The Enron verdicts: corruption and American capitalism

By Joe Kay
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The guilty verdicts handed down by a Houston jury last week against former Enron chiefs Kenneth Lay and Jeffrey Skilling provide an opportunity to evaluate the significance of the company's rise and fall within the context of American capitalism.

Accounts by jurors given after the verdicts were announced indicate they all agreed that the evidence against the two executives was overwhelming. It consisted mainly of testimony from over a dozen former executives, who implicated Lay and Skilling for their roles in defrauding investors and employees through various forms of accounting manipulation. The jurors quickly rejected the absurd position of the defense that Enron was basically a healthy company that collapsed into bankruptcy in December 2001 largely as the result of Wall Street machinations and negative press coverage.

Several jurors indicated they reacted negatively to the testimony of the defendants, and particularly Lay, who could not hide his arrogance while on the stand. Others said Lay's move to sell millions of dollars of company stock in the months before the bankruptcy, even as he encouraged employees to keep buying, was appalling.

One juror noted, "That was very much the character of the person that he was. He cashed out before the employees did." Some jurors spoke about social conditions in the US, voicing the hope that the verdicts would send a message to other executives across the country.

There is certainly an element of social protest here, directed both at Enron and the broader conditions of inequality and corporate greed, whatever limitations there might be in the jurors' understanding of the underlying forces at work. The conviction of Lay and Skilling stems ultimately from the fact that they headed a company that engaged in market manipulations and fraud which, in their scale and flagrancy, exceeded anything that had gone before in a long history of corrupt business practices. And Enron has since been shown to have been only one of many companies that engaged in similar practices.

It is by no means assured that the two executives will spend significant time in prison, though commentators have generally agreed that the legal bases for their appeals are very limited. But, as one juror suggested, money has a way of solving such problems.

There are additional factors at work—in particular, the close political connections that Lay and Skilling have with the political establishment in general and the Bush administration in particular. Lay, after all, was for a long time one of Bush's most important political supporters. He is certainly in possession of important information that could be damaging to powerful people. (For example, what exactly was discussed during Cheney's secret Energy Task Force meetings, in which Enron took part?).

One would suppose that Lay still has a few aces up his sleeve, as well as friends in high places. A presidential pardon—no doubt as a reward for philanthropic good works—is not out of the question.

The verdict has predictably been followed by self-congratulatory comments from sections of the media and the government prosecutors: the convictions demonstrate that the system works, that nobody is above the law, that all misdeeds will eventually be punished, etc., etc. The *Wall Street Journal* published an editorial along these lines Friday, voicing the arguments that finance capital has made after every one of the major trials involving corporate corruption. It concluded with the claim that "assertions of widespread corporate fraud back in 2001 and 2002 were way overblown."

Following the verdict, Sean Berkowitz, the head of the government's Enron Task Force, said that it "sent an unmistakable message to boardrooms across the country—you can't lie to shareholders. You can't put yourself in front of your employees' interests." This under conditions where it remains common practice for executives to award themselves multi-million dollar salaries even as they carry out mass layoffs!

Other commentators have been more penetrating, noting that not only was the "Enron phenomenon" widespread, but that the same problems persist today. Kurt Eichenwald, in an article for the *New York Times* on Friday, wrote that Enron "will forever stand as the ultimate reflection of an era of near madness in finance, a time in the late 1990s when self-certitude and spin became a substitute for financial analysis and coherent business models."

The ultimate lesson of Enron, Eichenwald suggested, is the picture it presents of "a corporate culture poisoned by hubris, leading ultimately to a recklessness that placed the business's survival at risk."

The *Times'* business commentator, Gretchen Morgenson, entitled her Sunday article "Are Enrons Bustin' Out All Over?" and cited recent cases of corporate fraud, particularly that of housing lender Fannie Mae.

Lawyers for Lay and Skilling were close to the truth when they argued that the prosecution's logic implied the criminalization of standard business practices (and therefore their defendants should not be convicted for doing what every one else was doing). Skilling's lawyer Dan Petrocelli stated in his closing arguments that if the jury accepted the government's case, "we might as well put every CEO in jail."

Certain conclusions may legitimately be drawn from this statement that Mr. Petrocelli never intended.

However, even the more probing comments in the media miss the central lesson: that Enron and the corporate environment which created it were the products of basic tendencies of American capitalist development. They were the outcome of a political and social policy that has been pursued by both big business parties—a policy that has encouraged greed, corruption and criminality as part of a ruthless drive to attack the living standards and social gains of American workers.

Beginning particularly in the 1980s, the American ruling elite responded to the economic crisis of the previous decade by shifting the way businesses operate. Greater competition from Europe and Asia had begun to cut into the American ruling class' status as hegemon of the world capitalist system. From the standpoint of the social position of Wall Street and corporate America, it became necessary to eliminate concessions granted to workers in an earlier period.

Deregulation, the attack on higher-quality jobs, the elimination of social programs—these were all part of a policy aimed at redistributing wealth from the bottom to the top, cutting into the share allocated to the actual producers of this wealth. Big Wall Street investors began placing ever-greater demands on corporate management to return quick profits, often by means of wage cuts and downsizing. The measure of corporate success increasingly became short-term earnings, closely linked to the fluctuations in a company's stock.

As the *World Socialist Web Site* noted shortly after Enron's collapse, the operations of the stock market have become central to the functioning of the world capitalist economy. Indeed in the recent period, the buying and selling of shares, a form of financial speculation, has rapidly become the principal means through which the ruling elite has accumulated vast sums. "Every day trillions of dollars course through global equity, currency and financial markets in the search for profit. Since the start of the 1980s as much as 75 percent of the total return on investments has resulted from capital gains arising from an appreciation of market values, rather than from profits and interest. In this drive for shareholder value, each corporation is compelled, on pain of extinction, to devise measures which attract investment funds by lifting the price of securities above that which would be justified by an objective valuation of the underlying assets." (See "Enron: The real face of the 'new economy'")

The interests of executives were tied in with the interests of Wall Street through a variety of mechanisms—in particular, the increased use of such forms of compensation as stock options. Executives who managed to keep their stock prices high were, and continue to be, richly rewarded.

While originally developed as part of the drive to increase productivity and cut costs in response to the economic problems of American capitalism, financial speculation has inevitably taken on a life of its own. To keep stock prices high, companies have resorted to all sorts of operations—including fraud and accounting manipulations.

Such considerations as the long-term health of the company have increasingly taken a back seat to the need to satisfy Wall Street's demands for ever-rising short-term earnings. It has been widely acknowledged by executives themselves that they often make decisions contrary to the longer-term interests of their own corporations.

The process was a means of generating vast, previously unheard of fortunes, particularly during the late 1990s. That half-decade saw an explosion of social inequality. Some people made lots of money, and companies like Enron were essential to this process of wealth redistribution.

A new social type was created in the process, one that calls to mind Marx's description of the French finance aristocracy before the revolution of 1848, in which "the mania to get rich was repeated in every sphere... to get rich not by production, but by pocketing the already available wealth of others."

In words that could apply just as well to the likes of Skilling and Lay, Marx wrote: "Clashing every moment with the bourgeois laws themselves, an unbridled assertion of unhealthy and dissolute appetites manifested itself, particularly at the top of bourgeois society—lusts wherein wealth derived from gambling naturally seeks its satisfaction, where pleasure becomes debauched, where money, filth and blood commingle."

Enron combined within itself the basic features of a new type of American business operation. It was a company whose operations did not, for the most part, involve the production of anything of value. Enron exploited the deregulation of the energy markets to insert itself as a middleman, siphoning off revenues at the expense of consumers and speculating on energy prices. Skilling considered one of his and Enron's greatest accomplishments the virtually single-handed creation of the wholesale energy market, which during the late '90s became a new means of speculation and price-gouging.

All of the various components of American capitalism were involved in the operation: Wall Street investors and analysts, who bought and boosted Enron stock; investment banks, which provided loans and helped Enron cover up its losses; the media, which perpetuated the myth that companies like Enron and executives like Lay and Skilling were representatives of a new, vibrant and productive stage of capitalism.

Enron personified the new social layer in which "money, filth and blood commingle." One need only recall the tapes recording the gloating of Enron energy traders over the California energy crisis of 2001, a crisis caused to a considerable degree by Enron's own market manipulations. (They joked about gouging money from "those poor grandmothers in California.")

Or the shooting death in January 2002 of former Enron vice chairman J. Clifford Baxter, who had opposed to some extent the high-handed methods at Enron and was, at the time of his extraordinarily timely suicide, due to testify in various investigations into the collapse of the company. (See "The strange and convenient death of J. Clifford Baxter—Enron executive found shot to death")

The consequences for ordinary Americans (and not just Americans, since Enron and companies like it operate and have interests all over the world) have been devastating, and have been particularly felt since the stock market collapse of 2001: the decline in living standards, increasing indebtedness, a relentless assault on decent-paying jobs and benefits. The increased exploitation of working people has been a critical part of the drive to maintain and expand the wealth of a tiny oligarchy. When the companies mired in corruption collapsed, jobs and retirement savings were eliminated overnight.

None of these conditions has been eliminated. The drive to reduce wages, cut health care and pension programs and eliminate regulations on business has, in fact, intensified.

Recent revelations of the widespread practice of backdating stock options (to ensure the largest possible gains for executives) demonstrate that corruption persists. The stock market and financial manipulations play as important and damaging a role today as they did five years ago. In the event of another stock market collapse, which is inevitable given the precarious world economic situation, a host of new Enrons will be exposed.

Largely ignored in the mass of media reportage on the Enron verdicts is the intimate political connection between Lay and George W. Bush. Lay was one of Bush's key backers from Bush's early political career in Texas until Enron went bankrupt, after Bush had become president. Former Enron executives took up posts in the Bush administration, and Lay exercised veto power over an important position dealing with energy regulation. At the Enron CEO's request, one candidate was ditched in favor of another hand-picked by Lay.

Enron also played a critical role in the formulation of the Bush administration's energy policy and plans for war in Iraq, through participation in Vice President Cheney's secret Energy Task Force. And while Enron was price-gouging and restricting energy supplies in California, costing residents of the state billions of dollars, the Bush administration refused to intervene and impose price caps, despite repeated requests from the state government.

In view of the scale of the scandal and the obvious political connections, the political fallout has been remarkably negligible. But then again, the nominal opposition party is thoroughly complicit in promoting the network of social relations that produced Enron. The company's rise, and the vast growth of speculation and inequality, took place mainly during the administration of Bill Clinton. It would be difficult, if not impossible, to point to one instance in which the Democratic president raised criticisms of the company while it was making money for Wall Street and the American ruling class as a whole.

The conviction of Lay and Skilling will, in the end, do nothing to address the more fundamental issues confronting working people. Even if the two do go to jail for a significant period of time, the outcome provides cold comfort to the thousands of workers who have lost their jobs and savings. The wealthy who profited from Enron can write off their subsequent losses and move on to the next speculative money-making scheme. The situation is altogether different for ordinary working people.

The government felt compelled to bring the case because of the public outcry that followed the revelations of massive corruption. There was, and still is, great concern within ruling circles that such crimes could become a focus for broader social grievances, and that outrage could take on more overtly political forms.

Lay and Skilling are guilty of crimes, but they are not limited to the particular instances of fraud committed at Enron. They are an expression and outgrowth of broader social crimes. The guilt of Kenneth Lay and Jeffrey Skilling is the guilt of American capitalism.