

LRC:AW:SB

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

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MICHAEL N. MIBBY, CLERK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

CR H-02-121

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UNITED STATES OF AMERICA,

I N D I C T M E N T

-against-

Cr. No. _____
(T. 18, U.S.C., §§
1512(b)(2) and 3551 et
seq.)

ARTHUR ANDERSEN, LLP,

Defendant.

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THE GRAND JURY CHARGES:

I. ANDERSEN AND ENRON

1. ARTHUR ANDERSEN, LLP ("ANDERSEN"), is a partnership that performs, among other things, accounting and consulting services for clients that operate businesses throughout the United States and the world. ANDERSEN is one of the so-called "Big Five" accounting firms in the United States. ANDERSEN has its headquarters in Chicago, Illinois, and maintains offices throughout the world, including in Houston, Texas.

2. Enron Corp. ("Enron") was an Oregon corporation with its principal place of business in Houston, Texas. For most of 2001, Enron was considered the seventh largest corporation in the United States based on its reported revenues. In the previous ten years, Enron had evolved from a regional natural gas provider to, among

other things, a trader of natural gas, electricity and other commodities, with retail operations in energy and other products.

3. For the past 16 years, up until it filed for bankruptcy in December 2001, Enron retained ANDERSEN to be its auditor. Enron was one of ANDERSEN's largest clients worldwide, and became ANDERSEN's largest client in ANDERSEN's Gulf Coast region. ANDERSEN earned tens of millions of dollars from Enron in annual auditing and other fees.

4. ANDERSEN performed both internal and external auditing work for Enron mainly in Houston, Texas. ANDERSEN established within Enron's offices in Houston a work space for the ANDERSEN team that had primary responsibility for performing audit work for Enron. In addition to Houston, ANDERSEN personnel performed work for Enron in, among other locations, Chicago, Illinois, Portland, Oregon, and London, England.

II. THE ANTICIPATION OF LITIGATION AGAINST ENRON AND ANDERSEN

5. In the summer and fall of 2001, a series of significant developments led to ANDERSEN's foreseeing imminent civil litigation against, and government investigations of, Enron and ANDERSEN.

6. On or about October 16, 2001, Enron issued a press release announcing a \$618 million net loss for the third quarter of 2001. That same day, but not as part of the press release, Enron announced to analysts that it would reduce shareholder equity by

approximately \$1.2 billion. The market reacted immediately and the stock price of Enron shares plummeted.

7. The Securities and Exchange Commission ("SEC"), which investigates possible violations of the federal securities laws, opened an inquiry into Enron the very next day, requesting in writing information from Enron.

8. In addition to the negative financial information disclosed by Enron to the public and to analysts on October 16, 2001, ANDERSEN was aware by this time of additional significant facts unknown to the public.

- The approximately \$1.2 billion reduction in shareholder equity disclosed to analysts on October 16, 2001, was necessitated by ANDERSEN and Enron having previously improperly categorized hundreds of millions of dollars as an increase, rather than a decrease, to Enron shareholder equity.
- The Enron October 16, 2001, press release characterized numerous charges against income for the third quarter as "non-recurring" even though ANDERSEN believed the company did not have a basis for concluding that the charges would in fact be non-recurring. Indeed, ANDERSEN advised Enron against using that term, and documented its objections internally in the event of litigation, but did

not report its objections or otherwise take steps to cure the public statement.

- ANDERSEN was put on direct notice of the allegations of Sherron Watkins, a current Enron employee and former ANDERSEN employee, regarding possible fraud and other improprieties at Enron, and in particular, Enron's use of off-balance-sheet "special purpose entities" that enabled the company to camouflage the true financial condition of the company. Watkins had reported her concerns to a partner at ANDERSEN, who thereafter disseminated them within ANDERSEN, including to the team working on the Enron audit. In addition, the team had received warnings about possible undisclosed side-agreements at Enron.
- The ANDERSEN team handling the Enron audit directly contravened the accounting methodology approved by ANDERSEN's own specialists working in its Professional Standards Group. In opposition to the views of its own experts, the ANDERSEN auditors had advised Enron in the spring of 2001 that it could use a favorable accounting method for its "special purpose entities."
- In 2000, an internal review conducted by senior management within ANDERSEN evaluated the ANDERSEN team assigned to audit Enron and rated the team as only a "2"

on a scale of one to five, with five being the highest rating.

- On or about October 9, 2001, correctly anticipating litigation and government investigations, ANDERSEN, which had an internal department of lawyers for routine legal matters, retained an experienced New York law firm to handle future Enron-related litigation.

III. THE WHOLESALE DESTRUCTION OF DOCUMENTS BY ANDERSEN

9. By Friday, October 19, 2001, Enron alerted the ANDERSEN audit team that the SEC had begun an inquiry regarding the Enron "special purpose entities" and the involvement of Enron's Chief Financial Officer. The next morning, an emergency conference call among high-level ANDERSEN management was convened to address the SEC inquiry. During the call, it was decided that documentation that could assist Enron in responding to the SEC was to be assembled by the ANDERSEN auditors.

10. After spending Monday, October 22, 2001 at Enron, ANDERSEN partners assigned to the Enron engagement team launched on October 23, 2001, a wholesale destruction of documents at ANDERSEN's offices in Houston, Texas. ANDERSEN personnel were called to urgent and mandatory meetings. Instead of being advised to preserve documentation so as to assist Enron and the SEC, ANDERSEN employees on the Enron engagement team were instructed by ANDERSEN partners and others to destroy immediately documentation

relating to Enron, and told to work overtime if necessary to accomplish the destruction. During the next few weeks, an unparalleled initiative was undertaken to shred physical documentation and delete computer files. Tons of paper relating to the Enron audit were promptly shredded as part of the orchestrated document destruction. The shredder at the ANDERSEN office at the Enron building was used virtually constantly and, to handle the overload, dozens of large trunks filled with Enron documents were sent to ANDERSEN's main Houston office to be shredded. A systematic effort was also undertaken and carried out to purge the computer hard-drives and E-mail system of Enron-related files.

11. In addition to shredding and deleting documents in Houston, Texas, instructions were given to ANDERSEN personnel working on Enron audit matters in Portland, Oregon, Chicago, Illinois, and London, England, to make sure that Enron documents were destroyed there as well. Indeed, in London, a coordinated effort by ANDERSEN partners and others, similar to the initiative undertaken in Houston, was put into place to destroy Enron-related documents within days of notice of the SEC inquiry. Enron-related documents also were destroyed by ANDERSEN partners in Chicago.

12. On or about November 8, 2001, the SEC served ANDERSEN with the anticipated subpoena relating to its work for Enron. In response, members of the ANDERSEN team on the Enron audit were

alerted finally that there could be "no more shredding" because the firm had been "officially served" for documents.

THE CHARGE: OBSTRUCTION OF JUSTICE

13. On or about and between October 10, 2001, and November 9, 2001, within the Southern District of Texas and elsewhere, including Chicago, Illinois, Portland, Oregon, and London, England, ANDERSEN, through its partners and others, did knowingly, intentionally and corruptly persuade and attempt to persuade other persons, to wit: ANDERSEN employees, with intent to cause and induce such persons to (a) withhold records, documents and other objects from official proceedings, namely: regulatory and criminal proceedings and investigations, and (b) alter, destroy, mutilate

and conceal objects with intent to impair the objects' integrity and availability for use in such official proceedings.

(Title 18, United States Code, Sections 1512(b)(2) and 3551 et seq.)

A TRUE BILL


FOREPERSON

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