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The Complete Humiliation Of The Enron Task Force



[Joe Weisenthal](#)

Oct. 26, 2009, 9:15 AM 12,067 [17](#)

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What's amazing about Enron's collapse eight years ago is that there was once a time when a major bankruptcy didn't necessarily require bailouts, or prompt fears of systemic collapse.

Instead, Enron mainly resulted in a lot of outrage, which manifested itself in the awful Sarbanes-Oxley, and an aggressive hunt to pin crimes on anyone involved with the company. Prosecutors won a few trophies, but mainly they just wasted a lot of money and ruined a lot of people's lives.

The latest humiliation, Jeff Skilling's appeal being heard by the Supreme Court, is just the tip of the iceberg.

[See the full list of setbacks and defeats >>](#)

Big thanks to Houston attorney [Tom Kirkendall](#) who, over the years, has done more than anyone to document the disastrous prosecution.

The infamous Nigerian barge



The "Nigerian Barge" case was held up as one of the more egregious examples of Enron phony accounting.

In 1999, Enron sold barges to Merrill Lynch, ostensibly with a promise to buy them back later, purely for the purpose of inflating short-term earnings.

Four Merrill Lynch ex-employees were found guilty, but in 2006, the 5th US Court of Appeals vacated the verdict, which observers found stunning, due to the court's typical reluctance to overturn lower cases.

[Houston Chronicle](#): The appeals court found that the government failed to prove that the executives were striving solely for personal gain as the indictment had alleged.

"All were driven by the concern that Enron would suffer absent the scheme," [Judge Grady] Jolly wrote, adding that the

"only personal benefit or incentive" for the executives "originated with Enron itself — not from a third party as in the case of bribery or kickbacks."

Judge Harold DeMoss agreed.

"In my view, both parties acted to maximize mutual benefits in a clear effort to solidify business relationships," he wrote in the ruling.

Arthur Andersen



In July 2002, the one-time Big 5 accounting firm was found guilty of obstruction of justice for shredding documents in the Enron case. Their Enron connections essentially put the entire firm out of business, affecting 22,000 workers, most of whom had no connection to Enron.

But in 2005, the Supreme Court reversed the conviction, finding the jury instruction to be vague, and the government's argument to be weak. But you can't undo a company going out of business, so the damage was done. Thousands and thousands of jobs lost, without even an upheld conviction.

Enron Broadband



As Enron wanted to cash in on the .com bubble, the company imagined itself as a platform for buying and selling bandwidth. After the collapse, prosecutors went after 5 executives of the Enron Broadband division, arguing that they lied about their technological capabilities in order to inflate the stock price.

But even in the hate-filled, anti-Enron climate, the jury returned a series of not-guilty or split verdicts in 2005. It was a stunning setback for the prosecutors, and it was made worse by the emergence of dirty tricks they employed during the trial in order to win convictions.

[Tom Kirkendall](#): The first blunder of the Task Force during the trial occurred [when prosecutors elicited false testimony from the government's key witness](#), former Enron Broadband co-CEO Ken Rice. Then, after Rice's testimony was impeached dramatically during cross-examination, the prosecution compounded its error by calling a witness ([Beth Stier](#)) who testified that, based on discussions with the Task Force prosecutors before her testimony,

she felt threatened by the Task Force prosecutors. Later in the trial, another witness -- [Lawrence Ciscon](#) -- testified that he was threatened shortly before his testimony by prosecutors with a possible indictment if he proceeded to testify on behalf of the Broadband defendants. To make matters worse, toward the close of the trial, U.S. District Judge Vanessa Gilmore [sharply rebuked an Enron Task Force prosecutor](#) for asking a question on cross-examination of Broadband defendant Kevin Howard that at least violated the judge's prior instructions to the Task Force prosecutors. Finally, earlier this week, Task Force director [Andrew Weissman took the unusual step of resigning](#) as head of the Task Force while the Broadband jury was still deliberating amidst rumblings of prosecutorial misconduct within the Task Force.

Scott Yeager



Following the failure to win convictions in the Enron Broadband trial, the government continued to pursue action against Scott Yeager. However, his case went all the way to the Supreme Court, and, following the direction of the Supreme Court, the 5th Circuit recently directed the lower court to deliver a not guilty verdict. Here's the [Houston Chronicle's account](#) of Yeager's 7-year ordeal to get his name cleared.

NatWest Three



Giles Darby, David Bermingham and Gary Mulgrew were three employees of National Westminster Bank (UK), who were indicted in Houston on seven counts of wire fraud against their own bank. The government claimed that the bankers conspired with Enron CFO Andy Fastow to underpay their own bank for its interest in an Enron subsidiary, which they personally intended to buy.

After a lengthy extradition process from the UK, and fears that they could spend three decades in prison, Darby, Bermingham, and Mulgrew pleaded down to a single count of wire fraud and a mere 37 months in prison, several of which

were to be served in the UK. The government's case largely fell apart on lack of evidence on the intent to defraud their own bank.

[Tom Kirkendall has the full details here.](#)

Jamie Olis



Jamie Olis was an employee of that other Houston-based energy-trading firm, Dynegy, and was originally sentenced to 24-years in prison for his role in something called Project Alpha, a scheme which ostensibly helped Dynegy inflate its [cash flow by \\$300 million](#).

But his sentence was reduced to 6 years after a higher court found that the government massively overstated the damages since Olis didn't benefit personally from the scheme and it didn't lead to Dynegy's downfall. In addition, allegations have emerged that the government pressured Dynegy to deny Olis access to defense funds.

Jeff Skilling's appeal



This month, the US Supreme Court [agreed to hear the appeal](#) of former CEO Jeff Skilling, who is currently serving a 24-year sentence. Just the fact that they're hearing the appeal of this criminal conviction is a stunning embarrassment for prosecutors. At issue is the vague allegation of "honest services" abuse, which has allowed prosecutors to pursue all manners of white collar criminal cases.

More specifically, the Skilling case has been marred by what the 5th Circuit described as "significant frailties," and credible claims that the prosecution withheld exculpatory evidence (see the next slide).

If Skilling walks, that would render the entire prosecution of Enron a gigantic failure.

Andy Fastow non-disclosure



Besides Jeff Skilling and the deceased Ken Lay, the other key man at Enron was CFO Andy Fastow, who got a light sentence by turning on Lay and Skilling.

But in Skilling's appeal, it was discovered that the prosecution had exculpatory evidence given to them from Fastow, which was never given to the defense.

[Tom Kirkendall](#): In that regard, the Fifth Circuit decision invited Skilling to file a motion for new trial based on issues of prosecutorial misconduct that Skilling raised in the appeal after discovering the evidence post-trial. Specifically, the Fifth Circuit was particularly concerned about the failure of the Enron Task Force to comply with federal rules requiring the disclosure of exculpatory evidence to the defense from the Task Force's pre-trial interviews with main Skilling accuser, former Enron CFO Andrew Fastow.

Fastow [testified at trial](#) that he told Skilling about the [Global Galactic agreement](#), which purportedly documented a series of illegal "side deals" between Fastow and former Enron chief accountant Richard Causey that guaranteed Fastow would not lose money on certain special purpose entities that he was managing. Skilling denied any knowledge of the purported agreement.

After Skilling's conviction, the Skilling defense team discovered [Fastow interview notes](#) that the Enron Task Force had failed to disclose to the Skilling team prior to trial. Among other things, those notes revealed that Fastow had told the Task Force lawyers that he didn't think he had told Skilling about the Global Galactic agreement. The Fifth Circuit characterized the Task Force's non-disclosure as "troubling" in inviting Skilling to file a motion for new trial with the District Court.

Witness Intimidation



In addition to withholding evidence, there are several instances of intimidation used by Enron prosecutors. Scott Yeager says he was told by prosecutors that they knew he was a small fry, but that they'd go hard against him if he didn't turn on his colleagues. Jamie Olis said the same thing.

And there's more...

[Tom Kirkendall](#): The witness intimidation issue has been festering throughout both of the prior Enron-related criminal trials. It first arose in connection with the trial of [the Nigerian Barge case](#) in which the Task Force effectively suppressed exculpatory testimony for the defendants in that case by fingering as unindicted co-conspirators dozens of former Enron and Merrill Lynch executives who were involved in the transaction that was the basis of the prosecution. Every one of the unindicted co-conspirators declined to testify in the Nigerian Barge trial on the basis of their Fifth Amendment privilege against self-incrimination. Consequently, four Merrill Lynch executives are serving prison sentences without having had the opportunity to present substantial amounts of exculpatory testimony and related evidence to the jury.

Then, as noted [in this earlier post](#), the witness intimidation issue boiled over in public during the trial of the Enron Broadband case when former Enron Broadband engineer Lawrence Ciscon dramatically testified that Enron Task Force prosecutors had repeatedly threatened him and had fingered him as a target of an indictment in attempting to dissuade him from testifying on behalf of the five Enron Broadband defendants. That dramatic testimony came on the heels of the Task Force eliciting false testimony from former Enron Broadband co-CEO [Ken Rice](#) during that trial, which was then followed by the Task Force threatening [another witness](#) in connection with her testimony regarding Rice's false testimony. As noted in [this post](#), The Enron Broadband jury ultimately acquitted the defendants on some of the charges and could not reach a decision on the balance of the charges, resulting in [re-trials of the defendants](#) next year.

The Task Force then deployed the same tactic earlier in the Lay-Skilling-Causey case by taking the extraordinary step of [naming 114 unindicted co-conspirators](#), which they have subsequently "reduced" to a number just under 100. That tactic -- coupled with the Task Force's control over the communications of any Enron-related defendant who has entered into a plea bargain with the Task Force -- has effectively prevented defense counsel for Lay, Skilling and Causey to develop exculpatory testimony on behalf the three men. The Task Force's control of plea bargainers' communications and its fingering of the unprecedented number of unindicted co-conspirators prompted prominent law professor [Michael Tigar](#) to comment in connection with the Lay-Skilling-Causey motion to dismiss that "this level of silence is not normal" from witnesses and that "I have never seen defendants in a major public trial, especially a white-collar trial, so completely ostracized by witnesses with pertinent information."

Pay-Day!



Why would prosecutors try so hard to ruin the lives of so many individuals, even with the evidence so tenuous? Money, of course!

The Enron Task Force has proven to be a great springboard for lucrative private-sector careers.

Lead prosecutor [Sean Burkowitz](#) [landed a nice gig](#) at Latham & Watkins as a Chicago partner. [Andrew Weissman](#), the

prosecutor who killed Arthur Anderson (only to see that decision get reversed) and belly flopped in the Enron Broadband trial landed a [Jenner & Block](#) in New York. John Kroger, who went after Enron Broadband's Scott Yeager is now the [attorney general of Oregon](#). [Leslie Caldwell](#), the task force's first director is at [Morgan Lewis](#). [John Heuson](#) who went directly after Lay and Skilling joined Irell & Minella in Newport Beach, Ca.

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Let's Get Real on [Oct 26, 9:45 AM](#) said:

You're right Joe. They should have gone straight to the source - Harvard!

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last word on [Oct 26, 10:17 AM](#) said:

@[Let's Get Real](#):

That's what I am always saying. Just sheer number of shitty people with shitty ideas coming out of this school could indicate something more than casual coincidence.

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Paulina on [Oct 26, 11:05 AM](#) said:

Some people lost everything and it's no one's fault, or it can't be pinned on the folks who gambled with employees' retirement and stockholders' stocks?

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Stranger on [Oct 26, 11:21 AM](#) said:

Everything is compelling but the last slide, which is a gross logical fallacy. It's not necessarily the case that just because you prosecuted Enron you got a fat pay day. It's much more likely that the underlying factors of being an excellent lawyer led to both being tapped to prosecute high profile cases AND being attractive to private firms. You think they let novice lawyers handle the biggest and most difficult trials? That's patently absurd. Plus, Jenner Block and Morgan Lewis suck at white collar defense, so those guys didn't do so well money wise to go to practice groups that aren't respected in the field.

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Jimbo on [Oct 26, 12:18 PM](#) said:

What the top people at Enron did was clearly wrong. They vicimized their shareholders and others and Arthur Anderson and many financial analysts helped by looking the other way. The federal prosecutors did a less than mediocre job but at least they got a few convictions and destroyed AA. It will be a long time before people try to pull off the kind of shenanigans that Enron did. Does anyone really think that the officers of Enron were righteous ethical managers just doing their best?

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Vivzizi (URL) on [Oct 26, 7:42 PM](#) said:

@[Jimbo](#):

"It will be a long time before people try to pull off the kind of shenanigans that Enron did. "

You're kidding right?

It's happening EVERYWHERE now.

EVERYWHERE.

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Preston Tucker on [Oct 26, 12:31 PM](#) said:

Ah, the comments to date miss the point; they're still "partying" like its 2002. The world, and the real Enron facts, are lost to them. And the last slide illogical, that is DOJ hyper-powers + adoring crowd = good lawyering?

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wankeriffic on [Oct 26, 2:05 PM](#) said:

Skilling is a f---ing crook. He should be serving his time in maximum security ass rape prison.

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George (URL) on [Oct 26, 7:50 PM](#) said:

I wish someone would do a chart of the judges letting all these people off to see who appointed them.

My strong guess is that all the "unusual" overturns are happening from judges appointed by the Bush people.

That's been what's happening. People convicted simply appeal until they hit a Bush appointed judge who then let's them off in highly "unusual" circumstances. The Bush network in the judiciary is still in place. They were smart in first deregulating, stopping enforcement and appointing huge numbers of judges who seemed to have pledged to let anyone off who is actually caught. Those judges are still in place forever. Including the chief justice of the supreme court who will likely make some amazing pro corporate sweeping decisions while he is there.

Let's not forget Bush was directly involved with the Enron schemes from calling off FERC from regulating them when Enron was CLEARLY monopolizing and gaming the electricity markets in Nevada, and California by shutting down power plants to create artificial scarcity to drive up prices to being direct beneficiaries of the executive's fund raising.

Let's never forget that Ken Lay was George Bush's largest contributor and that George Bush flew in the Enron jet during the campaign more than any other private aircraft.

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gty on [Oct 27, 6:42 AM](#) said:

They should have gone straight to the source. [留学社労士東京デリヘルオーストラリア留学](#)

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m7pq (URL) on [May 7, 2:04 PM](#) said:

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デリヘル [\(URL\)](#) on [Sep 20, 8:43 AM](#) said:

[株式会社エポリユーション](#)

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デリヘル [\(URL\)](#) on [Sep 20, 8:43 AM](#) said:

風俗スタイルは、[五反田・品川](#)

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ksa4col.net (URL) on [Sep 29, 2:04 PM](#) said:

[6666 سعودي كول](#)

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ksacol69 (URL) on [Sep 29, 2:05 PM](#) said:

[سعودي كول](#)

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co0ol.org (URL) on [Nov 22, 8:08 AM](#) said:

[سعودي كول](#) ،

[سعودي كام](#) ،

[سعودي انجراف](#) ،

[6666 سعودي كول](#) ،

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كول (URL) on [Dec 15, 4:43 PM](#) said:

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