United States Courts
Southern District of Texas
FILED

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Michael N. Milby, Clerk

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

MARK NEWBY, ET AL., Plaintiffs, VS. ENRON CORPORATION, ET AL., Defendants	§	CIVIL ACTION NO. H-01-3624 AND CONSOLIDATED CASES
WILLIAM COY AND CANDY MOUNTER, Individually, and on Behalf of All Similarly Situated Stockholders of Enron Corporation, Plaintiffs, VS. ARTHUR ANDERSEN, L.L.P., DAVID DUNCAN, D. STEPHEN GODDARD, JR., JOHN NIEMANN, WILLIAM SWANSON, DEAN SWICK, AND TOM ELSENBROOK, Defendants.	§	CIVIL ACTION NO. H-01-4248

NOTICE OF BANKRUPTCY FILING OF ENRON CORPORATION AND IMPOSITION OF AUTOMATIC STAY

PLEASE TAKE NOTICE that on December 2, 2001, Enron Corp. filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York, Case No. 01-16034 (AJG). It is well established that "where an injury is suffered by a corporation and the shareholders suffer solely through depreciation in the value of their stock, only the corporation itself . . . or a stockholder suing derivatively in the name of the corporation may maintain an action against the wrongdoer." Vincel v. White Motor Corp., 521 F.2d 1113, 1118 (2d Cir. 1975). This rule applies equally to

actions against non-debtor third parties. See, e.g., Seibu Corp. v. KPMG LLP, 2001 WL 1167317, at *7 (N.D. Tex. Oct. 2, 2001).

Pursuant to section 541(a)(1) of the Bankruptcy Code, property of the estate encompasses "all legal or equitable interests of the debtor in property as of the commencement of the case." 11 U.S.C. § 541(a)(1). All causes of action held by the debtor, including claims against non-debtor third parties, constitute property of the estate, and thus are subject to the automatic stay pursuant to section 362(a)(3) of the Bankruptcy Code. See, e.g., In re Keene Corp., 164 B.R. 844, 853-54 (Bankr. S.D.N.Y. 1994) (holding breach of fiduciary duty claims against third parties are property of the estate and thus non-debtors are barred by the automatic stay from asserting such claims). Further, the debtor has exclusive standing to assert such claims and the automatic stay prevents shareholders or creditors from asserting those claims derivatively. See, e.g., BRS Assocs., L.P. v. Dansker, 246 B.R. 755, 771-72 (S.D.N.Y. 2000). All actions taken in violation of the automatic stay are null and void.

Dated: February 27, 2002

Respectfully submitted,

SUSMAN GODFREY L.L.P.

By: _____

Stephen D. Susman
State Bar No. 19521000
S.D. Admissions No. 03257
1000 Louisiana, Suite 5100
Houston, Texas 77002-5096
Telephone: (713) 651-9366
Fax: (713) 654-6666

Attorneys for Enron Corp.

OF COUNSEL:

Kenneth S. Marks
State Bar No. 12995500
S.D. Admissions No. 02767
Thomas W. Paterson
State Bar No. 15571500
S.D. Admissions No. 07078
SUSMAN GODFREY L.L.P.
1000 Louisiana, Suite 5100
Houston, Texas 77002-5096
Telephone: (713) 651-9366
Facsimile: (713) 653-7897

WEIL, GOTSHAL & MANGES LLP
Martin J. Bienenstock
Greg A. Danilow
Diane Harvey
Timothy E. Hoeffner
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Fax: (212) 310-8007

CERTIFICATE OF SERVICE

I, Kenneth S. Marks, hereby certify that on the 27th day of February, 2002, the foregoing was served by first class mail on the attached service list.

Kenneth S. Marks

SERVICE LIST

Jeffrey B. Kaiser
Kaiser & May, L.L.P.
440 Louisiana, Suite 1440
Houston, Texas 77002
(713) 227-3050
(713) 227-0488 (Fax)

Michael D. Sydow
Ronald J. Kormanik
Sydow, Kormanik, Carrigan, &
Eckerson, L.L.P.
1111 Bagby, Suite 4700
Houston, TX 77002
(713) 225-7200
(713) 752-2199 (Fax)

Robert Fritz
Fritz Law Firm
330 T.C. Jester Blvd.
Houston, TX 77007
(713) 869-2000
(713) 869-3850 (Fax)

John L. Grayson
Grayson & Hovenkamp
Mark A. Hovenkamp
1001 McKinney, Suite 1000
Houston, Texas 77002

****

Defendants:
Billy Shepherd
Cruse, Scott, Henderson & Allen, L.L.P.
600 Travis, Suite 3900
Houston, TX 77002-1720
713-650-6600
713-650-1720 (fax)
Counsel for D. Stephen Goddard

Michael Warden
Luisa Caro
Sidley Austin Brown & Wood LLP
1501 K Street. N.W.
Washington. D.C.20005
202-736-8180
202-736-8711 (fax)
Counsel for D. Stephen Goddard

Barry G. Flynn
Law Office of Barry G. Flynn, P.C.
1300 Post Oak Blvd #750
Houston, TX 77056
713-840-7474
713-840-0311 (fax)
Counsel for David Duncan

Andy Ramzel
Rusty Hardin & Associates, P.C.
1201 Louisiana, Suite 3300
Houston, Texas 77002
713.652.9000 tele
713.652.9800 fax
Counsel for Arthur Andersen LLP