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Company, Inc.
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Reginald R. Smith, Esq.

Hearing Date and Time: February 27, 2002 @ 10:30 a.m. (EST)
Objection Deadline: February 25, 2002 @ 4:00 p.m. (EST)

-and-

KING & SPALDING
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Jeffrey E. Bjork, Esq.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

ENRON CORP., et al.,

Debtors and Debtors-in-Possession.

Chapter 11

Case No.: 01-16034 (AJG)

Jointly Administered

**NOTICE OF PRESENTMENT AND HEARING ON MOTION BY
HOUSTON ASTROS FOR ORDER COMPELLING
ENRON CORP. TO ASSUME OR REJECT LICENSE AGREEMENT**

PLEASE TAKE NOTICE that upon the attached motion (“Motion”) of Houston McLane Company, Inc., a Texas corporation doing business as Houston Astros Baseball Club (“Houston Astros”), by and through its undersigned counsel, the Houston Astros will move before the Honorable Arthur J. Gonzalez, United States Bankruptcy Judge, at the United States Bankruptcy Court, Southern District of New York, located in Room 523 at the Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004, on February 27, 2002, at 10:30 a.m. (Eastern Standard Time), or as soon thereafter as counsel may be heard, for

the issuance and entry of an order, pursuant to Sections 105(a) and 365(d)(2) of title 11 of the United States Code, compelling Enron Corp. to immediately assume or reject the License Agreement (as defined in the Motion).

PLEASE TAKE FURTHER NOTICE that responsive papers or objections, if any, to the relief sought in the Motion shall be in writing, shall set forth with specificity the grounds therefor, and shall be filed with the Clerk of the Bankruptcy Court (with a courtesy copy to Chambers), and served upon counsel for the Houston Astros, King & Spalding, 191 Peachtree Street, Suite 4900, Atlanta, Georgia 30303-1763, Attn: Paul K. Ferdinands, Esq., so as to be actually received no later than 4:00 p.m. (Eastern Standard Time) on February 25, 2002.

Dated: New York, New York
February 5, 2002

KING & SPALDING

/s/ Paul K. Ferdinands
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In re:

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Chapter 11

Case No.: 01-16034 (AJG)

Jointly Administered

**MOTION BY HOUSTON ASTROS FOR
ORDER COMPELLING ENRON CORP. TO
ASSUME OR REJECT LICENSE AGREEMENT**

Houston McLane Company, Inc., a Texas corporation doing business as Houston Astros Baseball Club (the “Houston Astros” or “Astros”), by and through its undersigned counsel, hereby moves (the “Motion”) this Court for entry of an order, pursuant to Sections 105(a) and 365(d)(2) of title 11 of the United States Code (the “Bankruptcy Code”), compelling Enron Corp. (“Enron” or the “Debtor”) to immediately assume or reject that certain Naming and License Agreement between the Houston Astros and Enron (the “License Agreement”). In support of its Motion, the Astros respectfully state as follows:

INTRODUCTION

1. By this Motion, the Houston Astros ask this Court to compel Enron to assume or reject the License Agreement immediately. By failing to make this decision promptly on its own, Enron has needlessly wasted precious assets of the estate while at the same time damaging the Houston Astros, perhaps irreparably. Therefore, it is appropriate that this Court step in and compel Enron to do what common sense, sound business judgment, and good faith otherwise dictate: to decide immediately whether to assume or reject the License Agreement.

2. This bankruptcy case is unique in many respects. Prior to its bankruptcy filing, Enron was the seventh largest corporation in the United States. Enron's stunning and unexpected financial collapse occurred over several months. This abrupt fall has not only caused thousands of hard-working people to lose their jobs, but also resulted in many Enron employees losing all of their retirement savings. Most of these innocent victims of Enron's downward spiral reside in Houston, Texas, where Enron's world headquarters are located.

3. In Houston, Enron was historically considered a good corporate citizen and working for Enron was a source of pride. Thus, Houston and its residents were all tainted when Enron commenced this bankruptcy case amid allegations that Enron had knowingly misled its creditors and the investing public regarding its financial condition and that senior management had "cashed out" while other employees were forced to helplessly watch their life savings evaporate. Incredibly, the adverse publicity surrounding this tragic story has only gotten worse since the bankruptcy filing, as allegations have mounted in the pending civil lawsuits and investigations by the United States Congress and U.S. Department of Justice.

4. In the face of debt totaling billions of dollars and claims by former employees against Enron for the recovery of their retirement savings, Enron has decided to spend substantial

estate funds to purchase box seats and a 14-person suite to the Houston Astros' baseball games for the 2002 major league season. To what end -- to preserve Enron's rights under a License Agreement that cannot be assigned, or monetized, by Enron for the benefit of its creditors? Regardless of Enron's rationale, the Astros' business relationship with Enron leaves the Astros burdened with Enron's considerable baggage. The Enron collapse has tarnished the reputation of the Houston Astros in a manner that is considerably different than the suffering experienced by other parties in interest in this case.

5. For the reasons set forth herein, the Astros respectfully urge this Court to resolve this untenable situation by compelling Enron to assume or reject the License Agreement immediately. Enron cannot monetize the License Agreement for the benefit of its creditors because (i) in the License Agreement, the Astros granted non-exclusive copyright and trademark licenses to Enron that cannot be assigned without the express consent of the Houston Astros, and (ii) no third party would agree to purchase the License Agreement due to restrictions in the License Agreement precluding Enron (or any assignee) from renaming the baseball stadium until April 7, 2009. Moreover, the Houston Astros continue to suffer unique and irreparable harm as a result of being linked with Enron. Accordingly, Enron should be forced to decide now whether it can (as a matter of law) or should (as a business decision) assume or reject the License Agreement.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A) & (G).

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1409.

8. On December 2, 2001, Enron filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. Enron remains a debtor-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

BACKGROUND

9. Enron first became associated with the Houston Astros in 1999, when the Astros entered into the License Agreement with Enron. Pursuant to the terms of the License Agreement, (a) the Astros and Enron agreed (among other things) that the baseball stadium known as “The Ballpark at Union Station” located in Houston, Texas (the “Stadium”) would be named “Enron Field” for a term of approximately 30 years (the “Term”), (b) the Astros agreed that all media advertising under the Astros’ control would refer to the Stadium as “Enron Field”, and all exterior and interior signage at the Stadium, the uniforms worn by game-day Stadium staff, and the cups, napkins and plates dispensed for consumer use at the Stadium, would be branded with Enron’s logo or name or would otherwise link the Stadium to Enron, (c) the Astros granted to Enron a non-exclusive license to use certain trademarks and copyrights owned or licensed by the Houston Astros, including the “Astros” and “Houston Astros” marks, (d) Enron agreed that, in connection with its use of the Astros’ trademarks, Enron would not disparage or dilute such trademarks and would maintain the same high quality control standards that the Astros use for such trademarks, (e) Enron agreed to pay an annual “rights fee” to the Astros during each year of the Term, and (f) Enron agreed to purchase from the Astros on an annual basis 35 Field Box seats (the “Box Seats”) and one 14-person suite (the “Suite”) at the Stadium for each preseason and regular season baseball game played by the Houston Astros at the Stadium.

10. Following the execution of the License Agreement on April 7, 1999, Enron made three annual “rights fee” payments to the Houston Astros aggregating \$10,250,542.50. As of the date of commencement of its bankruptcy case, Enron was current with respect to its rights fee payment obligations. The next rights fee payment by Enron, in the amount of \$3,658,768.99, is due on August 31, 2002.

11. Commencing on the date of Enron’s bankruptcy filing, the Astros repeatedly sought Enron’s consent to permit the Astros to enter into discussions with third parties regarding a replacement naming rights arrangement. The Astros assumed Enron would recognize that Enron could no longer afford to make the payments required by the License Agreement and, indeed, Enron’s representatives have repeatedly acknowledged that the Astros’ requests were reasonable. However, Enron refused to give the requested consent and, as a practical matter, there is now no possibility that a replacement naming rights arrangement can be put in place prior to the start of the 2002 baseball season.

12. There is simply not enough time for the parties to take the steps necessary for a replacement naming rights partner to step into Enron’s shoes prior to the commencement of the 2002 baseball season. For example, Enron and the Houston Astros would need to identify a new naming rights partner that is acceptable to the Astros (in their sole and absolute discretion) and that would be willing to incur the costs associated with a long-term naming rights arrangement. Next, the parties would need to negotiate the terms and conditions under which this naming rights partner would take an assignment of the License Agreement (as modified to reflect such partner’s business objectives) or would enter into a new agreement with the Astros. Any such arrangement might need to be approved by this Court after notice and a hearing. Finally, the Astros and/or the new naming rights partner would need to remove the signs located throughout

the Stadium that link the Astros to Enron, and then replace such signs with new signs bearing such partner's corporate logo or name.

13. Although Enron is current with respect to its obligation to make rights fee payments, the License Agreement also requires Enron to purchase the Suite and the Box Seats for the 2002 baseball season. On or about January 22, 2002, Enron made a payment under the License Agreement in the approximate amount of \$108,000 for the Suite. More recently, Enron made another payment in the approximate amount of \$90,000 on or about February 4, 2002 to purchase the Box Seats for the 2002 season.

14. Enron's financial condition raises serious questions regarding its ability to satisfy its future financial obligations under the License Agreement. In August 2002, Enron will be required to pay \$3,658,768.99 in order to avoid committing a postpetition default under the License Agreement. It is unclear why Enron believes it was appropriate to pay thousands of dollars to the Astros postpetition so that Enron would continue to have the Stadium naming rights. As discussed in detail below, there is no reasonable prospect that the License Agreement can be monetized for the benefit of the Debtor's creditors. Also, the Astros have been materially and adversely affected by the negative public perception and media scrutiny resulting from Enron's continued affiliation with the Houston Astros. Moreover, because the Enron name blankets the Stadium, thousands of people who have been adversely affected by the Enron collapse are being reminded on a daily basis of this continuing tragedy. Accordingly, the Astros request the Court to compel Enron to assume or reject the License Agreement immediately.

ARGUMENT AND AUTHORITY

A. After Filing for Bankruptcy, Enron has Spent Thousands of Dollars under a License Agreement that Cannot be Sold for the Benefit of Enron's Creditors.

15. Due to the consistently high quality of the Astros team, it is certainly understandable that Enron would strongly desire to purchase the Box Seats and the Suite for the 2002 baseball season. However, given Enron's current financial condition it seems unimaginable that Enron would conclude that it was appropriate to do so. Presumably, Enron can articulate some justification for purchasing the Suite and the Box Seats consistent with its fiduciary duties as a debtor-in-possession. However, because Enron cannot monetize the License Agreement, its actions make no economic sense. Upon closer scrutiny, Enron apparently is wasting estate money in order to preserve an executory contract that represents no value to the estate.

(1) Enron Cannot Monetize the License Agreement Because it Contains Copyright and Trademark Licenses Granted by the Astros that Cannot be Assigned Without the Consent of the Astros.

16. Enron cannot monetize the License Agreement because it cannot assign the non-exclusive copyright and trademark licenses granted to Enron under the License Agreement without the express consent of the Houston Astros. In this regard, the License Agreement constitutes an executory contract that is entitled to the protections of Section 365(c)(1) of the Bankruptcy Code and, therefore, the restrictions on assignment contained in the License Agreement are valid and effective notwithstanding the pendency of Enron's bankruptcy case.

17. Under the License Agreement, the Astros granted to Enron non-exclusive copyright and trademark licenses that permit Enron, among other things, to advertise and promote itself using the "Houston Astros" name and marks. These licenses represent significant

name and image association rights that are granted solely to Enron and are part and parcel of the License Agreement. See AGV Productions, Inc. v. Metro-Goldwyn-Mayer, Inc., 115 F.Supp. 2d 378, 390-91 (S.D.N.Y. 2000)(holding that an executory contract must be assumed with all of its benefits and burdens); In re Atlanta Computer Sys., Inc., 173 B.R. 844, 849 (S.D.N.Y. 1994)(noting that a debtor may not “cherry pick” pieces of a contract it wishes to assume or reject).

18. It is well-settled that a non-exclusive copyright license is not assignable by a licensee under federal law and, therefore, is not assignable by a debtor in bankruptcy without the licensor’s consent. See In re Patient Educ. Media, Inc., 210 B.R. 237, 242 (Bankr. S.D.N.Y. 1997)(J. Bernstein)(holding that a Chapter 11 debtor could not assign a non-exclusive copyright license without the copyright owner’s consent); In re Golden Books Family Entertainment, Inc., 269 B.R. 311, 316 (Bankr. D. Del. 2001)(holding the same and stating that because “a non-exclusive licensee . . . has only a personal and not a property interest in the [intellectual property],” the license cannot be assigned without the licensor’s consent); Harris v. Emus Records Corp. et al., 734 F.2d 1329, 1334 (9th Cir. 1984)(same); see also Perlman v. Catapult Entertainment, Inc. (In re Catapult Entertainment, Inc.), 165 F.3d 747, 750 (9th Cir. 1999)(holding under analogous patent law that “non-exclusive patent licenses are ‘personal and assignable only with the consent of the licensor’”); In re CFLC, Inc., 89 F.3d 673, 679 (9th Cir. 1996)(same). Similarly, the trademark license granted to Enron is personal to Enron and cannot be assigned without the consent of the Astros. See Dension Mattress Factory v. Spring-Air Company, 308 F.2d 403, 409 (5th Cir. 1962)(recognizing that a trademark licensee only has the limited right to use the trademark and the control, right and title to the product remain in the

licensor); Delta Tire Corp. v. Marion, 159 U.S.P.Q. 601, 603 (C.D. Cal. 1968)(holding that the assignment of a trademark license was not effective against the licensor).

19. Because the intellectual property licenses granted to Enron under the License Agreement are unique and personal to Enron, the License Agreement constitutes a contract entitled to the protections of Section 365(c) of the Bankruptcy Code that cannot be assigned absent the consent of the Houston Astros, and the restrictions on assignment contained in the License Agreement are valid and enforceable in this bankruptcy case. See 11 U.S.C. § 365(c); Calvin v. Siegal (In re Siegal), 190 B.R. 639, 645 (Bankr. D. Ariz. 1996)(Section 365(c) is intended to “protect non-debtor parties from forced relationships where applicable non-bankruptcy law recognizes that the particular relationship has special characteristics that are personal to the parties involved”).

20. Furthermore, the License Agreement provides that it may be assigned only to a corporation succeeding to all of Enron’s rights and obligations by merger or to a corporation to whom all or substantially all of Enron’s assets are transferred. Upon information and belief, there is no business that would be willing to merge with Enron or to acquire all or substantially all of Enron’s assets.

(2) Enron Cannot Monetize the License Agreement Because the Terms of the License Agreement Prohibit a Name Change for the Stadium.

21. Even assuming Enron could assign the License Agreement without the Houston Astros’ consent (which it cannot), no third party would agree to pay money to the Debtor’s estate and undertake the Debtor’s contractual obligations under the License Agreement in order to have a ballpark named after the debtor in the largest bankruptcy case in history. Yet Enron is apparently proceeding under the mistaken assumption that the License Agreement

would be considered a valuable asset by a third party assignee. As a practical matter, Enron cannot sell the License Agreement because the License Agreement restricts severely the ability to change the name of the Stadium from “Enron Field” to a new name, so it makes no economic sense for Enron to assume or continue to comply with its payment obligations under the License Agreement.

22. Under the License Agreement, Enron is only permitted to cause a name change to one of its “Affiliates” (as such term is defined in the License Agreement) prior to April 7, 2009 if Enron undergoes a “Change of Control” (as such term is defined in the License Agreement). Because there is no reasonable prospect that Enron will experience a Change of Control (e.g., a merger of Enron with another corporation), if the License Agreement were to be assumed and assigned to a third party transferee, the transferee would only have acquired the right to pay millions of dollars to continue to call the Stadium “Enron Field.” Upon information and belief, there is no business that would be willing to make a payment to Enron’s bankruptcy estate in order to acquire the License Agreement and assume responsibility for making the payments associated with naming the Stadium “Enron Field.”

B. Compelling Enron to Assume or Reject the License Agreement Would Avoid Further Harm to the Houston Astros.

23. The Houston Astros will continue to suffer harm and damages until Enron rejects the License Agreement or the parties mutually agree to assign the License Agreement to a third party. As explained above, it would be unreasonable for Enron to assume the License Agreement because it cannot monetize such Agreement for the benefit of its estate. Therefore, it is only an issue of when Enron must decide to reject the License Agreement. The License Agreement gives rise to a unique and personal arrangement between the Astros and Enron that is readily distinguishable from all other executory contracts existing between Enron and non-debtor

parties. Given the barrage of telephone calls and media inquiries the Astros receive each day, it is clear that the name “Enron Field” and the Enron logo displayed on the Stadium wrongly suggest to the public that the Astros are associated with the alleged bad business practices of Enron. As it stands, the Houston Astros arguably are viewed as Enron’s team. Doubtless, there is no other executory contract that creates such a notorious and harmful affiliation between Enron and another entity.

24. The Astros are continuing to suffer considerable damages due to their forced association with Enron. The Astros must now devote substantial personnel and resources to handle the public relations issues created by Enron’s bankruptcy and the resulting allegations made against Enron, including responding to the deluge of daily inquiries regarding the Astros’ relationship with Enron. In addition, the Enron collapse will affect the Astros’ bottomline, because other corporate sponsors of the Houston Astros may seek to distance themselves from Enron and those associated with Enron and because fans living in Houston may decide they do not want to attend baseball games at a Stadium named after “Enron.” Finally, the uncertainty regarding whether or not Enron will make the approximately \$3.7 million payment due in August 2002 under the License Agreement affects adversely the Astros’ ability to get the best team possible on the field. One thing is clear: the Astros are being perceived in the public and cast in the national media as an affiliate (and even an ally) of Enron even though the Astros have done nothing wrong. The Court should not allow this irreparable harm to continue.

25. To their credit, the Astros have made every effort to resolve the matter with Enron and to mitigate their damages. On numerous occasions, the Astros requested that Enron permit the Astros to negotiate a new naming rights agreement with a third party for the 2002 season. However, Enron has steadfastly refused to allow the Houston Astros to mitigate their

damages by negotiating a replacement naming rights agreement prior to the commencement of the 2002 baseball season.

26. By refusing to allow the Houston Astros to negotiate a new naming rights agreement, Enron has wasted any opportunity it otherwise might have had to realize value under the License Agreement through a consensual assignment. With the commencement of the Astros' "spring training" fast approaching, there is insufficient time to identify a replacement naming rights partner, negotiate mutually agreeable terms for the new arrangement, obtain this Court's approval of the assignment of the License Agreement as modified, and undertake the time-consuming task of replacing all of the signs, emblems, and billboards bearing the Enron logo or name located in and about the Stadium with the new corporate sponsor's name and logo. Enron has mishandled this situation from the outset, thereby squandering any value that could have been realized through a consensual resolution of the matter.

C. Enron Should be Compelled to Assume or Reject the License Agreement Immediately.

27. The Houston Astros ask that the Court compel the Debtor to assume or reject the License Agreement immediately. The unique and irreparable harm that the Astros are experiencing, coupled with Enron's inability to monetize the License Agreement and its meager prospects for a successful reorganization (as opposed to an orderly liquidation), counsel convincingly in favor of this Court compelling Enron to immediately assume or reject the License Agreement.

28. There is no dispute that the License Agreement constitutes an executory contract under Section 365 of the Bankruptcy Code because “performance remains due to some extent on both sides.” See In re Ionosphere Clubs, Inc., 85 F.3d 992, 998-99 (2d Cir. 1996). Although Enron generally would be entitled to assume or reject the License Agreement at any time before plan confirmation, it is impossible to predict when (let alone whether) Enron will confirm a plan of reorganization given the number of creditors and the myriad issues in its bankruptcy case. See 11 U.S.C. § 365(d)(2); see also National Labor Relations Bd. v. Bildisco & Bildisco, 465 U.S. 513, 530 (1984)(noting that a debtor-in-possession has until a reorganization plan is confirmed to decide whether to accept or reject an executory contract, although a creditor may request the Bankruptcy Court to make such a determination within a particular time). Accordingly, the Astros request that this Court shorten the period for assumption or rejection and require Enron to immediately assume or reject the License Agreement. See 11 U.S.C. § 365(d)(2)(providing that, “on the request of any party to such contract or lease, [the court] may order the trustee to determine within a specified period of time whether to assume or reject such contract or lease”).

29. This Court has discretion to determine a “reasonable” period of time for Enron to assume or reject the License Agreement based upon the particular circumstances of this case. See In re Crummie, 194 B.R. 230, 237 n. 8 (Bankr. N.D. Cal. 1996)(noting that “courts are to determine a ‘reasonable’ time for the decision, depending upon the facts and circumstances of each case”). Nonetheless, in exercising its discretion, this Court may find guidance in the following factors routinely considered by other courts in addressing this issue: (i) the nature of the interest at stake, see In re Monroe Well Service, Inc., 83 B.R. 317, 323 (Bankr. E.D. Pa. 1988), (ii) the balance of the hardships, see id., (iii) whether compelling assumption or rejection

will interfere with the goal of successful rehabilitation, see id., (iv) whether the debtor is current on its postpetition obligations, see Theatre Holding Corp. v. Mauro, 681 F.2d 102, 105 (2d Cir. 1982), (v) the complexity of the case, see Matter of Holly's, Inc., 140 B.R. 643, 682 (Bankr. W.D. Mich. 1992), and (vi) whether the contract or lease is one of the debtor's primary assets, see Theatre Holding Corp., 681 F.2d at 106. The foregoing factors weigh heavily in favor of compelling Enron to immediately assume or reject the License Agreement.

30. On balancing the hardships, the adverse publicity caused by Enron's forced association with the Houston Astros is causing unique and substantial harm to the Astros. Furthermore, it is clear that compelling assumption or rejection will not interfere with Enron's reorganization efforts because there is no realistic possibility that the License Agreement can be monetized for the benefit of Enron's creditors. Although Enron is current on its postpetition obligations, it makes no economic sense for Enron to continue to perform under an executory contract with no resulting benefit to its estate.

31. While Enron's bankruptcy case may be a complex and involved undertaking, Enron's decision to assume or reject the License Agreement is straightforward. The question is whether Enron can (as a financial matter) and should (as a fiduciary matter, owing duties to its creditors) continue to buy Box Seats and the Suite and pay for naming rights under the License Agreement on a going-forward basis. The only reasonable answer is that Enron cannot and should not continue on its present course. Finally, the License Agreement cannot be considered a primary asset of Enron's estate, and compelling Enron to promptly assume or reject the License Agreement would not unduly burden its rehabilitation efforts.

32. The next rights fee payment by Enron, in the amount of approximately \$3.7 million, is due on August 31, 2002. If this Court decides not to require Enron to make an

immediate decision to assume or reject the License Agreement, then the Court should enter an order requiring Enron to make the assume/reject decision no later than August 30, 2002 and, pending that decision, allowing the Astros to enter into discussions with third parties regarding a replacement naming rights arrangement.

WAIVER OF ACCOMPANYING MEMORANDUM OF LAW

33. The Houston Astros respectfully request that the Court waive and dispense with the requirement set forth in Rule 9013-1(b) of the Local Rules for the United States Bankruptcy Court for the Southern District of New York that any motion filed shall have an accompanying memorandum of law. No novel issue of law is raised by the Motion. Accordingly, the Astros submit that waiver of the Rule 9013-1(b) requirement is appropriate in these circumstances.

CONCLUSION

34. As the United States Supreme Court has observed:

“Baseball has been the national pastime for over one hundred years and enjoys a unique place in our American heritage. Major league professional baseball is avidly followed by millions of fans, looked upon with fervor and pride and provides a special source of inspiration and competitive team spirit especially for the young. Baseball’s status in the life of the nation is so pervasive that it would not strain credulity to say the Court can take judicial notice that baseball is everybody’s business.”

Flood v. Kuhn, 407 U.S. 258, 266 (1972).

35. The current public perception of Enron is incompatible with the honesty and integrity embodied in baseball, as America’s national pastime, and espoused by the Houston Astros. Because there is no realistic possibility that Enron will make the approximately \$3.7 million payment due under the License Agreement in August 2002, this Court should require

Enron to make an immediate decision regarding the License Agreement so that the Astros will not continue to be harmed throughout the 2002 baseball season.

36. For all the foregoing reasons, the Houston Astros request that this Court enter an order (i) compelling Enron to immediately assume or reject the License Agreement, (ii) waiving the Memorandum of Law required by Local Bankruptcy Rule 9013-1, and (iii) granting such other and further relief as the Court deems just, reasonable and proper.

Dated: New York, New York
February 5, 2002

KING & SPALDING

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SOUTHERN DISTRICT OF NEW YORK**

In re:

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Debtors and Debtors-in-Possession.

Chapter 11

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Jointly Administered

**ORDER ON MOTION OF HOUSTON ASTROS
COMPELLING ENRON CORP. TO
ASSUME OR REJECT LICENSE AGREEMENT**

Upon consideration of the motion (the “Motion”) by Houston McLane Company, Inc., a Texas corporation doing business as Houston Astros Baseball Club (“Houston Astros”), for an order, pursuant to Sections 105(a) and 365(d)(2) of the United States Bankruptcy Code, compelling Enron Corp. (“Enron” or the “Debtor”) to immediately assume or reject that certain Naming and Licensing Agreement between the Houston Astros and Enron; and this Court having determined that good cause exists for granting the relief requested in the Motion; and notice of the Motion having been given to (i) counsel for the Debtor, (ii) the Office of the United States

Trustee for the Southern District of New York, (iii) counsel for the Creditor's Committee, and (iv) creditors and parties in interest requesting notice of this Motion under Federal Rule of Bankruptcy Procedure 2002, and it appearing that no other or further notice of the Motion need be given; and objections to the Motion, if any, having been withdrawn or overruled; and after due deliberation and sufficient cause appearing therefor; it is hereby

ORDERED that the Motion is granted; it is further

ORDERED that Enron must assume or reject the Naming and License Agreement by 5:00 p.m. (Eastern Standard Time) on February ____, 2002, in accordance with Section 365 of the Bankruptcy Code; and it is further

ORDERED that the requirements of Local Bankruptcy Rule 9013-1(b) shall be, and hereby are, waived.

Dated: New York, New York
February ____, 2002

Hon. Arthur J. Gonzalez
United States Bankruptcy Judge

CERTIFICATE OF SERVICE

This is to certify that on February 5, 2002, I caused to be served a copy of the foregoing Motion By Houston Astros For Order Compelling Enron Corp. To Assume Or Reject License Agreement upon the persons and entities identified on the Master Service List annexed as Exhibit A by causing copies of the same to be to be deposited in the United States mail, first-class postage prepaid, addressed as indicated on the attached Exhibit A.

Dated: New York, New York
February 5, 2002

KING & SPALDING

/s/ Paul K. Ferdinands
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Tel: (713) 751-3200

Attorneys for Houston McLane
Company, Inc. d/b/a Houston Astros
Baseball Club

EXHIBIT A

| |
|--|
| Entity |
| Enron Metals & Commodity Corp. 520 Madison Avenue New York, NY 10022 |
| Enron Corp. 1400 Smith Street Houston, TX 77002 |
| Enron North America Corp. 1400 Smith Street Houston, TX 77002 |
| Enron Power Marketing, Inc. 1400 Smith Street Houston, TX 77002 |
| PBOG Corp. 1400 Smith Street Houston, TX 77002 |
| Smith Street Land Company 1400 Smith Street Houston, TX 77002 |
| Enron Broadband Services, Inc. 1400 Smith Street Houston, TX 77002 |
| Enron Energy Services Operations, Inc. 1400 Smith Street Houston, TX 77002 |
| Enron Energy Marketing Corp. 1400 Smith Street Houston, TX 77002 |
| Enron Energy Services, Inc. 1400 Smith Street Houston, TX 77002 |
| Enron Energy Services LLC 1400 Smith Street Houston, TX 77002 |
| Enron Transportation Services Company 1400 Smith Street Houston, TX 77002 |
| B&M Leasing Company 1400 Smith Street Houston, TX 77002 |
| ENA Asset Holdings, LP 1400 Smith Street Houston, TX 77002 |
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