

## THE ENRON BLAME GAME CONTINUES

The special examiner who's been doing a postmortem on the Enron collapse has released his final report, in which he lays blame at the feet of Kenny Boy Lay and Jeff Skilling.

Atlanta-based examiner Neal Batson also suggests that the **Houston law firms Vinson & Elkins and Andrews Kurth** may have committed legal "malpractice" and aided and abetted the financing hijinks by Enron officials.

In the fourth and final report of his \$100 million, 18-month investigation, Batson says Lay, Skilling, former members of Enron's board of directors, and lawyers inside and outside the company failed to respond to "red flags" raised by Enron's accounting practices.

The 137-page report filed Monday, with 1,000 pages of appendices, and Batson's three earlier reports were written to guide creditors through the special purpose financing entities that caused Enron's collapse.

[...]

Batson says that Lay and Skilling, in particular, were negligent in their failure of oversight.

"The evidence shows that, as a result of their day-to-day involvement at the company, Lay and Skilling knew or should have known their subordinate officers misused the SPE transactions in a manner that resulted in the dissemination of materially misleading financial information," Batson wrote.

One thing this investigation did not do, however, was bolster a criminal case against either of these two malefactors.

"I am highly encouraged," said Lay's Houston-based attorney, Mike Ramsey. "There is no allegation of crime, no claim of intentional wrongdoing, and no assertion of fraud on the part of Ken Lay. After a nearly \$100 million investigation, the bankruptcy examiner suggests only negligence, which we strongly deny."

I'm curious as to what Mike Ramsey's explanation for Enron's implosion is and what Kenny Boy was doing while it was happening. What else is there if you take away fraud and negligence? I personally would have a hard time as a juror believing that it was the invisible hand and there was nothing Lay could have done differently that would have made a difference.

I know, I know, he's talking about negligence as a legal concept, a nontrivial matter given that Enron's creditors have asked the federal bankruptcy judge for permission to sue them to smithereens.

**The legal action against Houston-based Vinson & Elkins and Andrews Kurth mirrors information contained in a fourth and final report** by bankruptcy examiner Neal Batson made public Monday. Batson alleges the law firms may have committed malpractice and violated their duty to Enron Corp.

The request by creditors also named Kirkland & Ellis, which is not mentioned in the Batson report. Judge Arthur Gonzalez has approved all similar requests by creditors to initiate litigation in the past. A hearing is scheduled for next Monday.

[...]

Separately, the creditors also would like to sue more than three dozen former executives, including [former Enron Chief Financial Officer Andrew] Fastow, former Chairman Ken Lay and former Chief Executive Jeff Skilling.

That's sure to be a barrel of laughs when it finally happens. Stay tuned.

Posted by Charles Kuffner on November 25, 2003 to Enronarama | [TrackBack](#)

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