

Mgt 553 ethics case: chaos and ethical dilemmas at enron in 2001 case study examp...

[Business](#), [Company](#)



Current Situation

The situation presents the unethical practices by Enron's Chief Financial Officer, Andy Fastow during a period of massive violations of ethical and accounting practices. Fastow started Special Purpose Entities (SPEs) such as LJM which unethically grew and boomed out of Enron's shares and assets (Arbogast). There was a serious conflict of interest since Fastow owned a big share of LJM. Before I joined, Global Finance as lawyer in the Tax Department, I had heard of LJM being a special purpose vehicle to purchase assets from Enron. I obtained a memo addressed to Enron's executives in which Fastow sought exemption from Enron's Ethics Policy. I also noticed several other details regarding partner's compensations, unavailability of Risk Assessment Control (RAC) Department assessments of transactions between Enron and LJM, poor documentation of deals, unorganized files, and missing approval signatures on crucial documents among other suspicious activities (Arbogast). I approached my boss, Fastow over the issues I had discovered about LJM and enquired whether Enron should disclose more details about LJM/Enron dealings. Fastow sought to silence me and I then knew that Global Finance was hiding things. I knew that this meant serious risks for Enron and I sought several strategies as well as potential personalities to help deal with the problems at hand.

Vision

My vision for Global Finance and Enron as a whole was to come up with a sustainable plan to revert the trend of financial scandals that were unfolding at Enron. I envisioned a reversal in the fortunes of the company to safeguard

the aspirations of its stakeholders by guiding Enron to ethical accountability through strategic correction of errors and transparency in all operations.

Mission

My mission was to use my position as a legal counsel to expose Fastow to the imminent collapse of LJM, Global Finance and Enron Company as a whole. From a legal standpoint, I was set to guide Enron on how to balance between corporate issues, ethics and profitability within the confines of law.

Strategic and Financial Objectives

Strategic Objectives

The main strategic objective was to ensure that Global Finance, Enron and LJM agreed to a full disclosure of their transactions to the Generally Accepted Accounting Principles (GAAP) authorities, Secondary-Tax-on-Companies (STC) regulations among other relevant bodies. I needed to guide the organization to exert the leadership that was necessary to steady the company from the ongoing ethical scandals. The strategy would entail explaining the legal implications of Enron's underhand dealings to the company's executives. I would then ensure that internal procedures and documentations were rectified, urge the management to disclose material facts to the board, advice the management on the need to conduct a risk analysis and lastly urge the executive management to address the conflicts of interest arising from Fastow's LJM companies and Enron. I would then help Enron to put in place controls to monitor and report its dealings with Global Finance, LJM and other companies in order to avoid " sweetheart deals" that would potentially lead to the collapse of the company.

Financial Objectives

The main financial objective was to prevent Enron from going through financial losses through legal suits. Enron's strong financial position over the last few years resulted from unethical dealings and shady accounting. It was only a matter of time before the financial position of the company came down. The main financial strategy was to rectify all possible financial transactions, carry out proper auditing of the company's financial position, account for glaring errors and ensure that all documentation especially in regard to financial transactions was done properly. This would save the organization losses through legal suits and most importantly help reflect the true financial position of the company. Instead of the company continuing to operate on fictitious and deliberately erroneous financial records, a full transparent audit of its financial position would help the executive management to plan for the future. Enron was already in deep financial mess and I had to protect my own financial profile by being transparent in my work. Transparency and proper documentation would help me to avoid getting entangled into legal suits that would negatively affect my personal finances.

Driving Forces

There are several driving forces influencing operations at Enron and the need to act in order to reverse ethicality at the company. The first is the status and reputation of Enron Company. Enron was one of the largest and most reputable companies in the world and its involvement in unethical accounting practices was feared to have a ripple effect on other major

companies in the US and beyond. Secondly, the management at Enron was aware of the unethical practices but chose not to act and instead covered up the practices. As such it was important to establish the internal mechanisms that were to be acted upon in order to safeguard the interests of stakeholders. The Chairman Mr. Kenneth Lay, CEO Jeff Skilling and the CFO Andrew Fastow spearheaded the violation of ethical practices at Enron and it was important to consider the three as the most responsible forces behind the collapse of Enron. Another major driving force was to safeguard my personal reputation and professional ethics from being entangled with the unethical practices at Global Finance, LJM and Enron as a whole. I had to act in order to reverse the fortunes of Enron as an important company in global economics while ensuring that I was not personally implicated in its collapse.

Assumptions

In order to offer any meaningful advice to Enron's management on strategies that would reverse the company's fortunes, I had to make several assumptions. The first is that my personal experiences at the company were accurate and that I was acting after being adequately informed on what was going on at the company. The second assumption was that the glaring errors such as documents missing approval signatures were done deliberately to cover up some unethical and illegal issues. According to Carl Von Clausewitz, "the backbone of surprise is fusing speed with secrecy". As such, I had to assume that I was secretly disguising my intentions of whistle blowing from executives such as Andrew Fastow while acting with enough speed to avert an imminent collapse of Enron. I also had to make the assumption that

majority of the stakeholders to Enron would not be in approval of the unethical practices at the company. I also had to assume that I had the ability to stay in the company, act ethically and transparently and in the long run avoid being implicated in any legal suit that would ruin my career, reputation and financial fortunes.

SWOT Analysis

- Strengths

- I had good accounting and finance background having worked at Enron for four years

- I also had interacted with the architects of the Enron scandal such as Andrew Fastow for some time and was therefore adequately informed on what was happening

- I was privy to the operations and intent of LJM-which was central to the unethical practices at Enron

- I had several documents such as memos between Global Finance and LJM which I would use to support my assertions about unethical practices at Enron

- Weaknesses (Ex: Maybe some contact in the company)

- I did not have the support of my boss, Andrew Fastow

- As a lawyer, I lacked the personal capacity to significantly influence decisions by Enron's executive management

- In comparison to some people such as Andrew Fastow, who had been at the company since the early 1990s I was relatively new to the company and therefore not adequately authoritative

- Opportunities
- I had personally gotten a crucial memo that I would present to authorities and launch an attack on Fastow's role in the unfolding scandal at Enron
- I had an opportunity to ride on the back of a growing public demand for accountability and transparency in public companies
- As a leading legal counsel to Enron, I would get crucial information regarding the company which I would use to help the company revert to ethical and legal practices.
- Threats
- The threat of being fired was real
- The threat of being held personally accountable for the collapse of Enron was also very real. This would seriously damage my reputation and career
- I also feared legal suits that would financially drain me off

Analysis of Strategic Issues

The strategic issues arising from this case are:

- How to stave off market challenges from new foreign competitors?

Enron was previously a darling of Wall Street in the natural gas and pipeline business. The entry of companies such as Dynegy has intensified competition. Enron's current woes have compelled the company to seek Dynegy to buy it out but the latter declined. Since Enron had the customer base it should act to rectify its accounting and ethical practices in order to avoid losing its reputation and lose out customers to Dynegy and other companies.

- How to sustain a company's present growth in light of slowing buyer

demand?

Enron Energy is currently doing very well financially but the current financial situation is hinged on illegal and unethical dealings. The company can sustain its growth by conducting proper and transparent accounting practices that establish the accurate financial position. There is bound to be slowing buyer demand as more companies come up. Since Enron is already a well known company it can take advantage of their current popularity to reduce expenditure on advertising. The amounts saved can be directed to the rectification of all accounting errors and recoup money that may have stolen through ill-fashioned companies such as LJM. A strong, accurate and balanced financial position will help the company sustain present growth in light of slowing buyer demand.

- Whether to expand into foreign markets rapidly or cautiously?

Enron should put on hold plans to expand into foreign markets. Expansion into foreign markets demands lots of investment and the company is not in such a position. This is because of the risk of huge losses that the company would incur in case it collapses. Expansion into foreign markets would also be risky because the reputation of the company is declining and it might be very difficult to acquire a new and substantial customer base.

Crafting Strategic Alternatives

The first alternative in pursuing my strategy is to make full disclosure to Enron's management and Board about my discoveries about LJM, its dealings with Global Finance and the role of Fastow in the ongoing scandal. I would then offer legal advice to the interested parties an insider party. The second

alternative would be to make my communication to the relevant company officials and then resign to pursue the management through regulating and oversight authorities. I could also ask for a demotion to my previous position in the tax department from where I shall be less directly involved in the scandals but can pursue specific legal actions on say violation of filing of tax returns. These legal channels could serve to effectively open the “ can of worms” - deeper financial scandals by Enron’s management!

Recommendation

Whistle blowing by such employees has not been adequately addressed by GAAP, Securities and Exchange Commission (SEC) as a measure to instill corporate adherence to ethics. Individuals bearing crucial information in regard to unethical and illegal corporate practices need protection and immunity from liability in order to improve corporate adherence to ethics. In this case, I faced opposition from my immediate boss, Mr. Fastow who never wanted me to disclose issues about his ownership of LJM (Arbogast). He would have fired me and implicated me in the unethical practices and as such, SEC, GAAP and other relevant bodies should put in place mechanisms and structures to protect whistle blowers.

Implementing/Executing Strategies

- Building a capable organization

This entails rectifying all mistakes, being transparent and establishing accurate financial dealings that can support the company and all its operations.

- Allocating resources to strategy-critical activities

Enron should allocate the available funds to hire professional auditors and accountants to help it establish an accurate financial status. It should also pay off any due taxes and “cut off” the channels such as LJM that Fastow is currently using to siphon money from Enron. In addition, some of the resources need to be allocated cautiously to cover up for losses emanating from legal suits.

- Establishing strategy-supportive policies (Re-write same policy as the company)

The board needs to rewrite the company’s policies to reflect renewed accountability, transparency, commitment to corporate ethics.

- Installing needed information, communication, and operating systems
Information, communication, and operating systems at Enron should be supportive of its recovery mission. IT systems should support proper filing and organization of data. Stored information should be secure with minimal interference. Communication channels should be updated to improve efficiency in communication and to ensure timely and secure exchange of information.

- Motivating people to pursue the target objectives

Employees who volunteer to help the company recover from unethical practices should be motivated and not threatened. As long as their target objectives are for the future good of the company, such employees should be encouraged, and given the necessary support and protection to achieve their objectives.

- Tying rewards to achievement of results

Enron employees who agree to continue to work for the company to oversee it recover from its current position should be rewarded. The employees will be crucial in revealing the loopholes and the personalities involved in corrupt dealings. Moreover, such as Sheron Watkins who resisted and made efforts on their own to curb the illegalities at the company should be rewarded through pay increments or promotions.

- Creating a strategy-supportive corporate culture

Enron needs to develop a culture based on transparency, integrity and accountability at all human resource levels. I would just need to make disclosure to the executive management who Fastow has kept in the dark about his ownership of LJM. I would also ask the management to rectify and sign relevant documentations henceforth so as not to continue trending on the dangerous route of unaccountability.

- Exerting the leadership necessary to drive the process forward and keep improving

The leadership of the company needs to change and the resignation of Jeff Skilling was a good gesture, however the entire leadership at Enron must be held accountable (Arbogast). Leaders should uphold integrity and avoid being entangled in corrupt, illegal and unethical practices.

Evaluation and Control

Evaluation and control involves establishment of new leadership and holding those responsible for unethical practices to account. The deliverables of the strategies adopted should be weighed on issues such full documentation, pending of approval signatures, proper filing and organization of

transactions. These issues should be the control measures implemented by Enron's management and should be used to evaluate the company's adherence to ethics. LJM and other ill-fashioned companies should be dealt with and all employees should declare whether they bring on board any conflicting interests. Clausewitz states that " principles and rules are meant to provide a thinking man with a frame of reference". I intent to use the principles and rules laid out in law and the dictates of ethics to ensure that I do my best to prevent another business scandal

References

Arbogast G. W. Case Study: Chaos and Ethical dilemmas at Enron in 2001.