

Enron Chiefs Guilty of Fraud and Conspiracy

By ALEXEI BARRIONUEVO

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HOUSTON, May 25 — Kenneth L. Lay and Jeffrey K. Skilling, the chief executives who guided Enron through its spectacular rise and even more stunning fall, were found guilty today of fraud and conspiracy. They are among the most prominent corporate leaders to emerge from a wave of scandals that marked the get-rich-quick excesses and management failures of the 1990's.

The eight women and four men on the jury reached the verdicts after a little more than five days of deliberations. Mr. Skilling was convicted of 18 counts of fraud and conspiracy and one count of insider trading. He was acquitted on nine counts of insider trading. Mr. Lay was found guilty on six counts of fraud and conspiracy and four counts of bank fraud.

The conspiracy and fraud convictions each carry a sentence of 5 to 10 years in prison. The insider trading charge against Mr. Skilling carries a maximum of 10 years.

Both men are expected to appeal. Judge Simeon T. Lake III, the judge in the case, set sentencing for Sept. 11. Until then, the two men are free on bail. If they lose their appeals, Mr. Skilling and Mr. Lay face potential sentences that experts believe will keep them in prison for the rest of their lives.

Mr. Lay frowned and tried to comfort his wife, Linda, who sat next to him in the front row and dabbed at tears with a tissue. Mr. Skilling, who had few family members in attendance, reacted with little emotion as the verdict was read, briefly searching the audience's faces and later striding confidently alone out of the courtroom ahead of his lead lawyer, Daniel Petrocelli.



Enron founder Kenneth L. Lay with his wife, Linda, outside federal court in Houston today.
Michael Stravato for The New York Times

"Obviously, I'm disappointed," Mr. Skilling said as he left the courthouse, "but that's the way the system works."

Mr. Lay later said, "I firmly believe I'm innocent of the charges against me."

In televised remarks, he said, "We believe that God in fact is in control and indeed he does work all things for good for those who love the Lord."

For a company that once seemed so complex that almost no one could understand how it actually made its money, the cases ended up being simpler than most people envisioned. Mr. Lay, 64, and Mr. Skilling, 52, were found guilty of lying — to investors, employees and government regulators — in an effort to disguise the crumbling fortunes of their energy empire.

The 12 jurors and three alternates, who all agreed to talk to about 100 reporters at a news conference following the verdict, said they were persuaded — by the volume of evidence the government presented and Mr. Skilling and Mr. Lay's own appearances on the stand — that the men had perpetuated a far-reaching fraud by lying to investors and employees about Enron's performance.

The panel rejected the former chief executives' insistence that no fraud occurred at Enron other than that committed by a few underlings who stole millions in secret side deals. And the jurors said they did not believe that negative press and failing market confidence combined to sink the company.

"The jury has spoken and they have sent an unmistakable message to boardrooms across the country that you can't lie to shareholders, you can't put yourself in front of your employees' interests, and no matter how rich and powerful you are, you have to play by the rules," Sean M. Berkowitz, the director of the Justice Department's Enron Task Force, said outside the courthouse.



Kenneth L. Lay, the founder of Enron, leaving the Federal courthouse in Houston today.
Jessica Kourkounis for The New York Times

For years, Enron's gravity-defying stock price made it a Wall Street darling and an icon of the "New Economy" of the 1990's. But its sudden collapse at the end of 2001 and revelation as little more than a house of cards left Enron and its crooked E as the premier public symbol of corporate ignominy.

Enron's fall had a far greater impact than on just the energy industry by heightening nervousness among average investors about the transparency of American companies. "The Enron case and all the other scandals and cases that trailed after it may have finally punctured that romance with Wall Street that has been true of American culture for awhile now," said Steve Fraser, a historian and author of "Every Man a Speculator: A History of Wall Street in American Life."

At Enron, Mr. Skilling was the visionary from the world of management consulting who spearheaded the company's rapid ascent

by fastening on new ways to turn commodities, like natural gas and electricity, into complex, lucrative financial instruments.

Mr. Lay, the company's founder, was the public face of Enron. Known for his close ties to President Bush's family, he built Enron into a symbol of civic pride and envy here in its hometown of Houston and throughout the financial world.

The verdicts are a long-awaited vindication for federal prosecutors, who had produced mixed results from their four-year investigation of wrongdoing at the company. The investigation resulted in 16 guilty pleas by Enron executives, and four convictions of Merrill Lynch bankers in a case involving the bogus sale of Nigerian barges to the Wall Street firm.

Last year, however, the Supreme Court, blaming flawed jury instructions, overturned the obstruction of justice verdict that sounded the death knell for accounting firm Arthur Andersen, Enron's outside auditor.. And a jury either acquitted or failed to agree on charges in the fraud trial of former managers of Enron's failed broadband division.



Jeffrey K. Skilling, the former Enron chief executive and president, left, leaving the court today with his lawyer, Dan Petrocelli. Dave Einsel/Getty Images

During the 56-day trial, defense lawyers repeatedly criticized prosecutors for bringing criminal charges against Mr. Skilling and Mr. Lay, saying the government had set out to punish the company's top officers regardless of what the facts might be. The lawyers said the government was criminalizing normal business practices and accused prosecutors of pressuring key witnesses to plead guilty to crimes they did not commit.

The defense lawyers also complained about a lack of access to witnesses who they contended could have corroborated their clients' versions of events. Several jurors said they would have liked to hear from more witnesses, in particular Richard A. Causey, the chief accounting officer whom neither side called in the end. "To me, he was a missing link," said one juror, Douglas Baggett, administrative manager for a corporate legal department. "He would have linked a lot of things together for us had he testified."

The Enron trial, more than any other, punctuates the era of corporate corruption defined by the failure of WorldCom, the telecommunications giant whose bankruptcy following revelations of \$11 billion in accounting fraud even exceeded Enron's in size; the prosecution of Frank Quattrone, the technology industry banker; and executive suite scandals at Tyco, Adelphia Communications and HealthSouth.

Minutes after the jurors and the judge had cleared out of the courtroom today, Mr. Lay's family members huddled around him. Elizabeth Vittor, Mr. Lay's daughter and a lawyer who had worked on his defense team, sobbed uncontrollably. Two local ministers also leaned in and hugged Mr. Lay, whose family members soon formed a circle in the courtroom, with arms over shoulders, and cried together.

"I know, I know," Mr. Lay said in a soothing voice to several of them, as they clutched at his suit coat.

Mr. Lay was forced to remain in the courthouse for more than three hours after the verdict was announced for a hearing on securing a \$5 million bond, which will come from a mix of financial pledges from his children, and to surrender his passport.

Judge Lake will have broad discretion in determining the former executives' sentences. He is not known for his leniency. Two years ago he sentenced Jamie Olis, a former midlevel executive at Dynegy, to 24 years for his role in a scheme to disguise the company's finances. An appeals court last year ordered the judge to revise the sentence. A hearing is set for June 9. The guilty verdicts could have limited impact on a spate of civil cases. "They are not the ones who are going to pay the billions of dollars in additional recoveries that we hope to obtain on top of the \$7.2 billion we already have from banks in our previous settlements," said William S. Lerach, the lead lawyer in the largest civil case, set to go to trial in October.



Jeffrey K. Skilling, the former Enron chief executive and president, left, with his lawyer, Dan Petrocelli.
Pat Sullivan/Associated Press

From the beginning, the Enron leaders' trial was not what many people expected after revelations of secret off-the-books schemes that

earned a small fortune for Andrew S. Fastow, Enron's former chief financial officer, and his cadre of co-conspirators. Those transactions were used to artificially prop up the company's profits, but prosecutors never seriously attempted to prove that Mr. Lay and Mr. Skilling were responsible for them.

Rather than delve into whether those intricate accounting structures were legitimate, prosecutors focused almost exclusively on what they cited as the false statements Mr. Skilling and Mr. Lay made to employees and outside investors.

The "lies and choices" theme transformed the case into a test of credibility between the former chief executives and the more than half a dozen witnesses from inside Enron who testified for the government.

During the trial, the government called 25 witnesses and the defense called 31, including Mr. Skilling and Mr. Lay. Government witnesses, including Enron's former treasurer, Ben F. Glisan Jr., testified that the executives had sanctioned or encouraged manipulative accounting practices and then crossed the line from corporate cheerleading into outright misrepresentations of Enron's financial performance.

Mr. Fastow's emotional turn on the stand offered some of the most devastating evidence against Mr. Skilling, and to a lesser extent, Mr. Lay. He said he had struck "bear hug" side deals with Mr. Skilling guaranteeing that his off-the-books partnerships, dubbed LJM, would not lose money in their dealings with Enron. Mr. Fastow also described how Mr. Skilling had bought into the idea of using the LJM's to gin up more earnings to meet quarterly targets.

But Mr. Fastow's own admitted history of extensive crimes at Enron was brutally dissected by Mr. Petrocelli and jurors said they did not find Mr. Fastow particularly persuasive. "Fastow was Fastow," said

one juror, Donald Martin, shaking his head. "We knew where he was coming from."



Jeffrey K. Skilling, the former Enron chief executive and president, left, and Kenneth L. Lay, the former chairman.

Pat Sullivan/Associated Press

The jurors said they were moved, in contrast, by the testimony of Mr. Glisan. "We kept on going back to that testimony to corroborate things," said another juror, Freddy Delgado, an elementary school principal. "I think that was one of the best witnesses brought forward."

The surprise testimony of David W. Delainey, the former chief executive of a retail energy unit called Energy Services, also helped pave the way for Mr. Skilling's conviction. Mr. Delainey, who pleaded guilty to fraud, said that Mr. Skilling participated in a decision to shift some \$200 million in losses from Energy Services to the more profitable wholesale energy division to avoid having to admit to investors that Energy Services was failing.

On the stand, Mr. Skilling offered differing and confusing explanations for the shift. He proved evasive and sometimes forgetful, and he revealed an emotional immaturity that led some to question whether he should ever have been leading such a large company.

His abrupt resignation in August 2001, after only six months as chief executive, led to a bout of heavy drinking as a depressed Mr. Skilling watched in horror as the company he helped build edged ever closer to the brink.

For Mr. Lay, a key turning point came when Sherron S. Watkins, the former Enron vice president, took the stand to describe how she confronted him with concerns about Enron's accounting. Ms. Watkins said the subsequent investigation Mr. Lay ordered, done by Enron's in-house law firm, Vinson & Elkins, was intentionally limited in scope to conclude that there were no problems.

Other issues plagued Mr. Lay's defense, most notably his own testiness on the stand and the sudden illness of his lead lawyer, Mr. Ramsey, a well-regarded criminal defense attorney who was forced to miss more than a month of the trial because of coronary disease that required two operations. Mr. Lay, in part because of his own strained finances, decided to carry on without Mr. Ramsey rather than seek to delay the trial and fight another day.

Vikas Bajaj and Kyle Whitmire contributed reporting for this article.

