAX)

ATTORNEYS FOR PLAINTIFFS

2003 JUN -2 PM 4:05
John S. McEldowney
Joe A.C. Fulcher
M. David Le Blanc
Steve Windsor
DISTRICT CLERK
GALVESTON, TEXAS

3373231

THE STATE OF TEXAS
CAUSE NO. 03CV0915-212TH

AMERICAN NATIONAL INSURANCE COMPANY, ET AL
VS.
ROYAL BANK OF CANADA

536-16-25
9407
COURT

TO: ROYAL BANK OF CANADA, upon whom process of service may be had by serving
ITS MANAGING DIRECTOR, LINDA STEVENS, 2800 POST OAK BLVD., 57TH FLOOR,
HOUSTON, TEXAS 77057

Defendant, Greeting:
You have been sued. You may employ an attorney. If you or your attorney
do not file a written answer with the Clerk who issued this citation by 10:00
a.m. on the Monday next following the expiration of twenty days from the date
you were served this citation and ORIGINAL petition, a default judgment may
be taken against you. Said written answer may be filed by mailing same to :
District Clerk's Office, 722 Moody (21st Street), 404 Galveston County
Courthouse, Galveston, Texas 77550. The case is presently pending before the
212TH Judicial District Court of Galveston County sitting in Galveston,
Texas, and the ORIGINAL petition was filed on the 2ND day of JUNE, 2003. It
bears cause number 03CV0915 and the parties to the suit are: SEE ATTACHED
PETITION FOR NAMED, Plaintiffs ROYAL BANK OF CANADA, Defendant.

5000
9522056
C5022956

The name and address of the plaintiff or the attorney of record is:
ANDREW J. MYTELKA, ATTORNEY
JOHN S. MCELLOWNEY, ATTORNEY
JOE A.C. FULCHER, ATTORNEY
M. DAVID LE BLANC, ATTORNEY
STEVE WINDSOR, ATTORNEY
GREER, HERZ & ADAMS, L.L.P.
ONE MOODY PLAZA, 18TH FLOOR
GALVESTON, TEXAS 77550

The nature of the demands of said Plaintiff is shown by a true and
correct copy of Plaintiff's ORIGINAL petition and made a part hereof.
If this citation is not served, it shall be returned unserved.
Issued and given under my hand and the seal of said court at Galveston,
Texas, this the 11TH day of June, A.D., 2003

ATTEST:
EVELYN WELLS ROBISON, Clerk
District Court, Galveston County, Texas
By Norma G. Bonneau, Deputy
NORMA G. BONNEAU

NOTE:

STATUS CONFERENCE SET 9-04-2003 at 9:00 A.M.
SEE ATTACHED FORM

OFFICER'S OR AUTHORIZED & DISINTERESTED PERSON'S RETURN

Came to hand on 13 day of JUNE, 2003 at 1151
o'clock A, and executed in HARRIS County, Texas by delivering
to the within named defendant ROYAL BANK OF CANADA, by serving MANAGING
DIRECTOR LINDA STEVENS, in person or by registered or certified mail, return
receipt requested, a true copy of this Citation, with the date of delivery
endorsed thereon, together with the accompanying true and correct copy of the
Plaintiff's ORIGINAL petition, at the following times and places, to-wit:

| NAME | Date | Time of Service | Place |
|---------------|---------|-----------------|-----------------------------------------|
| LINDA STEVENS | 6-16-03 | 9:40 AM | 2800 Post Oak Blvd Houston, TX 77057 |

Fees - Serving
Amount \$ 50.00
Name of Officer CHEEK, Constable Disinterested Person
5, Harris County, Texas
By S. LEACH
Signature of Deputy or Authorized & Disinterested person

Authorized & Disinterested Person's Verification:
On this day personally appeared _____, known to me
to be the person whose signature appears on the foregoing return. After being
duly sworn by me, he/she stated that this citation was executed by him/her in
the exact manner recited on the return.

Sworn to and subscribed before me, on this _____ day of _____
Notary's Name Printed: _____
Notary Public In and for the State of Texas
Commission Expires: _____

GREER, HERZ & ADAMS, L.L.P.
A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

W. E. GREER (1901 - 1996)

IRWIN M. HERZ, JR., P.C.
JERRY L. ADAMS, P.C.
STEPHEN G. SCHULZ, P.C.
DEBRA G. JAMES
JOHN A. BUCKLEY, JR., P.C.
ANDREW J. MYTELKA
DARRYL H. LEVY
FREDERICK E. BLACK
JANET L. RUSHING
MARILYN L. SOLOWAY
GREGORY S. GARRISON
SCOTT D. DANIEL
JAMES M. ITIN
JOE A. C. FULCHER

Please Reply To:

Steve Windsor
Galveston

ATTORNEYS AND COUNSELORS

ONE MOODY PLAZA, 18TH FLOOR
GALVESTON, TEXAS 77550-7998
FAX: (409) 766-6424

CLEAR LAKE OFFICE:
2525 SOUTH SHORE BLVD., SUITE 203
LEAGUE CITY, TX 77573
FAX: (281) 538-3791

GALVESTON (409) 797-3200
HOUSTON (281) 480-5278

TARA B. ANNWEILER
MICHAEL G. ADAMS
DAVID LI BLANC
JOSEPH RUSSO, JR.
STEVE WINDSOR
SEAN A. MONTICELLO
KELLY-ANN F. CLARKE
ROBERT A. SWOFFORD
GLORIA MO
RONI G. SUNDERMAN
S. TIM YUSUF

OF COUNSEL
JOHN S. McELDOWNEY
CHARLES BROWN

Direct Dial: (409) 797-3209

Direct Fax: (409) 621-3209

E-Mail: swindsor@greerherz.com

June 12, 2002

BY AIRBORNE DELIVERY

Constable Glen Cheek
Harris County Constable, Precinct 5
17423 Katy Freeway
Houston, TX 77094-1311

RE: No. 03-CV-0915; American National Insurance Company, et al v. Royal Bank of Canada; In the 212th District Court of Galveston County, Texas

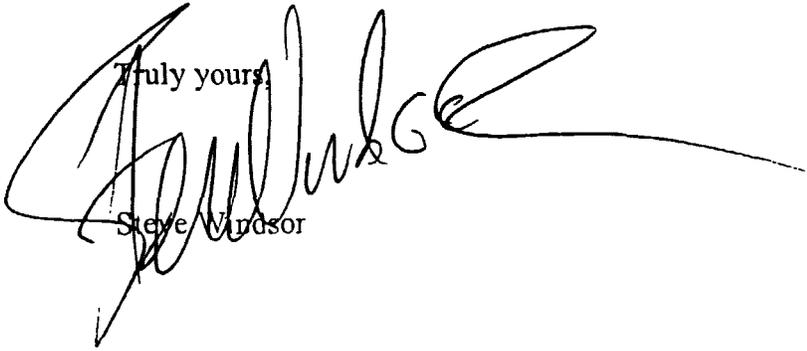
Dear Constable Cheek:

Enclosed is the Citation to be served upon Defendant by serving registered agent: Linda Stevens, Managing Director of Royal Bank of Canada at 2800 Post Oak Blvd., 57th Floor, Houston Texas 77057.

Upon perfection of service, please return the executed citation to the undersigned so that I may have it filed with the court. I have included our firm's check in the amount of \$50.00 in payment of the cost of service of this citation. If you have any questions, please call my secretary, Louise, at 409/797-3227.

Thank you for your assistance in our request.

Truly yours,


Steve Windsor

SW/lvz
Enclosures

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

AMERICAN NATIONAL INSURANCE)
COMPANY; AMERICAN NATIONAL)
INVESTMENT ACCOUNTS, INC.;)
SM&R INVESTMENTS, INC.;)
AMERICAN NATIONAL PROPERTY)
AND CASUALTY COMPANY;)
STANDARD LIFE AND ACCIDENT)
INSURANCE COMPANY; FARM FAMILY)
LIFE INSURANCE COMPANY; FARM)
FAMILY CASUALTY INSURANCE)
COMPANY; and NATIONAL WESTERN)
LIFE INSURANCE COMPANY)
Plaintiffs)
v.)
ROYAL BANK OF CANADA)
Defendant)

Civil Action No. _____

EXHIBIT C: CERTIFIED COPY OF THE STATE COURT DOCKET SHEET

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

AMERICAN NATIONAL INSURANCE)
COMPANY; AMERICAN NATIONAL)
INVESTMENT ACCOUNTS, INC.;)
SM&R INVESTMENTS, INC.;)
AMERICAN NATIONAL PROPERTY)
AND CASUALTY COMPANY;)
STANDARD LIFE AND ACCIDENT)
INSURANCE COMPANY; FARM FAMILY)
LIFE INSURANCE COMPANY; FARM)
FAMILY CASUALTY INSURANCE)
COMPANY; and NATIONAL WESTERN)
LIFE INSURANCE COMPANY)
Plaintiffs)
v.)
ROYAL BANK OF CANADA)
Defendant)

Civil Action No. _____

EXHIBIT D: LIST OF PARTIES AND COUNSEL

Attorneys for Plaintiffs:

Andrew J. Mytelka
Texas State Bar No.: 14767700
John S. McEldowney
Texas State Bar No.: 13580000
Joe A.C. Fulcher
Texas State Bar No.: 07509320
David Le Blanc
Texas State Bar No.: 00791090
Steve Windsor
Texas State Bar No. 21760650
GREER, HERZ & ADAMS LLP
One Moody Plaza, 18th Floor
Galveston, Texas 77550

Attorneys for Defendant Royal Bank of Canada:

PHELPS DUNBAR LLP

Claude L. Stuart, III

Attorney-in-charge

Texas State Bar No.: 19426620

Southern District of Texas Bar No.: 13824

3040 Post Oak Boulevard, Suite 900

Houston, Texas 77056

Telephone: (713) 626-1386

Telecopier: (713) 626-1388

WHITE & CASE LLP

Cyrus Benson III

Aloke Ray

1155 Avenue of the Americas

New York, New York 10036

(212) 819-8200

SEWARD & KISSEL LLP

Michael J. McNamara

Mark D. Kotwick

Anne C. Patin

One Battery Park Plaza

New York, New York 10004

(212) 574-1200

EXHIBIT 2

ORIGINAL

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

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
ENTERED

DEC 13 2001

Michael N. Milby, Clerk of Court

MARK NEWBY,

Plaintiff,

VS.

ENRON CORP., *et al.*,

Defendants.

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CIVIL ACTION NO. H-01-3624
(Securities Suits)

SETH ABRAMS and STEVEN
FRANK, Individually and On
Behalf of All Others Similarly Situated,

Plaintiffs,

VS.

ENRON CORP., *et al.*,

Defendants.

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CIVIL ACTION NO. H-01-3630

ROBERT J. CASEY II and RUTH I.
HORTON, Individually and On Behalf
of All Others Similarly Situated,

Plaintiffs,

VS.

ENRON CORP., *et al.*,

Defendants.

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CIVIL ACTION NO. H-01-3647

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JOHN and PEGGY ODAM, *et al.*,

Plaintiffs,

VS.

ENRON CORP., *et al.*,

Defendants.

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CIVIL ACTION NO. H-01-3914

FRANK ANTHONY CAMMARATA
III, Individually and on Behalf
of All Others Similarly Situated,

Plaintiff,

VS.

ENRON CORP., *et al.*,

Defendants.

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CIVIL ACTION NO. H-01-3993

GEORGE NICOUD, on Behalf of
Himself and of All Others Similarly
Situated,

Plaintiff,

VS.

ENRON CORPORATION, *et al.*,

Defendants.

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CIVIL ACTION NO. H-01-4009

JAMES J. DALY, as Trustee of the
James J. Daly IRA Rollover and on
behalf of all others similarly situated,

Plaintiff,

VS.

ENRON CORP., *et al.*,

Defendants.

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CIVIL ACTION NO. H-01-4189

AMALGAMATED BANK, as Trustee
for the Longview Collective Investment
Fund Longview Core Bond Index
Fund and Certain other Trust accounts,
Individually and on Behalf of
All Others Similarly Situated,

Plaintiffs,

VS.

KENNETH L. LAY, *et al.*,

Defendants.

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CIVIL ACTION NO. H-01-4198

CATHERINE STEVENS, *et al.*,

Plaintiffs,

VS.

ENRON CORP., Savings Plan
Administrative Committee, *et al.*,

Defendants.

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CIVIL ACTION NO. H-01-4208

CITY OF BIRMINGHAM
RETIREMENT AND RELIEF PLAN
on Behalf of Itself and of All
Others Similarly Situated,

Plaintiffs,

VS.

ENRON CORPORATION, *et al.*,

Defendants.

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CIVIL ACTION NO. H-01-3940
(Other suit)

ORDER OF CONSOLIDATION

A number of defendants have moved to consolidate the pending litigation concerning Enron Corporation in a single court. The motion to consolidate has been filed by the outside directors of Enron Corporation,¹ Kenneth L. Lay, Rebecca Mark-Jusbache, Jeffrey K. Skilling, Steven Kean, Lou Pai, Stanley Horton,

¹ The "outside directors" of Enron Corporation are current and former directors that have been named in many of the Enron-related lawsuits. They are Robert Belfer, Norman Blake, Jr., Ronnie C. Chan, John H. Duncan, Wendy L. Gramm, Robert K. Jaedicke, Charles A. Lemaistre, John Mendelsohn, M.D., Paulo V. Ferraz Pereira, Frank Savage, John Wakeham, Joe H. Foy, Jerome J. Meyer and Herbert Winokur.

Rick Buy, Richard Causey, Mark Frevert, and Andrew S. Fastow, Arthur Andersen LLP, and Enron Corporation itself. The consolidation is sought as to the many actions in this district arising from, or relating to, the financial difficulties of Enron Corporation. Some of the actions arise under the federal securities laws; other cases are actions filed derivatively on behalf of Enron against its present or former directors; and a third group of cases has been filed under the Employee Retirement Income Security Act on behalf of participants in various employee benefit plans maintained by Enron.

These cases all arise from a common core of operative facts. They are filed against common defendants. Many of the cases contain identical claims. The legal issues will overlap. Much of the discovery will be common to all the cases. In order to ensure the orderly progress of these lawsuits and to avoid unwarranted duplication of discovery and motion practice, the motion to consolidate the pending actions in one court is GRANTED, pursuant to Rule 42 of the Federal Rules of Civil Procedure and Local Rule 7.6 of the Southern District of Texas.

Pursuant to Rule 42 of the Federal Rules of Civil Procedure and Local Rule 7.6, and to serve the interests of justice, the actions involving or related to the financial difficulties of Enron Corporation, pending in the Southern District of Texas, are consolidated in the court in which the oldest related case was filed in this district,

which is Civil Action No. H-01-3624, *Newby v. Enron Corporation, et al.* Other actions later filed in this district relating to the same core of operative facts and issues will also be consolidated in this court.

All actions filed in this district against any or all of the following will be automatically consolidated before this court: Enron Corporation, Andrew S. Fastow, Kenneth L. Lay, Jeffrey K. Skilling, Richard Causey, Mark Frevert, Cliff Baxter, Lou Pai, Robert A. Belfer, Norman P. Blake, Jr., Ronnie C. Chan, John H. Duncan, Wendy L. Gramm, Robert K. Jaedicke, Charles A. Lemaistre, John Mendelsohn, Paulo V. Ferraz Pereira, Frank Savage, John Wakeham, Herbert S. Winokur, Ken L. Harrison, Jerome J. Meyer, John A. Urquhart, Joint Energy Development Investments, L.P., Joint Energy Development Investments II, L.P., Chewco Investments, L.P., a/k/a Chewco Investments of Houston, L.P., Michael Kopper, LJM2 Co-Investment, L.P., Arthur Andersen LLP, Mary K. Joyce, Rebecca Mark-Jusbache, Ken Rice, Steven Kean, Stanley Horton, Richard Buy, Ben Glisan, Kristina Mordaunt or Northern Trust Company. If any such actions are subsequently filed in this district, counsel for defendants is directed to file a copy of this order along with a Notice of Consolidation in the action to be consolidated and to serve the same on counsel for plaintiffs. The Clerk of Court is directed to consolidate such action or actions before this court as follows:

The federal securities cases will be consolidated under Civil Action No.

H-01-3624, *Newby v. Enron Corp., et al.*, as the lead case.

The derivative cases will be consolidated under Civil Action No. H-01-3645, *Pirelli Armstrong Tire Corp. Defined Benefit Plan, et al. v. Kenneth L. Lay, et al.*, as the lead case.

The employee benefit plan cases will be consolidated under Civil Action No. H-01-3913, *Tittle v. Enron Corp., et al.*, as the lead case.

If any party objects to the consolidation, that party must file an objection to consolidation with this court within 10 days of the filing of this Notice of Consolidation.

Scheduling orders will be issued separately.

SIGNED on December 12, 2001, at Houston, Texas.



Lee H. Rosenthal
United States District Judge