Enron corporate fraud

In the broadest sense, a fraud is an intentional deception made for personal gain or to damage another individual. The specific legal definition varies by legal jurisdiction. Fraud is a crime, and is also a civil law violation. Many hoaxes are fraudulent, although those not made for personal gain are not technically frauds. Defrauding people of money is presumably the most common type of fraud, but there have also been many fraudulent " discoveries" in art, archaeology, and science.

Types of FRAUD: * Fraud as a criminal act * Fraud for profit * Marriage fraud * Academic fraud * Fraud as tort Elements of fraud: Common law fraud has nine elements: 1. a representation of an existing fact; 2. its materiality; 3. its falsity; 4. the speaker's knowledge of its falsity; 5. the speaker's intent that it shall be acted upon by the plaintiff; 6. plaintiff's ignorance of its falsity; 7. plaintiff's reliance on the truth of the representation; 8. plaintiff's right to rely upon it; and 9. consequent damages suffered by plaintiff. CORPORATE CRIME:

In criminology, corporate crime refers to crimes committed either by a corporation (i. e. , a business entity having a separate legal personality from the natural persons that manage its activities), or by individuals that may be identified with a corporation or other business entity (see vicarious liability and corporate liability). Note that some forms of corporate corruption may not actually be criminal if they are not specifically illegal under a given system of laws. ENRON CASE: On October 16, 2001, Enron, the seventh largest corporation in the U.

S. , announced a $638 million loss in third-quarter earnings. On November 8, 2001, the company publicly admitted to having overstated earnings for four years by $586 million and to having created limited partnerships to hide $3 billion in debt. As investors lost confidence in the company, Enron stock, which had been worth as much as $90 per share in 2000, plummeted to less than $1 per share. Thousands of Enron employees lost their jobs and retirement savings, which had been invested in corporate stock through a 401(k) retirement plan.

Banks and lenders lost millions of dollars in loans made to Enron based on the fraudulent earnings reports. Enron Corporation started as a pipeline company in Houston, Texas, that delivered gas at market price. Over the next 15 years, Enron expanded into an energy power broker that traded electricity and other commodities, such as water and broadband Internet services. Enron became one of the nation's most successful companies, employing 21, 000 people in more than 40 countries.

The senior executives at Enron attributed their success to their corporate strategy, which was to be light in assets but heavy in innovation. The innovative business practices of overstating profits and concealing debt increased the company's stock value, thus allowing the company to borrow more money and to expand. It also led to some top executives selling their stock and making over one billion dollars. Those former executives were later indicted for Fraud, Money Laundering, and conspiracy, and they also face dozens of civil lawsuits filed by Pension funds and former employees.

The company's accounting firm, Arthur Andersen, admitted to having shredded Enron documents after it had learned that the Securities and Exchange Commission (SEC) was conducting an investigation of the corporation. The accounting firm was convicted of Obstruction of Justice, lost hundreds of clients and employees, and went out of business. After the Enron scandal became public knowledge, many wondered how such an overstatement could have escaped notice. What the public soon would learn was that Enron was only one among many such stories.

In March 2002, the world learned that WorldCom, the second largest long-distance phone company in the U. S. , had overstated profits by listing $3. 8 billion in normal operating expenses (which were basically routine maintenance costs) as capital expenses. This move allowed them to spread the expenses out over several years, thereby making profits look much larger and artificially inflating the company's value in order to meet Wall Street's expected earnings. WorldCom stock, which was valued as high as $60 per share in 1999, dropped to 20 cents per share in response to the news. Seventeen thousand WorldCom employees lost their jobs.

The Justice Department has secured indictments against the former Chief Financial Officer, Richard Breeden, for bank fraud, Securities fraud, conspiracy and false statements in SEC filings. Four other former WorldCom executives have pled guilty to securities fraud and agreed to cooperate with the prosecution. The SEC has filed a civil suit against the company. As of 2003, the SEC has uncovered over $9 billion in bogus accounting. In July 2002, WorldCom filed the world's largest Bankruptcy. After Enron's and

WorldCom's fraudulent accounting practices became public knowledge, news of more corporate accounting scandals came flooding in.

In February 2002, Global Crossing was caught inflating revenue and shredding documents that contained accounting information. In April 2002, Adelphia Communications made headlines amidst the discovery that $3. 1 billion worth of secret loans had been made to the company's founding family—some of whom were later arrested—and earnings were overstated. In May 2002, Tyco International, Ltd. accused three former senior executives of having fraudulently taken out loans from the company without permission and without paying them back.

The men also allegedly issued bonuses to themselves and other employees without approval from the company's board of directors. The SEC has since charged the three for fraud and theft and is investigating whether the company had knowledge of this conduct. In July 2002, it was revealed that AOL Time Warner had inflated sales figures. Amid further investigations, the company admitted to having possibly overstated revenue by $49 million. Other companies in the spotlight for corporate accounting scandal allegations include Bristol-Myers Squibb, Kmart, Qwest Communications International, and Xerox.

In addition to corporate scandal, television personality and home decorating maven Martha Stewart was indicted for allegedly selling 3, 928 shares of stock in ImClone Systems, thus making about $227, 824, based on an insider trading tip that she had received from the company's founder, Samuel Waksal. WHAT HAPPENED The collapse of Enron Corporation in 2001 led to

massive investigations involving allegations of a range of criminal activities perpetrated by some of the company's top executives. In January 2002, the u. s. ustice department announced that it had formed an Enron Task Force consisting of a team of federal prosecutors and under the supervision of the department, agents of the Federal Bureau of Investigation, and agents of the criminal division of the Internal Revenue Service. The scandal developed into a case study of corporate fraud, poor management decisions, and faulty accounting practices. Enron had built itself into the seventh largest company in the United States, with annual revenues of $100 billion. In December 2000, the company's stock sold for as much as $84. 7 per share.

However, stock prices fell throughout much of 2001. In October, the company announced that it had overstated its revenues, claiming losses of $638 million during the third quarter of 2001 alone. Stock prices then plunged, hurting investors and employees with retirement plans that were tied into company stock. By the beginning of December, Enron's stock prices had fallen to below $1 per share. Enron filed for Chapter 11 Bankruptcy protection on December 2, 2001. To date, the event constituted the largest bankruptcy in U. S. history.

Much of the early investigation into the Enron fiasco focused on the company's financial reporting practices. Though the company followed generally accepted accounting principles (GAAP), these practices gave the false impression that the company was more profitable and more secure than it really was. The company reported revenues that were actually funds flowing through transitional transactions with related companies. Moreover,

the company hid its losses and debts in partnerships that did not appear on Enron's financial statements. HOW IT HAPPENED

The first criminal charges were filed against Enron's accounting firm, Arthur Andersen, L. L. P. The Justice Department brought charges that the accounting firm had destroyed thousands of documents, including computer files, related to its dealings with Enron. Anderson was also convicted for doctoring a memo and misstating a news release related to Enron. The company was found guilty of Obstruction of Justice in June 2002—an appeal is still pending as of September 2003. It was placed on Probation for five years and required to pay a fine of $500, 000.

Analysts questioned whether the accounting firm would survive after the conviction. In addition to its role as accountant, Arthur Andersen had served as a consultant to Enron for a number of years, thus raising conflicts of interest questions. Because the Justice Department had not moved forward with criminal indictments against Enron officials, several critics charged that the federal government under President george w. bush was protecting top Enron executives. Several of these executives were questioned by the Senate Commerce Committee in February 2002, but no charges were filed.

Several of Enron's senior executives reportedly had personal interests in certain risky transactions. These executives even sold Enron stock while at the same time convincing employees to hold their stock. The board of directors of the company also allegedly failed to provide significant oversight regarding the auditing and reporting by the company. The first major criminal charges involving an Enron executive were brought against Michael

Kopper, who had served as an aide to chief financial officer Andrew Fastow. Kopper pleaded guilty to charges of Money Laundering and conspiracy to commit Fraud in August 2002.

Kopper implicated Fastow, claiming that Fastow had conducted transactions on behalf of Enron for the benefit of third-party partnerships owned by Fastow. The Justice Department then focused its attention on Fastow, who allegedly had $12. 8 million in funds and was constructing a $2. 6 million house. The government alleged that Fastow and Kopper had accumulated $22 million from illegal Enron deals. In November 2002, the Justice Department indicted Fastow on 78 counts, including fraud, money laundering, and obstruction of justice.

The criminal indictment did not include former CEO Kenneth Lay, former CEO Jeffrey Skilling, or any other top executives. The Justice Department also announced that it could file a superseding indictment with additional charges. This superseding indictment might name additional defendants as well. Fastow appeared before the Securities and Exchange Commission in December 2002 but invoked his fifth amendment privilege against self-incrimination. In several trade publications in the late 1990s, Fastow had discussed his accounting practices at Enron, including methods for keeping funds off of Enron's books.

According to several commentators, Fastow could represent a " fall guy" for the Enron fiasco, as it was probable that other executives and members of the board were aware of these reporting practices. Others involved in Enron transactions were also brought up on criminal charges. In July 2002, three

British bankers were charged with wire fraud for their dealings with Enron. The Justice Department subsequently focused its attention on Enron Broadband Services, an Internet division of the company.

The Houston Chronicle reported in April 2003 that executives of that branch were likely to be indicted for insider trading, fraud, and money laundering. As of the end of April 2003, twelve charges had been filed relating to the Enron fiasco, though only seven were filed against company insiders. TRIALS: Kenneth Lay, the former Chairman of the Board and Chief Executive Officer and Jeffrey Skilling, former Chief Executive Officer and Chief Operating Officer, went on trial for their part in the Enron scandal in January 2006.

The 53-count, 65-page indictment covers a broad range of financial crimes, including bank fraud, making false statements to banks and auditors, securities fraud, wire fraud, money laundering, conspiracy and insider trading. U. S. District Judge Sim Lake had previously denied motions by the defendants to hold separate trials and to move the case out of Houston, where the defendants argued the negative publicity surrounding Enron's demise would make it impossible to get a fair trial. Lay pleaded not guilty to the eleven criminal charges.

Lay stated that he was misled by those around him. At the time of his death in July, 2006 the U. S. Securities and Exchange Commission (SEC) had been seeking more than $90 million from Lay in addition to civil fines. The case surrounding Mrs. Linda Lay is a difficult one. Mrs. Lay sold roughly 500, 000 shares of Enron ten minutes to thirty minutes before the information that Enron was collapsing went public on November 28, 2001. On January 13,

2006 lobbyist William " Art" Roberts pleaded guilty to impersonating Senate staff members during the investigation.

Roberts was hired by a German bank in June 2004 to get a letter from a Senate subcommittee stating the bank had done their due diligence investigating the Enron collapse, as part of the bank's defense in a suit filed against it by a London bank. Although Michael Kopper worked for Enron for over seven years before the scandal became public, he was always under the radar. Kenneth Lay, Enron CEO, did not know of Kopper even after the company's bankruptcy. Kopper was able to keep his name anonymous in the entire affair, as the spotlight remained on Fastow throughout the entire affair.

On May 25, 2006, the jury in the Lay and Skilling trial returned its verdicts. Skilling was convicted of 19 of 28 counts of securities fraud and wire fraud and acquitted on the remaining nine, including charges of insider trading. He was sentenced to 24 years, 4 months in prison. Lay was convicted of all six counts of securities and wire fraud for which he had been tried, and he faced a total sentence of up to 45 years in prison. Lay died on July 5, 2006, before sentencing was scheduled.