**UNITED STATES DISTRICT COURT**
**SOUTHERN DISTRICT OF TEXAS**
**HOUSTON DIVISION**

United States Courts
Southern District of Texas
FILED

MAY 0 8 2002

Michael N. Milby, Clerk

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| In re ENRON CORPORATION SECURITIES LITIGATION | § | |
| This Document Relates To: | § | |
| MARK NEWBY, *et al.*, individually and on behalf of all others similarly situated, | § | |
| Plaintiffs, | § | |
| vs. | § | Civil Action No. H-01-3624 (Consolidated) |
| 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. | § | |

**MOTION TO DISMISS OF**
**DEFENDANT LEHMAN BROTHERS HOLDINGS INC.**

Pursuant to Federal Rules of Civil Procedure 8(a), 9(b) and 12(b)(6) and the Private Securities Litigation Reform Act of 1995 (the "PSLRA"), defendant Lehman Brothers Holdings Inc. ("Lehman") respectfully moves this Court to dismiss plaintiffs' Consolidated Complaint for Violation of the Securities Laws ("the "Complaint") with prejudice on the grounds that it fails to allege any factual basis for a claim against Lehman for violation of Sections 10(b)

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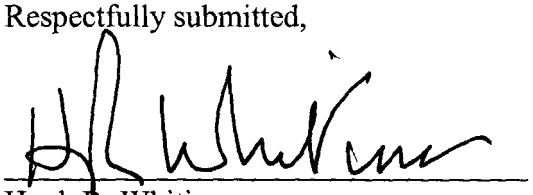
and 20(a) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated under Section 10(b), Sections 11 and 15 of the Securities Act of 1933, and Article 581-33 of the Texas Securities Act, because plaintiffs fail to plead their purported claims with the specificity required under Rule 9(b) and the PSLRA, and because the Complaint fails to comply with Rule 8(a) which requires that a complaint set forth a "short and plain statement of the claim showing that the pleader is entitled to relief . . . ." The grounds supporting Lehman's motion are fully set forth in the accompanying Memorandum. A proposed Order is attached.

Dated: May 8, 2002

Respectfully submitted,



Hugh R. Whiting
**Attorney-in-Charge**
Texas Bar No. 21373500
S.D. Texas Bar No. 30188
David E. Miller
Texas Bar No. 14067150
S.D. Texas Bar No. 27647
JONES, DAY, REAVIS & POGUE
600 Travis Street, Suite 6500
Houston, Texas 77002-3008
Telephone: (832) 239-3939
Telecopier: (832) 239-3600
hrwhiting@jonesday.com
demiller@jonesday.com

Attorneys for Defendant
Lehman Brothers Holdings Inc.

OF COUNSEL:

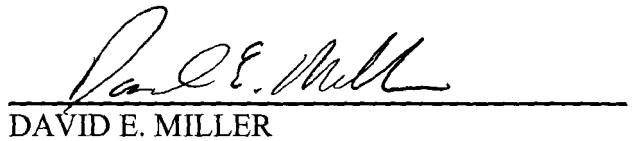
David L. Carden
JONES, DAY, REAVIS & POGUE
221 East 41st Street
New York, New York 10017-6702
Telephone: (212) 326-3939
Telecopier: (212) 755-7306
dlcarden@jonesday.com

Robert C. Micheletto
JONES, DAY, REAVIS & POGUE
77 West Wacker Drive, Suite 3500
Chicago, Illinois 60601-1692
Telephone: (312) 269-3939
Telecopier: (312) 782-8585
rmicheletto@jonesday.com

Brian A. Troyer
JONES, DAY, REAVIS & POGUE
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114-1190
Telephone: (216) 586-3939
Telecopier: (216) 579-0212
btroyer@jonesday.com

## CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of May 2002, a copy of the foregoing instrument was served on the counsel of record in this action by facsimile, e-mail or overnight delivery using the e-mail addresses, facsimile numbers and addresses listed on the attached Service List in accordance with the Federal Rules of Civil Procedure and the terms of the Order Regarding Service of Papers and Notice of Hearings dated April 4, 2002.



DAVID E. MILLER
Attorney for Defendant
Lehman Brothers Holdings Inc.

## SERVICE LIST

Barry Abrams
Abrams Scott & Bickley, LLP
JP Morgan Chase Tower, Suite 6601
600 Travis Street
Houston, TX 77002
Email: babrams@asbtexas.com
**Attorneys for Barclays PLC**

Linda L. Addison
Fulbright & Jaworski LLP
1301 McKinney, Suite 5100
Houston, TX 77010-3095
Email: laddison@fulbright.com
**Attorney for The Northern Trust Company and Northern Trust Retirement Consulting LLC**

Steve W. Berman
Hagens Berman, LLP
1301 Fifth Avenue, Suite 2900
Seattle, WA 98101
Email: steve@hagens-berman.com
**Co-Lead Counsel for the *Tittle* Plaintiffs**

Paul R. Bessette
Michael J. Biles
Brobeck, Phleger & Harrison LLP
4801 Plaza on the Lake
Austin, TX 78746
Email: pbessette@brobeck.com
mbiles@brobeck.com
**Attorneys for Bank of America Corp.**

David H. Braff
Sullivan & Cromwell
125 Broad Street
New York, NY 10004
Email: braffd@sullcrom.com
candidoa@sullcrom.com
brebnera@sullcrom.com
**Attorneys for Barclays PLC**

Robert Hayden Burns
Burns Wooley & Marseglia
1111 Bagby, Suite 4900
Houston, TX 77002
Email: hburns@bwmzlaw.com
**Attorneys for Kristina Mordaunt**

Lawrence Byrne
White & Case LLP
1155 Avenue of the Americas
New York, NY 10036
**Attorneys for Deutsche Bank AG**

Richard W. Clary
Cravath, Swaine & Moore
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019

James E. Coleman, Jr.
Carrington, Coleman, Sloman & Blumenthal, LLP
200 Crescent Court, Suite 1500
Dallas, TX 75201
Email: deakin@ccsb.com
**Attorney for Kenneth Lay**

Jeremy L. Doyle
Gibbs & Bruns, LLP
1100 Louisiana, Suite 5300
Houston, TX 77002
Email: jdoyle@gibbs-bruns.com
**Attorney for Robert Belfer, Norman Blake, Ronnie Chan, John Duncan, Joe Foy, Wendy Gramm, Robert Jaedicke, Charles LeMaistre, John Mendelsohn, Jerome Meyer, Paulo Ferraz Pereira, Frank Savage, Charls Walker, John Wakeham, Herbert Winokur**

Anthony C. Epstein
Steptoe & Johnson LLP
1330 Connecticut Avenue, NW
Washington, DC 20036
Email: aepstein@steptoe.com
**Attorney for Philip J. Bazelides, Mary K. Joyce and James S. Prentice**

Lawrence D. Finder
Haynes and Boone LLP
1000 Louisiana Street, Suite 4300
Houston, TX 77002-5012
**Attorneys for Credit Suisse First Boston Corp.**

Barry G. Flynn
Law Offices of Barry G. Flynn, P.C.
1300 Post Oak Blvd., Suite 750
Houston, TX 77056
Email: bgflaw@mywavenet.com
**Attorney for David Duncan**

Charles A. Gall
Jenkens & Gilchrist
1445 Ross Avenue, Suite 3200
Dallas, TX 75202-2799

Mark A. Glasser
King & Spalding
1100 Louisiana Street, Suite 4000
Houston, TX 77002
Email: mkglasser@kslaw.com
**Attorney for LJM II Co-Investment**

H. Bruce Golden
Golden & Owens, LLP
1221 McKinney Street, Suite 3600
Houston, TX 77010
Email: golden@goldenowens.com
**Attorney for John A. Urquhart**

Roger B. Greenberg
Schwartz, Junell, Campbell & Oathout
2000 Two Houston Center
909 Fannin Street
Houston, TX 77010
Email: rgreenberg@schwartz-junell.com
**Attorney for the Regents of the University of California**

Mark C. Hansen
Reid M. Figel
Kellogg, Huber Hansen, Todd & Evans PLLC
1615 M Street, NW, Suite 400
Washington, DC 20036
Email: mhansen@khhte.com
rfigel@khhte.com
**Attorney for Nancy Temple**

Rusty Hardin
Rusty Hardin & Associates, P.C.
1201 Louisiana Street, Suite 3300
Houston, TX 77002
Email: rhardin@rustyhardin.com
**Attorney for Arthur Andersen LLP**

Robin Harrison
Campbell, Harrison & Wright LLP
4000 Two Houston Center
909 Fannin Street
Houston, TX 77010
Email: rharrison@chd-law.com
**Liaison Counsel for the *Tittle* Plaintiffs**

Taylor M. Hicks
Hicks, Thomas & Lilienstern LLP
700 Louisiana Street, Suite 1700
Houston, TX 77002

G. Sean Jez
Fleming & Associates
1330 Post Oak Blvd., Suite 3030
Houston, TX 77056
Email: terri_raybourn@fleming-law.com
**Attorney for Individual Plaintiffs**

Mitchell A. Karlan
Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166-0193
**Attorneys for Merrill Lynch & Co., Inc.**

Brad S. Karp
Paul, Weiss, Rifkind, Wharton & Garrison
1285 Avenue of the Americas
New York, NY 10019
**Attorneys for CitiGroup, Inc.**

Sharon Katz
Davis Polk & Wardwell
450 Lexington Avenue
New York, NY 10017
Email: andersen.courtpapers@dpw.com
**Attorney for Arthur Andersen**

Charles G. King
King & Pennington, LLP
771 Louisiana Street, Suite 3100
Houston, TX 77002
Email: cking@kandplaw.com
**Attorney for Goldman Sachs, Salomon Smith Barney, Banc of America Securities**

Jeffrey C. King
Hughes & Luce, L.L.P.
1717 Main Street, Suite 2800
Dallas, TX 75201
Email: kingj@hughesluce.com
**Attorney for Bruce Willison**

Kelly M. Klaus
Munger, Tolles & Olson
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071
**Attorneys for Kirkland & Ellis**

William S. Lerach
G. Paul Howes
Helen J. Hodges
Milberg Weiss Bershad Hynes & Lerach LLP
410 B Street, Suite 1700
San Diego, CA 92101-3356
Email: enron@milberg.com
**Attorneys for the Regents of the University of California and Lead Counsel for the *Newby* Plaintiffs**

Dr. Bonnee Linden, Pro Se
Linden Collins Associates
1226 West Broadway, P.O. Box 114
Hewlett, NY 11557
Email: [Send via mail per Dr. Linden]

Gregory A. Markel
Ronit Setton
Nancy Ruskin
Brobeck, Phleger & Harrison LLP
1633 Broadway, 47th Floor
New York, NY 10019
Email: gmarkel@brobeck.com
rsetton@brobeck.com
nruskin@brobeck.com
**Attorneys for Bank of America Corp.**

Kenneth S. Marks
Susman Godfrey, L.L.P.
1000 Louisiana Street, Suite 5100
Houston, TX 77002
Email: kmarks@susmangodfrey.com
**Attorney for Enron Corporation**

James Marshall
2540 Huntington Drive, Suite 201
San Marino, CA 91108-2601
Email: marshall@attglobal.net
**Attorney for *Wilt* Plaintiffs**

William F. Marstson, Jr.
Tonkon Torp LLP
1600 Pioneer Tower
888 SW Fifth Avenue
Portland, OR 97204
Email: rick@tonkon.com
**Attorney for Ken L. Harrison**

Mr. William Edward Matthews
Gardere Wynne Sewell, L.L.P.
1000 Louisiana Street, Suite 3400
Houston, TX 7702
**Attorneys for Andersen Worldwide, S.C.**

John J. McKetta, III
Graves, Dougherty, Hearon & Moody, P.C.
515 Congress Avenue, Suite 2300
Austin, TX 78701
Email: mmcketta@gdhm.com
**Attorney for Rebecca Mark-Jusbasche**

Richard Mithoff
Mithoff & Jacks
One Allen Center, Penthouse
500 Dallas Street
Houston, TX 77002
Email: enronlitigation@mithoff-jacks.com
cgall@jenkens.com
t_rice@stblaw.com
**Attorneys for J.P. Morgan Chase & Co.**

John L. Murchison, Jr.
Vinson & Elkins, L.L.P.
2300 First City Tower, 1001 Fannin
Houston, TX 77002
Email: jmurchison@velaw.com

Andrew J. Mytelka
David Le Blanc
Greer, Herz & Adams, LLP
One Moody Plaza, 18th Floor
Galveston, TX 77550
Email: dleblanc@greerherz.com
bnew@greerherz.com
amytelka@greerherz.com
swindsor@greerherz.com
**Attorney for *American National* Plaintiffs**

Eric J.R. Nichols
Beck, Redden & Secrest
1221 McKinney, Suite 4500
Houston, TX 77010-2010
Email: enichols@brsfirm.com
**Attorney for Michael J. Kopper, Chewco Investments, L.P. and LJM Cayman, L.P.**

Jacks C. Nickens
Nickens, Lawless & Flack, LLP
1000 Louisiana Street, Suite 5360
Houston, TX 77002
Email: trichardson@nlf-law.com
**Attorney for the Estate of J. Clifford Baxter, Deceased, Richard B. Buy, Richard A. Causey, Mark A. Frevert, Joseph M. Hirko, Stanley C. Horton, Steven J. Kean, Mark E. Koenig, Michael S. McConnell, Jeffrey McMahon, J. Mark Metts, Cindy K. Olson, Lou L. Pai, Kenneth D. Rice, Joseph W. Sutton and Paula Reiker**

Gary A. Orseck
Robbins, Russell, Englert Orseck & Untereiner LLP
1801 K Street, NW, Suite 411
Washington, DC 20006
Email: gorseck@robbinsrussell.com
**Attorney for Michael Lowther**

Benard V. Preziosi, Jr.
Curtis, Mallet-Prevost, Colt & Mosle, LLP
101 Park Avenue
New York, NY 10178-0061
Email: bpreziosi@cm-p.com
**Attorney for Michael C. Odom**

Thomas C. Rice
Simpson, Thacher & Bartlett
425 Lexington Avenue
New York, NY 10017
**Attorneys for J.P. Morgan Chase & Co.**

Alan N. Salpeter
Mayer, Brown, Row & Maw
190 South LaSalle Street
Chicago, IL 60603
**Attorneys for Canadian Imperial Bank of Commerce**

Lynn Lincoln Sarko
Keller Rohrback LLP
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
Email: lsarko@kellerrohrback.com
**Co-Lead Counsel for the *Tittle* Plaintiffs**

Scott B. Schreiber
Arnold & Porter
555 Twelfth Street, NW
Washington, DC 20004-1206
Email: s_schreiber@aporter.com
**Attorney for Thomas Bauer**

Henry F. Schuelke, III
Robert Sutton
Janis, Schuelke & Wechsler
1728 Massachusetts Ave., NW
Washington, DC 20036
Email: hsschuelke@janisschuelke.com
rsutton@janisschuelkle.com
**Attorney for Ben Glisan**

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

Jacalyn Scott
Wilshire Scott & Dyer P.C.
1221 McKinney, Suite 3000
Houston, TX 77010
Email: jscott@wsd-law.com
**Attorneys for CitiGroup, Inc. and Salomon Smith Barney, Inc.**

Billy Shepherd
Cruse, Scott, Henderson & Allen, LLP
JP Morgan Chase Tower, Suite 3900
600 Travis Street
Houston, TX 77002-2910
Email: bshepherd@crusescott.com
**Attorney for D. Stephen Goddard, Jr.**

Craig Smyser
Smyser Kaplan & Veselka, LLP
2300 Bank of America Center
700 Louisiana Street
Houston, TX 77002
Email: csmyser@skv.com
**Attorney for Andrew Fastow**

Robert M Stern
O'Melveny & Myers, LLP
555 13th Street, NW, Suite 500W
Washington, DC 20004
Email: rstern@omm.com
**Attorney for Jeffrey K. Skilling**

Abigail Sullivan
Bracewell & Patterson LLP
711 Louisiana Street, Suite 2900
Houston, TX 77002-2781
Email: asullivan@bracepatt.com
**Attorney for James V. Derrick**

John K. Villa
Williams & Connolly, L.L.P.
725 Twelfth Street, NW
Washington, DC 20005
Email: jvilla@wc.com
**Attorney for Vinson & Elkins, L.L.P., Ronald T. Astin, Joseph Dilg, Michael P. Finch and Max Hendrick III**

Paul Vizcarrondo, Jr.
Wachtell, Lipton, Rosen Katz
51 West 52nd Street
New York, NY 10019
Email: pvizcarrondo@wlrk.com
**Attorney for Goldman Sachs, Salomon Smith Barney, Banc of America Securities**