United States Courts
Southern District of Texas
ENTERED

FEB 18 2005

Michael N. Milby, Clerk of Court

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

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| In Re Enron Corporation Securities, Derivative & "ERISA" Litigation | § | MDL-1446 |
| MARK NEWBY, ET AL., Plaintiffs VS. ENRON CORPORATION, ET AL., Defendants | § | CIVIL ACTION NO. H-01-3624 CONSOLIDATED CASES |
| 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. | § | |
| LILA WARD, Individually and on Behalf of All Others Similarly Situated, Plaintiff, VS. STANLEY C. HORTON, DANA R. GIBBS, LAWRENCE CLAYTON, JR., KENNETH L. LAY, AND ARTHUR ANDERSEN LLP, Defendants. | § | CIVIL ACTION NO. H-03-484 |

**ORDER**

Pending before the Court in *Newby* relating to the above referenced putative class action, H-03-484, brought on behalf of

all purchasers of common units of Enron-controlled EOTT Energy Partners, L.P.[1] between July 2, 2001 and January 22, 2002 and alleging federal securities law violations against EOTT's officers and directors and its outside auditor, is Class Members Sam E. Henry, Ted Zigan, and Melvin H. and Elsie M. Schulz's (the "Henry Group's") motion for appointment as Lead Plaintiff and for approval of selection of the firm of Cauley Geller Bowman Cotes & Rudman, LLP as Lead and the firm of Federman & Sherwood as Liaison counsel (#1366 in *Newby*), supported by a declaration from attorney William B. Federman, with exhibits including Movants' published notice, a chart of their losses, certifications, and resumes of the proposed Lead Counsel Cauley Geller Bowman Cotes & Rudman, LLP and of Liaison Counsel Federman & Sherwood.[2] The Henry Group has alleged damages of $391,989.00 resulting from their purchases of EOTT shares. Although the motion was filed on May 5, 2003, no other applicant has come forward and no opposition to the motion has been filed.

Because Movants have shown that they and their selected law firm meet the requirements for appointment as Lead Plaintiffs

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[1] According to the complaint at ¶ 29, "EOTT is a major independent marketr and transport of crude oil in North American[,] . . . processes, stores, and transports [methyl tertiary-butyl ether], natural gas and other natural gas liquids products." Its general partner, EOTT Energy Corporation, is a wholly owned subsidary of Enron. *Id.* at ¶ 30. Enron's one-time Chairman of the Board of Directors and CEO Kenneth L. Lay was director of EOTT at all relevant times. *Id.* at ¶15.,

[2] This original motion for appointment and approval, #1355 in *Newby* and the superseding amended motion were initially filed as #6 and 8 in member case H-03-484, but were terminated in the member case, apparently so that they would not be "counted" twice.

and as Liaison and Lead Counsel (*see, e.g.*, #294 in *Newby*) and because there appears to be no opposition or competition, the Court

ORDERS that their motion is GRANTED. The Henry Group is hereby APPOINTED as Lead Plaintiff, the law firm of Cauley Geller Bowman Cotes & Rudman, LLP as Lead Counsel, and the law firm of Federman & Sherwood as Liaison Counsel in H-03-484.

**SIGNED** at Houston, Texas, this 17th day of February, 2005.

MELINDA HARMON
UNITED STATES DISTRICT JUDGE