

MAY 25 2005

Michael N. Milby, Clerk

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

In Re ENRON CORPORATION	§	
SECURITIES, DERIVATIVE &	§	MDL 1446
"ERISA" LITIGATION,	§	
<hr/>		
MARK NEWBY, et al.,	§	
Individually and On Behalf of	§	
All Others Similarly Situated,	§	
	§	
Plaintiffs	§	
	§	
VS.	§	CIVIL ACTION NO. H-01-3624
	§	AND CONSOLIDATED CASES
ENRON CORPORATION, et al.,	§	
	§	
Defendants.	§	
<hr/>		
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,	§	
<hr/>		
PAMELA M. TITTLE, on Behalf of	§	
Herself and a Class of Persons	§	
Similarly Situated, et al.,	§	
	§	
Plaintiffs,	§	
	§	
VS.	§	CIVIL ACTION NO. H-01-3913
	§	CONSOLIDATED CASES
ENRON CORP., an Oregon	§	
Corporation, ET AL.,	§	
	§	
Defendants.	§	
<hr/>		
OFFICIAL COMMITTEE OF	§	
UNSECURED CREDITORS OF ENRON	§	
CORPORATION,	§	
	§	
Plaintiffs,	§	CIVIL ACTION NO. H-04-0091
	§	
VS.	§	
	§	
ANDREW S. FASTOW, et al.,	§	
	§	

Defendants.	§	
ELAINE L. CHAO, SECRETARY OF	§	
THE UNITED STATES DEPARTMENT	§	
OF LABOR,	§	
	§	
Plaintiff,	§	CIVIL ACTION NO. H-03-2257
	§	(Consolidated with H-01-3913)
ENRON CORPORATION, et al.,	§	
	§	
Defendants.	§	

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	§	Chapter 11
	§	No. 01-16034 (AJG)
ENRON CORP, et al.,	§	
	§	Jointly Administered
Debtors.	§	
<hr/>		
ENRON CORP., et al.,	§	
	§	
Plaintiffs,	§	
	§	
VS.	§	Adversary Proceeding
	§	No. 03-09266 (AJG)
	§	
CITIGROUP, INC., et al.,	§	
	§	
Defendants.	§	

**ORDER WITH RESPECT TO DEPOSITIONS SUBJECT TO
STAYS AND FIFTH AMENDMENT ASSERTIONS**

Upon consideration of the Motion of Lead Plaintiff, Enron Corp. and the Bank Defendants with Respect to Depositions Subject to Stays and Fifth Amendment Assertions (“Motion”), which is not opposed by the United States Department of Justice (“DOJ”), it is hereby:

ORDERED that the Motion is **GRANTED**; and it is further **ORDERED** that:

1. The stays due to pending criminal proceedings of the following witnesses are lifted for the limited purpose of document discovery: Richard Causey, David Duncan, Andrew Fastow, Kevin Hannon, Joseph Hirko, Michael Kopper, Kenneth Lay, Kenneth Rice, and Jeffrey Skilling (the “Stayed Defendant Witnesses”).

2. Any stay applicable as to any individual Stayed Defendant Witness (other than Kenneth Lay) shall be deemed lifted for all purposes upon the earlier of (a) the conclusion of the testimony of that witness in the case *United States v. Causey, et al.*, No. 4:04-cr-00025 (S.D. Tex.) (“*United States v. Causey*”), now scheduled to commence trial on or about January 17, 2006, or, if that witness does not testify at said trial, (b) the close of evidence in *United States v. Causey*. With respect to Mr. Lay, any applicable discovery stay shall be deemed lifted for all purposes upon the close of evidence in *United States v. Kenneth L. Lay*, No. H-04-25(S-2) (“*United States v. Lay*”), now scheduled to commence upon the submission of *United States v. Causey* to the jury and estimated to conclude within one week. Should the timing of one or both of these criminal trials change, any party may seek appropriate modification of this Order.

3. To the extent not previously completed, the parties shall have 50 days from the close of evidence in *United States v. Causey* to conduct the following discovery:

- (a) depositions of (i) the Stayed Defendant Witnesses, and (ii) any other witness whose deposition by Order of this Court is stayed due to that witness's expected testimony in *United States v. Causey* (the "Additional Stayed Witnesses");
- (b) depositions of any witnesses who have invoked Fifth Amendment rights during the course of fact discovery (the "Fifth Amendment Witnesses").

4. Upon the written request of any party, the Stayed Defendant Witnesses, the Additional Stayed Witnesses, and the Fifth Amendment Witnesses must inform the requesting party as soon as practicable whether they intend to assert their Fifth Amendment rights (or in the case of the Fifth Amendment Witnesses whether they intend to revoke in whole or in part prior Fifth Amendment assertions) if deposed during the period set forth in paragraph 3 of this Order. All parties shall have the right to challenge, by motion to compel and in a manner consistent with federal law, any assertion of the Fifth Amendment they believe to be improper.

5. The Deposition Scheduling Committee is free to notice the depositions and begin the process of scheduling (including through service of subpoenas) the depositions of the Stayed Defendant Witnesses, the Additional Stayed Witnesses and

those Fifth Amendment Witnesses who indicate they will revoke their Fifth Amendment invocation at any time so long as each of the Stayed Defendant Witnesses and Additional Stayed Witnesses is not deposed until after the conclusion of trial testimony of that witness or, if the witness does not testify, the close of evidence in *United States v. Causey*, or, as to Mr. Lay only, five days after the close of evidence in *United States v. Lay*. The rules governing depositions outlined in the Deposition Protocol Order (as amended) shall apply to this limited extension of the fact discovery period, except that in the interest of expediting completion of this limited additional discovery there shall be only one “off week,” and the normal nominating process and certain other procedures (as determined by the Deposition Scheduling Committee) shall be modified so as to permit discovery of the limited group of witnesses covered by this Order within the limited time allowed. The scheduling of the depositions will take place as expeditiously as possible with the understanding that depositions may need to be scheduled on relatively short notice, which shall be deemed to be no less than 10 days.

6. Any witness served a subpoena in connection with this Order and the Deposition Protocol Order (as amended) shall also be served a copy of this Order and the Deposition Protocol Order (as amended) so that the witness can be informed of the provisions of the Deposition Protocol Order (as amended) and this Order, including those provisions regarding notice of Fifth Amendment invocations. Such witnesses shall be subject to the terms of this Order with respect to Fifth Amendment invocation procedures.

7. Expert reports may be supplemented within 30 days of the close of this limited fact discovery period if testimony given subsequent to the report's original

filing substantively alters the expert's conclusions. Parties shall have the option of reopening for a limited time period the deposition of any expert who so supplements his or her report. Reports need not be updated merely to discuss or reference additional testimony and no expert shall be precluded from relying on testimony generated during this additional fact period at trial merely because it was not referenced in his or her report, so long as the expert's reliance on testimony not so referenced does not substantively alter the expert's conclusions.

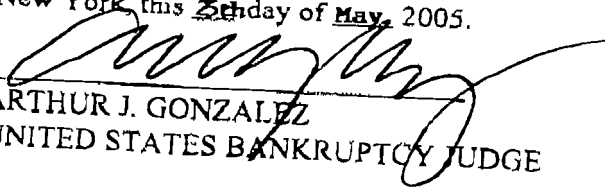
8. Motions for summary judgment in *Newby, Tittle* and the coordinated and consolidated cases may be filed up to and including May 15, 2006. Opposition to a summary judgment motion filed on or before April 14, 2006 is due 45 days after the motion is filed. Opposition to a summary judgment motion filed after Friday, April 14, 2006 is due on or before June 30. All replies are due 25 days after the opposition is filed. Summary judgment motions, oppositions and replies may be supplemented within 20 days of the close of this limited fact discovery period if necessary to incorporate the depositions completed subsequent to the filing of a given summary judgment motion, opposition or reply. This paragraph shall not affect the schedule of summary judgment briefing for any cases pending before the United States Bankruptcy Court for the Southern District of New York.

9. Nothing in this Order precludes any party from seeking further relief on any scheduling matter.

SIGNED at Houston, Texas, this ~~25th~~ day of May 2005.


MELINDA HARMON
UNITED STATES DISTRICT JUDGE

SIGNED at New York, New York, this ~~25th~~ day of May, 2005.


ARTHUR J. GONZALEZ
UNITED STATES BANKRUPTCY JUDGE