

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

United States Courts
Southern District of Texas
FILED

FEB 06 2004

Michael N. Milby, Clerk

BC

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

MARK NEWBY, et al.

(Consolidated)

Plaintiffs,

v.

ENRON CORP., et al.,

Defendants.

This document relates to:

CONSECO ANNUITY ASSURANCE
COMPANY, Individually and on Behalf of all
Others Similarly Situated,

Plaintiff,

v.

CITIGROUP, INC., CITIBANK, N.A.,
CITICORP, SALOMON SMITH BARNEY,
INC., SCHRODER SALOMON SMITH
BARNEY, SALOMON BROTHERS
INTERNATIONAL LIMITED, RICK
CAPLAN, JAMES REILLY, WILLIAM FOX,
and MAUREEN HENDRICKS.

Defendants.

SILVERCREEK MANAGEMENT INC.;
SILVERCREEK LIMITED PARTNERSHIP;
SILVERCREEK II LIMITED; OIP LIMITED,
and PEBBLE LIMITED PARTNERSHIP,

Plaintiffs,

v.

SALOMON SMITH BARNEY, INC.;
GOLDMAN SACHS & COMPANY; BANC

MDL 1446

CIVIL ACTION NO. H-01-3624

H-03-CV-2240

CIVIL CASE NO. 01-CV-3624

1976

OF AMERICA SECURITIES LLC; ARTHUR
ANDERSEN LLP,

Defendants.

AMERICAN NATIONAL INSURANCE
COMPANY, AMERICAN NATION
INVESTMENTS COMPANY, AMERICAN
NATION INVESTMENTS 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.

J.P. MORGAN CHASE & COMPANY,

Defendant

AMERICAN NATIONAL INSURANCE
COMPANY, FARM FAMILY LIFE
INSURANCE COMPANY, and SECURITIES
RESEARCH & MANAGEMENT, INC.

Plaintiffs,

v.

LEHMAN BROTHERS HOLDINGS, INC., et
al.,

Defendants.

AMERICAN NATIONAL INSURANCE
COMPANY, AMERICAN NATION
INVESTMENTS COMPANY, AMERICAN
NATION INVESTMENTS ACCOUNTS INC.,
SM&R INVESTMENTS INC., AMERICAN
NATIONAL PROPERTY AND CASUALTY

CIVIL ACTION NO. G-02-0299

CIVIL ACTION NO. G-02-463

CIVIL ACTION NO. G-02-723

CITIGROUP, INC.; CITICORP; CITIBANK,
N.A.; CITICORP NORTH AMERICA, INC.
and SALOMON SMITH BARNEY INC.

Defendants.

ABBEY NATIONAL TREASURY SERVICES
plc,

Plaintiff,

v.

CREDIT SUISSE FIRST BOSTON
CORPORATION, CREDIT SUISSE GROUP,
CREDIT SUISSE FIRST BOSTON, CREDIT
SUISSE FIRST BOSTON (USA), INC.,
CREDIT SUISSE FIRST BOSTON, INC.,
CREDIT SUISSE FIRST BOSTON (EUROPE)
LIMITED, DEUTSCHE BANC ALEX
BROWN INC., DEUTSCHE BANK AG,
DEUTSCHE BANK AG LONDON, J.P.
MORGAN CHASE & CO., J.P. MORGAN
SECURITIES INC., J.P. MORGAN
SECURITIES HOLDING INC., CHASE
SECURITIES INC., J.P. MORGAN
INVESTMENT CORPORATION, J.P.
MORGAN SECURITIES LTD., BANK OF
AMERICA CORPORATION, BANC OF
AMERICA SECURITIES LLC, BANC OF
AMERICA SECURITIES LIMITED,
CANADIAN IMPERIAL BANK OF
COMMERCE, CIBC INC., CIBC WORLD
MARKETS CORP., CIBC WORLD
MARKETS PLC, DRESDNER KLEINWORT
WASSERSTEIN, INC., DRESDNER
KLEINWORT WASSERSTEIN SECURITIES
LLC, DRESDNER KLEINWORT
WASSERSTEIN SERVICES LLC,
DRESDNER BANK AG, DRESDNER BANK
AG LONDON BRANCH, ABN AMRO
INCORPORATED, ABN AMRO
SECURITIES (USA) INC., ABN AMRO
BANK N.V., ARTHUR ANDERSEN LLP,
ANDERSEN WORLDWIDE, SC, MARLIN
WATER TRUST, MARLIN WATER
CAPITAL CORP., AND JOHN and JANE

CIVIL ACTION NO. H-02-3869

DOES #1 THROUGH 50, §
Defendants. §

INTERNATIONALE §
KAPITALANLAGEGESELLSCHAFT mbH, §
individually and on behalf of BVT, CBP, DSW, §
DUKAT, EKBAKK, EKBV, ERHARD, HLF, §
LZO, PRENT A. SIT, INVESTMENT §
MANAGERS SA, individually and on behalf of §
WALSER EUROCASH, and HSBC §
TRINKAUS & BURKHARDT KgaA, §

Plaintiffs, §

v. §

CREDIT SUISSE FIRST BOSTON §
CORPORATION, CREDIT SUISSE GROUP, §
CREDIT SUISSE FIRST BOSTON, CREDIT §
SUISSE FIRST BOSTON (USA), INC., §
CREDIT SUISSE FIRST BOSTON, INC., §
CREDIT SUISSE FIRST BOSTON (EUROPE) §
LIMITED, DEUTSCHE BANC ALEX §
BROWN INC., DEUTSCHE BANK AG, §
DEUTSCHE BANK AG LONDON, J.P. §
MORGAN CHASE & CO., J.P. MORGAN §
SECURITIES INC., J.P. MORGAN §
SECURITIES HOLDING INC., CHASE §
SECURITIES INC., J.P. MORGAN §
INVESTMENT CORPORATION, J.P. §
MORGAN SECURITIES LTD., BANK OF §
AMERICA CORPORATION, BANC OF §
AMERICA SECURITIES LLC, BANC OF §
AMERICA SECURITIES LIMITED, §
CANADIAN IMPERIAL BANK OF §
COMMERCE, CIBC INC., CIBC WORLD §
MARKETS CORP., CIBC WORLD §
MARKETS PLC, DRESDNER KLEINWORT §
WASSERSTEIN, INC., DRESDNER §
KLEINWORT WASSERSTEIN SECURITIES §
LLC, DRESDNER KLEINWORT §
WASSERSTEIN SERVICES LLC, §
DRESDNER BANK AG, DRESDNER BANK §
AG LONDON BRANCH, ABN AMRO §
INCORPORATED, ABN AMRO §
SECURITIES (USA) INC., ABN AMRO §

CIVIL ACTION NO. H-02-4080

BANK N.V., ARTHUR ANDERSEN LLP,
ANDERSEN WORLDWIDE, SC, MARLIN
WATER TRUST, MARLIN WATER
CAPITAL CORP., CORONETS LIMITED
SERIES 11, AND JOHN AND JANE DOES #1
THROUGH #50,

Defendants.

PUBLIC EMPLOYEES RETIREMENT
SYSTEM OF OHIO, STATE TEACHERS'
RETIREMENT SYSTEM OF OHIO, SCHOOL
EMPLOYEES' RETIREMENT SYSTEM OF
OHIO and OHIO STATE HIGHWAY
PATROL RETIREMENT SYSTEM

Plaintiffs,

v.

KENNETH L. LAY., et al.,

Defendant.

CALIFORNIA PUBLIC EMPLOYEES'
RETIREMENT SYSTEM,

Plaintiff,

v.

BANC OF AMERICA SECURITIES LLC;
WACHOVIA CORPORATION F/K/A FIRST
UNION CORPORATION F/K/A FORUM
CAPITAL MARKETS, LLC; SALOMON
SMITH BARNEY, INC.; GOLDMAN SACHS
& COMPANY; JP MORGAN SECURITIES,
INC.; CITIGROUP, INC.; MERRILL LYNCH
& CO., INC.; RICHARD A. CAUSEY;
JEFFREY K. SKILLING; ANDREW S.
FASTOW; ROBERT AL. BELFER; NORMAN
P. BLAKE, JR.; RICHARD BUY; RONNIE C.
CHAN; JOHN V. DERRICK, JR.; ,

Defendants.

SILVERCREEK MANAGEMENT INC.;
SILVERCREEK LIMITED PARTNERSHIP;
SILVERCREEK II LIMITED; ONYX

CIVIL ACTION NO. H-02-7488

CASE NO. CGC 02-414500

INDUSTRIAL PARTNERS, LIMITED; and
PEBBLE LIMITED PARTNERSHIP,

Plaintiffs,

v.

CITIGROUP, INC.; BANK OF AMERICA
CORPORATION; J.P. MORGAN
SECURITIES, INC.; J.P. MORGAN CHASE &
COMPANY; CREDIT SUISSE FIRST
BOSTON; DEUTSCHE BANK ALEX
BROWN, INC.; DEUTSCHE BANK AG;
BARCLAY'S CAPITAL INC., BARCLAY'S
PLC; MERRILL LYNCH & CO.; ANDERSEN
WORLDWIDE S.C.; ANDERSEN CO.;
ARTHUR ANDERSEN-PUERTO RICO;
ANDERSEN LLP; ARTHUR ANDERSEN-
BRAZIL; ARTHUR ANDERSEN; JOSEPH F.
BERARDINO; THOMAS H. BAUER; DAVID
B. DUNCAN; DEBRA A. CASH; DONALD
DREYFUSS; JAMES A. FRIEDLIEB; DAVID
STEPHEN GODDARD, JR.; GARY B.
GOOLSBY; MICHAEL M. LOWTHER;
BENJAMIN S. NEUHAUSEN; DAVID
MICHAEL C. ODOM; RICHARD R.
PETERSEN; JOHN E. STEWART; MICHAEL
L. BENNETT; WILLIAM E. SWANSON;
ROGER D. WILLARD; MICHAEL D. JONES;
GREGORY W. HALE; JOHN E. SORRELLS;
DANNY D. RUDLOFF; PHILLIP A.
RANDALL; ROMAN W. McALINDON C.E.
ANDREWS; VINSON & ELKINS L.L.P.;
KIRKLAND & ELLIS; KENNETH LAY;
JEFFREY K. SKILLING; ANDREW S.
FASTOW; ROBERT A. BELFER; NORMAN
P. BLAKE; RONNIE C. CHAN; JOHN H.
DUNCAN; JOE H. FOY; WENDY L.
GRAMM; KENNETH L. HARRISON;
ROBERT K. JAEDICKE; CHARLES A.
LeMAISTRE; REBECCA MARK-
JUSBASCHE; JOHN MENDELSON;
JEROME J. MEYER; PAULO V. FERRAZ
PERIERA; FRANK SAVAGE; JOHN A.
URQUHART; JOHN WAKEHAM; HERBERT
S. WINOKER, JR.;

CIVIL CASE NO. 02-CV-8881

Defendants.

HEADWATERS CAPITAL, LLC and JAS
SECURITIES, LLC

Plaintiffs,

v.

KENNETH L. LAY, RICHARD A. CAUSEY,
ANDREW S. FASTOW, ROBERT A.
BELFER, NORMAN P. BLAKE, JR., RONNIE
C. CHAN, JOHN H. DUNCAN, JOE H. FOY,
WENDY L. GRAMM, KEN L. HARRISON,
ROBERT K. JAEDICKE, CHARLES A.
LEMAISTRE, JOHN MENDELSON,
JEFFREY K. SKILLING, JOHN A.
URQUHART, JOHN WAKEMAN, HERBERT
S. WINOKUR, JR., REBECCA P. MARK-
JUSBASCHE, JEROME J. MEYER,
HERBERT S. WINOKUR, JR., CITIGROUP,
INC., BANC OF AMERICA SECURITIES
LLC, BANK OF AMERICA CORP.,
SALOMON SMITH BARNEY INC.,
GOLDMAN SACHS GROUP CORP., and
GOLDMAN, SACHS & CO.,

Defendants.

AL RAJHI INVESTMENT BANK, BV

Plaintiff,

v.

ARTHUR ANDERSON LLP

Defendant.

WESTBORO PROPERTIES, LLC
and STONEHURST CAPITAL, INC.

Plaintiffs,

v.

CIVIL ACTION NO. 4:03-341

CAUSE NO. H-03-1219

C.A. NO. H-03-1276

CERTAIN PRIVATE ACTION PLAINTIFFS' CORRECTED JOINDER IN SUPPORT OF LEAD PLAINTIFFS' MOTION AND OUTSIDE DIRECTORS' MEMORANDUM CONCERNING DISCOVERY OF EXAMINER STATEMENTS AND TRANSCRIPTS

Plaintiffs in the above-styled actions (collectively "Plaintiffs") hereby join in Lead Plaintiffs' Motion to Compel the Banks to Produce the Sworn Statements and Deposition Transcripts of Their Employees and also join in the arguments presented in Outsider Directors' Memorandum Concerning Discovery of Examiner Documents. Lead Plaintiffs and the Outside Directors provide numerous and compelling reasons for ordering that the statements at issue be made available to all interested parties, including Plaintiffs in actions consolidated or coordinated with the *Newby* proceeding.

Plaintiffs will be seriously and unfairly disadvantaged unless granted access to the materials at issue because such documents are already in the possession or under the control of various defendants in Plaintiffs' actions. As a Delaware district court noted when reversing a bankruptcy court's sealing of an examiner's report,

The process devised by the Bankruptcy Court, whereby the fee reviewer's reported factual information and analytical conclusions and the fee applicants' responses thereto were shared by some, but not all, parties to this dispute and were sealed completely from public view, does not comport with our civil justice system, under which disputes are to be settled equitably, publicly and through an adversarial process that includes all interested parties.

The Court concludes that there is no sound basis in fact or in law for sealing the fee reviewer's reports and the responses to the reports. Furthermore, there is no sound basis for allowing some interested parties to gain access to these materials while simultaneously denying other interested parties the same access.

In re Continental Airlines, 150 B.R. 334, 142, 1993 U.S. Dist. Lexis 1275, *28 (D. Delaware 1993).

Plaintiffs pray that: (i) Lead Plaintiffs' Motion to Compel the Banks to Produce the Sworn Statements and Deposition Transcripts of Their Employees be granted; and (ii) that all the

examiner's witness statements and transcripts in the possession, custody, or control of any parties in this consolidated litigation be made available to all parties in this litigation.

Respectfully Submitted,

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For Plaintiffs American National Insurance Company; American Nation Investments 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

For Plaintiffs Westboro Properties, LLC and Stonehurst Capital, Inc.

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Partnership*

*For Plaintiffs California Public Employees'
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Company; Valic Company I; Valic Company II; Aig
Annuity Insurance Company; Aig Life Insurance Company;
Sunamerica Life Insurance Company; Aig Sunamerica Life
Assurance Company; And Aldersgate (Del.) No. 3 L.L.C. V.
Credit Suisse First Boston, Inc.; Credit Suisse First Boston
Corporation; Credit Suisse First Boston (Usa), Inc.;
Deutsche Banc Alex. Brown; Deutsche Banc Alex. Brown
Inc.; Deutsche Bank Securities Inc.; Donaldson Lufkin &
Jenrette Securities Corporation; Citigroup, Inc.; Citicorp;
Citibank, N.A.; Citicorp North America, Inc.; And Salomon
Smith Barney Inc.*

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For Plaintiffs National Treasury Services Plc

For Plaintiffs Internationale

Kapitalanlagegesellschaft Mbh, Individually And

On Behalf Of Bvt, Cbp, Dsw, Dukat, Ekbakk, Ekbv,

Erhard, Hlf, Lzo, Prent A. Sit, Investment Managers

Sa, Individually And On Behalf Of Walser

Eurocash, And Hsbc Trinkaus & Burkhardt Kgaa

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*For Plaintiffs Vanguard Balanced Index Fund , On
Behalf Of Its Vanguard Balanced Index Fund
Series; Vanguard Bond Index Funds, On Behalf Of
Its Vanguard Short-Term Bond Index Fund Series
And On Behalf Of Its Vanguard Total Bond Market
Index Fund Series; Vanguard Fixed Income
Securities Funds, On Behalf Of Its Vanguard
Intermediate-Term Corporate Bond Fund Series
And On Behalf Of Its Vanguard Short-Term
Corporate Bond Fund Series; Vanguard Variable
Insurance Fund, On Behalf Of Its Short-Term
Corporate Bond Portfolio Series And On Behalf Of
Its Total Bond Market Index Portfolio Series; And
Vanguard Fiduciary Trust Company Corporate
Bond Trust,*

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on this the 6th day of February, 2004, a copy of the forgoing document was served on all counsel of record by posting in PDF format to www.esl3624.com.

By: Evan J. Kaufman / by permission
Evan J. Kaufman