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JUN 17 2004

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

Michael N. Milby, Clerk of Court

In re ENRON CORPORATION §
Securities, Derivative & § MDL Docket No. 1446
"ERISA" Litigation §

MARK NEWBY, et al., §
Plaintiffs, §
vs. § Civil Action No. H-01-3624
§ And Consolidated Cases
ENRON CORPORATION, et al., §
Defendants. §

**MOTION TO COMPEL LEAD PLAINTIFF TO PROVIDE COMPLETE AND
SPECIFIC ANSWERS TO CREDIT SUISSE FIRST BOSTON LLC'S
FIRST SET OF INTERROGATORIES**

-and-

REQUEST FOR EXPEDITED CONSIDERATION

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Defendant Credit Suisse First Boston LLC (f/k/a Credit Suisse First Boston Corporation) (“CSFB”) respectfully submits this motion to compel Lead Plaintiff to provide complete and specific answers to CSFB’s First Set of Interrogatories pursuant to Rule 37(a) of the Federal Rules of Civil Procedure.

Introduction

On March 16, 2004, CSFB served nineteen interrogatories on Lead Plaintiff. In those interrogatories, CSFB sought fundamental and basic information concerning the factual underpinnings of Lead Plaintiff’s pleading against CSFB. CSFB sought, for example, the identities of individuals quoted (but not identified) in specific allegations against CSFB in the Complaint, what they said and to whom. This information is absolutely essential for CSFB to be able to challenge the allegations made against it and mount its defense. Although this information is clearly discoverable, Lead Plaintiff has not provided it. Instead, Lead Plaintiff has chosen not to answer many of CSFB’s interrogatories, or has provided answers that serve merely to obfuscate the facts (such as by providing a list of 39 persons “likely to have discoverable information Lead Plaintiff may use to support its claims” in response to interrogatories calling for specific information about specific unidentified “sources” of particular allegations). This approach—which Lead Plaintiff appears to have taken with other defendants as well, and which is the subject of another pending motion to compel (Docket # 2192)—should not be countenanced by this Court.

On May 17, 2004, in accordance with Rule 37(a) and this Court’s Procedures Manual, Section IV.D, counsel for CSFB conferred with counsel for Lead Plaintiff in an attempt to resolve this dispute. During the meet and confer, counsel for Lead Plaintiff informed CSFB that they knew additional information responsive to CSFB’s interrogatories, but refused to provide it absent an order from this Court. Accordingly, as explained in detail below, CSFB

respectfully submits that Lead Plaintiff should be ordered to provide complete and specific answers to CSFB's interrogatories.

Argument

The scope of discovery under the Federal Rules is extremely broad. Under Rule 33, a party may serve upon any other party written interrogatories in order to discover any information relevant under Rule 26(b)(1). See Fed. R. Civ. P. 33(a) and (c); Krawczyk v. City of Dallas, No. Civ.A. 3:03-CV-0584D, 2004 WL 614842, at *2 (N.D. Tex. Feb. 27, 2004).

Rule 26(b)(1) allows discovery "reasonably calculated to lead to the discovery of admissible evidence" on "any matter, not privileged, that is relevant to the claim or defense of any party". Fed. R. Civ. P. 26(b)(1). Thus, discovery is permitted on "any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case". Oppenheimer Fund, Inc. v. Sanders, 437 U.S. 340, 351 (1978).

If a party fails to answer an interrogatory, the discovering party may move for an order compelling an answer. See Fed. R. Civ. P. 37(a)(2)(B). For purposes of such a motion, an "evasive or incomplete disclosure, answer, or response is to be treated as a failure to disclose, answer, or respond". Fed. R. Civ. P. 37(a)(3). As explained below, Lead Plaintiff has not answered CSFB's interrogatories, and must be ordered to comply with its discovery obligations.

I. LEAD PLAINTIFF SHOULD BE ORDERED TO IDENTIFY THE CSFB EMPLOYEES QUOTED IN THE COMPLAINT AND THE SOURCES OF THOSE QUOTATIONS.

In its Amended Complaint, Lead Plaintiff alleges that unnamed "CS First Boston people" made certain statements allegedly "showing they had knowledge about the nature and extent of Enron's off-balance sheet exposure" as early as June 2001. (See Am. Compl. ¶ 56; see also id. ¶¶ 622, 710-11.) In denying CSFB's motion to dismiss, this Court relied upon those

alleged statements (among others) to conclude that Lead Plaintiff adequately pled a claim against CSFB. See In re Enron Corp. Sec., Deriv. & ERISA Litig., 235 F. Supp. 2d 549, 634, 646 (S.D. Tex. 2002).

CSFB now seeks to test the veracity of Lead Plaintiff's serious allegations through discovery, beginning with simple and straightforward interrogatories requesting essential information about who made the allegedly quoted statements and what was Lead Plaintiff's source for that particular information. To that end, CSFB has served five interrogatories keyed to specific allegations made in the Amended Complaint:

- “Quote or describe all the statements of the ‘CS First Boston people’ that allegedly indicate their knowledge about the nature and extent of Enron’s off-balance sheet exposure, as alleged in ¶¶ 56, 622, 710-11 of the Complaint, and identify the individual(s) alleged to have made the statements referred to and the individual(s) to whom those statements were made.” (Interrog. No. 15.)
- “Identify the individual(s) quoted in ¶¶ 56, 622, 710 of the Complaint as saying: ‘How can you guys keep doing this?’ and ‘Do employees actually believe it’s worth what management is saying?’, and identify the individual(s) to whom each of those statements was made.” (Interrog. No. 16.)
- “Identify the individual(s) quoted in ¶¶ 56, 622, 711 of the Complaint as saying: ‘you guys are at a critical price point right now’, ‘Do you know how much off-balance sheet debt you have?’, and ‘Try eight to 12 billion . . . if Enron’s stock hits \$20 a share . . . you guys are gonna be fucked’, and identify the individual(s) to whom each of those statements was made.” (Interrog. No. 17.)
- For each of the statements quoted above, “identify all individuals who are the source of the factual information and identify all individuals who witnessed the statements being made”, and identify those persons’ titles/positions and responsibilities. (Interrog. Nos. 18-19.)

The information sought is plainly discoverable and, indeed, necessary to enable CSFB to confront its accusers and challenge the allegations that are the basis of Lead Plaintiff's claims against CSFB. Lead Plaintiff has nevertheless refused to provide any answer whatsoever to Interrogatories 15 through 17. (See Exh. A.) In response to Interrogatories 18 and 19, Lead

Plaintiff refers CSFB to a list of 39 persons “likely to have discoverable information Lead Plaintiff may use to support its claims”. (*Id.*) CSFB, however, is entitled to complete and specific answers to its interrogatories; a general list of persons “likely to have discoverable information” does not answer the questions posed.

During our meet and confer, counsel for Lead Plaintiff confirmed that they have the ability to answer CSFB’s interrogatories. Instead of providing the requested information, Lead Plaintiff invoked the work product doctrine—an objection not raised in Lead Plaintiff’s specific objections to Interrogatories 15 through 19—and claimed that “linking confidential sources to specific allegations goes to the heart of the work-product rule”. (Letter from A. Box to D. McAtee & J. Korn of 5/17/04 (Exh. B).) Counsel for Lead Plaintiff also indicated that it was “unwilling to identify one confidential source because that source fears retaliation if identified”. (*Id.*) Neither objection has any merit.

A. The Work Product Doctrine Does Not Apply to the Factual Information Requested by CSFB.

The work product doctrine protects from disclosure “the mental impressions, conclusions, opinions, or legal theories of an attorney”. Fed. R. Civ. P. 26(b)(3). By contrast, the facts underlying Lead Plaintiff’s allegations do not constitute work product. See Southern Scrap Mat. Co. v. Fleming, No. Civ. A. 01-2554, 2003 WL 21474516, at *16-*17 (E.D. La. June 18, 2003); see also Upjohn Co. v. U.S., 449 U.S. 383, 395-96 (1981); Blum v. Spectrum Rest. Group-Employees Group Life & Supp. Life Plan, Nos. 4:02-CV-92, 4:02-CV-98, 2003 WL 367059, at *2 n.1 (E.D. Tex. Feb. 18, 2003). Here, the identities of individuals quoted in Lead Plaintiff’s own pleading, what they said to whom, and who informed Lead Plaintiff of those facts, in no way reveals the mental impressions or legal theories of Lead Plaintiff’s attorneys. Accordingly, at a minimum, this Court should order Lead Plaintiff to respond to

Interrogatories 15 through 17, which request basic facts about alleged statements quoted in the Amended Complaint (and which Lead Plaintiff has not answered at all).¹

Nor would requiring Lead Plaintiff to link specific names to specific allegations in response to Interrogatories 18 and 19 invade counsel's work product. Lead Plaintiff placed the quotations (and their sources) at issue in this litigation when it used them in its allegations against CSFB; Lead Plaintiff cannot now hide behind the work product doctrine to prevent CSFB from taking discovery to challenge those very allegations. See, e.g., Aspex Eyewear, Inc. v. E'Lite Optik, Inc., 276 F. Supp. 2d 1084, 1092 (D. Nev. 2003) ("Fundamental fairness compels the conclusion that a litigant may not use reliance on advice of counsel to support a claim or defense as a sword in litigation, and also deprive the opposing party the opportunity to test the legitimacy of that claim by asserting the attorney-client privilege or work-product doctrine as a shield."); accord In re Columbia/HCA Healthcare Corp. Billing Practices Litig., 293 F.2d 289, 307 (6th Cir. 2002); Tonti Props. v. Sherwin-Williams Co., No. Civ. A. 99-892, 2000 WL 506015, at *2 n.2 (E.D. La. Apr. 27, 2000).

Notably, an analogous situation was addressed in In re Aetna Inc. Securities Litigation, No. Civ. A. MDL 1219, 1999 WL 354527 (E.D. Pa. May 26, 1999). In that case, Aetna sought "identification of supporting witnesses" who were quoted in plaintiffs' allegations.

¹ In refusing to provide any substantive answer to these interrogatories, Lead Plaintiff objected that Interrogatory 15 was overly broad, and that Interrogatories 15-17 violate the 25-interrogatory limit imposed as a default by Rule 33. (See Exh. A.) Interrogatory 15, however, is not overly broad—it merely requests that Lead Plaintiff identify the factual basis for particular allegations made against CSFB. Moreover, Interrogatories 15-17 do not violate the 25-interrogatory limit. CSFB served only 19 interrogatories in total, and none of them has discrete subparts. The law is clear that "a question asking about communications of a particular type should be treated as a single interrogatory even though it requests that the time, place, persons present, and contents be stated separately for each such communication". See, e.g., Krawczyk, 2004 WL 614842, at *2 (internal quotation marks and citation omitted). Thus, Lead Plaintiff's stated objections are meritless.

Id. at *1. Instead of answering Aetna’s interrogatories, plaintiffs offered a general list of persons having knowledge about their allegations, and claimed that to do more would invade their work product. Id. The court rejected this approach, noting that Aetna was “merely seeking the disclosure of a specific subcategory of all potential fact witnesses: those that are described in Plaintiffs’ Second Amended Complaint”. Id. at *3. The court held that Aetna was entitled to this information, and concluded that plaintiffs’ general list of knowledgeable persons was insufficient to answer Aetna’s interrogatories. See id. at *2-*3. Critically, “the fact that those individuals described in the Second Amended Complaint were interviewed by Plaintiffs’ counsel during its investigation in anticipation of litigation” did not alter this conclusion. Id.; accord In re Theragenics Corp. Sec. Litig., 205 F.R.D. 631, 636 (N.D. Ga. 2002). Here, as in In re Aetna, CSFB simply seeks the sources of alleged quotations included in Lead Plaintiff’s allegations against CSFB, and, we submit, the result should be the same.²

B. Unspecified and Unwarranted Fears of Retaliation Do Not Preclude Discovery.

Although not mentioned anywhere in Lead Plaintiff’s written responses to CSFB’s interrogatories, counsel for Lead Plaintiff have informed CSFB orally that they are “unwilling to identify one confidential source because that source fears retaliation if identified”. (Exh. B.) This belated objection is equally unavailing.

² Electronic Data Systems Corp. v. Steingraber, No. 4:02 CV 225, 2003 WL 21653405 (E.D. Tex. July 9, 2003)—on which Lead Plaintiffs relied during our meet and confer—is inapposite. In that case, EDS went beyond particular allegations in a complaint, asking Steingraber “to identify individuals who have been interviewed concerning the relevant allegations in the case”. Id. at *1. Because EDS sought information concerning the full factual investigation conducted by Steingraber’s lawyers, the court found that this information was protected by the work product doctrine. See id. The discoverability of sources of particular statements quoted in a complaint—the information CSFB seeks here—was neither raised nor addressed by the court in EDS.

First, an unspecified “fear” of retaliation is not a valid excuse for withholding from CSFB the discovery to which it is entitled. If there is a real danger of retaliation, Lead Plaintiff should apply for an appropriate protective order (and carry its burden of demonstrating the need for such an order). See In re Aetna, 1999 WL 354527, at *5 (ordering disclosure of sources and denying protective order “prohibiting any retaliatory acts” because plaintiff did not show that Aetna “has attempted to intimidate individuals connected with this case”).

Second, Lead Plaintiff has not offered any evidence demonstrating the existence of a legitimate threat of retaliation. Lead Plaintiff has not said from whom this source fears retaliation, nor has it identified which allegation contains information provided by this source. If the concern is that CSFB will retaliate against this source, that fear is completely unfounded. If the concern is that someone other than CSFB will retaliate against this source, then there is no reason why that source cannot be identified for CSFB. Accordingly, this unspecified and unsupported “fear” of retaliation is not a valid basis to withhold from CSFB the information it seeks.

II. LEAD PLAINTIFF SHOULD BE ORDERED TO DISCLOSE OTHER FACTUAL INFORMATION ON WHICH ITS ALLEGATIONS AGAINST CSFB ARE BASED.

CSFB’s Interrogatories 1 through 14 request that Lead Plaintiff (i) identify the individuals described or quoted in particular allegations against CSFB that were initially derived from a Financial Times article (see Interrogatory Nos. 1-9, 12), and (ii) state the date, time, place, and subject of two meetings—one in June 2001, the other in July 2001—referred to in the Amended Complaint, and identify the individuals present at those meetings (see Interrogatory Nos. 10-11, 13-14). It is beyond dispute that CSFB is entitled to this information under the Federal Rules. However, Lead Plaintiff has provided only partial answers to these

interrogatories. We respectfully submit that Lead Plaintiff should be ordered to answer these interrogatories specifically and in full.

First, in response to CSFB's interrogatories requesting information about particular persons quoted or described in Lead Plaintiff's allegations against CSFB (see Interrogatory Nos. 1-9, 12), Lead Plaintiff directs CSFB to one article from the Financial Times, dated February 28, 2002, or to its list of 39 persons "likely to have discoverable information". Neither Lead Plaintiff's list nor the Financial Times article—from which Lead Plaintiff quoted extensively—answer CSFB's interrogatories. They do not specify the who, what and when of any of the quotations lifted from the Financial Times article and inserted into the Amended Complaint. During our meet and confer, counsel for Lead Plaintiff indicated that they knew additional information beyond that which was disclosed in the article and in the list, and is intentionally withholding that information from CSFB. It is unclear on what basis Lead Plaintiff is doing so; the underlying factual information is clearly discoverable and not protected work product. Accordingly, Lead Plaintiff should be ordered to provide that information to CSFB.

Second, Lead Plaintiff has provided only partial answers to CSFB's interrogatories seeking information about the alleged June and July 2001 meetings discussed in the Amended Complaint. For each meeting, CSFB requested that Lead Plaintiff state its date, time, place, subject and attendees (and their employer, title and responsibilities). (See Interrogatory Nos. 10-11, 13-14.) In response, Lead Plaintiff only provided information that was already evident from the face of the complaint. (See Resp. to Interrog. No. 10 (responding "June 2001, Enron headquarters, Houston, Texas"); Resp. to Interrog. No. 13 (responding "June

2001, Enron headquarters, Houston, Texas”).³ Those partial answers are insufficient. Again, we respectfully request that the Court order Lead Plaintiff to give full answers to CSFB’s interrogatories.

³ It is unclear whether Lead Plaintiff’s reference to a June 2001 meeting in Response to Interrogatory No. 10, which inquired about an alleged July 2001 meeting, is a typographical error.

Conclusion

For the reasons stated above, we respectfully submit that Lead Plaintiff should be ordered to provide full and specific answers to CSFB's Interrogatories 1-19.

June 17, 2004

Respectfully submitted,

Lawrence D. Finder / by permission

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CREDIT SUISSE FIRST BOSTON
(USA) INC., AND PERSHING LLC**

CERTIFICATE OF CONFERENCE

Pursuant to the letter attached hereto as Exhibit B, the parties have conferred and are unable to reach an agreement regarding the substance of this Motion.



Odean L. Volker

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served on counsel electronically via the www.esl3624.com website pursuant to the Court's order in *Newby v. Enron Corp. et al.* on this 17th day of June, 2004.



Odean L. Volker

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re ENRON CORPORATION SECURITIES
LITIGATION

§ Civil Action No. H-01-3624
§ **(Consolidated)**
§
§ CLASS ACTION

This Document Relates To:

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

Plaintiffs,

vs.

ENRON CORP., et al.,

Defendants.

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

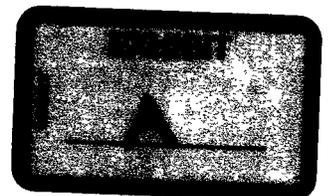
Plaintiffs,

vs.

KENNETH L. LAY, et al.,

Defendants.

**PLAINTIFFS' RESPONSES TO DEFENDANT CREDIT SUISSE FIRST BOSTON
LLC'S FIRST SET OF INTERROGATORIES WITH VERIFICATION**



I. GENERAL OBJECTIONS

1. Plaintiffs object to these Interrogatories insofar as they purport to impose obligations on plaintiffs that are not required by law, or are inconsistent with Federal Rule of Civil Procedure 33. Plaintiffs object to the Definitions and Instructions insofar as they conflict with or seek to impose obligations on plaintiffs beyond those of the Federal Rules of Civil Procedure.

2. Plaintiffs object to these Interrogatories insofar as they fail to state with sufficient particularity the information and categories of information sought.

3. Plaintiffs object to these Interrogatories insofar as they seek or require the disclosure of information that is protected from discovery by the attorney-client privilege, the work-product doctrine, or any other applicable privilege or immunity. The inadvertent production of any information protected by an applicable privilege or doctrine, or to whose disclosure is otherwise objected, is not intended to constitute, and shall not constitute, a waiver in whole or in part of any privilege, doctrine, or objection.

4. Plaintiffs object to these Interrogatories insofar as they seek information that is protected by plaintiffs' and others' rights to privacy, financial or otherwise, including, without limitation, private financial information and similar information.

5. Plaintiffs object to these Interrogatories insofar as they are overbroad and unduly burdensome.

6. Plaintiffs object to these Interrogatories insofar as they are vague or ambiguous.

7. Plaintiffs object to these Interrogatories insofar as they require plaintiffs to draw legal conclusions.

8. Plaintiffs object to these Interrogatories insofar as the requested information is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

9. In responding to these Interrogatories, plaintiffs intend to preserve, and not waive, the following:

(a) All objections to the competency, relevancy, materiality, and admissibility of any of the Interrogatories, the Responses and their subject matter;

(b) All objections to the vagueness, ambiguity or other infirmity in the form of any of the Interrogatories, and any objections based on the undue burden imposed by them;

(c) All rights to object on any ground to the use of any of the Responses, or their subject matter, in any subsequent proceedings, including the trial of this or any other action;

(d) All rights to object on any ground to any other discovery requests involving or related to the subject matter of the Interrogatories;

(e) The right to supplement Responses to the Interrogatories before trial; and

(f) Any and all privileges and rights under the applicable Federal Rules of Civil Procedure, the Local Rules of the Court or other statutes or common law.

10. Insofar as plaintiffs provide information or documents in response to these Interrogatories, such information and production shall not constitute a waiver of any objection to the relevancy of such information or documents, all such objections being expressly reserved. Plaintiffs also expressly reserve the right to object to further discovery, to the subject matter of these Interrogatories, and to the introduction of any Response to these Interrogatories or any portion thereof, or any document produced in response to an Interrogatory, into evidence in this or any other action.

11. No incidental or implied admissions are intended in these Responses. Plaintiffs' Responses to all or any part of an Interrogatory should not be taken as an admission that: (a) plaintiffs accept or admit the existence of any facts set forth or assumed by the Interrogatories; or (b) Plaintiffs' Responses constitute admissible evidence. Plaintiffs' Response to all or any part of an

Interrogatory also is not intended to be, and shall not be, a waiver by plaintiffs of all or any part of its objections to that Interrogatory.

12. Plaintiffs object to paragraphs 5(a) through (d) of the Definitions and Instructions section of the Interrogatories on the grounds and to the extent they seek to impose obligations on plaintiffs that are beyond the scope of Rules 26 and 33 of the Federal Rules of Civil Procedure, or any other applicable law.

13. Plaintiffs object to term “communication” as overly broad, vague and ambiguous.

14. Plaintiffs object to the term “document” as vague and ambiguous due to the phrase “A draft or non-identical copy shall be a separate document within the meaning of this term.”

15. Plaintiffs object to the term “concerning” as overly broad, vague and ambiguous.

16. Plaintiffs object to the term “including” as overly broad.

17. Plaintiffs object to the term “relate” or “relating to” as overly broad, vague and ambiguous.

18. Plaintiffs object to the term “describe” as overly broad, vague and ambiguous.

II. RESPONSES AND OBJECTIONS

INTERROGATORY NO. 1:

Identify the individuals described as the “group of 10 bankers from CS First Boston who had joined CS First Boston from Donaldson Lufkin & Jenrette in 98”, as alleged in ¶707 of the Complaint.

RESPONSE TO INTERROGATORY NO. 1:

Plaintiffs incorporate their General Objections in response to Interrogatory No. 1. Subject to the foregoing General Objections, plaintiffs respond as follows: *See* Ex. A; *see* Joshua Chaffin and Stephen Fidler, “Enron’s Alchemy Turns to Lead for Bankers,” *Financial Times*, Feb. 28, 2002.

INTERROGATORY NO. 2:

Identify the individual quoted in ¶708 of the Complaint as saying: “We’ll sell it to LJM, or to Raptor, or to whatever the partnership of the month was They’d pick up the phone and Larry Nath would come down to Houston for a week or two and sit down with the ... accountants and come up with something.”

RESPONSE TO INTERROGATORY NO. 2:

Plaintiffs incorporate their General Objections in response to Interrogatory No. 2. Subject to the foregoing General Objections, plaintiffs respond as follows: *See* Joshua Chaffin and Stephen Fidler, “Enron’s Alchemy Turns to Lead for Bankers,” *Financial Times*, Feb. 28, 2002.

INTERROGATORY NO. 3:

With respect to the individual identified in response to interrogatory 2, state his or her employer and position/title and describe his or her responsibilities at the time the statement quoted in ¶708 was made, and identify the individual(s) to whom the statement was made.

RESPONSE TO INTERROGATORY NO. 3:

Plaintiffs incorporate their General Objections in response to Interrogatory No. 3. Plaintiffs object to this Interrogatory on the grounds that the term “responsibilities” is vague and ambiguous. Plaintiffs further object to this Interrogatory for having separate and discrete subparts, which under Federal Rule of Civil Procedure 33 are to be counted as separate interrogatories. This Interrogatory, which purports to be only one question, is actually more than one, and plaintiffs reserve the right to limit their Responses to the first 25 Interrogatories propounded by defendant, regardless how defendant may combine or enumerate them. Subject to the foregoing General and Specific Objections, plaintiffs respond as follows: *See* Response to Interrogatory No. 2.

INTERROGATORY NO. 4:

Identify the individuals known as “Fastow’s field marshals”, as alleged in ¶708 of the Complaint, and state the date, time, and place of each of the meetings between Laurence Nath and “Fastow’s field marshals”, as alleged in ¶708 of the Complaint.

RESPONSE TO INTERROGATORY NO. 4:

Plaintiffs incorporate their General Objections in response to Interrogatory No. 4. Plaintiffs object to this Interrogatory on the ground and to the extent it is overly broad. Plaintiffs further object to this Interrogatory for having separate and discrete subparts, which under Federal Rule of Civil Procedure 33 are to be counted as separate interrogatories. This Interrogatory, which purports to be only one question, is actually more than one, and plaintiffs reserve the right to limit their Responses to the first 25 Interrogatories propounded by defendant, regardless how defendant may combine or enumerate them. Subject to the foregoing General and Specific Objections, plaintiffs respond as follows: *See* Ex. A. Without further discovery, plaintiffs are unable at this time to provide the specific date, time and place of each of the meetings.

INTERROGATORY NO. 5:

For each of the individuals identified in response to interrogatory 4, state his or her employer and position/title and describe his or her responsibilities during the period of time in which each met with Laurence Nath, as alleged in ¶708 of the Complaint.

RESPONSE TO INTERROGATORY NO. 5:

Plaintiffs incorporate their General Objections in response to Interrogatory No. 5. Plaintiffs object to this Interrogatory on the ground that the term “responsibilities” is vague and ambiguous. Plaintiffs further object to this Interrogatory for having separate and discrete subparts, which under Federal Rule of Civil Procedure 33 are to be counted as separate interrogatories. This Interrogatory, which purports to be only one question, is actually more than one, and plaintiffs reserve the right to

limit their Responses to the first 25 Interrogatories propounded by defendant, regardless how defendant may combine or enumerate them. Subject to the foregoing General and Specific Objections, plaintiffs respond as follows: *See* Ex. A. Meetings occurred at various times, for up to two or three weeks at a time, at Enron's headquarters in Houston, Texas.

INTERROGATORY NO. 6:

Identify the "knowledgeable banker" quoted in ¶709 of the Complaint as saying: "What I can't believe is that anyone ever got comfortable when you put all of this stuff together. Taken in combination, these partnerships clearly posed a material risk for the company", and state the time, place, and circumstances in which the statement was made.

RESPONSE TO INTERROGATORY NO. 6:

Plaintiffs incorporate their General Objections in response to Interrogatory No. 6. Plaintiffs object to this Interrogatory on the ground and to the extent it is overly broad. Plaintiffs further object to this Interrogatory for having separate and discrete subparts, which under Federal Rule of Civil Procedure 33 are to be counted as separate interrogatories. This Interrogatory, which purports to be only one question, is actually more than one, and plaintiffs reserve the right to limit their Responses to the first 25 Interrogatories propounded by defendant, regardless how defendant may combine or enumerate them. Subject to the foregoing General and Specific Objections, plaintiffs respond as follows: *See* Response to Interrogatory No. 2.

INTERROGATORY NO. 7:

With respect to the individual identified in response to interrogatory 6, state his or her employer and position/title and describe his or her responsibilities at the time the statement referred to in interrogatory 6 was made, and identify the individual(s) to whom the statement was made.

RESPONSE TO INTERROGATORY NO. 7:

Plaintiffs incorporate their General Objections in response to Interrogatory No. 7. Plaintiffs object to this Interrogatory on the ground and to the extent it is overly broad. Plaintiffs object to this Interrogatory on the ground that the term “responsibilities” is vague and ambiguous. Plaintiffs further object to this Interrogatory for having separate and discrete subparts, which under Federal Rule of Civil Procedure 33 are to be counted as separate interrogatories. This Interrogatory, which purports to be only one question, is actually more than one, and plaintiffs reserve the right to limit their Responses to the first 25 Interrogatories propounded by defendant, regardless how defendant may combine or enumerate them. Subject to the foregoing General and Specific Objections, plaintiffs respond as follows: *See* Response to Interrogatory No. 2.

INTERROGATORY NO. 8:

Identify the “Enron insider” quoted in ¶709 of the Complaint as saying: “There’s no question that senior people at CSFB knew what was going on and that it was a house of cards”, and state the time, place, and circumstances in which the statement was made.

RESPONSE TO INTERROGATORY NO. 8:

Plaintiffs incorporate their General Objections in response to Interrogatory No. 8. Plaintiffs object to this Interrogatory on the ground and to the extent it is overly broad. Plaintiffs further object to this Interrogatory for having separate and discrete subparts, which under Federal Rule of Civil Procedure 33 are to be counted as separate interrogatories. This Interrogatory, which purports to be only one question, is actually more than one, and plaintiffs reserve the right to limit their Responses to the first 25 Interrogatories propounded by defendant, regardless how defendant may combine or enumerate them. Subject to the foregoing General and Specific Objections, plaintiffs respond as follows: *See* Response to Interrogatory No. 2.

INTERROGATORY NO. 9:

With respect to the individual identified in response to interrogatory 8, state his or her employer and position/title and describe his or her responsibilities at the time the statement referred to in interrogatory 8 was made, and identify the individual(s) to whom the statement was made.

RESPONSE TO INTERROGATORY NO. 9:

Plaintiffs incorporate their General Objections in response to Interrogatory No. 9. Plaintiffs object on the ground that the term “responsibilities” is vague and ambiguous. Plaintiffs further object to this Interrogatory for having separate and discrete subparts, which under Federal Rule of Civil Procedure 33 are to be counted as separate interrogatories. This Interrogatory, which purports to be only one question, is actually more than one, and plaintiffs reserve the right to limit their Responses to the first 25 Interrogatories propounded by defendant, regardless how defendant may combine or enumerate them. Subject to the foregoing General and Specific Objections, plaintiffs respond as follows: *See* Response to Interrogatory No. 2.

INTERROGATORY NO. 10:

State the date, time, place, and subject of the July 2001 meeting alleged in ¶709 of the Complaint, and identify the individuals present.

RESPONSE TO INTERROGATORY NO. 10:

Plaintiffs incorporate their General Objections in response to Interrogatory No. 10. Plaintiffs further object to this Interrogatory for having separate and discrete subparts, which under Federal Rule of Civil Procedure 33 are to be counted as separate interrogatories. This Interrogatory, which purports to be only one question, is actually more than one, and plaintiffs reserve the right to limit their Responses to the first 25 Interrogatories propounded by defendant, regardless how defendant may combine or enumerate them. Subject to the foregoing General Objections, plaintiffs respond as follows: June 2001, Enron headquarters, Houston, Texas.

INTERROGATORY NO. 11:

For each of the individuals identified in response to interrogatory 10, state his or her employer and position/title and describe his or her responsibilities at the time of the meeting referred to in interrogatory 10.

RESPONSE TO INTERROGATORY NO. 11:

Plaintiffs incorporate their General Objections in response to Interrogatory No. 11. Plaintiffs object on the ground that the term “responsibilities” is vague and ambiguous. Plaintiffs further object to this Interrogatory for having separate and discrete subparts, which under Federal Rule of Civil Procedure 33 are to be counted as separate interrogatories. This Interrogatory, which purports to be only one question, is actually more than one, and plaintiffs reserve the right to limit their Responses to the first 25 Interrogatories propounded by defendant, regardless how defendant may combine or enumerate them.

INTERROGATORY NO. 12:

Identify the “one person who was present” quoted in ¶709 of the Complaint as saying: ““They (the CSFB bankers) said “If this thing hits the \$20s, you better run for the hills.”””

RESPONSE TO INTERROGATORY NO. 12:

Plaintiffs incorporate their General Objections in response to Interrogatory No. 12. Subject to the foregoing General Objections, plaintiffs respond as follows: *See* Joshua Chaffin and Stephen Fidler, “Enron’s Alchemy Turns to Lead for Bankers,” *Financial Times*, Feb. 28, 2002.

INTERROGATORY NO. 13:

State the date, time, place, and subject of the June 2001 meeting referred to in ¶¶56, 622, 710-11 of the Complaint, and identify the individuals present.

RESPONSE TO INTERROGATORY NO. 13:

Plaintiffs incorporate their General Objections in response to Interrogatory No. 13. Plaintiffs further object to this Interrogatory for having separate and discrete subparts, which under Federal Rule of Civil Procedure 33 are to be counted as separate interrogatories. This Interrogatory, which purports to be only one question, is actually more than one, and plaintiffs reserve the right to limit their Responses to the first 25 Interrogatories propounded by defendant, regardless how defendant may combine or enumerate them. Subject to the foregoing General Objections, plaintiffs respond as follows: June 2001, Enron headquarters, Houston, Texas.

INTERROGATORY NO. 14:

For each of the individuals identified in response to interrogatory 13, state his or her employer and title/position and describe his or her responsibilities at the time of the meeting referred to in interrogatory 13.

RESPONSE TO INTERROGATORY NO. 14:

Plaintiffs incorporate their General Objections in response to Interrogatory No. 14. Plaintiffs object on the ground that the term “responsibilities” is vague and ambiguous. Plaintiffs further object to this Interrogatory for having separate and discrete subparts, which under Federal Rule of Civil Procedure 33 are to be counted as separate interrogatories. This Interrogatory, which purports to be only one question, is actually more than one, and plaintiffs reserve the right to limit their Responses to the first 25 Interrogatories propounded by defendant, regardless how defendant may combine or enumerate them.

INTERROGATORY NO. 15:

Quote or describe all the statements of the “CS First Boston people” that allegedly indicate their knowledge about the nature and extent of Enron’s off-balance sheet exposure, as alleged in

¶¶56, 622, 710-11 of the Complaint, and identify the individual(s) alleged to have made the statements referred to and the individual(s) to whom those statements were made.

RESPONSE TO INTERROGATORY NO. 15:

Plaintiffs incorporate their General Objections in response to Interrogatory No. 15. Plaintiffs object to this Interrogatory on the ground and to the extent it is overly broad. Plaintiffs further object to this Interrogatory for having separate and discrete subparts, which under Federal Rule of Civil Procedure 33 are to be counted as separate interrogatories. This Interrogatory, which purports to be only one question, is actually more than one, and plaintiffs reserve the right to limit their Responses to the first 25 Interrogatories propounded by defendant, regardless how defendant may combine or enumerate them.

INTERROGATORY NO. 16:

Identify the individual(s) quoted in ¶¶56, 622, 710 of the Complaint as saying: “How can you guys keep doing this?” and “Do employees actually believe it’s worth what management is saying?”, and identify the individual(s) to whom each of those statements was made.

RESPONSE TO INTERROGATORY NO. 16:

Plaintiffs incorporate their General Objections in response to Interrogatory No. 16. Plaintiffs further object to this Interrogatory for having separate and discrete subparts, which under Federal Rule of Civil Procedure 33 are to be counted as separate interrogatories. This Interrogatory, which purports to be only one question, is actually more than one, and plaintiffs reserve the right to limit their Responses to the first 25 Interrogatories propounded by defendant, regardless how defendant may combine or enumerate them.

INTERROGATORY NO. 17:

Identify the individual(s) quoted in ¶¶56, 622, 711 of the Complaint as saying: “you guys are at a critical price point right now”, “Do you know how much off-balance sheet debt you have?”, and

“Try eight to 12 billion ... if Enron’s stock hits \$20 a share ... you guys are gonna be fucked”, and identify the individual(s) to whom each of those statements was made.

RESPONSE TO INTERROGATORY NO. 17:

Plaintiffs incorporate their General Objections in response to Interrogatory No. 17. Plaintiffs further object to this Interrogatory for having separate and discrete subparts, which under Federal Rule of Civil Procedure 33 are to be counted as separate interrogatories. This Interrogatory, which purports to be only one question, is actually more than one, and plaintiffs reserve the right to limit their Responses to the first 25 Interrogatories propounded by defendant, regardless how defendant may combine or enumerate them.

INTERROGATORY NO. 18:

For each of the statements and individuals referred to in interrogatories 1, 2, 4, 6, 8, 10, 13, 15, 16 and 17, identify all individuals who are the source of the factual information and identify all individuals who witnessed the statements being made or subsequently learned that the statements were made.

RESPONSE TO INTERROGATORY NO. 18:

Plaintiffs incorporate their General Objections in response to Interrogatory No. 18. Plaintiffs object to this Interrogatory on the grounds and the extent it is overly broad and unduly burdensome, specifically that plaintiffs “identify all individuals who witnessed the statements being made or subsequently learned that the statements were made.” Plaintiffs further object to this Interrogatory for having separate and discrete subparts, which under Federal Rule of Civil Procedure 33 are to be counted as separate interrogatories. This Interrogatory, which purports to be only one question, is actually more than one, and plaintiffs reserve the right to limit their Responses to the first 25 Interrogatories propounded by defendant, regardless how defendant may combine or enumerate

them. Subject to the foregoing General and Specific Objections, plaintiffs respond as follows: *See* Ex. A.

INTERROGATORY NO. 19:

For each of the individuals identified in response to interrogatory 18, state his or her employer and title/position and describe his or her responsibilities at the time at which he or she learned of the information referred to in interrogatory 1, 2, 4, 6, 8, 10, 13, 15, 16 or 17.

RESPONSE TO INTERROGATORY NO. 19:

Plaintiffs incorporate their General Objections in response to Interrogatory No. 19. Plaintiffs object on the ground that the term “responsibilities” is vague and ambiguous. Plaintiffs further object to this Interrogatory for having separate and discrete subparts, which under Federal Rule of Civil Procedure 33 are to be counted as separate interrogatories. This Interrogatory, which purports to be only one question, is actually more than one, and plaintiffs reserve the right to limit their Responses to the first 25 Interrogatories propounded by defendant, regardless how defendant may combine or enumerate them. Subject to the foregoing General and Specific Objections, plaintiffs respond as follows: *See* Ex. A.

DATED: May 4, 2004

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CSFB EXHIBIT A

Pursuant to Rule 26(a)(1)(A), Lead Plaintiff hereby submits its list of persons likely to have discoverable information Lead Plaintiff may use to support its claims

1.	Abib, Osmar
2.	Avery, Jan 3647 Bluebonnet Blvd. Houston, TX 77025 713/515-3500
3.	Bowen, Jr., Raymond M. 3218 Locke Lane Houston, TX 77019 713/523-5406
4.	Brown, Bill 2337 Bolsolver Houston, TX 77005 713/526-1714
5.	Capolongo, Dominic
6.	Clark, James
7.	Deffner, Joe 67 S. Hunters Crossing Cir. Spring, TX 77381 281/681-2918
8.	DeVries, Andrew
9.	Faldyn, Rodney L. 12806 Secret Forest Ct. Cypress, TX 77429 281/373-3780
10.	Fields, James
11.	Gatsos, John
12.	Glisan, Ben 4506 Honeywood Ct. Houston, TX 77050 281/486-8136
13.	Hartuniam, Stephen
14.	Ivers, Richard
15.	Jeffe, Robert

16.	Jones, Wesley
17.	Kopper, Michael 2138 Bolsover St. Houston, TX 77005 713/522-9640
18.	Krautz, Mike 8911 San Patrico Ct. Houston, TX 77064 281/469-9566
19.	Launer, Curtis 75 Stirrup Lane Syosset, NY 11791 516/496-2124
20.	Lin, Kathy
21.	Lord, Phil 13615 Taylorcrest Rd. Houston, TX 77079 281/578-7504
22.	Mandanas, Mary Beth
23.	Marino, Carmen
24.	Masud, Ahmad
25.	McMahon, Jeffrey
26.	Miller, Terran
27.	Moran, James
28.	Mordaunt, Kristina c/o Hayden Burns Burns, Wooley, Marseglia & Zabel L.L.P. 1415 Louisiana, Suite 3300 Houston, TX 77002
29.	Nath, Laurence 322 Central Park West New York, NY 10025 212/222-1124
30.	O'Brien, Robert
31.	Ogunlesi, Adebayo

32.	Raymond-Castaneda, Maureen 2101 Shadybriar Drive Houston, TX 77077 281/496-0605
33.	Sakol, Jill
34.	Scott, Donald
35.	Scott, Dwight
36.	Welch, Jamie
37.	White-Lavitt, Paula
38.	Wootton, Steven
39.	Yellen, Jonathan

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing PLAINTIFFS' RESPONSES TO DEFENDANT CREDIT SUISSE FIRST BOSTON LLC'S FIRST SET OF INTERROGATORIES document has been served by sending a copy via electronic mail to serve@ESL3624.com on this May 4, 2004.

I further certify that a copy of the foregoing PLAINTIFFS' RESPONSES TO DEFENDANT CREDIT SUISSE FIRST BOSTON LLC'S FIRST SET OF INTERROGATORIES document has been served via overnight mail on the following parties, who do not accept service by electronic mail on this May 4, 2004.

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



Mo Maloney



SAN DIEGO
SAN FRANCISCO
LOS ANGELES
WASHINGTON, DC
HOUSTON
PHILADELPHIA

Anne L. Box
AnneB@lcsr.com

May 17, 2004

VIA FACSIMILE

Mr. Darin McAtee, Esq.
Mr. Jeffrey B. Korn, Esq.
CRAVATH SWAINE & MOORE LLP
825 Eighth Avenue
Worldwide Plaza
New York, NY 10019

Re: *In re Enron Corp. Securities Litigation*, Civ. No. H-01-3624

Dear Darin and Jeff:

I write to confirm the substance of our meet and confer on May 17, 2004 concerning Plaintiffs' Responses to Defendant Credit Suisse First Boston LLC's First Set of Interrogatories.

During our conference you stated that your overall position was that Plaintiffs' responses were insufficient. Specifically, you requested that we link the names in CSFB Exhibit A with specific factual allegations contained in the First Amended Consolidated Complaint that are the basis of CSFB's interrogatories. It is Lead Plaintiff's position that linking confidential sources to specific allegations goes to the heart of the work-product rule. Moreover, by providing CSFB's counsel with a discrete list of 39 potential witnesses, who collectively respond to the interrogatories, we have complied with case law and the Federal Rules of Evidence. And although you did not ask the bases of our objections to specific interrogatories, please be advised that we are unwilling to identify one confidential source because that source fears retaliation if identified.

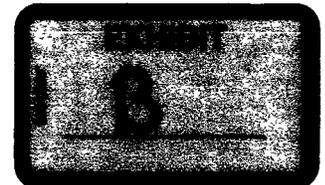
Please contact us immediately if any of the foregoing does not comport with your recollection of our discussions during the meet and confer.

Sincerely,

ANNE L. BOX

ALB:pj

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LERACH COUGHLIN STOIA & ROBBINS LLP

FACSIMILE

From: Anne L. Box **Date:** May 17, 2004
Case Code: 201-392 **Time:** 4:36 PM
Subject: Enron

Number of pages being transmitted including the cover page: [# Pages]

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To: Mr. Darin McAtee, Esq. Mr. Jeffrey B. Korn, Esq. CRAVATH SWAINE & MOORE	212/474-3700	212/474-1000

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Document#

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

In re ENRON CORPORATION	§	
Securities, Derivative &	§	MDL Docket No. 1446
“ERISA” Litigation	§	
<hr/>		
MARK NEWBY, et al.,	§	
Plaintiffs,	§	
	§	
vs.	§	Civil Action No. H-01-3624
	§	And Consolidated Cases
ENRON CORPORATION, et al.,	§	
Defendants.	§	
	§	
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ORDER GRANTING MOTION TO COMPEL

On this day, the Court considered Defendant’s Motion to Compel Lead Plaintiff to Provide Complete and Specific answers to Credit Suisse First Boston LLC’s First Set of Interrogatories and Request for Expedited Consideration. After considering the motion, any timely response, and the pleadings and papers on file in this cause, the Court is of the opinion that the motion should be granted.

It is, therefore, ORDERED that Defendant’s Motion to Compel Lead Plaintiff to Provide Complete and Specific answers to Credit Suisse First Boston LLC’s First Set of Interrogatories and Request for Expedited Consideration is hereby granted in its entirety. Lead Plaintiff shall provide full and complete responses to Interrogatories Nos. 1 – 19 of Credit Suisse First Boston LLC’s First Set of Interrogatories within 10 days of the signing of this Order.

SIGNED on this _____ day of _____, 2004.

THE HONORABLE JUDGE PRESIDING