

Enron executive pleads guilty

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Michael Kopper, a former financial executive at collapsed energy giant Enron, pleaded guilty on August 21 to charges of conspiracy to commit money laundering and conspiracy to commit fraud. He is the first Enron executive to admit guilt in connection with the corruption scandal that broke last winter, and is the first to be indicted on criminal charges by the Justice Department.

Kopper has acknowledged that he defrauded investors by illegally using Enron's off-balance sheet partnerships for his personal gain. These partnerships had originally been designed to hide company debt and boost earnings. Kopper also faces civil charges of security code violations that have been filed separately by the Securities and Exchange Commission (SEC).

It has been nearly 10 months since Enron declared bankruptcy, and the government has come under intense pressure to proceed with prosecution of those involved in the scandal. It is widely suspected that the government will strike a deal with Kopper to treat him lightly in exchange for his help in prosecuting Enron's former chief financial officer, Andrew Fastow. All of the partnerships involved in Kopper's plea were managed by Fastow, and Kopper has said that on at least two occasions Fastow was given kickbacks in connection with the partnership activity.

The criminal charges carry a maximum jail term of 15 years, and Kopper has agreed to hand over \$12 million that he acquired illegally. The Justice Department is also seeking to seize \$14 million from Fastow that was gained in connection with the three partnerships—known as Chewco, Southampton and RADR—cited in Kopper's plea.

Enron has become synonymous with corporate criminality, its spectacular demise occurring amidst allegations of accounting manipulation, insider trading, bribery and fraud. Accompanying Kopper's plea have been more revelations concerning the methods used by top Enron executives to steal millions of dollars from their corporation at the expense of employees and shareholders. Since December, there has been a continuous stream of news on different aspects of corruption at the company. Thousands of workers have lost their jobs and have been left with decimated retirement savings due to the collapse of Enron's share price. Investors, both big and small, have lost billions of dollars.

Under these conditions, the Bush administration has had no choice but to mount prosecutions. However, the government

has thus far acted in a manner calculated to contain the scandal within strict limits. The prosecution began with a trial and conviction of Enron's auditor Arthur Andersen, deflecting attention from Enron itself. Now with Kopper's plea, the government seems to be directing its attention to Fastow and perhaps former CEO Jeffrey Skilling. Prosecution of the former chairman and leader of the company, Kenneth Lay—who is well known for his close ties with President Bush—has been forestalled for now, and perhaps indefinitely delayed.

The general argument given for going after Kopper and Fastow first is that they are more closely tied to the day-to-day operations of the company, and that it would be extremely difficult to prove that Lay had knowledge of any illicit operations.

This position has been repeated by the media and the political establishment as a whole. The *New York Times*, in its editorial of August 22, declared, "Mr. Kopper may prove especially helpful in the effort to build cases against the company's former chief financial officer, Andrew Fastow; its former chief executive officer, Jeffrey Skilling; and *possibly even* its former chairman, Kenneth Lay" (emphasis added).

As though any thinking person could doubt that Lay was deeply involved in the fraudulent practices being carried out by the company he founded and headed! That the *Times* adopts such a timid and cowardly tone, speaking of the prosecution of Lay as some remote possibility, is indicative of its own role and that of the so-called liberal establishment in propping up Bush and lending credibility to his administration.

Why has Lay not been arrested and why is his role being downplayed? Precisely because of his intimate political relationship with George W. Bush.

Lay was for many years, beginning with the president's run for governor of Texas, Bush's largest financial benefactor. He served as the financial chairman of the Bush inaugural. He was closely involved in the development of the administration's energy policy before his company's collapse. It has recently been revealed that during the 2000 election, Lay and Enron helped finance the Bush campaign's legal offensive to stop the counting of votes in Florida—a dispute that eventually led to the anti-democratic installation of Bush by the Supreme Court.

The connection between Lay and Bush is not the only tie between the administration and Enron. This government includes in its top personnel many individuals with the closest

personal and financial ties to Enron. Secretary of the Army Thomas White worked as a top executive at the company. Vice President Richard Cheney's chief of staff, Lewis Libby, had financial ties with the company, and Attorney General John Ashcroft has recused himself from the Enron investigation due to possible conflicts of interest. Bush's top economic adviser, Lawrence Lindsey, is a former adviser to Enron. These are only some of the ties between the company and high-level Bush officials.

In its editorial, the *Times* does not even mention Bush or possible implications for his administration. In this, the newspaper is continuing its policy of cover-up, spelled out last January in an editorial warning the Democrats against any attempt to turn Enron into a political scandal—a warning, it should be added, that hardly needed to be made.

Such circumspection stands in stark contrast to the way the *Times* and the rest of the media handled the Clinton impeachment scandal, where every piece of gossip was treated as a political bombshell of monumental importance.

Within this broader political context, the strategy of the Justice Department becomes more clear: to proceed with some prosecutions, while attempting to contain the fallout.

This is not to say that the revelations that have emerged in association with the Kopper plea are insignificant. In fact, they do much to concretize the corruption and criminality that became Enron's specialty.

Kopper was managing director of Enron Global Finance, which was directed by Chief Financial Officer Fastow. He was a close associate of Fastow and participated in many of the financial operations set up to boost Enron's profit while enriching executives.

One of these operations involved a private partnership known as RADR. RADR was set up in 1997 to solve a problem arising from Enron's purchase of a utility, Portland General Electric (PGE). At the time, Enron owned wind farms in California, which allowed the company to sell energy at higher prices because it qualified as an "alternative energy provider." According to California state utility regulations, however, the purchase of the utility would invalidate these subsidies.

Enron wanted to keep both the utility and the wind farms, while retaining the extra benefits accrued from energy produced by the wind farms. To this end, Fastow arranged to sell the utility to an ostensibly external partnership. According to business code, a partnership is considered "external" as soon as 3 percent of the firm is owned by external investors. Fastow did not even meet this requirement. The funds were lent by Fastow to Kopper, who in turn lent it to friends and family of the two executives to invest in RADR. This gave the appearance of an external entity to what was wholly owned by Enron insiders.

While the deal served the immediate purpose of hiding Enron's dual ownership of the wind farms and PGE, it had the equally significant objective of personally enriching those

involved. A portion of the loaned money—\$2.7 million—was repaid with considerable interest to the friends and family who served as the "outside" lenders. When Enron bought back the wind farms in 2000, the lenders made an additional \$1.8 million. According to Kopper, some of this money was then transferred to Kopper and Fastow in the form of kickbacks.

Similar manipulations were involved in the two other arrangements cited in the government's case against Kopper: Chewco and Southhampton. Chewco was designed to keep more than \$700 million in debt off of Enron's balance sheet. Again, in order to keep Chewco off of Enron's books, it was necessary that it be classified as an external partnership, i.e., 3 percent of its equity had to come from outside investors.

Kopper arranged to secure an investment from a British bank, Barclays BLC, but the banks insisted that the loan be partially secured by an Enron affiliate, thus making the investment ultimately dependent on Enron's own funds. Thus Chewco did not meet the 3 percent requirement, though it was treated as external by Enron, Fastow and Kopper. When Enron was forced to buy back the partnership and write off its debt, Kopper and his domestic partner, William Dodson, received \$12.6 million.

Much of this money apparently found its way back to Fastow when Kopper bought out Fastow's share in other off-balance-sheet partnerships for \$16 million. One of these partnerships included Southhampton. Southhampton served essentially as a method of transferring millions of dollars in Enron funds to a few select employees, including Kopper, who were allowed to invest in the firm before it was bought out by Enron in 2000.

The real significance of these details—and the Enron scandal as a whole—is that they reveal the extent to which the Bush administration rests on the most criminal layers of corporate America.



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