



**U.S. Department of Justice**

Criminal Division

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*Washington, D.C. 20530*

December 5, 2008

VIA FAX at (619-231-7423) and EMAIL at: PaulH@csgrr.com

G. Paul Howes, Esquire  
Coughlin Stoia Rudman & Robbins LLP  
655 West Broadway, Suite 1900  
San Diego, California 92101

Re: United States v. Joseph Hirko and Rex Shelby, Cr. 3-093-7 and 3-093-4

Dear Mr. Howes:

This is a follow-up to our letter dated October 10, 2008. At this time we want to inform you of several recent developments in the above-captioned case and to ensure that you and the members of the shareholders' class action lawsuit are aware of the change in defendant Joseph Hirko's sentencing date and of a potential change in defendant Rex Shelby's trial date.

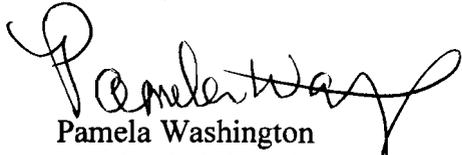
When we last wrote to you, we informed you that defendant Joseph Hirko would be pleading guilty on October 14, 2008 before the Honorable Judge Vanessa D. Gilmore. Judge Gilmore accepted Hirko's 11(c)(1)(C) plea, deferred sentencing until March 2009 and ordered a pre-sentence report. However, we have since learned that Judge Gilmore moved Hirko's sentencing date to April 27, 2009 at 9:30 a.m. Regarding the February 2, 2009 date for Shelby's trial, the defense has requested a continuance pending the resolution of defendant Scott Yeager's appeal before the United States Supreme Court. The government opposed the request for continuance and the matter is currently before Judge Gilmore.

We also want to inform you of one additional aspect regarding the plea agreement. Although the plea agreement required Hirko to withdraw and relinquish for all purposes all rights to his interest in the settlement awarded in connection with the liquidation of his claim in Enron's bankruptcy (In Re Enron Corp et al., Case No. 01-16034 (S.D.N.Y.)), the prosecutors have been advised that, under the terms of that settlement, his claim in the approximate amount of \$1,760,000 will be to Enron Creditors Recovery Corp. to be disbursed to other creditors in the bankruptcy, and, as such, will not be forfeited in the criminal proceeding. However, this development will not void Hirko's plea agreement.

Members of your class action litigation have been identified as persons who may have suffered losses as a result of Hirko's crimes. As potential victims of a federal financial crime, they have the right, in addition to their other statutory rights, to submit a written Victim Impact Statement in the form of a letter before sentencing to explain how the crimes affected them. Victim Impact includes physical, emotional and/or financial loss. Because there are many potential victims involved in this case, we are asking they submit their written victim statements to: United States Probation Office, Attn: Gail Winkler, Supervising U.S. Probation Officer, US P.O. Box 61207, Houston, TX 77208-1207.

Updated information on this case and United States v. Scott Yeager, (Cr.3-093-6), including a sample Victim Impact Statement Letter, is available on the Criminal Division's Victim Witness webpage at: <http://www.usdoj.gov/criminal/vns/>.

Sincerely,



Pamela Washington  
Legal Administrative Specialist