

Top Financial News

J.P. Morgan, Other Defendants Must Face Enron Suits

By Jeff Feeley
12/20 18:46

Houston, Dec. 20 (Bloomberg) -- A federal judge ruled that Enron Corp. lenders, including Citigroup Inc. and J.P. Morgan Chase & Co., must face lawsuits by investors and employees seeking more than \$29 billion in damages over the energy company's collapse.

U.S. District Judge Melinda Harmon in Houston denied a motion to dismiss the claims. Her decision permits the plaintiffs to pursue evidence against the defendants, including confidential bank records. Harmon didn't rule on separate motions by former Enron executives to be dismissed from the case.

"We plan to focus on the role of the investment banks and their top executives in perpetuating this fraud on investors," William Lerach, who represents the plaintiffs, said in an interview.

The suits say the defendants engaged in a fraud that led to the collapse of what was once the world's largest energy trader. Enron filed for bankruptcy protection a year ago after shares of the Houston-based company had lost \$68 billion in value from their peak in August 2000. Enron had restated \$586 million in earnings.

"The balance of power in negotiations has shifted to the plaintiffs" with today's ruling, said Robert Prentice, professor of business law at the University of Texas in Austin. "This makes it an extremely serious case."

Investors and former Enron employees have made a strong enough showing of securities and pension fraud allegations for the suit to proceed, Harmon ruled in a 306-page decision. The investors have alleged that Enron executives, aided by the investment banks, manipulated the company's books to hide debt and inflate earnings.

\$1.4 Billion Settlement

Her decision coincided with an agreement today by Citigroup, J.P. Morgan and other securities firms to pay about \$1.4 billion to settle claims they misled customers with biased stock research. The agreement with regulators and law enforcement officials ended yearlong investigations that shook investor confidence and revealed how Wall Street sacrificed integrity in the quest for fees.

Leah Johnson, spokeswoman for Citigroup, and Adam Castellani, a JP Morgan spokesman, didn't immediately return telephone calls seeking comment.

Richard Mithoff Jr., a Houston lawyer representing J.P. Morgan Chase, said that the No. 2 U.S. bank did nothing wrong in connection with Enron's collapse.

"We continue to believe that when all the evidence is in, it will be clear that J.P. Morgan Chase did not defraud Enron shareholders or anyone else," Mithoff said.

Enron's collapse has been under criminal investigation as well. Andrew Fastow, the company's former chief financial officer, was indicted in October on charges he bilked Enron of millions of dollars. The criminal charges against him include mail and wire fraud in connection with partnerships he created to keep debt off Enron's books.

Lead Plaintiffs

The University of California Regents, the lead plaintiffs in investors' consolidated Enron fraud suits, lost \$145 million in pension funds invested in Enron stock. Investors are seeking \$29 billion in damages. In addition, the defendants face \$6 billion or more in separate claims by Enron employee and state pen-

sion funds.

The banks' conduct has also been under investigation in Congress.

The pretrial process of acquiring evidence, known as discovery, allows plaintiffs to demand documents that may help prove fraud. The defendants can still ask Harmon to throw the case out of court after that process is finished.

"The plaintiffs are now in a position to search out whatever internal memoranda, e-mail they want and to take depositions," said Samuel Issacharoff, a securities law professor at Columbia University Law School. "This dramatically increases the settlement power of the plaintiffs."

Shielding Records

Harmon also ruled that the defendants in the case couldn't shield their records and other potential evidence from "public gaze" with a so-called blanket protective order.

Lawyers for the regents also will be seeking more evidence that Citigroup and J.P. Morgan Chase bankers, who funded Fastow's Enron-linked partnerships, knew the entities were designed to hide debt and inflate income.

Lawyers representing Enron employees who have pension-fraud claims against the former executives and other defendants already have uncovered e-mails that they contend bolster claims that the banks assisted Fastow in bringing the partnerships to life.

Enron executives, bankers, officials of Arthur Andersen LLP and some of Enron's former lawyers all filed motions to dismiss the consolidated fraud suit, saying it wasn't specific in detailing how the fraud was committed and who was responsible.

Continued

Continue —

Andersen's Role

Chicago-based Andersen, Enron's auditor for more than a decade, was convicted of obstruction of justice in June in connection with its review of Enron's financial records. Andersen, once the fifth-largest accounting firm, shut down its auditing practice in the wake of the conviction.

Other defendants include Merrill Lynch & Co., Bank of America Corp. and Credit Suisse First Boston. All have

denied any wrongdoing. Merrill Lynch is a passive minority investor in Bloomberg LP, parent of Bloomberg News.

Harmon dismissed claims against Deutsche Bank AG and Kirkland & Ellis, the Chicago-based law firm that provided advice on an off-the-books partnership. Vinson & Elkins of Houston, Enron's former principal law firm, lost its bid to escape possible liability.

Melissa Carroll, a spokeswoman for Vinson & Elkins, said the law firm will prove it is blameless. "When the real

facts are presented, Vinson & Elkins will be exonerated," she said in a statement.

"We expected a favorable ruling from the court based upon the facts and the law," said Joel M. Androphy, a Deutsche Bank lawyer. "I would have expected most of the financial institutions to be dismissed from the case. Our facts were obviously more compelling."

CSFB spokesman Pen Pendleton, Merrill spokesman Mark Herr and Andersen spokesman Patrick Dorton declined to comment. _____