

JAN 23 2002

Michael N. Milby, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

MARK NEWBY, et al., Individually and On  
Behalf of All Others Similarly Situated,

Plaintiffs,

vs.

ENRON CORP., et al.,

Defendants

} Civil Action No. H-01-3624  
} (Consolidated)

} CLASS ACTION

**ORDER PROHIBITING THE DESTRUCTION OF EVIDENCE, GRANTING LIMITED  
DISCOVERY, AND PROVIDING OTHER RELIEF REGARDING ARTHUR  
ANDERSON**

IT IS HEREBY ORDERED:

(1) Arthur Andersen shall segregate, preserve and protect all writings, recordings, and electronically stored material (FRE 1001) in its possession, custody or control concerning Enron Corporation, including but not limited to, documents, correspondence, e-mails or other communications or evidence related to audit examinations, quarterly reviews, tax-related services, or consulting engagements on behalf of Enron Corporation, or any Enron-related entities. Enron-related entities shall include Special Purpose Entities and any affiliates, subsidiaries, partnerships, or joint ventures in which, to Arthur Andersen's knowledge, Enron Corporation or any Enron-related entity participated (hereinafter collectively "Enron-related entities") (all such materials and evidence collectively to be referred to as "Enron-related Materials"). Arthur Andersen shall also preserve and protect all writings, recordings and electronically stored material relating to Arthur Andersen's

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destruction or deletion of Enron-related materials, to Arthur Andersen's investigation of the destruction or deletion of Enron-related materials by or at the discretion of Arthur Andersen employees or agents, and to Arthur Andersen's efforts to recover or reconstruct Enron-related materials which had been previously destroyed, discarded or deleted.

(2) Arthur Andersen shall report to the Court and to whomever is appointed as lead plaintiff(s) and lead counsel, within 20 days of entry of this order, the following:

(a) By category or subject matter, the Enron-related materials currently in Arthur Andersen's possession, custody or control;

(b) The steps taken to protect, preserve and segregate Enron-related materials;

(c) The efforts taken to identify specific Enron-related materials that were destroyed or deleted by document type, category or subject matter as appropriate;

(d) The efforts to find, identify, recover, reconstruct and/or recreate any Enron-related materials which were destroyed or deleted or are otherwise missing from Arthur Andersen's physical or electronic files;

(e) The documents and/or the categories of documents that were destroyed that have now been recovered, reconstructed and/or recreated by electronic means or otherwise, including the current location of such materials and the manner in which such materials were recovered, reconstructed or recreated;

(f) The efforts made to find, identify, recover, reconstruct and/or recreate files in the personal possession of Arthur Andersen's former or present employees.

(3) The PSLRA discovery stay is lifted for the limited purpose of allowing Plaintiffs' counsel to conduct depositions of the following Arthur Andersen-related individuals. These

depositions may be noticed immediately, but shall not be taken until immediately following the filing and service of the report referenced in Paragraph 2.

- (a) Thomas H. Bauer, Partner, Houston. Placed on administrative leave.
- (b) David B. Duncan, Lead Partner in Charge of the Enron engagement, Houston. Fired on 1/15/02.
- (c) Michael M. Lowther, former partner, Houston. Placed on administrative leave.
- (d) Michael C. Odom, former risk management partner, Houston. Was sent e-mail by Nancy Temple, an Anderson lawyer, and “reminded” of “documentation and retention policy.” Placed on administrative leave.
- (e) Stephen Goddard, Jr., former managing partner, Houston. Placed on administrative leave.
- (f) Nancy Temple, author of October 12, 2001 e-mail regarding destruction of documents.

Each deposition shall last up to eight (8) hours and be limited to document and data retention, storage, removal, deletion, destruction, and attempts to restore or recover deleted or destroyed materials. No documents need be produced in connection with these depositions. These depositions will not preclude further depositions of these individuals when documents relating to Arthur Andersen’s destruction of evidence is made available to Plaintiffs’ counsel, or as is otherwise ordered by the Court.

(4) Arthur Andersen will update the Court and whoever is appointed as lead counsel as to Items 2(a)-(f), on a periodic basis, as agreed to by the parties or as ordered by the Court.

(5) Within five (5) days of the entry of this Order (or at such other time as the parties may agree), Arthur Andersen will make its expert available to the experts retained by plaintiff(s) for the purpose of enabling such experts to conduct their own evaluation of Arthur Andersen’s efforts with

respect to the matters referred to in Paragraph 2 above. Within ten (10) days of the entry of this Order, Plaintiffs' counsel (accompanied by their experts) will be permitted to make a thorough inspection of the four (4) Arthur Andersen document storage facilities identified by counsel for Arthur Andersen at the January 22, 2002 hearing, to enable Plaintiffs' counsel to satisfy themselves as to the security and safety of the evidence stored at those locations. If there are additional evidence storage facilities of Arthur Andersen, a similar inspection of each of them shall take place.

(6) Nothing herein shall be construed to require Arthur Andersen to undertake any action that is inconsistent with or will interfere with or impede any governmental investigation.

(7) The rights of all parties to seek additional information are preserved.

(8) Nothing reported by any party pursuant to or in connection with this Order shall constitute a waiver of the attorney-client work product or any other applicable privilege.

(9) Arthur Andersen shall distribute a copy of this Order to all Arthur Andersen partners promptly upon its entry.

Signed at Houston, Texas, this 23<sup>rd</sup> day of January, 2002.

  
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MELINDA HARMON  
UNITED STATES DISTRICT JUDGE