

GET OUT OF JAIL FREE

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A federal appeals panel ruled this past month that a class-action lawsuit against investment banks over their role as advisers to Enron cannot go ahead. Personally I feel that class-action suits are a grand ole waste of time that enrich lawyers and leave participants with pennies on the dollar. However, this case sets a very scary precedent that investors should be made aware.

This decision by a three-judge panel of the United States Court of Appeals for the Fifth Circuit in New Orleans stops any group effort by shareholders to recoup an estimated \$40 billion in losses from Wall Street investment firms. The court stated...

"Presuming plaintiffs allegations to be true, Enron committed fraud by misstating its accounts; but the banks only aided and abetted that fraud by engaging in transactions to make it more plausible; they owed no duty to Enron's shareholders. Enron had a duty to its shareholders, but the banks did not. The transactions in which the banks engaged at most aided, abetted Enron's deceit by making its misrepresentations more plausible."

Holy Get Out of Jail Free Card!!! For all intensive purposes this ruling allows for investment banks a free ride when it comes to dealing with their investment banking clients. A couple of questions I would like to have answered...Didn't the court recognize that these same investment banks all had "*strong buy*" recommendations on Enron? Do the investment banks have any fiduciary duty toward their brokerage clients? How is aiding and abetting a crime legal?

Anyway, chalk up another big victory for Wall Street, another kick in the pants for individual investors. Michael A. Perino, a professor at St. John's University School of Law stated to the *New York Times* that "*It's a huge victory for the banks*" and noted that it was "*relatively unlikely*" that the Supreme Court would take up a class certification case. In the understatement of the year statement, Merrill Lynch said it was pleased with appellate panel's decision. Credit Suisse did not return the *New York Times* or my call for comment.