



TONY AUTH

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the testimony — it's been more than a year now — they have given Enron a chance to work over or obliterate the evidence. And you feel this is deliberate?

CAF: It looks that way. Enron's bankruptcy filing created a stay against all suits against Enron. Those directed at board members and management could proceed. Private discovery, however, may be limited. Watching this process my question is: Did the DOJ specifically help Enron get into bankruptcy and define their investigations so as to protect the information from class action investigation?

DA: The law firm Milberg Weiss has a consolidated class action lawsuit against Enron management and directors in the U.S. District Court in Houston right now. The lead attorney William S. Lerach will charge certain Enron executives and directors, its accountants, law firms and banks with violations of the federal securities laws and that they engaged in insider trading. So Mr. Lerach is seemingly serious about this private investigation. Will the timing of the bankruptcy filing get in Lerach's way?

CAF: My best guess is that the bankruptcy filing has helped ensure that any moneys laundered and/or stolen through Enron and the moneys that investors made on the pump and dump of Enron stocks has had plenty of time to get away. The good news is that federal court's dismissal of Morgan-Chase's fraud charges against its insurers may be just what Milberg Weiss needed to proceed against Enron's complicit banks, attorneys and CPAs. This could be the key to the recovery of billions for employee pension funds and other shorted investors here and around the globe.

In the meantime, however, federal investigators are steadily chewing up time by slowly giving up or indicting Arthur Andersen, then others in Enron management. The real bad guys are the private investors, working through banks or investment firms, who have already gotten their money out and so far are scheduled to keep it — and those members of the board, if any, who traded under third party names. These are the people and institutions who have the power to ensure that people like Ken Lay and Andrew Fastow are hired in the first place and who ensure that the right regulators are in place to ignore what is going on, perhaps even help it along.

DA: So Ken Lay's not one of the big guys?

CAF: As far as I'm concerned, Ken Lay was just the lead patsy. We're talking about a top ten Fortune 500 company with annual revenues exceeding \$100 billion — which suddenly fell off the map. What the Enron CEOs made was nothing compared to what inside-trading investors made — both with corporate assets liquidated out before the implosion or in the pump and dump of stocks. And many of these investors look to be from the same syndicate that I saw playing the Iran-Contra/S&L game in the 1980s.

DA: "Syndicate!" Now there's a loaded word. Webster's defines a syndicate as "an association of bankers, corporations, etc., formed to carry out some financial project requiring much capital, especially to gain control of the market in a particular commodity." Sounds quite like Enron's position in the energy market. Can you be more specific about this syndicate you just referred to?

CAF: Sure. Let's see what Milberg Weiss uncovers. But in testimony already, former Chief Accountant of the SCC Lynn Turner offered that these banks and investment banks "shopped their structured finance vehicles" around to other corporations. Turner indicated that in one case where the SEC was able to intercede on his watch, a bank had people sign privacy agreements as not to divulge details of the scheme proposed to regulators and others.

DA: Then these are the kinds of linkages we're looking for — the little private "courtesies" that quietly make the syndicate a whole. What about the investors working through these banks — are they the bad guys you keep referring to? Who are they?

CAF: I don't believe it's appropriate to throw out names here — without lengthy explanations and qualification. To understand how the investors use interlocking corporate designs and trusts to protect themselves I recommend going to Linda Minor's series "Follow the Yellow Brick Road: From Harvard to Enron" or Pete Brewton's book "The Mafia, CIA & George Bush" or Truell and Gruwin's book "False Profits" — also Tom Flocco's work on Harken Energy helps.

DA: Then these networks of investors, which in no far stretch of the word are syndicates, are the ones being protected by the mishandling of the investigation?

CAF: They will try to get away with the money, yes. And all the right documents may have already been shredded to ensure that — which takes us to the fourth step: You never permit the shredding of documents.

There are lots of different ways to work with the attorneys, the accountants and other people to ensure that shredding doesn't happen. Not only has it happened, but also Arthur Andersen and Enron admitted to what appears to me to be criminal obstruction of evidence by shredding the documents. This is even more shocking because of the government's right to assert control over any federal contracts and seize government payables owed to the guilty parties.

Enron, since 1997, has enjoyed substantial federal contracts and Arthur Andersen enjoys very significant and sensitive federal contracts. Those contracts can be canceled at the convenience of the government, and it can be done within the space of 24 hours. I have direct experience with the government doing this.

DA: That is, when your company Hamilton Securities, Inc. was being investigated?

CAF: Precisely. Which moves us along to the fifth step: You assert control of all the company cash, both onshore and offshore.

Because of laws passed in connection with the War on Drugs and related money laundering and RICO laws, the Department of Justice and the U.S. Treasury have developed an extensive infrastructure dedicated to seizures of cash and other assets — both company and personal — in situations where fraud is indicated. Typically, proof of fraud or an indictment or a conviction is not required. Indeed, as I just said, I have personal experience with the DOJ asserting rights of seizure against company and management and board members' personal assets when their own investigators have determined there is no fraud and the parties are entirely innocent. Hence, this is an area where law and practice combines to make it possible for the DOJ to seize cash and assets aggressively when they want to. Investigators used the mere possibility of fraud as a pretext to demand control of all Hamilton Security records. Notwithstanding indisputable evidence of fraud, no reports indicate actions by the government to seize any records or offices from Enron. We have to wonder why?

When Manuel Noriega was sent to jail, my understanding is the U.S. government used the PROMIS software system to sweep offshore bank accounts and seize back \$2 billion of his money. The technology is important. Tools like PROMIS software and "Echelon" under the control of the DOJ and NSA and other military and intelligence agencies have the capacity to track and identify worldwide bank deposits and flows and to transact through bank settlement systems to effect seizures.

DA: Thus operationally we have the capacity to track Enron's bank transactions and take back significant moneys and have not?

CAF: I have been told that Congressional audit teams have preserved some settlement system records. However, I am skeptical. The proof is in the pudding. More than a year has passed. Where is the money? The failure to assert control of the records and money for this length of time can only be a coverup.



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ENRON

THE REAL DEAL

DA: By coverup, you mean a way to steal and launder money all at the same time?

CAF: You might say it that way. But a coverup is also a method to protect people and institutions — that is, to keep the pieces of the syndicate in place. For instance, it is my understanding that PROMIS is managed for the Department of Justice by the military contractor DynCorp. Again the technology is important. The sophistication of surveillance and communication technology today is even beyond what Hollywood can imagine. And curiously enough Herbert "Pug" Winokur, who was DynCorp chairman and lead investor from 1989 to 1997 and still chairman of DynCorp's compensation committee, was the chairman of Enron's Finance Committee through all of Enron's worst days — that is, until June 6, 2002 when he resigned.

DA: Thus the ex-Chairman of Enron's Finance Committee has intimate connection to the DOJ's most powerful tool for watching bank deposits and money flows. There's nothing like being well connected.

CAF: It's more than that. DynCorp is also the lead contractor for the DOJ Asset Forfeiture Fund. So if DOJ wanted to do a seizure of any assets in connection with Enron, presumably they would have to turn to Pug's company to seize Pug's assets as a fiduciary, an investor and an individual. Not surprisingly, we have one indication that seizures are not even on their radar screen. Very shortly after they neatly got Enron Online tucked away inside the Swiss mountain range — some very important news slips out of the Cayman Islands. It is a press release from the Cayman islands. Enron SEC filings indicate that there are approximately 700 Enron subsidiaries in the Cayman Islands. This is a huge number of subsidiaries for a company to have — in one of the great offshore money havens of the world. The government of the Cayman Islands says, in this press release, that it would be delighted to cooperate with U.S. investigators and prosecutors on an investigation of Enron, but as of this date they have not yet received a request for assistance.

From everything I can see, there has been no effort to assert control of the data about the money because there was no effort to identify and recapture stolen or fraudulently made company money. Never believe someone who says we need to take action to make sure this does not happen again. The only way it will not happen again is if you get the money back this time. Remember, it's all about the cash. Crime that pays is crime that continues.

DA: While in the instance of Hamilton Securities, here is a company doing something good for people, saving taxpayers money, whose work results in the agency effort winning Vice President Al Gore's "Hammer Award" for re-engineering government, and the rug got pulled out from under you. What do they say, "No good deed goes unpunished." For white-collar crime, it seems more like no bad deed goes without its reward.

CAF: The sixth step in a competent investigations is: You assert control of all the insider trading and personal cash where probable fraud exists, both onshore and offshore.

Enforcement officials can also assert control of all the capital gains that were made on insider trading or probable insider trading. You do not need to have proof of fraud or an indictment or conviction to assert control over those stock market profits made by the Enron board and management and their affiliates or partners participating in insider trading fraud with them. You can freeze or seize the personal assets of current and former Enron employees and auditors and any other parties implicated in potential fraud. The DOJ communicated openly that they had the right to seize personal assets of Hamilton Securities management, board members and agents as a result of possible company fraud.

Based on Enron confessions, it is hard to understand why there have been no seizures of the insider trading profits and personal assets of a number of key Enron management and board members as well as, potentially, its auditors and private attorneys. The idea that Ken Lay was paid \$50 million a year to be oblivious to what was going on and that he sold over \$100 million in stocks just at the right time, and should be allowed to keep all this money because he is a good guy, is financial, ethical and legal insanity. It is, however, a perfectly rational decision if the goal is to protect the syndicate's winnings, key government officials, and operations that facilitated the fraud.

DA: The government has frozen \$23 million from the personal assets of Michael Kopper and Andrew Fastow. This is something. Or would you contend these are just the little guys taking the rap?

CAF: The management are all little guys. I will say it again: the Big Guys are the guys who have the cash that was laundered through Enron, stolen/liquidated out of Enron, or made in pumping and dumping Enron's stock. The Big Guys are "The Street" (Wall Street), the syndicate players. Harvard Endowment appears to be a candidate for investigation in this respect. Which leads us back to "Pug" Winokur. He was a member of the Harvard Corporation which runs both the university and Harvard's \$18 billion endowment — one of the largest investors in the U.S. Winokur resigned from the Harvard Corporation on April 5, 2002, due to pressure from the student group "Harvard Watch" for his connection to the Enron dealings. Coincidentally, two days later Robert Rubin, Clinton's Treasury Secretary and now on the board of Citigroup, was selected to fill the gap on Harvard Corporation's board. And recall that it was Rubin who placed a call to the Treasury Department to make a modest inquiry if anything could be done to save Enron. Just another courtesy among "friends," you might say.

DA: According to "Harvard Watch," Highfields Capital, the investment firm that manages part of Harvard's endowment, sold 3.5 million Enron stock options for an estimated \$120 million profit. And that was after the Harvard Business School wrote five studies praising Enron's business model in the two years prior to the collapse. More courtesy within the network?

CAF: Pump then dump. That is the way it works. During the S&L crisis, an investor would make money selling assets to a developer at 2 to 100 times market value financed by an S&L. Then they would buy the assets back at 10 cents on the dollar after the crash. So they made money on the "pump" and then money on the "dump." Meantime, if the feds needed a fall guy, they would have the DOJ and the SEC go after the developer or the S&L CEO. The reality was that the bank regulators would never have allowed such things to go on if investors and their