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Criminal Charges in Corporate Scandals

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Summary

Since the collapse of Enron Corp. in late 2001, there has been a series of scandals involving major U.S. corporations. Recurring elements in the scandals include improper or fraudulent accounting, self-enrichment by corporate officers, stock trading on inside information (“insider trading”), and the destruction or falsification of business records. A number of cases have resulted in criminal indictments, some followed by guilty pleas. This report tracks post-Enron criminal charges. Companies are listed alphabetically, and individuals who have been charged, indicted, or have pleaded guilty are identified. A longer list of companies with recent accounting problems (not all of which have resulted in criminal indictments) may be found in CRS Report RS21269, *Accounting Problems Reported in Major Companies Since Enron*.

The 107th Congress responded to the series of corporate scandals that began with Enron by passing the Sarbanes-Oxley Act of 2002. That law created a new oversight body for corporate auditors, imposed new disclosure requirements on corporations, including a mandate that CEOs personally certify the accuracy of their firms’ public financial reports, and increased criminal penalties for a number of offenses related to securities fraud. For a summary of the legislation, see CRS Report RL31554, *Corporate Accountability: Sarbanes-Oxley Act of 2002: (P.L. 107-204)*. This report will be updated regularly.

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Criminal Charges in Corporate Scandals

Introduction

On July 30, 2002, President Bush signed into law the Sarbanes-Oxley Act of 2002, P.L. 107-204, which had its genesis early in 2002 after the declared bankruptcy of the Enron corporation. The Act establishes a new regulator for corporate auditors, the Public Company Accounting Oversight Board, which is to be supervised by the Securities and Exchange Commission. The Act restricts accounting firms from performing a number of other services for the companies they audit and requires new disclosures for public companies and the officers and directors of those companies. Other issues affected by the new legislation are securities fraud, criminal and civil penalties for violating the securities laws and other laws, blackout periods for insider trades of pension fund shares, and protections for corporate whistleblowers.

The ongoing criminal prosecutions are a complementary phase of the effort to improve corporate accountability. Many observers maintain that prosecution of individuals alleged to have abused the public trust, together with new legal and regulatory standards for corporate behavior, is crucial to restoring investor confidence in the fairness and transparency of the public securities markets. **Table 1** identifies firms and individuals associated with a number of high-profile cases against whom criminal charges have been filed by federal prosecutors since the collapse of Enron Corp. (although in some cases the alleged misconduct occurred before Enron's fall). In addition to newspaper sources, Department of Justice press releases have been cited where available. See [http://www.usdoj.gov/03press/03_1_1.html].

A few of these cases, as noted in the table, have also resulted in civil indictments. These post-Enron criminal charges are listed in CRS Report RL31961, *Civil Charges in Corporate Scandals*.

Table 1. List of Charges, Indictments, and Guilty Pleas in Corporate Scandals Since Enron

Company/Individual	Charged (C), Indicted (I), or Guilty Plea (G)	Charges	Sources
Adelphia Communications			
John J. Rigas (chief executive officer)	9/23/02 (C)	All charged with wire fraud, bank fraud, securities fraud, and conspiracy	<i>New York Times</i> , 9/24/02, sec. C, p. 1, col. 5
Michael Rigas (executive vice president)	9/23/02 (C)		
Timothy Rigas (chief financial officer)	9/23/02 (C)		
James R. Brown (vice president for finance)	9/23/02 (C)		<i>New York Times</i> , 9/24/02, sec. C, p. 1, col. 5, and 11/15/02, sec. C, p. 7, col. 1
	9/14/02 (G)		
Michael C. Mulcahey (director of internal reporting)	9/23/02 (C)	<i>New York Times</i> , 9/24/02, sec. C, p. 1, col. 5	
Timothy Werth (director of accounting)	01/10/03 (G)	Securities fraud, wire fraud, and bank fraud	<i>New York Times</i> , 1/11/03, sec. C, p. 3, col. 1
Arthur Andersen			
David Duncan (former partner)	4/10/02 (G)	Obstruction of justice (related to Enron audit) Arthur Andersen (the firm) was convicted on the same charge in June 2002	<i>New York Times</i> , 4/11/02, sec. A, p. 1, col. 2
Charter Communications			
Kent Kalkwarf (chief financial officer)	7/24/03 (I)	Conspiracy to commit wire fraud	<i>New York Times</i> , 7/25/03, sec. C, p. 3, col. 1
David Barford (chief operating officer)			
James Smith (senior vice president)			
David McCall (executive)	7/25/03 (G)	Conspiracy to commit wire fraud	<i>New York Times</i> , 7/26/03, sec. C, p. 2, col. 3

Company/Individual	Charged (C), Indicted (I), or Guilty Plea (G)	Charges	Sources
Credit Suisse First Boston			
Frank P. Quattrone (banker)	5/12/03 (I) 10/24/03 12/2/03	Obstruction of justice and destroying evidence A federal judge declared a mistrial in the obstruction of justice trial of Frank P. Quattrone A federal judge set a March 22, 2004, date for the second trial of Frank P. Quattrone.	<i>New York Times</i> , 5/13/03, sec. C, p. 1, col. 2; 10/25/03, sec. A, p. 1, col. 1; 12/2/03, sec. C, p. 5, col. 1
Dynegy Inc.			
Gene S. Foster (vice president)	8/5/03 (G)	Conspiracy to commit securities fraud	<i>New York Times</i> , 8/6/03, sec. C, p. 4, col. 1
Helen C. Sharkey (accounting manager)	8/5/03 (G)		<i>New York Times</i> , 8/6/03, sec. C, p. 4, col. 1
Enron Corp.			
Michael Kopper (finance executive)	8/21/02 (G)	Conspiracy to commit wire fraud and money laundering	<i>New York Times</i> , 8/22/02, sec. A, p. 1, col. 6
Andrew Fastow (chief financial officer)	10/2/02 (C)	Charged with securities fraud, wire fraud, mail fraud, money laundering, and conspiracy	Department of Justice, 10/2/02, press release #568 ^a ;
	10/31/02 (I)	Indicted by a grand jury on 78 counts of fraud, money laundering, and conspiracy	10/31/02, press release #627;
	5/1/03 (I)	Charged with insider trading and tax fraud	5/1/03, press release #268
Timothy N. Belden (senior trader)	10/17/02 (G)	Pleaded guilty to engaging in a conspiracy that illegally manipulated the California power market	<i>New York Times</i> , 10/18/02, sec. C, p. 1, col. 5

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Company/Individual	Charged (C), Indicted (I), or Guilty Plea (G)	Charges	Sources
Lawrence M. Lawyer (finance executive)	11/26/02 (G)	Pleaded guilty to filing a false income tax return and failing to report taxable income	Department of Justice, 11/26/02, press release #696
Jeffrey Richter (senior trader)	2/4/03 (G)	Pleaded guilty to manipulating the California power market	<i>New York Times</i> , 2/5/03, sec. C, p. 2, col. 4
Kevin Howard (Enron Broadband Services [EBS] vice president of finance)	3/12/03 (I) 5/1/03 (I)	Charged with securities fraud, wire fraud, conspiracy, and making false statements to FBI agents	Department of Justice, 3/12/03, press release #153 Department of Justice, 5/1/03, press release #268
Michael Krautz (EBS senior director of accounting)	3/12/03 (I) 5/1/03 (I)		
Ben Gilsan (treasurer)	5/1/03 (I)	Securities fraud, insider trading, and tax fraud	Department of Justice, 5/1/03, press release #268
	9/10/03 (G)	Pleaded guilty to conspiracy to commit wire and securities fraud and was sent to prison to serve a five-year sentence.	Department of Justice, 9/10/03, press release #492
Dan Boyle (finance executive)	5/1/03 (I)	Securities fraud, insider trading, and tax fraud	Department of Justice, 5/1/03, press release #268
Kenneth Rice (EBS chairman)	5/1/03 (I)	Securities fraud, wire fraud, and money laundering	Department of Justice, 5/1/03, press release #268
Joseph Hirko (EBS president)			
Kevin Hannon (EBS chief operating officer)			
Scott Yeager (EBS senior vice president)			
Rex Shelby (EBS senior vice president)			
Lea Fastow (assistant treasurer)	5/1/03 (I)	Conspiracy to commit wire fraud , money laundering conspiracy, and filing false tax returns	Department of Justice, 5/1/03, press release #268
John M. Forney (trader)	6/3/03 (C)	Charged with manipulating the California power market	<i>New York Times</i> , 6/4/03, sec. C, p. 6, col. 3

Company/Individual	Charged (C), Indicted (I), or Guilty Plea (G)	Charges	Sources
HealthSouth			
Weston Smith (chief financial officer)	3/19/03 (G)	Securities fraud and wire fraud	Department of Justice, 3/19/03, press release #165
William T. Owens (chief of financial operations)	3/26/03 (G)	Conspiracy to commit wire fraud and securities fraud	Department of Justice, 3/26/03, press release #180
Emery Harris (vice president of finance)	3/31/03 (G)	Conspiracy to commit wire fraud and securities fraud	Department of Justice, 3/31/03, press release #198
Kenneth Livesay (chief information officer)	4/3/03 (G)	Conspiracy to commit wire fraud and securities fraud and to falsify financial information	Department of Justice, 4/3/03, press release #205
Angela C. Ayers (vice president)	4/3/03 (G)	All charged with wire fraud and conspiracy to commit wire fraud and securities fraud	Department of Justice, 4/3/03, press release #205
Cathy C. Edwards (vice president)	4/3/03 (G)		
Rebecca Kay Morgan (group vice president)	4/3/03 (G)		
Virginia B. Valentine (assistant vice president)	4/3/03 (G)		
Michael Martin (chief financial officer)	4/8/03 (C)	Conspiracy to commit wire fraud and securities fraud	Department of Justice, 4/8/03, press release #212
Malcolm McVay (treasurer)	4/21/03 (G)	Conspiracy to commit wire fraud and securities fraud	Department of Justice, 4/21/03, press release #245
Aaron Beam (chief financial officer)	4/24/03 (G)	Bank fraud	Department of Justice, 4/24/03, press release #255
Jason Brown (vice president of finance)	7/8/03 (G)	Conspiracy to commit securities fraud, falsifying books and records, and wire fraud	Department of Justice, 7/8/03, press release #401

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Company/Individual	Charged (C), Indicted (I), or Guilty Plea (G)	Charges	Sources
Richard Botts (senior vice president)	7/31/03 (G)	Conspiracy to commit securities fraud, falsifying books, and mail fraud	Department of Justice, 7/31/03, press release #436
Will Hicks (vice president)	7/31/03 (G)	Conspiracy to make false statements to auditors and maintain false books and records	
Catherine Fowler (vice president)	11/24/03 (G)	Conspiring to mislead the auditors and to maintain false books and records	<i>New York Times</i> , 11/25/03, sec. C, p. 3, col. 1
ImClone Systems			
Samuel Waksal (chief executive) ^a	8/7/02 (I) 10/15/02 (G)	Trading on inside information Sentenced to 87 months in prison and ordered to pay a \$3 million fine	<i>New York Times</i> , 8/8/02, sec. A, p. 1, col. 1; 6/11/03, sec. C, p. 1, col. 5; and 10/16/02, sec. C, p. 1, col. 2
Just for Feet, Inc.			
Adam Gilburne (executive)	5/12/03 (G)	Conspiracy to commit wire fraud and securities fraud	Department of Justice, 5/12/03, press release #283
Kmart			
Joseph A. Hofmeister (vice president)	2/26/02 (I)	Fraud, conspiracy, and making false statements	<i>New York Times</i> , 2/27/03, sec. C, p. 1, col. 5
Enio A. Montini Jr. (senior vice president)	2/26/02 (I)		
Martha Stewart Living Omnimedia			
Martha Stewart (chairman and ceo) ^a	6/4/03 (I)	Conspiracy, obstruction of justice, and securities fraud	<i>New York Times</i> , 6/5/03, sec. A, p. 1, col. 2

Company/Individual	Charged (C), Indicted (I), or Guilty Plea (G)	Charges	Sources
Merrill Lynch			
Douglas Faneuil (stockbroker)	10/2/02 (G)	Faneuil pleaded guilty to obstruction of justice related to insider trading of ImClone Systems	<i>New York Times</i> , 10/3/02, sec. C, p. 1, col. 2
Daniel Bayly (head of Global Investment Banking division)	9/17/03 (I)	Conspiracy to commit wire fraud and falsify books and records	Department of Justice, 9/17/03, press release #510
James A. Brown (head of Merrill Lynch's Strategic Asset Lease and Finance group)			
Robert S. Furst (Enron relationship manager for Merrill Lynch)			
NatWest Bank			
Giles R. Darby (banker)	6/27/02 (C)	All three are British bankers charged with wire fraud in connection with Enron's off-the-books partnerships	<i>New York Times</i> , 6/28/02, sec. C, p. 1, col. 2 Department of Justice, 6/27/02, press release #377
David J. Bermingham (banker)	6/27/02 (C)		
Gary S. Mulgrew (banker)	6/27/02 (C)		
NewCom Inc.			
Sultan W. Khan (president and chief executive)	9/5/02 (I)	Fraud, money laundering, filing false statements, and conspiracy	<i>New York Times</i> , 9/6/02, sec. C, p. 4, col. 3
Asif M. Khan (executive vice president)	9/5/02 (I)		
Steven C. Veen (chief financial officer)	9/5/02 (I)		
Quaker Alloy			
Thomas W. Lambach (chief financial officer)	4/3/02 (G)	Wire fraud and conspiracy	Harrisburg (PA) <i>Patriot-News</i> , 4/4/02, p. B12
Joseph Stewart (human resource manager)	4/3/02 (G)		

Company/Individual	Charged (C), Indicted (I), or Guilty Plea (G)	Charges	Sources
Qwest Communications			
Grant Graham (chief financial officer)	2/25/03 (I)	Corporate accounting fraud	Department of Justice, 2/25/03, press release #112
Thomas Hall (senior vice president)	2/25/03 (I)		
John Walker (vice president)	2/25/03 (I)		
Bryan Treadway (assistant controller)	2/25/03 (I)		
Rite Aid			
Martin L. Grass (chairman and chief executive)	6/23/02 (G)	Various counts of securities fraud	<i>New York Times</i> , 6/22/02, sec. A, p. 1, col. 1; 6/6/03, sec. C, p. 3, col. 3; and 6/18/03, sec. C, p. 12, col. 3 6/26/03, sec. C, p. 6, col. 3 10/18/03, sec. C, p. 2, col. 1
Franklin Brown (chief counsel and vice chairman)	6/23/02 (G)		
Franklyn Bergonzi (chief financial officer)	6/23/02 (G)		
Erik S. Sorkin (executive vice president)	6/23/02 (G)	Lying to the grand jury	
Timothy J. Noonan (president and chief operations officer)	7/10/02 (G)	Withholding information from the company's internal investigators	<i>Lancaster (PA) Intelligencer Journal</i> , 7/11/02, sec. Business, p. B-7
Philip Markovitz (senior vice president)	7/11/2003 (G)	Conspiracy to obstruct justice	<i>New York Times</i> , 7/11/03, sec. C, p. 12, col. 1
Tyco International			
L. Dennis Kozlowski (chairman and chief executive)	9/12/02 (I)	Grand larceny, enterprise corruption, falsifying records. Kozlowski was also indicted 6/4/02 for sales tax evasion, as was Swartz on 2/19/03.	<i>New York Times</i> , 9/13/02, sec. A, p. 1, col. 3; 6/5/02, sec. C, p. 1, col. 2; and 2/20/03, sec. C, p. 6, col. 3
Mark H. Swartz (chief financial officer)	9/12/02 (I)		

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Company/Individual	Charged (C), Indicted (I), or Guilty Plea (G)	Charges	Sources
Mark Belnick (general counsel)	9/12/02 (I) 2/3/03 (I)	Falsifying records Indicted on three additional charges	<i>New York Times</i> , 9/13/02, sec. A, p. 1. col. 3; and 2/4/03, sec. C, p. 1., col. 2
Westar Energy, Inc.			
David C. Wittig (CEO)	12/4/03 (I)	Conspiracy to defraud, circumventing internal accounting controls, falsifying books and records, wire fraud, submitting false statements, and engaging in monetary transactions derived from an unlawful activity	Department of Justice, 12/4/03, press release #663
Douglas T. Lake (executive vice president)			
WorldCom			
Scott Sullivan (chief financial officer)	8/27/02 (I)	Numerous counts of securities fraud and conspiracy	Department of Justice, 8/27/02, press release #494
Buford Yates, Jr. (director of general accounting)	8/27/02 (I) 10/7/02 (G)	Securities fraud	Department of Justice, 8/27/02, press release #494; <i>New York Times</i> , 10/8/02, sec. C, p. 9, col. 1
David Myers (former controller)	9/26/02 (G)	Securities fraud	<i>New York Times</i> , 9/27/02, sec. C, p. 2, col. 3
Betty Vinson (an executive in the General Accounting Department)	10/10/02 (G)	Securities fraud and conspiracy	<i>New York Times</i> , 10/11/02, sec. C, p. 10, col. 1
Troy Normand (an executive in the General Accounting Department)	10/10/02 (G)		

Note:

- a. A few of these cases have also resulted in civil indictments.