Enron execs looted company prior to bankruptcy

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Documents filed in a New York court by the energy company Enron reveal the extent to which the company's top executives enriched themselves in the year preceding its bankruptcy. The collapse of the company cost thousands of jobs for ordinary workers and decimated pension savings. The top management, however, walked away with millions of dollars in income and bonuses.

In the year prior to its December 2001 bankruptcy filing, Enron handed out $745 million in payments and stock awards to 144 of its senior executives. The company disclosed that these executives received $310 million in salary, bonuses, loan advances and other income. $435 million came in the form of exercised stock options and restricted stock packages. These figures include the $54.6 million in retention bonuses that were given to 200 executives in the days immediately preceding the declaration of bankruptcy.

Included among those receiving the biggest windfalls was Kenneth Lay, former chairman of the company, who raked in $150 million in income, bonuses and stock packages. Former chief executive Jeffrey Skilling took in $25 million and former chief financial officer Andrew Fastow, over $10 million. Thomas White, the current army secretary in the Bush administration who was a top executive in the company's energy-services sector, received $17 million.

Included in Lay's figures is a whopping $81.5 million in loan advances, which were mostly repaid in Enron stock, and which are worth next to nothing today. Lay also exercised $34.4 million worth of stock options and was given a restricted stock deal worth $14.7 million. Some of these figures are estimates, since in some cases it is unclear how much of the payments in stock were actually cashed before the company's collapse.

The report on the executives' earnings comes as lawyers for former Enron employees are fighting to increase the meager settlement they have been given. In a deal organized by the AFL-CIO, most of 4,200 Enron employees who were laid off after the bankruptcy filing were originally slotted to receive a maximum severance package of $5,600. This hardly covers the amount workers lost after the value of Enron stock collapsed. At the encouragement of management, most of the workers had heavily invested their 401(k) retirement packages in the company. The 24,000 participants in Enron's retirement plans lost as much as $1 billion, or an average of $4,666 each. The workers who were laid off also had their health coverage and other benefits immediately discontinued.

Eli Gottesdiener, one of the lawyers representing these employees, stated in reaction to the report: "My clients find it outrageous. It's more evidence that people at the top knew that they should get while the getting was good, while the employees, who weren't told the truth, were left holding the bag." Lowell Peterson, another lawyer for the employees, commented: "It sort of shocks the conscience. It's just not right for a company to be run as a private piggy bank for its officers, who then proceed to run it into the ground, costing 4,200 their jobs."

Earlier this month, an agreement was worked out between Enron, the former employees' lawyers—who are paid by the AFL-CIO—and representatives of Enron's creditors. This agreement, which still has to be approved by the bankruptcy court handling Enron's case, would increase the maximum severance package to $13,500. The actual amount received will depend on the length of tenure of the individual employee.

The agreement will also allow the employees to take Enron to court in an attempt to get back some of the

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money paid in retention bonuses just prior to the bankruptcy. Retention bonuses are often handed out to executives after a bankruptcy is announced, in an attempt to keep them from leaving for other companies. The Enron bonuses, however, were not only exorbitant—in some cases in the millions of dollars—but were also handed out before the bankruptcy was announced. Because of this, the bonuses did not have to be cleared by the bankruptcy court. However, the way the agreement was structured ensures that most of the money will probably stay where it is. Employees will have to go after the executives in court on a case-by-case basis and prove that each bonus was unjustified.

The Enron executives also face the possibility that they will have to give back some of these bonuses to Enron's creditors. Under bankruptcy law, payments made within 90 days of a declared bankruptcy may be subject to the demands of creditors. The creditors, however, were not subjected to the same abuse meted out to the Enron workers. The big commercial and investment banks such as J.P. Morgan Chase, Citibank, and UBS Warburg, together with other creditors, including Enron's former auditor Arthur Andersen, received almost $3.6 billion in payments just prior to the bankruptcy filing.

The phenomenon of CEOs and other executives walking away from their bankrupt companies with their pockets filled has become a common feature of modern American capitalism. After running an enterprise on the basis of fraud, criminality and cooked books, executives proceed to jump from the rickety and irreparably damaged planes that they have built with a so-called "golden parachute," leaving the workers to suffer the crash. All of this money is essentially stolen cash, reaped from the company's workers, those who invested in the criminally overvalued stocks and did not get out in time, and even from other companies. This phenomenon is part and parcel of an economic system that functions more and more through theft and wealth transfer than by the actual production of goods and services.

Former Tyco CEO Dennis Kozlowski, who recently resigned from the company shortly before being indicted on charges of tax evasion, is nevertheless expected to get a package worth tens of millions. Richard McGinn, former CEO of Lucent Technologies, was dismissed after the company ran into earnings trouble. He got a deal worth $12.5 million shortly before the Securities and Exchange Commission (SEC) began an investigation of possible accounting fraud committed during his tenure.

The former CEO of Adelphia, John Rigas—who used the company essentially as a private bank for his own enrichment and that of his family, looting the firm of tens of millions—left with a severance package giving him $1.4 million a year for three years. Bernard Ebbers, the former CEO of the collapsed telecommunications firm WorldCom, left under pressure with a deal worth $1.5 million a year as long as he lives. And the retailer Kmart handed out millions of dollars to its executives just prior to declaring bankruptcy and slashing thousands of jobs.

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