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Michael N. Milby, Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

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

MDL 1446
and Consolidated, Related
and Coordinated Cases

This Document Relates To:

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

Plaintiffs,

Civil Action No. H-01-3624
and Consolidated, Related
and Coordinated Cases

vs.

ENRON CORP., et al.,

Defendants.

**MOTION OF BARCLAYS (UNOPPOSED BY
LEAD PLAINTIFF) FOR CONFIDENTIALITY ORDER**

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*Attorneys for Defendants Barclays
PLC, Barclays Bank PLC and
Barclays Capital Inc.*

November 3, 2003

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**MOTION OF BARCLAYS (UNOPPOSED BY
LEAD PLAINTIFF) FOR CONFIDENTIALITY ORDER**

Defendants Barclays PLC, Barclays Bank PLC and Barclays Capital Inc.

(collectively, “Barclays”) respectfully submit this Motion for Confidentiality Order with respect to the documents listed on Barclays’ “Confidential Documents Log” (attached as Exhibit 1 to the accompanying Affidavit of Alan Kaplan, dated November 3, 2003 (“Kaplan Aff.”)). Barclays has conferred with the Lead Plaintiff in *Newby*, and Lead Plaintiff has represented to Barclays that it does not oppose this Motion. In further support of this Motion, movants respectfully show the Court the following:

1. On September 18, 2003, the Court entered an Order on an agreed motion of the Lead Plaintiff and the Bank Defendants providing that any Bank Defendant wishing to file a confidentiality motion with respect to any documents or written discovery produced on or before October 1, 2003 must file such motion on or before October 15, 2003. (*See* 9/18/03 Order.)

2. On October 17, 2003, the Court entered an Order on an agreed motion of the Lead Plaintiff and the Bank Defendants extending until November 3, 2003 the deadline for filing any motion seeking confidential treatment for documents or written discovery produced on or before October 1, 2003. (*See* 10/17/03 Order.)

3. On October 1, 2003, in response to Lead Plaintiff’s First Request for the Production of Documents, Barclays produced over 400,000 pages of documents to the document depository in accordance with the Court’s July 11, 2003 Scheduling Order. (*See* 7/11/03 Order.)

4. In accordance with the Court’s December 19, 2002, March 27, 2003 and September 18, 2003 Orders, Barclays has identified a limited number of documents

(approximately 70 pages, or less than 0.02% of Barclays' entire production) that contain confidential personal information — personal telephone numbers and home addresses — regarding current or former Barclays' employees. Those documents are listed on Barclays' Confidential Documents Log. (See Kaplan Aff., at ¶ 6 and Ex. 1)

5. Federal Rule of Civil Procedure 26(c) provides that a court may, for “good cause shown . . . make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression or undue burden or expense.” FED. R. CIV. P. 26(c). Further, “Rule 26(c) confers broad discretion on the trial court to decide when a protective order is appropriate and what degree of protection is required.” *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 36 (1984).

6. The Court's March 27, 2003 Order concerning Enron's Motion for a Confidentiality Order (Instrument #1201 in *Newby*) provides that personal information would be granted confidential status pursuant to General Order No. 2002-9, which was amended by General Order 2003-4, entered on August 27, 2003. Further, the Court has recognized that protection of personal information should be in the “spirit” of General Order No. 2002-9 (now General Order 2003-4), and not limited to its enumerated categories. (See 3/27/03 Order at 3).

7. Barclays' former and current employees have a valid interest in protecting against dissemination of their personal telephone numbers and addresses. If this information were publicly disclosed and disseminated, it could be misused by others in any number of ways (including to harass Barclays' current and former employees). The harm that could befall these nonparties by disclosure of their personal telephone numbers and addresses plainly outweighs any public interest (if any) in that information. As such, the Court should protect this information pursuant to Rule 26(c).

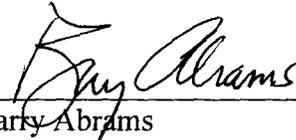
8. For the foregoing reasons, Barclays respectfully requests that the Court enter the proposed Confidentiality Order (attached hereto), which provides that the few pages of documents listed on Barclays' Confidential Documents Log, and the information reflected therein, (a) shall be used by all parties in the *In re Enron Corporation Securities, Derivative and "ERISA" Litigation* (including all consolidated, related and coordinated cases) (collectively, the "Consolidated Actions"), solely in and for the purposes of the Consolidated Actions and shall not be disclosed to anyone other than counsel of record in those cases, employees of counsel of record, employees of parties in the Consolidated Actions for the purposes of assisting or consulting with counsel in those Actions or in preparation for or during their depositions or trial testimony, nonparty witnesses during their depositions or trial testimony, experts retained by parties in the Consolidated Actions and the court-ordered mediator in these actions, each of whom shall restrict use and disclosure of such documents, written discovery and information as provided in this paragraph, and (b) shall not be filed with any court without first obtaining the consent of Barclays.

9. Nothing in the proposed Confidentiality Order shall prevent any party to the Consolidated Actions (including but not limited to the Lead Plaintiff in *Newby*) from subsequently challenging Barclays' designation of the documents listed on its Confidential Documents Log as confidential (including but not limited to seeking appropriate relief from the Court).

10. Barclays has conferred with Lead Plaintiff in *Newby*, and Lead Plaintiff has represented to Barclays that it does not oppose this Motion.

Dated: November 3, 2003

Respectfully submitted,



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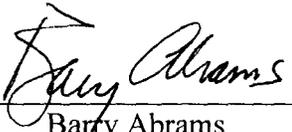
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*Attorneys for Defendants Barclays PLC,
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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on this 3rd day of November, 2003 a copy of the foregoing Motion of Barclays (Unopposed By Lead Plaintiff) For Confidentiality Order has been served on all counsel of record via www.esl3624.com website posting and served on the following party via first class mail:

Carolyn S. Schwartz
United States Trustee, Region 2
33 Whitehall Street, 21st Floor
New York, NY 10004



Barry Abrams