

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re :
ENRON CREDITORS RECOVERY CORP., et al., : Chapter 11
Reorganized Debtors. : Case No. 01-16034 (AJG)
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ENRON CREDITORS RECOVERY CORP., et al., : Jointly Administered
Plaintiffs, :
v. : Adv. Proc. No. 03-09266
CITIGROUP INC., et al., :
Defendants. :
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**ORDER OF PROTECTION PERMITTING FORMER CITIGROUP EMPLOYEES TO
PROVIDE THEIR IDENTITIES AND SUBJECT MATTER OF INFORMATION
KNOWN TO THEM WHICH THEY BELIEVE IS RELEVANT TO THIS
PROCEEDING**

Upon Consideration of the motion (the “Motion”) filed by Enron Creditors Recovery Corp., et al. (“ECRC”) on January 3, 2008 seeking entry of an order permitting pre-trial interviews of former employees of Citigroup entities (“Citi”) allegedly subject to separation agreements limiting their ability to be interviewed; and it appearing that due notice of the Motion has been given and no other or further notice need be given; and upon consideration of the objection filed by Citi to the Motion; and based on the proceedings before the Court; and good and sufficient cause appearing; and consistent with the Court’s ruling on January 23, 2008, a copy of which is attached hereto as Exhibit A;

IT IS HEREBY ORDERED THAT:

1. The Motion is granted solely to the extent that a limited protective order shall issue so as to enable former Citi employees to provide to counsel for ECRC (i) their identities; (ii) the subject matter of information that such employees may have that they believe is relevant to the above captioned adversary proceeding; and (iii) other information as required by the Court in its Minute Order dated October 18, 2007, referenced in Exhibit A hereto.

2. The provision of information by any former Citi employee as specified in Paragraph 1 above shall not (i) give rise to, or form the basis of, any right or remedy by Citi against such former Citi employee notwithstanding the existence of any separation agreement clauses which may otherwise prohibit the provision of such information, or (ii) be used in connection with, or in support of, any action Citi may take against such former employee regarding acts or omissions of such employee which may be in breach of its separation agreement.

3. Providing this information will enable ECRC to comply with the Minute Order to the extent further protection is sought to conduct any interview of any former Citi employee.

Dated: New York, New York
January 30, 2008

SO ORDERED:

s/Arthur J. Gonzalez
ARTHUR J. GONZALEZ
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT "A"

The Court previously held that it would consider a motion by Enron seeking a protective order with regard to Citi's former employees if such motion provided the following: "*(i) the identity of the former employees Enron seeks to interview, (ii) the subject matter of the information the former employees will provide at interview, (iii) any severance agreement between Citi and the former employees, and (iv) affidavits setting forth areas of information, referred to in (ii) above, the former employees would provide but for a concern about the severance agreement underlying such concern.*" Exhibit A to Minute Order dated October 18, 2007 (the "Minute Order"). This would allow the Court to evaluate the necessity of the information as well as the obligations, if any, the employee might have to its former employer with respect to such information. Upon that evaluation the Court could determine whether a protective order should issue and, if so, the breadth of any protection to be extended.

Enron is now before the Court with a formal motion seeking a protective order "to allow former employees of one or more Citi entities to be interviewed by Enron's attorney without fear that Citi would assert that the employee or employees had violated any applicable separation agreements." Responses and Replies were filed and a hearing was held on January 17, 2008. Enron's motion did not include the supporting documentation requested by the Court. Instead, the motion was accompanied by a Declaration, filed under seal, from the attorney for an unidentified former employee. According to the Declaration (which was shared in redacted form with Citi), the former employee may have information relevant to the litigation at issue, however, the employee's identity and the subject matter of such information were not revealed allegedly out of fear that revelation could be a breach of the employee's separation agreement, of

which agreement the employee is no longer in possession. In effect the argument is that even providing the information required by the Minute Order could place the employee at risk.

Having considered the issues raised by both parties, the Court will not issue a protective order at this time regarding any interview by Enron of any former Citi employee. However, the Court will issue a limited protective order so as to enable former employees to provide the information required under the Minute Order. Such protection will allow former employees to identify themselves and provide the subject matter of the information they may have which they are willing to share but for separation agreement provisions they believe would restrict or penalize them. Providing this information will enable Enron to comply with the Minute Order to the extent further protection is sought. Unless ordered by the Court, such information is not to be submitted under seal. The Court, after notice and a hearing on a motion for a protective order, can then consider all the information in the context of the equally compelling competing public policies of, among others, “encouraging parties to litigation to communicate freely in the course of judicial proceedings” and “ensuring that employees inform their employer of any wrongdoing that may have transpired during their tenure.” The Court can then make a determination as to whether an interview of these employees is warranted and whether and what, if any, type of protection should extend to such interview.