United States Courts
Southern District of Texas
FILED
JUN 06 2002
Michael N. Milby, Clerk

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

| | | |
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| **MARK NEWBY, *et al.*, Individually and On Behalf Of All Others Similarly Situated,** | § | |
| **Plaintiffs,** | § | |
| **v.** | § | **CIVIL ACTION NO. H-01-3624 (Consolidated)** |
| **ENRON CORP., *et al.*,** | § | |
| **Defendants.** | § | |

**DEFENDANTS' NOTICE OF ERRATA**

TO: THE HONORABLE JUDGE OF SAID COURT

Defendants file their Notice of Errata to Certain Defendants' Joint Brief Relating to Enron's Disclosures filed with the Court on May 8, 2002. The Errata Sheet is attached as Exhibit A.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was forwarded to all counsel listed on the attached Exhibit A Service List by e-mail or facsimile on this 6th day of June, 2002.

Paul D. Flack

#10264v1<iManage> -ERRATA wpd

EXHIBIT A

ERRATA SHEET TO CERTAIN DEFENDANT'S JOINT BRIEF RELATING TO ENRON'S DISCLOSURES

FN= footnote

| PAGE | ERROR | REPLACE WITH |
|---|---|---|
| 1 | ..."mask an absence of detail."... | ..."mask for an absence of detail."... |
| 10 | ...399(a),... | delete |
| 15 | ...level. NCC at ¶ 498. | ...level. NCC at ¶ 497. |
| 17 | ...*See generally* SEC App. Tab. 76, at 43. | ...*See generally* SEC App. Tab. 16, at 43. |
| 22 | "Wholesale Services manages its portfolio of contracts and assets ..... In doing so, Wholesale Services uses portfolio and risk management disciplines, ..... Additionally, Wholesale Services manages its liquidity and exposure to third-party credit risk.... Wholesale Services also sells interests in certain investments and other assets to improve liquidity and overall return,....value." | "Enron Wholesale manages its portfolio of contracts and assets.... In doing so, Enron Wholesale uses portfolio and risk management disciplines,.... Additionally, Enron Wholesale manages its liquidity and exposure to third-party credit risk.... Enron Wholesale also sells interests in certain investments and other assets to improve liquidity and overall return,....value." |
| 24 | ...accounting, forwards, swaps, options,... | ...accounting. Under the market -to-market method of accounting, forwards, swaps, options,... |
| 26 | ...*See Id.* at 52-53... | ...*See Id.* at 52... |
| 26 | ...in note 11,... | ...in note 16,... |
| 27 | ...Tabs 10, at 90-91;15, at 85-86, 95-96. | ...Tabs 10, at 91; 15, at 86. |
| 28 | *In re Waste Management Inc. Sec. Litig.* H-99-2183, Slip Op. At 104-05 n. 34, *citing In re Trump Casino. Sec. Litig.*, 7 F.3d 357, 369-73 (3d Cir. 1993) | *In re Trump Casino. Sec. Litig.*, 7 F.3d 357, 369-73 (3d Cir. 1993). |
| 30 | ...NCC ¶¶ 456, 462, 463. | ...NCC ¶¶ 456. |
| 30 | "Materiality is not judged in the abstract,... | "Materiality for securities fraud purposes is not judged in the abstract,... |

| PAGE | ERROR | REPLACE WITH |
|---|---|---|
| 31 | ...*Williams*., 112 F.2d at 178. | ...*Williams*, 112 F.3d at 178. |
| 33 | ... NCC at ¶ 67; TCC at ¶ 398, 417. | ... NCC at ¶ 67; *see also* TCC at ¶ 398, 417. |
| 33 | *Williams*, 112 F.2d at 178. | *Williams*, 112 F.3d at 178. |
| 33 | *Nathenson v. Zonagen*, 267 F.2d... | *Nathenson v. Zonagen,* 267 F.3d... |
| 35 | ...*See* SEC App. Tabs 21, at 25; 22, at 26. | ...*See* SEC App. Tab 10, at 101. |
| 35 (FN 21) | ..."acquired approximately $360 million... | ..."acquired, directly or indirectly, approximately $360 million... |
| 35 (FN 21) | ...LJM or LJM2 acquired other assets... | ...LJM acquired other assets... |
| 38 (FN 22) | ...*See* SEC App. Tab 21, at 25. | ...*See* SEC App. Tab 10, at 101. |
| 40 | *Nathenson,* 267 F.2d... | *Nathenson,* 267 F.3d... |
| 42 | *Tuchman*, 14. F3d. at 1069... | *Tuchman*, 14 F.3d at 1069... |
| 42 | ...were "reasonable compared to [terms] that could have been negotiated with a third party." *See*... | ...were "reasonable compared to those [terms] which could have been negotiated with unrelated third parties." *See*... |
| 43 | ...*Williams*, 112 F.2d... | ...*Williams*, 112 F.3d... |
| 43 | ..."when made,'" *Lovelace,* 78 F.2d... | ..."when made," *Lovelace,* 78 F.3d... |
| 44 | ...*Heartland Wireless Communications, Inc.*, 56 F. Supp 2d... | ...*Heartland Wireless Communications, Inc.*, 55 F. Supp 2d... |
| 46 | *See* SEC App. Tab 21, at 26-27 (emphasis added). | *See* SEC App. Tab 21, at 29-30 (emphasis added). |
| 47 | *Lovelace*, 78 F.2d... | *Lovelace*, 78 F.3d... |
| 47 | In re Craftmatic Sec. Lit., 42 F.3d 1541, 1548 (9th Cir. 1994)... | In re Glenfed, Inc. Sec. Lit., 42 F.3d 1541, 1548 (9th Cir. 1994)... |
| 47 | ...Fishtail, JGC... | ...Fishtail, JGB... |
| 47 | ...NCC at ¶ 476; TCC at ¶ 402. | ...NCC at ¶ 476; *see also* TCC at ¶ 402. |

| PAGE | ERROR | REPLACE WITH |
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| 49 | ...H-99-715 Slip Op. at 27... | ...183 F. Supp. 2d 860, 878... |
| 52 | ...10-K at "Auditors' Opinions." | ...10-K at "Report of Independent Public Accountants." |
| 53 | ...*Williams* 117 F.2d... | ...*Williams*, 112 F.2d... |
| 54 | ...*Santa Fe Indus.*, 430 U.S. 460,... | ...*Santa Fe Indus.*, 430 U.S. 462,... |
| 54 | ...*Williams*, 112 F.2d... | ...*Williams*, 112 F.3d... |
| 54 | ...*Santa Fe Indus.*, 430 U.S. 460,... | ...*Santa Fe Indus.*, 430 U.S. 462,.. |
| 61 | ...*Williams*, 117 F.2d... | ...*Williams*, 117 F.3d... |
| 69 | "New Power was a bona fide business designed to market electric power to retail customers." NCC at ¶ 487; TCC at ¶ 350, 357. | New Power was a bona fide business designed to market electric power to retail customers. NCC at ¶ 487; TCC at ¶ 350. |
| 71 | ...Tabs 15 at 52-53; 15 at 85-88, 95-96... | ...Tab 15, at 85-88... |
| 71 | ...*Parnes*, 122 F.3d at 548,... | ...*Parnes v. Gateway 2000*, 122 F.3d 539, 548 (8th Cir. 1997),... |
| 75 (FN 41) | EITF No. 98-10:... | EITF No. 98-10 at ¶ 7:... |
| 77 (FN 44) | SEC App., Tab 2 at 76-77; 15 at 76. | SEC App. Tab 15, at 76. |
| 95 | ...; *Mortenson v. Americredit Corp.*, 123 F. Supp. 2d 1015, 1017-18 (N.D. Tex 1999)... | ...; *Mortenson,* 123 F. Supp. 2d at 1018... |
| 103 | *Lain v. Evans*, No. 3:99-CV-2594-H, 2000 U.S. Dist. Lexis 9257, at *8-*9... | *Lain v. Evans*, 123 F. Supp. 2d 344, *8-*9... |
| 116 (FN 89) | ...the challenges unique to this period are... | ...the challenges unique in our history are... |
| 117 | ...*see, e.g., Harris*, 182 F.3d at 803... | ...*see, e.g., Harris v. Ivax Corporation*, 182 F.3d 799, 803 (11th Cir. 1999)... |
| 118 (FN 94) | ...SEC App. Tab 9, at 21 (same); SEC App. Tab 12, at 21... | ...SEC App. Tab 9, at 22 (same); SEC App. Tab 12, at 20... |

| PAGE | ERROR | REPLACE WITH |
|---|---|---|
| 127 | ...*Lloyds International Corp.*, 253 F. Supp.... | ...*Lloyds International Corp.*, 753 F. Supp... |
| 161 (FN 206) | ... *Azurix*, 2002 WL at 13... | ...*Azurix,* 2002 WL at 562819... |
| 222 | 901 F.2d at 627... | *DiLeo*, 901 F.2d at 627... |
| 224 | 901 F.2d at 267. | 901 F.2d at 627. |
| 235 (FN 306) | ...*LCI Intern., Inc.*, 190 F.3d 509, 518... | ...*LCI Intern., Inc.*, 190 F.3d 609, 618... |
| 238 | ...*Westinghouse Sec. Litig.*, 90 F.3d at 710. | ...*Westinghouse Sec. Litig.*, 90 F.3d 696, 710 (3rd Cir. 1996). |
| 238 (FN 312) | *BMC*, 183 F. Supp. at 871... | *BMC*, 183 F. Supp. 2d at 871... |
| 241 | ...*Corp. Securities Litigation*, Master File No. H-00-3493, Southern District of Texas, Houston Division (Hon. Sim Lake). | ...*Corp. Sec. Litig.*, 2002 WL 562819 (S.D. Tex 2002). |
| 241 (FN 321) | ...*Corp. Securities Litigation*, Master File No. H-00-3493, U.S. District Court for the Southern District of Texas, Houston Division,... | ...*Corp. Sec. Litig.*, 2002 WL 562819 (S.D. Tex 2002),... |
| 245 | *DiLeo*, 901 F.2d at 267. | *DiLeo*, 901 F.2d at 627. |
| 251 | ...*Reeve*, 2000 WL 827667, at *13, Fed. Sec. L. Rep. (CCH) ¶ 91,005 (S.D.N.Y. June 27, 2000)... | ...*Reeve*, 108 F. Supp. 2d 225, *13 (S.D.N.Y. 2000)... |

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