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Enron verdict may set an example

Experts say Lay, Skilling convictions could deter white-collar crime

By Scott Blake
FLORIDA TODAY

The conviction of former Enron Corp. chiefs Kenneth Lay and Jeffrey Skilling should further the movement against corporate fraud, business and legal experts said after Thursday's verdict.

Lay, Enron's founder, and Skilling, Enron's former chief executive, were convicted of conspiracy to commit securities and wire fraud in one of the nation's biggest business scandals ever.

The two men were the highest-ranking in a string of company executives blamed for the 2001 demise of Enron, once the nation's top energy trading company. The two, who have been released on bond while awaiting sentencing Sept. 11, could get sentences that amount to life prison terms.

Enron's collapse took with it more than \$60 billion in market value, nearly \$2.1 billion in pension plans and 5,600 jobs.

David Scott, executive director of the Dr. Phillips Institute for the Study of American Business Activity at the University of Central Florida in Orlando, called the verdict "momentous," because of the message it will send to corporate executives, boards of directors, investment bankers and others in corporate America.

"What occurred (at Enron) really was a breakdown of the nation's corporate governance structure," Scott said. "Enron management was able to conceal what it was doing from what should have been a very bright board of directors."

In the past two years, Scott said, there has been a growing feeling by some that the Sarbanes-Oxley Act of 2002 -- the federal law designed to make company executives more accountable in response to corporate and accounting scandals -- went too far and should be weakened.

"It changed the entire accounting profession, and it has cost companies hundreds of millions of dollars in auditing fees to comply with it," Scott said about the law.

He said Thursday's verdict could stop the movement against Sarbanes-Oxley and have a chilling effect on white-collar crime.

"Corporate executives will say, 'Bad things can happen to me personally if I do anything close to what they did,'" Scott said.

The convictions in a federal court in Houston -- where Enron had its headquarters-- was a latest major win for federal prosecutors in an era that has seen similar convictions against executives at Adelphia Communications Corp., WorldCom Inc. and other companies.

Jurors found that Lay, 64, and Skilling, 52, had repeatedly lied to cover a vast web of unsustainable accounting tricks and failing ventures at Enron.

"You can't lie to shareholders. You can't put yourselves in front of your employees' interests. No

matter how rich and powerful you are, you have to play by the rules," prosecutor Sean Berkowitz said outside the courthouse.

Melbourne attorney Jim Nance, part of a team of lawyers who sued tobacco companies on behalf of the state of Florida, resulting in a \$13.2 billion settlement in 1997, said he was not surprised by the Enron verdict.

"I think it will act as a deterrent to money-inspired dishonesty," Nance said.

"It certainly would (deter) me if I was in that situation," added Nance, whose tobacco lawsuit involved claims related to health costs incurred by the state in treating sick smokers.

Nance said the Enron verdict should force corporate executives to ask themselves, "Is buying that multimillion-dollar yacht or putting money into a Cayman Islands account worth going to prison?"

Nance said one thing Lay and Skilling should have in their favor is that they were convicted in a federal court, so they should be sentenced to a federal prison.

"Federal prison is not as severe as some of the state prisons," Nance said. "If I had to go to prison, I'd take the federal system, because I think they get better treatment."

Although some observers saw the verdict as an end to a notorious chapter in American corporate history, Nance said he would not be surprised if other corporate scandals surface, possibly related to the Iraq war.

"I think (the Enron convictions) are good for the country, with all the problems we've had and all the profiteering that's allegedly been made off the Iraq war. There might be some other people down the line" who face prosecution, he said.

In response to Thursday's conviction, White House press secretary Tony Snow congratulated the U.S. Justice Department on "successfully concluding a highly complex conviction."

Before the scandal broke, Lay was a friend and a leading campaign contributor to President Bush.

U.S. Attorney General Alberto Gonzales, who was appointed by Bush, was recused from the Enron case because he once was a partner at the Houston law firm that represented Enron.