New York Stock Exchange

Enron was a publicly traded company whose shares were listed on the New York Stock Exchange and were bought, held and sold by individuals and entities throughout the United States and the world.

Securities and Exchange Commission (SEC)

Enron and its directors, officers and employees were required to comply with regulations of the United States Securities and Exchange Commission (SEC). Those regulations protect members of the investing public by, among other things, requiring that ***a company's financial information is fully and accurately reported and fairly presented to the public.***

The regulations require, among other things, that a company submit filings to the SEC in Washington, D.C. that include fair and accurate financial statements and management discussion and analysis of a company's business

Factors influencing the price of Enron's stock

- Revenue
- Earnings
- Debt
- Cash flow
- Credit rating
- The company's potential and consistent ability to meet revenue and earnings targets and forecasts

The importance of the investment grade rating

An investment grade rating was essential to Enron’s ability to enter into trading contracts with its counterparties and to maintain sufficient lines of credit with major banks. In order to maintain an investment grade rating, ***Enron executives were required to demonstrate that its financial condition was stable and that the risk that Enron would not repay its debts and other financial obligations was low***

The credit rating agencies relied on, among other things, Enron’s public filings, including its financial statements filed with the SEC, in rating Enron’s debt. In addition, members of Enron’s senior management spoke regularly with, and provided financial and other information to, representatives of credit rating agencies.

The indictment

Kenneth Lay, Jeffrey K. Skilling, ad Richard A. Causey, and their conspirators, were indicted to have engaged in a **wide-ranging scheme *to deceive the investing public, including Enron's shareholders, the SEC, and others (the victims), about the true performance of Enron's businesses*** by:

a) a) manipulating Enron's publicly reported financial results;

b) b) making public statements and representations about Enron's financial performance and results that were false and misleading in that they did not fairly and accurately reflect Enron's actual financial condition and performance, and they omitted to disclose facts necessary to make those statements and representations fair and accurate.

Principal conspirators and their roles at ENRON

Kenneth Lay

Chief Executive Officer (CEO)

Chairman of the Board of Directors

Jeffrey Skilling

✓Employed by or acted as consultant to Enron from at least the late 1980s

✓In August 1990 Enron hired Skilling, who held various executive and management positions

✓In 1997 Enron promoted Skilling to President and Chief Operating Officer (COO)

✓In February 2001, he was named President and CEO of Enron. He resigned in August 2001

Lay, Skilling and Causey

↓

Oversaw the operations of Enron's numerous business units

Lay and Skilling

- Were responsible for supervising the activities of each of Enron's Business Units and the Heads of those business units, as well as the activities of the senior Enron managers who conducted the company's financial and accounting activities
- Held weekly management meetings with the leaders of Enron's business units to review, among other things, the company's budget and operating performance

- routinely provided guidance and information concerning the company's performance to securities analysts, as well as to Enron's employees and the public;
- Served as Enron's principal speakpersons with the investing public;
- Reviewed and approved proposed press releases concerning Enron, and they signed Enron's annual reports filed on form 10 K with the SEC

Richard Causey

From 1986 to 1991, while employed by the accounting firm Arthur Andersen LLP, he provided audit services to Enron on behalf of Andersen, which served as Enron's outside auditor.

1991 – Assistant Controller of Enron Gas Service Group

From 1992 to 1997 he served in various executive positions

1998 – Enron's Chief Accounting Officer

Richard A. Causey

- Managed Enron’s accounting practices
- Was a principal manager of Enron’s disclosures and representations to the investing public

The Board of directors

Kenneth Lay was the chairman of the Board of Directors. The Board periodically reviewed Enron’s operations, financial results, proposed transactions and executive compensation. Lay and Skilling also attended meetings of the Board’s Commitees, including the Finance Committee that served as a “monitor for the Company’s financial activities” and reviewed and approved the company’s significant financings, debt levels, and performance of portfolio assets, among other things.

Conspiracy

Due to the efforts of Lay, Skilling, Causey and their conspirators, the financial appearance of Enron presented to the investing public concealed the true state of Enron. Enron's publicly reported financial results and filings and its public descriptions of itself did not truthfully present Enron's financial position, results from operations, and cash flow of the company. Enron omitted facts necessary to make the disclosures and statements that were made truthful and not misleading

September 2001

Lay, Causey and their conspirators engaged in a series of high level meetings to discuss the rowing financial crisis at Enron and the likely impact on Enron's credit rating. Among other things, as Lay and Causey knew, the total amount of losses embedded in Enron's assets and business units was, at a minimum, $7 billion

Lay and Causey determined that Enron could not publicly report a loss in excess of $ 1 billion without triggering negative action by Enron's credit rating agencies. Lay and Causey thus artificially capped Enron's losses at that amount, by, among other things, manipulating accounting standards in order to conceal additional write-downs.

October 2001

On October 16, 2001, when Enron announced losses of approximately $ 1 billion, Lay and Causey sought to minimize the import of the reported losses and continued to make false and misleading statements to the market about Enron's financial health.

On October 22, 2001,Enron announced that it was the subject of a SEC investigation

December 2001

On December 2, 2001, Enron filed for bankruptcy, making its stock, which more than a year earlier had been trading at over $80 per share, virtually worthless.

Defendants' profit as a result of the scheme

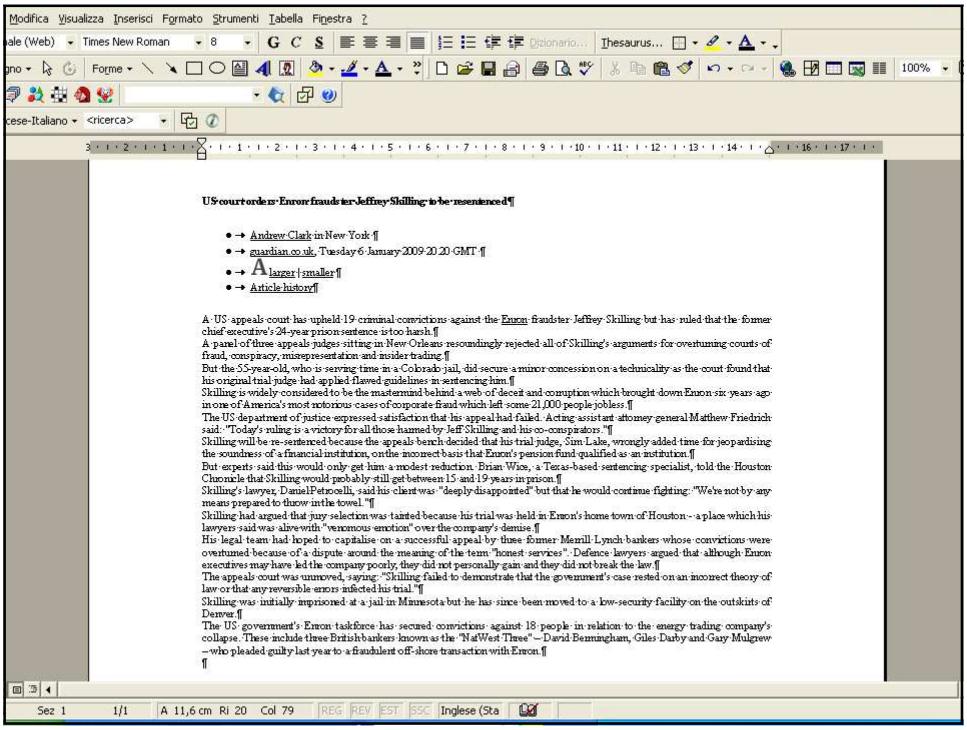
- Lay, Skilling, Causey and their conspirators enriched themselves as a result of the scheme through salary, bonuses, grants of stock and options, other profits, and prestige with their professions and communities
- Between 1998 and 2001, Skilling received approximately $200 million from the sale of Enron stock options and restricted stock, netting over $89 million in profit, and was paid more than $14 million in salary and bonuses
- Between 1998 and 2001 Lay received approximately $300 million from the sale of Enron stock options and restricted stock, netting over $217 million in profit, and was paid more than $19 million in salary and bonuses. During 2001 alone, Lay received a salary of over $1 million, a bonus of $7 million and $3.6 million in long term incentive payments.

Characteristics of white collar crime

- Lay, Skilling and Causey were each leaders and organizers of a criminal activity that involved five or more participants and was otherwise extensive
- Lay, Skilling and Causey each abused their positions of public and private trust and Causey used special skills in a manner that significantly facilitated the commission and concealment of offenders (***a violation of trust; complexity***)

With respect to each count of the indictment:

a) The loss exceeded $100 million (***financial cost of white collar crime***)
b) The offence involved more than minimal planning (***complexity***)
c) The offence involved a scheme to defraud more than 50 victims (***diffusion of victimization***)
d) The offence involved sophisticated means; and the offence was committed through mass marketing (***complexity***)



US court orders Enron fraudster Jeffrey Skilling to be resentenced

- Andrew Clark in New York
- guardian.co.uk, Tuesday 6 January 2009 20.20 GMT
- A larger | smaller
- Article history

A US appeals court has upheld 19 criminal convictions against the Enron fraudster Jeffrey Skilling but has ruled that the former chief executive's 24-year prison sentence is too harsh.

A panel of three appeals judges sitting in New Orleans resoundingly rejected all of Skilling's arguments for overturning counts of fraud, conspiracy, misrepresentation and insider trading.

But the 55-year-old, who is serving time in a Colorado jail, did secure a minor concession on a technicality as the court found that his original trial judge had applied flawed guidelines in sentencing him.

Skilling is widely considered to be the mastermind behind a web of deceit and corruption which brought down Enron six years ago in one of America's most notorious cases of corporate fraud which left some 21,000 people jobless.

The US department of justice expressed satisfaction that his appeal had failed. Acting assistant attorney general Matthew Friedrich said: "Today's ruling is a victory for all those harmed by Jeff Skilling and his co-conspirators."

Skilling will be re-sentenced because the appeals bench decided that his trial judge, Sim Lake, wrongly added time for jeopardising the soundness of a financial institution, on the incorrect basis that Enron's pension fund qualified as an institution.

But experts said this would only get him a modest reduction. Brian Wice, a Texas-based sentencing specialist, told the Houston Chronicle that Skilling would probably still get between 15 and 19 years in prison.

Skilling's lawyer, Daniel Petrocelli, said his client was "deeply disappointed" but that he would continue fighting: "We're not by any means prepared to throw in the towel."

Skilling had argued that jury selection was tainted because his trial was held in Enron's home town of Houston - a place which his lawyers said was alive with "venomous emotion" over the company's demise.

His legal team had hoped to capitalise on a successful appeal by three former Merrill Lynch bankers whose convictions were overturned because of a dispute around the meaning of the term "honest services". Defence lawyers argued that although Enron executives may have led the company poorly, they did not personally gain and they did not break the law.

The appeals court was unmoved, saying: "Skilling failed to demonstrate that the government's case rested on an incorrect theory of law or that any reversible errors infected his trial."

Skilling was initially imprisoned at a jail in Minnesota but he has since been moved to a low-security facility on the outskirts of Denver.

The US government's Enron taskforce has secured convictions against 18 people in relation to the energy trading company's collapse. These include three British bankers known as the "NatWest Three" – David Bermingham, Giles Darby and Gary Mulgrew – who pleaded guilty last year to a fraudulent off-shore transaction with Enron.