

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

United States Courts
Southern District of Texas
FILED
APR 19 2004
Michael N. Milby, Clerk

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IN RE ENRON CORPORATION	:	
SECURITIES LITIGATION	:	
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This Document Relates To:	:	
	:	
MARK NEWBY, et al., Individually and	:	
On Behalf of All Others Similarly Situated,	:	
	:	
Plaintiffs,	:	Consolidated Civil Action
v.	:	
ENRON CORP., et al.,	:	Case No.: H-01-CV-3624
	:	
Defendants.	:	
-----	:	
THE REGENTS OF THE UNIVERSITY OF	:	
CALIFORNIA, et al., Individually and On	:	
Behalf of All Others Similarly Situated,	:	
	:	
Plaintiffs,	:	
v.	:	
KENNETH L. LAY, et al.,	:	
	:	
Defendants.	:	
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**APPENDIX TO MOTION FOR RECONSIDERATION OF
THE COURT'S APRIL 5, 2004 ORDER RE: J.P. MORGAN DEFENDANTS**

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2096

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EXHIBITS

Description	Number
Def.' J.P. Morgan Chase & Co., J.P. Morgan Securities Inc., and JPMorgan Chase Bank's Mot. to Dismiss the First Am. Consol. Compl. and Br. in Supp. (Cited Pages)	1
Def.' J.P. Morgan Chase & Co., J.P. Morgan Securities Inc., and JPMorgan Chase Bank's Reply Br. in Further Supp. of Their Mot. to Dismiss the First Am. Consol. Compl. (Cited Pages).....	2
Andrew Hill, <i>Insurer Claims Enron Contracts Were A Front</i> , FIN. TIMES, p. 10, Dec. 22, 2001	3
James Norman, <i>Latest Enron Battle Pits Big Banks Versus Insurers</i> , PLATT'S OILGRAM NEWS, p.1, Jan. 3, 2002	4
Sheryl Jean, <i>Insurer The St. Paul Fights Back In Enron Case</i> , SAINT PAUL PIONEER PRESS, Dec., 28, 2001	5
Chad Bray, <i>St. Paul Files Counterclaim To J.P. Morgan's Enron Suit</i> , DOW JONES NEWS SERV., Dec. 27, 2001	6
Lynn Cowan, <i>Insurers Demand Proof of Enron Contract from J.P. Morgan</i> , DOW JONES NEWS SERV., Dec. 20, 2001	7
Answer, Affirmative Defenses and Counterclaim of St. Paul Fire & Marine Ins. Co., <i>JPMorgan Chase Bank v. Liberty Mutual Life Ins. Co.</i> , 01-CIV-11523(SHS)	8
<i>Class Action Lawsuit Amended on September 29, 2002 on Behalf of Purchasers of Credit Linked Notes Issued by Credit Suisse First Boston and Citigroup, Inc.</i> , PR NEWSWIRE, Sept. 29, 2002)	9

EXHIBIT 1

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

----- X
IN RE ENRON CORPORATION :
SECURITIES LITIGATION :
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Plaintiffs, :
v. :
ENRON CORP., et al., : Consolidated Civil Action
 : Case No : H-01-CV-3624
 : (Jury)
Defendants. :
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THE REGENTS OF THE UNIVERSITY OF :
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Behalf of All Others Similarly Situated, :
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Plaintiffs, :
v. :
KENNETH L. LAY, et al., :
Defendants. :
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**DEFENDANTS J.P. MORGAN CHASE & CO., J.P. MORGAN SECURITIES INC.,
AND JPMORGAN CHASE BANK'S MOTION TO DISMISS THE FIRST
AMENDED CONSOLIDATED COMPLAINT AND BRIEF IN SUPPORT**

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9(b),² and (2) Plaintiffs' failure to allege a nexus of the allegations related to their Texas state law claims to Texas. Those arguments are not repeated in detail here. Below, we set forth the additional grounds for dismissal of the Amended Complaint in its entirety.

1. Plaintiffs' Section 10(b) Claims Against JPMSI And JPMCB And Section 20(a) Claim Against JPMC Are Time-Barred

The newly asserted Section 10(b) and Section 20(a) claims in Count I against JPMSI, JPMCB, and JPMC are time-barred. For proceedings commenced prior to July 30, 2002, Section 10(b) and Rule 10b-5 claims must be commenced within one year after the discovery of the facts constituting the violation and within three years after such violation. *Lampf, Pleva, Lipkind, Prupis & Petigrew v. Gilbertson*, 501 U.S. 350, 364 (1991). Because Plaintiffs' Section 20(a) is merely derivative of the Section 10(b) claim, it is subject to the same limitations period. *See Theoharous v. Fong*, 256 F.3d 1219, 1228 n.12 (11th Cir. 2001); *In re Enron Sec., Derivative & ERISA Litig.*, 235 F. Supp. 2d 549, 595 (S.D. Tex. 2002) (noting that Section 20(a) is derivative of Section 10(b)).

This proceeding was commenced on October 22, 2001 and, therefore, is subject to the one-year/three-year limitations period established in *Lampf*. *See* 501 U.S. at 364. The change in the statute of limitations effectuated through the Public Company Accounting Reform

² JPMC's arguments regarding *Central Bank* are further supported by at least one decision that post-dates this Court's December 20, 2002 decision. *See In re Homestore.com, Inc. Sec. Litig.*, 252 F. Supp. 2d 1018 (C.D. Cal. 2003) (where plaintiffs alleged that corporation and third parties engaged in a scheme to defraud, by which the third parties arranged "improper transactions" that boosted revenues for the corporation and allowed the corporation to issue financial statements falsely inflating the value of the corporation's stock, the court held that (1) the third parties were not primary violators because they did not "employ" the scheme to defraud and (2) plaintiffs failed to show reliance on the scheme which was "one step removed" from plaintiffs' injury).

EXHIBIT 2

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This Document Relates To:	:	
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v.	:	
ENRON CORP., et al.,	:	Consolidated Civil Action
	:	Case No.: H-01-CV-3624
Defendants.	:	(Jury)
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THE REGENTS OF THE UNIVERSITY OF	:	
CALIFORNIA, et al., Individually and On	:	
Behalf of All Others Similarly Situated,	:	
	:	
Plaintiffs,	:	
v.	:	
KENNETH L. LAY, et al.,	:	
Defendants.	:	
-----	X	

**DEFENDANTS J.P. MORGAN CHASE & CO., J.P. MORGAN SECURITIES INC.,
AND JPMORGAN CHASE BANK'S REPLY BRIEF IN FURTHER SUPPORT OF
THEIR MOTION TO DISMISS THE FIRST AMENDED CONSOLIDATED
COMPLAINT**

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I. Plaintiffs' Federal Claims Against JPMSI And JPMCB, And The Control Person Claims Against JPMC, Are Time Barred

The federal claims asserted against JPMSI (Counts I and IV) and JPMCB (Count I), as well as the associated control person claims against JPMC, are time-barred.² The statutes of limitation applicable to the Section 10(b) and Section 12(a)(2) claims ran *one year* after Plaintiffs discovered, or should have discovered through reasonable diligence, the factual allegations underlying the claims. Plaintiffs were on notice of the allegations against JPMSI and JPMCB by the end of 2001. Thus, Plaintiffs' attempt to add JPMSI and JPMCB as defendants, nearly 18 months later, on May 14, 2003, is time-barred.

The expanded limitations period of the Sarbanes-Oxley Act, by its own terms, does not apply here. Plaintiffs' amendments also do not "relate back" to the filing date of the original Complaint. Plaintiffs' failure to sue JPMSI and JPMCB before May 14, 2003 was not a "mistake" under Federal Rule 15(c)(3). And Plaintiffs' Section 12(a)(2) claim does not arise out of the same "conduct, transaction, or occurrence" in the original Complaint under Rule 15(c)(2).

A. Plaintiffs Discovered Or Should Have Discovered The Allegations Underlying Their Amendments More Than One Year Before The Amended Complaint

For proceedings, like this action, commenced prior to July 30, 2002,³ Section 10(b) and Rule 10b-5 claims are time-barred one year after the plaintiff discovered, or in the exercise of reasonable diligence should have discovered, the alleged facts constituting the

² The limitations period for Plaintiffs' Section 20(a) control person claim against JPMC is the same as the limitations period for Plaintiffs' Section 10(b) claims against JPMSI and JPMCB. *Theoharous v. Fong*, 256 F.3d 1219, 1228 n.12 (11th Cir. 2001). Likewise, Plaintiffs' Section 15 control person claim has the same limitations period as Plaintiffs' Section 12(a)(2) claim against JPMSI. *Herm v. Stafford*, 663 F.2d 669, 679 (6th Cir. 1981).

³ This action was commenced on October 22, 2001.

(emphasis added). “[I]nquiry notice is triggered by evidence of *the possibility of fraud, not by complete exposure of the alleged scam.*” *Martinez Tapia v. Chase Manhattan Bank, N.A.*, 149, F.3d 404, 410 (5th Cir. 1998) (quoting *Brumbaugh v. Princeton Partners*, 985 F.2d 157, 162 (4th Cir. 1993))(emphasis added). “[T]he clock begins to tick when a plaintiff senses ‘storm warnings,’ not when he hears thunder and sees lightning.” *Jensen v. Snellings*, 636 F. Supp. 1305, 1309 (E.D. La. 1986) (citation omitted), *aff’d in part and rev’d in part on other grounds*, 841 F.2d 600 (5th Cir. 1988). Moreover, following such “storm warnings,” a plaintiff “must proceed with a reasonable and diligent investigation, and is charged with the knowledge of all facts such an investigation would have disclosed.” *Jensen*, 841 F.2d at 607.

Here, the “storm warnings” began at least by October 16, 2001 when Enron issued its first financial restatement, Am. Compl. ¶ 61, and thus Plaintiffs are charged with knowledge of all facts that a reasonable investigation would have disclosed thereafter. *Jensen*, 841 F.2d at 607. Plaintiffs argue that Enron’s “initial revelations” in the Fall of 2001 did not provide notice to Plaintiffs of the bank defendants’ conduct. Opp. at 15. To the contrary, as discussed below, Plaintiffs knew the identities of JPMSI and JPMCB, in connection with the matters alleged in the Amended Complaint, for more than a year before they filed the Amended Complaint.

With respect to the Mahonia prepay transactions, Plaintiffs were on notice of JPMCB’s alleged conduct no later than December 22, 2001. On that date, it was publicly reported that certain defendants in the action styled *JPMorgan Chase Bank v. Liberty Mutual Insurance Co.*, No. 01 Civ. 11523 (S.D.N.Y.) (the “Surety Action”), filed a counterclaim against JPMCB alleging that “forward sales contracts were ‘materially false,’” and “that the contracts were actually intended ‘to provide a mechanism to obtain surety bonds to secure loans made by

Mahonia to Enron in the guise of forward supply contracts.” Andrew Hill, *Insurer Claims Enron Contracts Were A Front*, FIN. TIMES, Dec. 22, 2001.⁷ Indeed, the substance of Plaintiffs’ allegations here concerning the Mahonia prepaids was expressly set forth against JPMCB in the Surety Action filings in December 2001: “[T]he contracts were not intended by the parties [including JPMCB] to be fulfilled as actual supply contracts but, instead, were intended to provide a mechanism to obtain surety bonds to secure loans . . . in the guise of forward supply contracts.” Appendix, Exhibit 1 (Answer, Affirmative Defenses and Counterclaim of St. Paul Fire & Marine Ins. Co. of 12/19/01, at 9);⁸ cf. Am. Compl. ¶ 664 (“These transactions were, in reality, disguised loans from JP Morgan to Enron . . .”).

With respect to the securities issued by Marlin Water Trust II and Marlin Water Capital Corp. II (the “Marlin II Notes”), Plaintiffs were on notice of JPMSI’s alleged conduct as early as October 29, 2001. On that date, it was reported that “Enron called a conference call Tuesday to clear the air, but it ended up compounding its problems by failing to answer questions posed by a Boston investor about the Marlin partnership, leaving Wall Street with the clear impression that the company faces a nearly \$1 billion loss on that deal.” Andrew Barry, *Bulls Look to Recovery, as Techs Lead the Surge*, BARRONS, Oct. 29, 2001. On November 5, 2001, *Barron’s* further reported on Marlin, observing that “[t]here’s concern in the debt market that *Marlin bondholders may suffer if Enron ends up in bankruptcy*.” Andrew Barry, *Addition by Subtraction: Bond’s End Boosts Stocks*, BARRONS, Nov. 5, 2001 (emphasis added).

⁷ The Court is entitled to consider on this motion to dismiss “information that was publicly available to reasonable investors,” including news articles. *Phillips v. LCI Int’l, Inc.*, 190 F.3d 609, 617 (4th Cir. 1999); *In re Guess?, Inc. Sec. Litig.*, 174 F. Supp. 2d 1067, 1068 (C.D. Cal. 2001).

⁸ The Court may take judicial notice of the counterclaim in the Surety Action because it is a public record. *Jefferson v. Lead Indus. Ass’n Inc.*, 106 F.3d 1245, 1259 n.14 (5th Cir.

EXHIBIT 3

1 of 1 DOCUMENT

Copyright 2001 The Financial Times Limited
Financial Times (London,England)

December 22, 2001 Saturday
USA Edition 2

SECTION: COMPANIES & FINANCE INTERNATIONAL ; Pg. 10

LENGTH: 438 words

HEADLINE: Insurer claims Enron contracts were a front

BYLINE: By ANDREW HILL

DATELINE: NEW YORK

BODY:

Oil and gas delivery contracts between Enron and an offshore company used by JP Morgan Chase were a front to obtain security for loans to the bankrupt energy trader, a US insurer alleged yesterday.

JP Morgan is suing a group of US insurers seeking payment of Dollars 965m on behalf of two special-purpose vehicles registered in the British Channel Islands, because Enron failed to deliver on the contracts.

In a counter-claim yesterday, St Paul Fire and Marine Insurance asked a New York court to void the surety bonds, the type of insurance used to cover against non-delivery on the contracts.

The insurer, which is part of the listed St Paul Companies group, claimed the forward sales contracts were "materially false" because Mahonia, one of the Jersey-registered companies, "never in fact intended to take delivery of crude oil and natural gas from Enron".

The counter-claim states that the contracts were actually intended "to provide a mechanism to obtain surety bonds to secure loans made by Mahonia to Enron in the guise of forward supply contracts".

At the same time, Westdeutsche Landesbank of Germany said it would only pay Dollars 165m under a syndicated letter of credit to Mahonia if the Jersey company could "demonstrate that the underlying transactions are legitimate in all respects".

On Wednesday, JP Morgan revealed that its total exposure to the Enron collapse was Dollars 2.6bn, including Dollars 250m of debtor-in-possession financing to the energy trader. JP Morgan had originally quantified Dollars 500m of unsecured exposure to Enron and "additional exposures", including Dollars 400m of secured loans.

JP Morgan shares have fallen nearly 6 per cent in the past two days on nervousness about the group's dealings with Enron, despite reassurances from the bank that its exposure is manageable and that all transactions are accurately reflected on its books.

JP Morgan refused to comment on the counter-claim and on its relationship with the Jersey companies, Mahonia Natural Gas and Mahonia, which is described in some of the surety bond contracts as "the energy arm of The Chase Manhattan Bank".

Manfred Knoll, a managing director of WestLB in New York, said yesterday that the German bank had asked JP Morgan to explain the relationship with the Mahonia companies, which are understood to be owned by a charitable trust.

"What we want to know in this context was what was the true nature of the underlying transaction," Mr Knoll said yesterday.

Enron did not return calls seeking comment. There was nobody answering calls to Mahonia's Jersey address, the office of law firm Mourant du Feu & Jeune.

LOAD-DATE: December 21, 2001

EXHIBIT 4

1 of 1 DOCUMENT

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Platt's Oilgram News

Information has been obtained from sources believed to be reliable.
However, accuracy, adequacy, or completeness is not guaranteed.
URL: <http://www.platts.com>

January 3, 2002

SECTION: Vol. 80, No. 2; Pg. 1

LENGTH: 798 words

HEADLINE: LATEST ENRON BATTLE PITS BIG BANKS VERSUS INSURERS

BYLINE: James Norman

DATELINE: New York

BODY:

Enron's desperate search for off-balance-sheet funding for its frenetic growth in the late 1990s has now led to a bitter legal fight between some of the biggest US banks and insurance companies in the wake of Enron's spectacular bankruptcy.

Whatever the outcome, the fight will mean yet more scrutiny for over-the-counter energy deals, market sources say. And big financial players in those markets may find it tougher to buy the amounts of counter-party risk insurance needed to avoid having to allocate their own scarce capital to such OTC deals.

The dispute was sparked soon after Enron's Dec 2 bankruptcy filing when big Enron lender JP Morgan Chase went to Manhattan US District Court to force almost a dozen major insurers to make good on nearly \$ 2-bil of surety bonds they wrote between 1997 and 2000.

The bonds aimed to eliminate the risk Enron might default on any of six huge five-year forward sales of crude or natural gas to what was then Chase Manhattan Bank and two of its Channel Islands energy trading arms: Mahonia and Mahonia Natural Gas.

But the surety companies say they were lied to by Enron and Chase, claiming the would-be commodity deals were really a sham to obscure \$ 2-bil of unsecured loans. If they had known that, the insurers claim in court filings, they would never have written the bonds, on which about \$ 1-bil of obligations were still out when Enron went bust.

As seeming proof of the sham nature of the deals, insurers claim, no molecules have ever actually been exchanged between Enron and Chase under the sales. No transportation capacity has ever been booked and no contracts have been signed to either buy gas from suppliers or to sell it to end users. All the monthly settlements were apparently done in cash, or other non-physical terms, akin to a fixed loan payment schedule.

Nonsense, claims Chase. It insists the forward sales, for what appears to be the equivalent of nearly 1 Bcfe/d, were standard industry commodity deals, with standard cash settlement features. The insurers, Chase argues, are just trying to dodge paying a valid claim.

"Even if the [insurance companies] had not waived all defenses to payment under the surety bonds, the defenses [they] have asserted in resisting payment are meritless," declares Chase.

The fight pits Chase and Enron against Liberty Mutual, St. Paul Fire and Marine, CNA, Fireman's Fund, Safeco, Federal, Hartford Fire and Lumbermen's Mutual. The only insurer not fighting the claim is Travelers, an arm of yet another big Enron bank lender and commodities counter-party: Citicorp.

How much revenue and profit such insurers may make annually from bonding OTC commodity deals is not known. But market sources say such surety bonding is commonly sought by risk-averse banks and other financial players in energy markets. It is a critical requirement to avoid having to allocate some of a bank's own capital to such deals under the sliding-scale risk-backing rules of US banking law.

Court filings indicate the insurer group got annual fees of 1.6% of the outstanding Enron bond amounts, which would work out to about \$ 80-mil over the declining five-year life of the bonds. But they face potential losses of about \$ 1-bil, and therefore have leveled unusually strong counter-claims against Chase and Enron.

Liberty Mutual, for instance, claims Chase's Mahonia knew in advance Enron had no intention of actually delivering oil and gas under the agreement, and had no intention of forcing Enron to perform. "Mahonia knew such facts were material to Liberty's decision to issue the surety bonds," Liberty alleges.

St. Paul, obligated for 20% on four of the bonds, argues Chase has "unclean hands" in the dispute. "The contracts were not intended to be fulfilled as actual supply contracts," St. Paul claims. "But instead [they] were intended to provide a mechanism to obtain surety bonds...in the guise of forward supply contracts.

The detailed volume and delivery terms of the contracts, St. Paul argues, "created a misimpression they were intended to create an obligation for actual deliveries." And it raises the specter of "collusion between Mahonia and Enron" to conceal the real nature of the arrangement.

To substantiate their arguments, the insurer group has sought permission to depose Enron officers and subpoena documents as part of the Enron bankruptcy case, which Chase and Enron are fighting intensely with a hearing set for Jan.

Among the Enron officers who signed the bond agreements was Jeffrey McMahon, now Enron's CFO.

If the insurer counterclaims prove valid, they raise a host of other questions about Enron's already-tarnished accounting methods, and the reporting and compliance activities of one of the country's most prestigious banks.

LOAD-DATE: January 31, 2002

EXHIBIT 5

1 of 1 DOCUMENT

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Saint Paul Pioneer Press (Minnesota)

December 28, 2001 Friday CITY EDITION

SECTION: BUSINESS; Pg. C1

LENGTH: 285 words

HEADLINE: THE ST. PAUL FIGHTS BACK IN ENRON CASE

BYLINE: Sheryl Jean

BODY:

The St. Paul Cos. doesn't think it should have to pay any part of the \$1.1 billion in payments related to oil and gas sales contracts it bonded for collapsed energy trader Enron Corp. because the insurer alleges the agreements were a sham.

J.P. Morgan Chase & Co. last week sued The St. Paul and eight other insurers for payments related to forward sales contracts entered into by Enron, which failed to deliver. The insurers provided surety bonds -- insurance that covers fulfillment of a contract -- to Enron.

Enron, which declared bankruptcy last month, is unable to make payments due today. J.P. Morgan seeks payment from the insurers, which also include Chubb and Travelers.

Spokesmen for The St. Paul and J.P. Morgan wouldn't comment Thursday.

The St. Paul-based insurer has filed a counter suit, claiming it now thinks Enron never planned to deliver natural gas and crude oil to Mahonia Ltd. and Mahonia Natural Gas Ltd., two offshore companies, under the contracts.

"The contracts were not intended by the parties to be fulfilled as actual supply contracts, but, instead, were intended to provide a mechanism to obtain surety bonds to secure loans by Mahonia to Enron in the guise of forward supply contracts," The St. Paul said in its suit filed last week in U.S. District Court in New York. "To the extent that the actual transactions between Enron and (Mahonia) did not involve the actual delivery of crude oil or natural gas, but involved other obligations transactions, The St. Paul did not bond these obligations and The St. Paul has no liability under the surety bonds."

The St. Paul has asked the court to dismiss the J.P. Morgan suit and declare its surety bonds void.

LOAD-DATE: January 1, 2002

EXHIBIT 6

Dow Jones News Service
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Thursday, December 27, 2001

St. Paul Files Counterclaim To J.P. Morgan's Enron Suit
By Chad Bray

OF DOW JONES NEWSWIRES

NEW YORK - (Dow Jones) - St. Paul Fire and Marine Insurance Co., a unit of St. Paul Cos. (SPC), believes it and eight other insurers who bonded forward sales contracts for Enron Corp. (ENE) shouldn't be forced to make \$1.1 billion in surety bond payments since those obligations were obtained under false pretenses.

In a counterclaim filed late last week, the St. Paul, Minn., insurer said Enron never intended to deliver crude oil and natural gas to Mahonia Ltd. and Mahonia Natural Gas Ltd., two offshore companies, under the contracts.

"The forward sale contracts were not intended by the parties to be fulfilled as actual supply contracts, but, instead, were intended to provide a mechanism to obtain surety bonds to secure loans to be made to Enron in the guise of forward supply contracts," St. Paul said in the answer to a lawsuit filed by J.P. Morgan Chase (JPM).

J.P. Morgan Chase sued St. Paul and eight other insurers last week, asking the courts to require the insurers to honor the bonds. The investment bank is owed \$965 million under the surety bonds.

St. Paul has asked the courts to dismiss the J.P. Morgan suit and declare the surety bonds null and void.

"(Enron) did not enter into contracts with suppliers to 'hedge' its obligations for delivery of the crude oil and natural gas required to be delivered under the terms of the forward supply contracts, which it would have done in the ordinary course of business if actual deliveries of crude oil and natural had been contemplated," St. Paul said in the counterclaim.

The answer also claims Mahonia didn't enter into third-party contracts for delivery of oil and gas to be supplied by Enron and wasn't listed as a firm transportation customers of any of the pipelines where the natural gas deliveries were to have been made.

Spokesmen at St. Paul and J.P. Morgan declined to comment on Thursday.

St. Paul is being represented in the case by Kronish Lieb Weiner & Hellman LLP of New York. The counterclaim was originally filed by its in-house counsel Squires Cordrey & Noble.

Besides St. Paul, the other insurers involved in the case are Kemper Insurance Co.'s Lumbermens Mutual Casualty Co., Allianz AG's (AZ) Fireman's Fund Insurance Co., Chubb Corp.'s (CB) Federal Insurance Co., Citigroup Inc.'s (C) Travelers insurance unit, CNA Surety Corp.'s (SUR) Continental Casualty Co., Safeco Corp's (SAFC) Safeco Insurance Co., Hartford Financial Services Group Inc. (HIG), and Liberty Mutual Insurance Co.

-By Chad Bray, Dow Jones Newswires; 201-938-5293; chad.bray@dowjones.com

Staff Writer Carol Remond contributed to this story.

Corrected at 02:14 PM

---- INDEX REFERENCES ----

COMPANY (TICKER): AZ; Chubb Corp.; Enron Corp.; Allianz Ag Holding; Hartford Financial Services Group Inc.; J.P. Morgan & Co.; Safeco Corp.; St. Paul Cos.; Cna Surety Corp.; Kemper Insurance Cos. (AZ CB ENE G.ALL HIG JPM SAFC SPC SUR X.KMP)

NEWS SUBJECT: Energy Markets; Dow Jones News Service; Dow Jones News Wires; American Depository Receipts; Bankruptcy; Bankruptcy; Bond News; Debt/Bond Markets; Corporate Actions; Corporate/Industrial News; Company News; Corporate Bonds; Corrected Stories, Releases; Corrected Items; Dow Jones Personal Finance Product; Dow Jones Real Time News for Investors; Derivative Securities; Derivative Securities; High-Yield Issuers; Natural Gas; Lawsuits; Legal/Judicial; Petroleum Markets; Spot News; Dow Jones Total Market Index; Exchanges; Market News; English language content; Routine Market/Fin

MARKET SECTOR: Financial; Newswire End Code; Utilities; Clip Routing Code; Energy (FIN NND UTI TPX ENE)

INDUSTRY: Major International Banks; All Banks; Electric Utilities; Gas Utilities; Full Line Insurance; Property & Casualty

Insurance; Insurance; Securities; Dow Jones Industrial
Average components; Dow Jones Global Titans Index
components; Stoxx 50 components; Dow Jones Sector Titans
Index - Financial; Insurance: Surety and Fidelity; Pipeline
Operators (BAN BNK ELC GAS INF INP INS SCR XDJI XGTI XST5
XSTF IASF PIP)

PRODUCT: Insurance; Oil & Gas; Banking; Investment Services (DIR DGA
DBK DIS)

REGION: European Union; Europe; Germany; Germany; Illinois;
Minnesota; North American Power; United States; North
American Electric Reliability Council; New Jersey; North
America; New York; Pacific Rim; Texas; United States;
Midwest U.S.; Northeast U.S.; Southern U.S.; Western U.S.;
Washington (State); Western Europe; Western European
Countries; European Countries; North American Countries (EC
EU GE GFR IL MN NAPW USA NERC NJ NME NY PRM TX US USC USE
USS USW WA WEU WEURZ EURZ NAMZ)

Word Count: 437

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EXHIBIT 7

Dow Jones News Service
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Thursday, December 20, 2001

Insurers Demand Proof Of Enron Contract From J.P. Morgan
By Lynn Cowan

OF DOW JONES NEWSWIRES

WASHINGTON - (Dow Jones) - A group of insurance companies is questioning whether forward sales contracts that they bonded for Enron Corp. (ENE) ever really existed, and are holding off on \$965 million in surety bond payments to J.P. Morgan Chase & Co. until they find out.

According to court documents, Citigroup Inc.'s (C) Travelers insurance unit and eight other insurers wrote to J.P. Morgan Chase & Co. (JPM) in early December, essentially telling the investment bank that they needed more proof of the forward sales contracts' legitimacy before they would honor their surety bond payments.

Those payments, due Friday, total \$1.1 billion, including the \$965 million owed to J.P. Morgan; the investment bank said Thursday it doesn't expect to get paid on time, but has sued to require the insurers to honor the bonds. The insurers' letters were contained as exhibits in the suit, which was filed in U.S. Federal District Court in New York this week.

The forward sales contracts in dispute were made between Enron and two offshore companies, Mahonia Ltd. and Mahonia Natural Gas Ltd, both based in the Channel Islands. Under the contracts, Mahonia was supposed to prepay for the delivery of oil and natural gas from Enron, which in turn was supposed to procure the fuel from various producers for delivery to various end users, according to the insurers' letters. The end-users, in turn, were supposed to pay Mahonia for the oil and gas, they said.

The nine insurers bonded Enron's obligation to deliver the oil and gas, but balked when J.P. Morgan Chase asked them on Dec. 7 to honor that commitment, five days after Enron had filed for bankruptcy. The insurers told J.P. Morgan in a letter that day that they have "received credible information that, in fact, there may never have been any producer contracts or end-user contracts. In addition, Enron may never have delivered any oil or natural gas under the forward sales contracts to Mahonia or any other party," according to the letters to J.P. Morgan Chase.

In addition to requesting documentation for the forward sales contracts, the insurers also asked for an explanation of the corporate relationship between J.P. Morgan Chase and Mahonia.

In its lawsuit, J.P. Morgan Chase & Co. said the information the insurers are demanding is "not called for under the surety bonds." In a conference call Thursday, J.P. Morgan executives expressed confidence that the insurers would be required to live up to their bond obligations.

Several insurers refused to comment about their surety bond concerns, and the remainder were not immediately able to comment Thursday evening. J.P. Morgan Chase & Co. (JPM) refused to comment. Enron was not immediately available to comment.

Besides Travelers, the other insurers involved in the case are Kemper Insurance Co.'s Lumbermens Mutual Casualty Co., Allianz AG's (AZ) Fireman's Fund Insurance Co., Chubb Corp.'s (CB) Federal Insurance Co., St. Paul Cos.'s (SPC) Fire and Marine Insurance, CNA Surety Corp.'s (SUR) Continental Casualty Co., Safeco Corp.'s (SAFC) Safeco Insurance Co., Hartford Financial Services Group Inc. (HIG), and Liberty Mutual Insurance Co.

(Reporters Kathy Chu and Colleen DeBaise contributed to this story.)
-By Lynn Cowan, Dow Jones Newswires; 202-628-9783;
Lynn.Cowan@dowjones.com

---- INDEX REFERENCES ----

COMPANY (TICKER): AZ; Citigroup Inc.; Chubb Corp.; Enron Corp.; Allianz Ag Holding; Hartford Financial Services Group Inc.; J.P. Morgan & Co.; Safeco Corp.; St. Paul Cos.; Cna Surety Corp.
(AZ C CB ENE G.ALL HIG JPM SAFC SPC SUR)

NEWS SUBJECT: European Union Issues & News; Energy Markets; Dow Jones News Service; Dow Jones News Wires; American Depository Receipts; Bankruptcy; Bankruptcy; Corporate Actions; Corporate/Industrial News; Company News; Dow Jones Personal Finance Product; Dow Jones Real Time News for Investors; High-Yield Issuers; Natural Gas; Spot News; Dow Jones Total Market Index; English language content; English language content; International Pol-Econ Organizations; Commodity Markets; Market News (EEC M143 DJN DJWI ADR BCY C16 CAC CCAT CNW DJPF DJRT HIY LNG SNEW WEI ENGL ENGL OCAT M14 MCAT)

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INDUSTRY: Major International Banks; All Banks; Diversified Financial Services; Gas Utilities; Full Line Insurance; Property &

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components; Stoxx 50 components; Dow Jones Sector Titans
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PRODUCT: Insurance; Banking; Investment Services (DIR DBK DIS)

REGION: European Union; Europe; Germany; Germany; Illinois;
Minnesota; North American Power; United States; North
American Electric Reliability Council; New Jersey; North
America; New York; Pacific Rim; Texas; United States;
Midwest U.S.; Northeast U.S.; Southern U.S.; Western U.S.;
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USS USW WA WEU WEURZ EURZ NAMZ)

Word Count: 534

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EXHIBIT 8

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

DOC # 16

JP MORGAN CHASE BANK,
for and on behalf of
MAHONIA LIMITED and MAHONIA
NATURAL GAS LIMITED,

Plaintiffs,

v.

Civil Action No. 01-CIV-11523(SHS)

LIBERTY MUTUAL INSURANCE
COMPANY, TRAVELERS CASUALTY
& SURETY COMPANY, ST. PAUL
FIRE AND MARINE INSURANCE
COMPANY, CONTINENTAL
CASUALTY COMPANY, NATIONAL
FIRE INSURANCE COMPANY OF
HARTFORD, FIREMAN'S FUND
INSURANCE COMPANY, SAFECO
INSURANCE COMPANY OF
AMERICA, THE TRAVELERS
INDEMNITY COMPANY, FEDERAL
INSURANCE COMPANY, HARTFORD
FIRE INSURANCE COMPANY and
LUMBERMENS MUTUAL CASUALTY
COMPANY,

Defendants.

ANSWER, AFFIRMATIVE
DEFENSES AND COUNTERCLAIM
OF ST. PAUL FIRE AND MARINE
INSURANCE COMPANY

MAHONIA
ST. PAUL
FIRE AND MARINE
INSURANCE COMPANY

Defendant, ST. PAUL FIRE AND MARINE INSURANCE COMPANY ("St. Paul"), sets forth the following Answer, Affirmative Defenses and Counterclaim for Declaratory Relief to the Complaint filed by JP Morgan Chase Bank ("Chase"), for and on behalf of Mahonia Limited ("Mahonia") and Mahonia Natural Gas Limited ("Mahonia Gas") (hereinafter collectively referred to as the "Plaintiffs"), and states as follows:

1. In answer to Paragraph 1 of the Complaint, St. Paul admits that the Plaintiffs' action purports to seek a declaratory judgment concerning the obligations of St. Paul regarding the surety bonds issued on behalf of Enron Natural Gas Marketing Corp. and Enron North America Corp.

2. St. Paul denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Complaint.

3. St. Paul denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of the Complaint.

4. St. Paul denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Complaint.

5. St. Paul admits the allegations contained in Paragraph 5 of the Complaint.

6. St. Paul denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of the Complaint.

7. St. Paul denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of the Complaint.

8. St. Paul denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Complaint.

9. St. Paul denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of the Complaint.

10. St. Paul denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10 of the Complaint.

11. St. Paul denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of the Complaint.

12. St. Paul denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of the Complaint.

13. St. Paul denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of the Complaint.

14. St. Paul denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of the Complaint, except admits that St. Paul is a party to Surety Bonds numbered 400JX8826, 400JZ7535, JZ8081 and SD 4611, and respectfully refers the Court to those Bonds for the complete and accurate contents thereof.

15. St. Paul denies the allegations contained in Paragraph 15 of the Complaint, except admits that Exhibit G contains copies of certain notices and respectfully refers the Court to those notices for the complete and accurate contents thereof.

16. St. Paul denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 of the Complaint, except respectfully refers the Court to Exhibit H and the surety bonds at issue for the complete and accurate contents thereof.

17. St. Paul denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17 of the Complaint, except respectfully refers the Court to Exhibits I through L and the surety bonds at issue for the complete and accurate contents thereof.

18. St. Paul offers no response to Paragraph 18 of the Complaint, which calls for a legal conclusion to which no response is required, except that St. Paul admits that it sent a letter dated December 7, 2001, and that Exhibit M is a true and correct copy of that letter.

19. St. Paul denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of the Complaint, except respectfully refers the Court to Exhibit N and the surety bonds at issue for the complete and accurate contents thereof.

20. St. Paul admits that there is an actual and justiciable controversy between Plaintiffs and St. Paul that is ripe for adjudication regarding the surety bonds.

RESPONSE TO FIRST CLAIM

21. In answer to Paragraph 21 of the Complaint, St. Paul repeats and realleges Paragraphs 1 through 20 of this Answer as if fully set forth herein.

22. St. Paul offers no response to Paragraph 22 of the Complaint, which calls for a legal conclusion to which no response is required.

23. St. Paul denies the allegations contained in Paragraph 23 of the Complaint.

24. St. Paul denies each and every allegation contained in the Complaint, unless expressly admitted in this Answer.

FIRST AFFIRMATIVE DEFENSE

25. The Complaint fails to state a claim against St. Paul upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

26. Based on the facts set forth in Paragraphs 1 through 18 of the Counterclaim, which facts are repeated, realleged and incorporated as though fully set forth herein, Plaintiffs' claims are barred by material misrepresentation.

THIRD AFFIRMATIVE DEFENSE

27. Based on the facts set forth in Paragraphs 1 through 31 of the Counterclaim, which facts are repeated, realleged and incorporated as though fully set forth herein, Plaintiffs' claims are barred by Plaintiffs' failure to disclose material information and by concealment.

FOURTH AFFIRMATIVE DEFENSE

28. Based on the facts set forth in Paragraphs 1 through 33 of the Counterclaim, which facts are repeated, realleged and incorporated as though fully set forth herein, Plaintiffs' claims are barred by mutual mistake.

FIFTH AFFIRMATIVE DEFENSE

29. Based on the facts set forth in Paragraphs 1 through 35 of the Counterclaim, which facts are repeated, realleged and incorporated as though fully set forth herein, Plaintiffs' claims are barred due to a lack of meeting of the minds.

SIXTH AFFIRMATIVE DEFENSE

30. Based on the facts set forth in Paragraphs 1 through 35 of the Counterclaim, which facts are repeated, realleged and incorporated as though fully set forth herein, Plaintiffs' claims are barred because the actual transaction between Enron and Plaintiffs did not involve the actual delivery of crude oil and natural gas as purported in the Forward Sales Contracts.

SEVENTH AFFIRMATIVE DEFENSE

31. Plaintiffs are estopped from asserting the claims set forth in their Complaint.

EIGHTH AFFIRMATIVE DEFENSE

32. Plaintiffs' claims are barred by virtue of their unclean hands.

NINTH AFFIRMATIVE DEFENSE

33. Plaintiff JP Morgan Chase Bank lacks standing to assert the claims set forth in the Complaint.

TENTH AFFIRMATIVE DEFENSE

34. St. Paul, as surety, adopts any and all defenses available to Enron, its principal.

WHEREFORE, St. Paul respectfully requests that the Court declare and determine the rights of the parties under the surety bonds and grant such other relief as may be proper.

COUNTERCLAIM FOR DECLARATORY RELIEF

St. Paul sets forth the following as its Counterclaim against Mahonia, Mahonia Gas, and Chase, in its capacity as agent for Mahonia and Mahonia Gas (collectively referred to as "Counter-Defendants" or "Obligees"):

JURISDICTION AND VENUE

1. As alleged in the petition removing this cause from the Supreme Court of the State of New York to this Court, this Court has jurisdiction of this matter pursuant to 28 U.S.C. §1332 there existing complete diversity of citizenship between the Plaintiffs and the Defendants

and the amount in controversy exceeding \$75,000.

2. Venue of this action is vested in this Court pursuant to 28 U.S.C. § 1391 since Chase, as agent of the Mahonia Defendants, resides in New York and this is a judicial district in which a substantial part of the events alleged herein occurred.

FACTS

3. During the period from 1998 through 2001, either Enron Natural Gas Marketing Corp. or Enron North America Corp. (collectively "Enron"), as sellers, entered into six (6) separate agreements denominated as "forward sale contracts" purporting to provide for the delivery of crude oil and natural gas over a 4 - 5 year period (the "Forward Sale Contracts") with either Mahonia or Mahonia Gas (collectively "Mahonia"), as purchasers.

4. Under the terms of the Forward Sale Contracts, Enron agreed to provide Mahonia with agreed upon amounts of crude oil or natural gas in exchange for which Mahonia would prepay a fixed sum.

5. Under the terms of the Forward Sale Contracts, if Enron was unable to deliver the required product scheduled to be delivered for a given month, then Enron would be required to remit the "replacement value" of the deficiency in product. In such event, both parties were obligated to use all reasonable efforts to minimize the replacement value.

6. Each of the Forward Sale Contracts between Enron and Mahonia contain precise terms for deliveries and replacement deliveries and contain specific terms that create the impression that such contracts contemplated and provided for the actual deliveries of crude oil and natural gas.

7. Mahonia represented in the Forward Sale Contracts that it had full power and authority to enter into the agreements with Enron to purchase crude oil and natural gas.

8. Mahonia further represented in the Forward Sale Contracts that it had the

capacity, and intended, to take delivery of crude oil and natural gas, and was acquiring such crude oil and natural gas in the ordinary course of its business. Mahonia also represented in the Forward Sale Contracts that it was engaged in the business of reselling the crude oil and natural gas delivered thereunder and that it was purchasing the crude oil and natural gas for resale to third parties.

9. Mahonia further represented in the Forward Sale Contracts that it had entered into such contracts for commercial purposes related to its business as a producer, processor, fabricator, refiner or merchandiser of natural gas, crude oil and/or petroleum products.

10. Based upon the title of the subject contracts and extensive terms set forth therein reflecting the specific terms, dates, locations and amounts of natural gas and crude oil to be delivered thereunder and based upon the foregoing representations, St. Paul was led to believe that the subject contracts were entered for the purpose of actually supplying natural gas and crude oil by Enron to Mahonia.

11. In reliance upon, *inter alia*, the terms of the Forward Sales Contracts including the foregoing representations made therein by Mahonia, St. Paul, together with other sureties, issued four (4) separate advance payment surety bonds in favor of Mahonia regarding performance of either Enron Natural Gas Marketing Corp. or Enron North America Corp. under four of the Forward Sale Contracts, as follows: (a) Advance Payment Surety Bond dated September 29, 1998 with an original penal sum of \$255,760,000 and a current penal sum of \$6,028,000 in which St. Paul had a 20% commitment (Bond No. 400JX8826); (b) Advance Payment Surety Bond dated December 1, 1998 in the original penal sum of \$250,000,000 with a current penal sum of \$85,360,509 in which St. Paul had a 20% commitment (Bond No. 400JZ27535); (c) Advance Payment Surety Bond dated June 28, 1999 in the original penal sum of \$500,000,000 with a current penal sum of \$306,899,000 in which St. Paul had a 20%

commitment (Bond No. JZ8081); and (d) Advance Payment Surety Bond dated December 28, 2000 in the original penal sum of \$330,000,000 with a current penal sum of \$302,725,286.09 in which St. Paul had a 22% commitment (Bond No. SD4611) (hereinafter collectively referred to as the "Surety Bonds").

REQUEST FOR DECLARATORY RELIEF

COUNT I

12. St. Paul repeats and realleges Paragraphs 1 through 11 above as though fully set forth herein.

13. Upon information and belief, the representations made by Mahonia in the Forward Sales Contracts were materially false, in that (a) Enron did not actually intend to deliver the subject crude oil and natural gas as evidenced by the fact that it did not enter into contracts with suppliers to "hedge" its obligations for delivery of the crude oil and natural gas required to be delivered under the terms of the Forward Supply Contracts, which it would have done in the ordinary course of business if actual deliveries of crude oil and natural gas had been contemplated; (b) Mahonia did not enter into contracts with third parties for the delivery of the oil and gas to be supplied by Enron under the terms of the Forward Supply Contracts, which contracts were secured by the Surety Bonds, reflecting that it never in fact intended to take delivery of crude oil and natural gas from Enron; and (c) Mahonia was not listed as a firm transportation customer of any of the pipelines at which the natural gas deliveries were to have been made under the Forward Sales Contracts relating to the delivery of natural gas and therefore did not have the capacity to accept delivery of the natural gas at the delivery points specified in such Forward Sales Contracts, notwithstanding its express representation and warranty that it had the capacity and intended to take delivery of the natural gas to be delivered under such Forward Sales Contracts and that it was acquiring such natural gas in the ordinary course of business.

14. Upon information and belief, based on the foregoing, the contracts were not intended by the parties to be fulfilled as actual supply contracts but, instead, were intended to provide a mechanism to obtain surety bonds to secure loans to be made by Mahonia to Enron in the guise of forward supply contracts.

15. Had Mahonia not made the foregoing misrepresentations, St. Paul would not have issued the Surety Bonds.

16. On December 7, 2001, simultaneously with the issuance of demands against the Surety Bonds by Mahonia's agent, Chase, St. Paul requested that Mahonia and Chase provide information to verify that the Surety Bonds secured actual forward supply contracts for which there were actual deliveries of oil and natural gas.

17. As of the date of the filing of this Answer, Mahonia and Chase have failed to provide information sufficient to verify that the Forward Sale Contracts secured by the Surety Bonds are actual supply contracts for the future deliveries of crude oil and natural gas.

18. Based on Mahonia's aforesaid material misrepresentations, upon which St. Paul relied in issuing the Surety Bonds, the Surety Bonds are void or voidable and St. Paul is discharged thereunder.

COUNT II

19. St. Paul repeats and realleges paragraphs 1 through 18 above as though fully set forth herein.

20. Upon information and belief, Enron did not enter into contracts with suppliers to "hedge" its delivery obligations for delivery of crude oil and natural gas required under the terms of the contracts with Mahonia that are secured by the Surety Bonds;

21. Upon information and belief, Mahonia had not entered into contracts with third parties for the delivery of the oil and gas to be supplied by Enron under the terms of the Forward

Sale Contracts, which contracts were secured by the Surety Bonds.

22. Upon information and belief, Mahonia was not listed as a firm transportation customer of any of the pipelines at which the natural gas deliveries were to have been made under the Forward Sales Contracts relating to the delivery of natural gas and therefore did not have the capacity to accept delivery of the natural gas at the delivery points specified in such Forward Sales Contracts, notwithstanding its express representation and warranty that it had the capacity and intended to take delivery of the natural gas to be delivered under such Forward Sales Contracts and that it was acquiring such natural gas in the ordinary course of business.

23. Upon information and belief, the Forward Sale Contracts were not intended by the parties to be fulfilled as actual supply contracts but, instead, were intended to provide a mechanism to obtain surety bonds to secure loans to be made to Enron in the guise of forward supply contracts.

24. Mahonia concealed and/or failed to disclose the foregoing facts to St. Paul. Upon information and belief, Mahonia knew that such facts were material to St. Paul's decision to issue the Surety Bonds.

25. Mahonia concealed and/or failed to disclose the foregoing facts in the Forward Sale Contracts, which contracts Mahonia knew or should have known would be reasonably relied upon by St. Paul in issuing the Surety Bonds.

26. Mahonia knew or should have known that the foregoing facts were material to St. Paul's decision to issue the Surety Bonds

27. Mahonia had reason to believe that, had St. Paul known of the foregoing facts and of the true nature of the Forward Sale Contracts before the bonds were written, St. Paul would have been unwilling and/or unable to issue the Surety Bonds.

28. Had Mahonia informed St. Paul of the foregoing facts and of the true nature of the

Forward Sale Contracts before the bonds were written, St. Paul would not have issued the Surety Bonds.

29. Upon information and belief, Mahonia had a reasonable opportunity to disclose the foregoing facts and the true nature of the Forward Sale Contracts underlying contracts to St. Paul before the Surety Bonds were written.

30. Mahonia possessed a duty to disclose the foregoing facts and the true nature of the Forward Sale Contracts because (a) the terms of these contracts themselves created a misimpression that they were intended to create an obligation for actual deliveries of oil and gas products, (b) upon information and belief, there exists a likelihood that there may have been collusion between Mahonia and Enron in concealing this information and (c) Mahonia possessed unique access to the information about these contracts.

31. Mahonia's failure to disclose the foregoing facts and information about the underlying contracts to St. Paul renders the Surety Bonds void or voidable and St. Paul is entitled to be discharged from any further obligation thereunder.

COUNT III

32. St. Paul repeats and realleges Paragraphs 1 through 31 above as though fully set forth herein.

33. The Surety Bonds are void or voidable and St. Paul is entitled to be discharged thereunder due to mutual mistake.

COUNT IV

34. St. Paul repeats and realleges Paragraphs 1 through 33 above as though fully set forth herein.

35. The Surety Bonds are void or voidable and St. Paul is entitled to be discharged thereunder due to a lack of the meeting of the minds.

COUNT V

36. St. Paul repeats and realleges Paragraphs 1 through 35 above as though fully set forth herein.

37. Without admitting liability, the Forward Sales Contracts purport to provide for the actual delivery of crude oil or natural gas, and, if anything, the obligation to actually deliver crude oil or natural gas was what St. Paul bonded.

38. To the extent that the actual transaction between Enron and the Plaintiffs did not involve the actual delivery of crude oil or natural gas, but involved other obligations or transactions, St. Paul did not bond these obligations and St. Paul has no liability under the Surety Bonds.

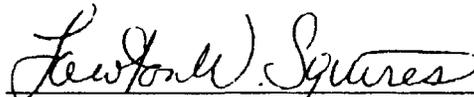
WHEREAS, St. Paul prays the Court grant the following relief:

- A) Dismiss the Plaintiffs' Complaint with prejudice;
- B) Enter an order declaring the Surety Bonds void and discharging St. Paul from any obligations under the Surety Bonds;
- C) Award St. Paul its costs and disbursements incurred in defending this action; and

D) For such further as the Court deems just and appropriate.

Dated: New York, New York
December 20, 2001

Respectfully submitted,



LAWTON W. SQUIRES (S.S.#1570)
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Attorneys for Defendant ST. PAUL FIRE AND
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160 Water Street, 11th Floor
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(212)504-0742

CERTIFICATE OF SERVICE

I, Cheryl Frierson, hereby certify that I caused to be served a true and correct copy of the foregoing Answer and Counterclaim of Defendant ST. PAUL FIRE AND MARINE INSURANCE COMPANY ("St. Paul"), on the 20th day of December 2001, by first class mail, unless otherwise noted, to the following:

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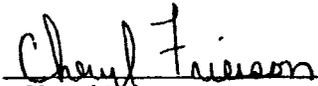
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Cheryl Frierson

Sworn to before me this
7 day of December, 2001

~~LAWTON W. SQUIRES
Notary Public, State of New York
No. 02SQ5030574
Qualified in Suffolk County
Commission Expires July 18, 2002~~

LAWTON W. SQUIRES
Notary Public, State of New York
No. 02SQ5030574
Qualified in Suffolk County
Commission Expires July 18, 2002

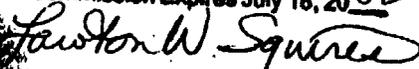


EXHIBIT 9

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PR Newswire

September 29, 2002, Sunday

SECTION: FINANCIAL NEWS

DISTRIBUTION: TO BUSINESS AND LEGAL AFFAIRS EDITORS

LENGTH: 887 words

HEADLINE: Class Action Lawsuit Amended on September 29, 2002 on Behalf of Purchasers Of Credit Linked Notes Issued By Credit Suisse First Boston and Citigroup, Inc. by Abbey Gardy, LLP

DATELINE: NEW YORK, Sept. 29

BODY:

Abbey Gardy announced today that it amended its class action law suit against Credit Suisse First Boston Corporation ("CSFB"), Citigroup, Inc. ("Citigroup") and others on behalf of all persons who acquired (a) Credit Suisse First Boston International JPY First-To-Default Credit-Linked .85% Notes maturing March 27, 2002, issued on or about October 18, 2001; (b) Yosemite Securities Trust I 8.25% Series 1999-A Linked Enron Obligations maturing November 15, 2004, issued on or about November 4, 1999; (c) Enron Credit Linked Notes Trust 8% Notes maturing August 15, 2005, issued on or about August 25, 2000; (d) Enron Euro Credit Linked Notes Trust 6 1/2% Notes maturing May 24, 2006, issued on or about May 24, 2001; (e) Enron Sterling Credit Linked Notes Trust 7 1/4% Notes maturing May 24, 2006, issued on or about May 24, 2001; or (f) Enron Credit Linked Notes Trust II 7 3/8 % Notes maturing May 15, 2006, issued on or about May 24, 2001 (collectively, the "Credit Linked Notes"), during the period November 4, 1999 to December 3, 2001 (the "Class Period"). A copy of the complaint is available from the Court or from Abbey Gardy, LLP. Please contact us by phone at (800) 889-3701 or by email at ekaufman@abbeygardy.com.

The Complaint was amended to charge defendants, in the alternative, with violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder. The Complaint had previously charged defendants only with violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. section 1961, section 1962 et seq. The complaint alleges, among other things that: (i) throughout the Class Period defendants engaged in a scheme that enabled CSFB and Citigroup to fraudulently shift the risk of loss resulting from these two banks having "lent" Enron Corporation ("Enron") more than \$2.5 billion; (ii) CSFB and Citigroup knew the truth concerning of Enron's precarious financial situation because of their intimate involvement in the massive financial fraud perpetrated by Enron and their roles in creating thousands of Enron off-balance sheet special purpose entities; and (iii) CSFB and Citigroup utilized sophisticated credit derivative instruments known as "credit default swaps" and "credit linked notes" to secretly shift the risk of loss of the more than \$2.5 billion (that had been "lent" to Enron by these two banks) from themselves to unsuspecting Class members.

Plaintiff seeks to recover damages on behalf of all those who purchased or otherwise acquired the Credit Linked Notes during the Class Period. If you purchased or otherwise acquired the Credit Linked Notes during the Class Period, and either lost money on the transactions or still hold the instruments, you may wish to join in the action to serve as lead plaintiff. In order to do so, you must meet certain requirements set forth in the applicable law and file appropriate papers no later than November 29, 2002.

The Private Securities Litigation Reform Act sets forth certain requirements, among others, for any person seeking to serve as a lead plaintiff. These requirements include providing a sworn certification that states: (1) that you have reviewed a copy of the complaint; (2) that you did not purchase the Credit Linked Notes at the direction of plaintiff's counsel; (3) that you are willing to serve as a representative party, including providing testimony at deposition or trial, if necessary; (4) that sets forth your transactions in the Credit Linked Notes during the class period; (5) identifies any other action in which you have sought to serve as a representative party on behalf of a class; and (6) that you will not accept any payment for serving as a lead plaintiff on behalf of the class beyond your pro-rata share of any recovery, except as ordered or approved by the Court.

A lead plaintiff is a representative party that acts on behalf of other class members in directing the litigation. In order to be appointed lead plaintiff, the Court must determine that the class member's claim is typical of the claims of other class members, and that the class member will adequately represent the class. Under certain circumstances, one or more class members may together serve as "lead plaintiffs." Your ability to share in any recovery is not, however, affected by the decision whether or not to serve as a lead plaintiff. You may retain Abbey Gardy, LLP, or other counsel of your choice, to serve as your counsel in this action.

Abbey Gardy, LLP has been retained to represent the Class. The attorneys at Abbey Gardy, LLP have extensive experience in securities class action cases, and have played lead roles in major cases resulting in the recovery of hundreds of millions of dollars to investors. If you would like to discuss this action or if you have any questions concerning this Notice or your rights as a potential class member or lead plaintiff, you may contact Evan Kaufman, Esq. of Abbey Gardy, LLP at (800) 889-3701.

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SOURCE Abbey Gardy, LLP

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LOAD-DATE: September 30, 2002