

# Minutes of Proceedings

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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Date: April 6, 2006  
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In re  
Enron Corp., *et al.*,

Debtors.

Case No. 01-16034 (AJG)

Present: Hon. Arthur J. Gonzalez  
Bankruptcy Judge

Jacqueline De Pierola  
Courtroom Deputy

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Court Reporter

Debtors: Enron Corp., et al.

Counsel: Weil, Gotshal & Manges LLP  
By: Alfredo R. Perez, Esq.

Claimants: Michelle Marvin Nezi, Claim #1547504

Counsel: McGlinchey Stafford, PLLC  
By: Beth L. Orlansky, Esq.  
Munsch, Hardt, Kopf & Harr, P.C.  
By: Randall A. Rios  
Aaron J. Bell, Esq.  
Pro Se  
Pro Se  
Pro Se  
Pro Se

Elizabeth J. Labanowki, #1144102

Richard VanHoose, #558700

Manuel Garcia, #523602

Geoffrey Allen, #251900, 1376301

William Travers, #1547504

Steven Sheldon, #451302

**Proceeding:** Debtor's 13<sup>th</sup>, 22<sup>nd</sup>, and 30<sup>th</sup> Omnibus Objections to Proofs of Claim (Claims filed by Current and Former Employees) (Bonus Claims)

**Order:** For the reasons set forth in the decision attached hereto as Exhibit A, the relief sought is

Granted       Denied

Except as to that portion of Claim #558700 relating to vacation pay.

FOR THE COURT: Kathleen Farrell, Clerk of the Court

BY THE COURT:

s/Arthur J. Gonzalez  
United States Bankruptcy Judge

4/6/2006  
Date

Jacqueline De Pierola  
Courtroom Deputy

## Exhibit A

Before the Court are the Debtor Enron Corp.'s ("Debtor") 13<sup>th</sup>, 22<sup>nd</sup>, and 30<sup>th</sup> Omnibus Objections to Proofs of Claim ("Objections"), filed on August 25, 2003, December 2, 2003, and April 23, 2004, respectively. The Court has previously issued rulings on a substantial majority of claims objected to and will now address those remaining claims seeking compensation for unpaid bonuses. The following claims will be addressed in this opinion (collectively, the "Bonus Claims"): Claim # 1834100, filed by Michelle Nezi Marvin; Claim # 558700, filed by Richard VanHoose; Claim # 1547504, filed by William Travers; Claim # 523602, filed by Manuel Garcia; Claims # 251900 and 1376301, filed by Geoffrey Allen; Claim # 451302, filed by Steven Sheldon; and Claim # 1144102, filed by Elizabeth Labanowski. Having reviewed the parties' pleadings and exhibits, and the Objections being fully briefed and argued, the Court concludes that the Bonus Claims should be disallowed and expunged.

These claims may be separated into three broad categories on the basis of shared factual patterns. The claims filed by Messrs. Travers and Garcia seek compensation for unpaid bonuses for the year 2001 ("2001 Bonus Claims"). However, neither claimant has introduced evidence to establish their entitlement to any such bonuses. Rather, both claimants simply note that they received bonuses for the year 2000 and conclude without reference to any document or agreement so stating that they are similarly entitled to bonuses for the year 2001. While it may have been the practice of the Debtor to award annual bonuses in the years prior to its filing for bankruptcy, such practice alone does not obligate the Debtor to issue bonuses in the future. In the absence of documentation establishing an obligation to issue bonuses for the year 2001, the Court finds that Messrs.

Travers and Garcia have not established a valid prepetition debt. The Court concludes, therefore, that the 2001 Bonus Claims should be disallowed and expunged.

The second category of claims includes those filed by Messrs. Richard VanHoose, Geoffrey Allen, Steve Sheldon, and Ms. Michelle Marvin Nezi. Like Messrs. Travers and Garcia, these claimants seek compensation for unpaid 2001 year-end bonuses (“2001 Year-End Bonus Claims”). Each of these claimants has offered in support of their claim copies of interoffice memoranda, which state the claimant is to be issued a 2001 Year End Guaranteed Minimum Performance Bonus. In response, the Debtor argues that the offered bonuses were to be issued under the Enron Corp. Annual Incentive Plan (“Plan”), as stated in the memoranda. The Debtor submitted a declaration stating that the Plan had not been funded and argues that no payment is therefore due these claimants. The claimants dispute the Debtor’s contention that the offered bonuses were subject to the conditions of the Plan, and also argue in the alternative that the Plan should have been funded if it was indeed not.

Having examined the memoranda submitted by the claimants, the Court concludes that the offered year-end bonuses were to be issued under the Plan and were therefore subject to the conditions of that Plan. All four memoranda state, “[T]he Company is pleased to confirm your 2001 Year End Guaranteed Minimum Performance Bonus under the Enron Corp. Annual Incentive Plan.” This clear statement that the bonuses were to be issued under the Plan requires the conclusion that no independent contractual obligation on the part of the Debtor was created. The right to payment asserted by the claimants, if such a right exists, must therefore be found in the Plan.

The parties have engaged in a factual dispute concerning whether the Plan was or should have been funded. The claimants have sought to argue that bonuses were paid under a bonus plan similar to the Plan and subject to the same conditions regarding funding, and that by extension, the Plan either was funded or should have been funded. However, the Court need not resolve this issue as it concludes that the Plan created no enforceable obligation on the part of the Debtor to pay year-end bonuses. Under the terms of the Plan, the Compensation Committee had sole discretion to set the funding level of the award fund and determine the bonus to be paid any employee. As stated in Article VI of the Plan, “The Committee will then determine which Employees will receive payments under the Plan, and the amount of such payments, if any.” Thus, the claimants do not have an enforceable right to payment. The Court concludes, therefore, that the 2001 Year-End Bonus Claims should be disallowed and expunged.

The final category of claims consists of the claim of Ms. Elizabeth Labanowski, who asserts a claim for an unpaid project bonus (“Project Bonus Claim”). In support of her claim, the claimant submitted an interoffice memorandum, dated August 1, 2001, discussing future project bonuses to be paid those employees working on the Enron Center Campus Project. Having reviewed this memorandum, the Court concludes that, as with the Plan as discussed above, no enforceable obligation or right to payment was created. No standards are set forth in the memorandum for determining which employees would receive a bonus, what performance conditions would have to be met before a bonus would be issued, or the amount of any bonus to be issued. The claimant filed a claim in the amount of \$150,000, but it is unclear what standards, if any, the claimant based this amount on. Even assuming, therefore, that this memorandum represents a

promise, it is unenforceable as incurably vague. *See T.O. Stanley Boot Co. v. Bank of El Paso*, 847 S.W.2d 218, 221 (Tex. 1992). The Court concludes, therefore, that the Project Bonus Claim should be disallowed and expunged.

The Court notes that there exists some confusion regarding the claim of Richard VanHoose, Claim #558700. That portion of the claim described by the Debtor in its filings as relating to vacation pay was seemingly objected to by the Debtor in its 13<sup>th</sup> Omnibus Objection, but this issue was neither briefed nor argued by either of the parties before this Court. Accordingly, the Court issues no opinion regarding that portion of Richard VanHoose's claim and directs the parties to advise the Court as to the status of that portion of Claim #558700.

In light of the foregoing, the Court concludes that the Bonus Claims should be disallowed and expunged. The Objections are granted as to the Bonus Claims, save as to that portion of Claim #558700 relating to vacation pay.