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The Enron verdicts: corruption and American capitalism

By Joe Kay
29 May 2006

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The guilty verdicts handed down by a Houston jury last week against former Enron chiefs Kenneth Lay and Jeffrey Skilling provide an opportunity to evaluate the significance of the company's rise and fall within the context of American capitalism.

Accounts by jurors given after the verdicts were announced indicate they all agreed that the evidence against the two executives was overwhelming. It consisted mainly of testimony from over a dozen former executives, who implicated Lay and Skilling for their roles in defrauding investors and employees through various forms of accounting manipulation. The jurors quickly rejected the absurd position of the defense that Enron was basically a healthy company that collapsed into bankruptcy in December 2001 largely as the result of Wall Street machinations and negative press coverage.

Several jurors indicated they reacted negatively to the testimony of the defendants, and particularly Lay, who could not hide his arrogance while on the stand. Others said Lay's move to sell millions of dollars of company stock in the months before the bankruptcy, even as he encouraged employees to keep buying, was appalling.

One juror noted, "That was very much the character of the person that he was. He cashed out before the employees did." Some jurors spoke about social conditions in the US, voicing the hope that the verdicts would send a message to other executives across the country.

There is certainly an element of social protest here, directed both at Enron

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and the broader conditions of inequality and corporate greed, whatever limitations there might be in the jurors' understanding of the underlying forces at work. The conviction of Lay and Skilling stems ultimately from the fact that they headed a company that engaged in market manipulations and fraud which, in their scale and flagrancy, exceeded anything that had gone before in a long history of corrupt business practices. And Enron has since been shown to have been only one of many companies that engaged in similar practices.

It is by no means assured that the two executives will spend significant time in prison, though commentators have generally agreed that the legal bases for their appeals are very limited. But, as one juror suggested, money has a way of solving such problems.

There are additional factors at work—in particular, the close political connections that Lay and Skilling have with the political establishment in general and the Bush administration in particular. Lay, after all, was for a long time one of Bush's most important political supporters. He is certainly in possession of important information that could be damaging to powerful people. (For example, what exactly was discussed during Cheney's secret Energy Task Force meetings, in which Enron took part?).

One would suppose that Lay still has a few aces up his sleeve, as well as friends in high places. A presidential pardon—no doubt as a reward for philanthropic good works—is not out of the question.

The verdict has predictably been followed by self-congratulatory comments from sections of the media and the government prosecutors: the convictions demonstrate that the system works, that nobody is above the law, that all misdeeds will eventually be punished, etc., etc. The *Wall Street Journal* published an editorial along these lines Friday, voicing the arguments that finance capital has made after every one of the major trials involving corporate corruption. It concluded with the claim that “assertions of widespread corporate fraud back in 2001 and 2002 were way overblown.”

Following the verdict, Sean Berkowitz, the head of the government's Enron Task Force, said that it “sent an unmistakable message to boardrooms across the country—you can't lie to shareholders. You can't put yourself in front of your employees' interests.” This under conditions where it remains common practice for executives to award themselves multi-million dollar salaries even as they carry out mass layoffs!

Other commentators have been more penetrating, noting that not only was the

“Enron phenomenon” widespread, but that the same problems persist today. Kurt Eichenwald, in an article for the *New York Times* on Friday, wrote that Enron “will forever stand as the ultimate reflection of an era of near madness in finance, a time in the late 1990s when self-certitude and spin became a substitute for financial analysis and coherent business models.”

The ultimate lesson of Enron, Eichenwald suggested, is the picture it presents of “a corporate culture poisoned by hubris, leading ultimately to a recklessness that placed the business’s survival at risk.”

The *Times*’ business commentator, Gretchen Morgenson, entitled her Sunday article “Are Enrons Bustin’ Out All Over?” and cited recent cases of corporate fraud, particularly that of housing lender Fannie Mae.

Lawyers for Lay and Skilling were close to the truth when they argued that the prosecution’s logic implied the criminalization of standard business practices (and therefore their defendants should not be convicted for doing what every one else was doing). Skilling’s lawyer Dan Petrocelli stated in his closing arguments that if the jury accepted the government’s case, “we might as well put every CEO in jail.”

Certain conclusions may legitimately be drawn from this statement that Mr. Petrocelli never intended.

However, even the more probing comments in the media miss the central lesson: that Enron and the corporate environment which created it were the products of basic tendencies of American capitalist development. They were the outcome of a political and social policy that has been pursued by both big business parties—a policy that has encouraged greed, corruption and criminality as part of a ruthless drive to attack the living standards and social gains of American workers.

Beginning particularly in the 1980s, the American ruling elite responded to the economic crisis of the previous decade by shifting the way businesses operate. Greater competition from Europe and Asia had begun to cut into the American ruling class’ status as hegemon of the world capitalist system. From the standpoint of the social position of Wall Street and corporate America, it became necessary to eliminate concessions granted to workers in an earlier period.

Deregulation, the attack on higher-quality jobs, the elimination of social programs—these were all part of a policy aimed at redistributing wealth from the bottom to the top, cutting into the share allocated to the actual producers

of this wealth. Big Wall Street investors began placing ever-greater demands on corporate management to return quick profits, often by means of wage cuts and downsizing. The measure of corporate success increasingly became short-term earnings, closely linked to the fluctuations in a company's stock.

As the *World Socialist Web Site* noted shortly after Enron's collapse, the operations of the stock market have become central to the functioning of the world capitalist economy. "Every day trillions of dollars course through global equity, currency and financial markets in the search for profit. Since the start of the 1980s as much as 75 percent of the total return on investments has resulted from capital gains arising from an appreciation of market values, rather than from profits and interest. In this drive for shareholder value, each corporation is compelled, on pain of extinction, to devise measures which attract investment funds by lifting the price of securities above that which would be justified by an objective valuation of the underlying assets." (See ["Enron: The real face of the 'new economy'"](#))

The interests of executives were tied in with the interests of Wall Street through a variety of mechanisms—in particular, the increased use of such forms of compensation as stock options. Executives who managed to keep their stock prices high were, and continue to be, richly rewarded.

While originally developed as part of the drive to increase productivity and cut costs in response to the economic problems of American capitalism, financial speculation has inevitably taken on a life of its own. To keep stock prices high, companies have resorted to all sorts of operations—including fraud and accounting manipulations.

Such considerations as the long-term health of the company have increasingly taken a back seat to the need to satisfy Wall Street's demands for ever-rising short-term earnings. It has been widely acknowledged by executives themselves that they often make decisions contrary to the longer-term interests of their own corporations.

The process was a means of generating vast, previously unheard of fortunes, particularly during the late 1990s. That half-decade saw an explosion of social inequality. Some people made lots of money, and companies like Enron were essential to this process of wealth redistribution.

A new social type was created in the process, one that calls to mind Marx's description of the French finance aristocracy before the revolution of 1848, in which "the mania to get rich was repeated in every sphere... to get rich not by production, but by pocketing the already available wealth of others."

In words that could apply just as well to the likes of Skilling and Lay, Marx wrote: “Clashing every moment with the bourgeois laws themselves, an unbridled assertion of unhealthy and dissolute appetites manifested itself, particularly at the top of bourgeois society—lusts wherein wealth derived from gambling naturally seeks its satisfaction, where pleasure becomes debauched, where money, filth and blood commingle.”

Enron combined within itself the basic features of a new type of American business operation. It was a company whose operations did not, for the most part, involve the production of anything of value. Enron exploited the deregulation of the energy markets to insert itself as a middleman, siphoning off revenues at the expense of consumers and speculating on energy prices. Skilling considered one of his and Enron’s greatest accomplishments the virtually single-handed creation of the wholesale energy market, which during the late ‘90s became a new means of speculation and price-gouging.

All of the various components of American capitalism were involved in the operation: Wall Street investors and analysts, who bought and boosted Enron stock; investment banks, which provided loans and helped Enron cover up its losses; the media, which perpetuated the myth that companies like Enron and executives like Lay and Skilling were representatives of a new, vibrant and productive stage of capitalism.

Enron personified the new social layer in which “money, filth and blood commingle.” One need only recall the tapes recording the gloating of Enron energy traders over the California energy crisis of 2001, a crisis caused to a considerable degree by Enron’s own market manipulations. (They joked about gouging money from “those poor grandmothers in California.”)

Or the shooting death in January 2002 of former Enron vice chairman J. Clifford Baxter, who had opposed to some extent the high-handed methods at Enron and was, at the time of his extraordinarily timely suicide, due to testify in various investigations into the collapse of the company. (See [“The strange and convenient death of J. Clifford Baxter—Enron executive found shot to death”](#))

The consequences for ordinary Americans (and not just Americans, since Enron and companies like it operate and have interests all over the world) have been devastating, and have been particularly felt since the stock market collapse of 2001: the decline in living standards, increasing indebtedness, a relentless assault on decent-paying jobs and benefits. The increased exploitation of working people has been a critical part of the drive to

maintain and expand the wealth of a tiny oligarchy. When the companies mired in corruption collapsed, jobs and retirement savings were eliminated overnight.

None of these conditions has been eliminated. The drive to reduce wages, cut health care and pension programs and eliminate regulations on business has, in fact, intensified.

Recent revelations of the widespread practice of backdating stock options (to ensure the largest possible gains for executives) demonstrate that corruption persists. The stock market and financial manipulations play as important and damaging a role today as they did five years ago. In the event of another stock market collapse, which is inevitable given the precarious world economic situation, a host of new Enrons will be exposed.

Largely ignored in the mass of media reportage on the Enron verdicts is the intimate political connection between Lay and George W. Bush. Lay was one of Bush's key backers from Bush's early political career in Texas until Enron went bankrupt, after Bush had become president. Former Enron executives took up posts in the Bush administration, and Lay exercised veto power over an important position dealing with energy regulation. At the Enron CEO's request, one candidate was ditched in favor of another hand-picked by Lay.

Enron also played a critical role in the formulation of the Bush administration's energy policy and plans for war in Iraq, through participation in Vice President Cheney's secret Energy Task Force. And while Enron was price-gouging and restricting energy supplies in California, costing residents of the state billions of dollars, the Bush administration refused to intervene and impose price caps, despite repeated requests from the state government.

In view of the scale of the scandal and the obvious political connections, the political fallout has been remarkably negligible. But then again, the nominal opposition party is thoroughly complicit in promoting the network of social relations that produced Enron. The company's rise, and the vast growth of speculation and inequality, took place mainly during the administration of Bill Clinton. It would be difficult, if not impossible, to point to one instance in which the Democratic president raised criticisms of the company while it was making money for Wall Street and the American ruling class as a whole.

The conviction of Lay and Skilling will, in the end, do nothing to address the more fundamental issues confronting working people. Even if the two do go to jail for a significant period of time, the outcome provides cold comfort to

the thousands of workers who have lost their jobs and savings. The wealthy who profited from Enron can write off their subsequent losses and move on to the next speculative money-making scheme. The situation is altogether different for ordinary working people.

The government felt compelled to bring the case because of the public outcry that followed the revelations of massive corruption. There was, and still is, great concern within ruling circles that such crimes could become a focus for broader social grievances, and that outrage could take on more overtly political forms.

Lay and Skilling are guilty of crimes, but they are not limited to the particular instances of fraud committed at Enron. They are an expression and outgrowth of broader social crimes. The guilt of Kenneth Lay and Jeffrey Skilling is the guilt of American capitalism.

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Enron: The real face of the "new economy"

By Nick Beams

6 December 2001

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Karl Marx once wrote that the development of financial parasitism was “nothing but the rebirth of the lumpenproletariat (semi-criminal elements) on the heights of bourgeois society.” It is a characterisation which readily springs to mind as one examines the collapse of the giant US energy trading conglomerate Enron, which this week filed for Chapter 11 bankruptcy. With total assets listed at \$49.8 billion and debts of \$31.2 billion, Enron is the largest bankruptcy in American corporate history.

Enron is now the subject of a Justice Department investigation that will probe the specific role of company executives and leading staff in the collapse and the cover-up which preceded it.

But whatever the specific findings of such an investigation a more far-reaching verdict has already been delivered. Enron, rated at number seven in the *Fortune* 500 list and lauded in the financial press, government circles and academia, was a veritable pillar of the so-called “new economy” based on the unfettered operation of the “free market”. Its demise has laid bare the rot, not to say outright corruption, which lies at its heart.

Formed in the late 1980s by the merger of two gas pipeline firms, Enron’s rise was powered by the deregulation of energy markets in the 1990s. In 1986 its revenue was \$7.6 billion. By 2000 it had revenue of \$101 billion, and a market capitalisation of \$63 billion.

But Enron did not simply take advantage of the new conditions created by deregulation. It worked to create them through its political connections. Its chairman Kenneth Lay is reported to have donated nearly \$2 million to

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George W. Bush and in the 2000 election process the company spent \$1 million. Lay was even touted at one point as an energy secretary and was regarded as a key adviser on policy.

In the early 1990s, one of Lay's most well-known recruits to the firm was Wendy L. Gramm, wife of the Texas Republican Senator, Phil Gramm. She was the commodities regulator in the first Bush administration and joined the Enron board in 1993 just five weeks after the Commodities Futures Trading Commission, which she headed, brought down a ruling exempting energy contracts from regulation.

Deregulation of energy markets opened up new frontiers for the accumulation of profit, not through the construction of new facilities and the delivery of energy supplies but by buying and selling in the energy market. Enron was more than just a trader, arranging a deal between a buyer and seller and then taking a cut. It was the energy market equivalent of a financial speculator, buying and selling energy contracts stretching months or even years into the future.

In the space of a decade it had become one of America's 10 largest companies and accounted for 20 percent of energy trading in Europe and the United States, with operations extending to some 40 countries. Its activities were not confined to the energy sector. The same business model was applied to other areas as Enron moved from trading in gas and electricity to pulp, paper, water and communications bandwidth.

For a firm such as Enron, whose profits are derived from financial operations, the key to success lies in the constant inflow of funds from banks and other financial institutions, enabling it to increase its leverage and thereby its profit. But the accumulation of debt, to the tune of tens of billions of dollars, depends in turn on confidence—the creation of a publicity momentum in financial markets that the firm seeking the loans is a good investment because of some innovation it has introduced.

Publicity campaign

Enron could not have done better if it had organised the publicity campaign itself. For six years in a row *Fortune* magazine named it the most innovative corporation and only last August listed the firm as one of the ten growth stocks to last the decade. As recently as last year, the *Economist* in Britain praised Enron for having created what might be the “most successful Internet venture of any company in any industry anywhere.”

The publicity campaign did not stop there. As an article in the December 4 edition of the *Financial Times* noted: “The books of various gurus have singled out the company as paragon of good management, for *Leading the Revolution* (Gary Hamel, 2000), practising *Creative Destruction* (Richard Foster and Sarah Kaplan, 2001), devising *Strategy Through Simple Rules* (Kathy Eisenhardt and Donald Sull, 2001), winning the *War for Talent* (Ed Michaels, 1998) and *Navigating the Road to the Next Economy* (James Critin, scheduled for publication in February 2002—and now, presumably being rewritten).”

The hype generated around the company was summed up by Hamel, who wrote: “As much as any company in the world, Enron has institutionalised a capacity for perpetual innovation ... [it is] an organisation where thousands of people see themselves as potential revolutionaries.”

Besides publicity, good political connections, ensuring a favourable legislative climate, are also invaluable. Enron was not lacking on this score. Its chairman Kenneth Lay had developed close ties with the Bush family, becoming a major fund-raiser for Bush Snr in the 1980s. When George W. Bush became Texas governor in 1994 Lay became head of the Governor’s Business Council.

These connections assumed greater importance when Bush became president this year. A report published in the *New York Times* on June 3 noted: “At least three top White House advisers involved in drafting President Bush’s energy strategy held stock in Enron Corp. or earned fees from the large Texas-based energy trading company which lobbied aggressively to shape the administration’s approach to energy issues.”

Karl Rove, Bush’s chief political adviser, Lawrence Lindsey, his economics adviser and I. Lewis Libby, Vice President Cheney’s chief of staff, all had share holdings in Enron. Lindsey received \$50,000 from Enron in consultancy fees last year, while the value of Rove’s stock was put at between \$100,000 and \$250,000.

Like other evangelists of the “free market,” Lay was a fervent advocate of what he called “transparency”. In the arcane world of finance, where the real meaning of words is so often reversed, transparency generally means the absence of government controls and regulations and the lack of scrutiny of the activity of the major players in the pursuit of profits.

Transparency certainly did not apply to Enron’s accounting system and its published results. There is a saying in accounting circles that the purpose of a

balance sheet is more often to conceal than reveal, and Enron developed concealment to an art form. As Lay himself was finally forced to acknowledge, the company's financial statements were "opaque and difficult to understand."

So long as it was reporting increased profits, few questions were raised about Enron's methods, least of all by the firm's auditors, Arthur Andersen. The financial watchdog, the Securities and Exchange Commission (SEC), remained silent.

Telecom shares plummet

The wheels only started to fall off the Enron operation earlier this year when investments began to go sour. With the crash of the telecom sector, its investments in fibre optics capacity and other telecommunications ventures turned out to have been very expensive.

Then came the sudden resignation of CEO Jeff Skilling, barely six months after he had been promoted as Lay's successor. Skilling was the man most closely associated with the transformation of the company from the owner of pipelines to a high stakes player in the new economy.

The financial problems came to a head in mid-October when the company reported a \$638 million loss. But even more significant was the revelation that shareholders' equity had declined by \$1.2 billion in the third quarter as a result of deals with partnerships headed by the company's chief financial officer Andrew Fastow.

What set the alarm bells ringing was that the write-downs were not apparent from Enron's quarterly earnings report. This is because the off-balance-sheet partnerships had been set up to hide the company's debt, ensuring that its credit rating and capacity to borrow was not affected. Besides inflating Enron's bottom line, the partnerships also proved lucrative for Fastow who received some \$30 million in fees and commissions.

On November 8, Enron filed documents with the SEC revising its financial statements for the past five years to account for \$586 million in losses.

With the company structure now rapidly unraveling, a last-ditch rescue operation was attempted as energy rival Dynegy made a \$10 billion offer for the company in addition to taking over \$13 billion in debt. But on closer examination, Dynegy decided not to go ahead and Enron was forced to file for bankruptcy.

Foremost among the immediate victims of the firm's demise are its 21,000 employees, more than half of whom had their 401(k) pension plans linked to Enron's now worthless stock. A significant portion of the life savings of these workers and their plans for the future have been wiped out virtually overnight. There are many thousands more small investors who, following the advice of the financial media and investment analysts, placed their future in Enron stock. Their fate raises the broader social implications of the Enron collapse.

Back in the 1970s, when financial markets in Britain were rocked by a series of collapses and scandals, former Tory Party leader Edward Heath coined the phrase "the unacceptable face of capitalism." His aim was to present these events as an aberration, and to deflect attention from the more fundamental processes of which they were an expression.

Similar attempts will no doubt be made in the Enron case. There will be investigations, possibly even demands for action against those responsible, and calls for stricter accounting procedures.

But Enron cannot be dismissed as an aberration. When Heath made his remarks, the processes to which he pointed were only just beginning and the claim that they were an aberration had a certain plausibility. That is not the case today.

Financial market operations of the kind in which Enron was engaged are not peripheral to the world capitalist economy but at its very heart. Every day trillions of dollars course through global equity, currency and financial markets in the search for profit. Since the start of the 1980s as much as 75 percent of the total return on investments has resulted from capital gains arising from an appreciation of market values, rather than from profits and interest.

In this drive for shareholder value, each corporation is compelled, on pain of extinction, to devise measures which attract investment funds by lifting the price of securities above that which would be justified by an objective valuation of the underlying assets. In other words, Enron was only the most graphic expression of what is becoming a near universal "business model."

Moreover, this increasingly speculative mode of accumulation, with its attendant semi-criminal activities, has come to dominate society as a whole. All sections of the working class, whether they be blue- or white-collar, cannot provide for their future, the education of their children and the health

of their families, without placing their limited savings in the investment and mutual funds that form such a key component of the financial system.

But, as the Enron experience has shown, the whole system has come to resemble a house of cards where the accumulated savings of a lifetime can be wiped out overnight. No amount of controls and regulations can rectify this situation because the processes which gave rise to Enron are no longer peripheral but endemic to the present-day functioning of the capitalist economy.

The political task of the day is not a futile attempt to reform the present social order but rather its complete transformation. Today, the social existence of working people, the producers of all wealth, is subordinated to the ever-more frenzied process of profit accumulation for the benefit of the few. That situation must be reversed. That is, society must be re-organised so that the mode of accumulation of wealth is subordinated to the needs and requirements of its producers and is controlled and regulated by them. This is the lesson of Enron.

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