Enron Investigators

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Enron Corporation ranked as the seventh largest company in the United States, and almost overnight it had wiped out more than $1 billion in stockholders’ equity, laid off 4,000 employees, prevented almost all employees from selling their shares, while around 500 employees and 11 executives received $500,000 to $5 million each. Life savings were lost, lives were ruined and the company was in chapter 11 bankruptcy. To find out what happened four distinct groups all began in depth investigations.

The first entity to investigate Enron was the Securities and Exchange Commission (SEC). October 22nd 2001 the SEC opened an inquiry into Enron. When Enron filed for bankruptcy in December, the Department of Justice (DOJ), Department of Labor (DOL), and various house and senate committees initiated investigations. Every organization fills a certain role in an investigation of this magnitude. The House and Senate committees being law makers have the responsibility of discovering if the laws in effect now are insufficient. The Justice Department is responsible for determining what laws were broken and prosecuting the guilty parties. The Labor Department’s focus is on protecting the interests of former Enron employees through the Pension and Welfare Benefit Administration and the Employee Retirement Income Security Act. Finally the SEC’s primary responsibilities are to protect public investors and to promote the fairness, effectiveness, and efficiency of capital markets.

The house and senate committees both have similar guidelines written in their respective congress rules. The House Committees are governed by Rule X and the Senate Committees by rules 24-28. Briefly, the rules for both out line the responsibilities of analysis, appraisal, and evaluation of the application, administration, execution and effectiveness of Federal laws and conditions and circumstances that may indicate the
necessity or desirability of enacting new or additional legislation. The Congress rules also stipulate what the different committees’ jurisdictions are.

The House Energy and Commerce Committee’s subcommittees on Commerce, Trade, and Consumer Protection and Oversight and Investigations both have jurisdiction on areas of the Enron case. Under Commerce is the jurisdiction of interstate and foreign commerce and the regulation of commercial practices. The oversight subcommittee is responsible for oversight of agencies, departments, and programs and for conducting investigations within such jurisdiction. In this investigation the committee will be focusing on off balance sheet accounting for special purpose entities and accounting for derivatives and financial contacts. According to the Energy and Commerce web site hearings have already taken place Jan. 24th Feb. 14th and Mar. 14th of this year and more are still to come.

Responsible for examining how some Enron employees were barred from selling Enron stock even as its value declined falls under the jurisdiction of the House Education and the Workforce Committee. Employer-sponsored pension plans are regulated by the Employee Retirement Income Security Act, more commonly known as “ERISA” which is within the jurisdiction of the Committee on Education and the Workforce. The Committee will be examining the issues surrounding the Enron benefits plan and its compliance with ERISA. Specifically, the Committee will seek to understand the facts and circumstances surrounding the problems with Enron and will use this information to assess how well ERISA protects plan participants. Hearings that have already taken place were held on Feb. 6th, 7th, 13th and 17th.
The House Financial Services Committee gave two different sets of goals and did not specify whether or not it had reached any of them as of May 7, 2002. Goals listed include: making sure the Congress knows how the biggest corporate collapse in American history happened; restoring the confidence of investors in accounting, regulators and the rules governing our markets; and making sure that the free market system, and the regulatory system that underpins it, emerge stronger and better as a result of our work. Further needs were described as: learning whether millions of investors were intentionally misled by Enron's financial engineering and reluctance to disclose information, needing to learn why financial statements that provided less than a complete picture of Enron's financial situation were certified determining why almost all of the securities analysts following Enron failed to warn investors, and why exactly half of them continued to rate the company a "buy" or "strong buy", even after it had plunged below one dollar, deciding whether the current reporting and financial disclosure system needs to be overhauled and lastly discovering why the accounting rules permit companies to keep important information off their balance sheets. To match its many goals the House Financial Services Committee’ jurisdiction covers a great deal of the Enron case. The Committee oversees the entire financial services industry, including the securities, insurance, banking, and housing industries. The Committee also oversees the work of the Federal Reserve, the Treasury, the SEC, and other financial services regulators. Having so much ground to cover in the Enron case the Financial Services Committee held its first hearing in December of last year. Additional hearings were held on Feb. 4 th and 5 th.

In an opening statement for the hearing on Accounting and investor protection issues by Enron and other public companies Feb. 12 Senate Banking, Housing and Urban
affairs Committee Chairman Paul S. Sarbanes described the Goals of the committee as such: “The Committee's inquiry in the weeks ahead will focus on the protection of investors and the efficient functioning of our capital markets.” The Senate Banking, Housing & Urban Affairs Committee encompasses Banks, banking, and financial institutions along with financial aid to commerce and industry. In addition to Feb. 12 this committee conducted the most hearings with Feb. 14 and 26 March 5, 6, 14, 19, and 20 dates. Despite the high volume however no results have been published.

An enigmatic hearing was conducted by the Senate Commerce, Science and Transportation Committee on Feb. 13 when no goals were explicitly stated Kenneth Lay CEO of Enron took the fifth amendment right and did not testify and the hearing still managed to last about five hours. Similar to its House Commerce counterpart The Senate committee will be investigating pension issues. No further hearings were apparent.

Responding to the nature of Enron’s business which started out being energy futures, the Senate Energy and Natural Resources Committee will be investigating the effect the Enron case had on the energy markets. Jurisdiction of the Full Committee includes oversight and legislative responsibilities for: National Energy Policy, including international energy affairs and emergency preparedness; strategic petroleum reserves; Outer Continental Shelf leasing; nuclear waste policy; privatization of federal assets; territorial affairs, including Freely Associated States; regulation of Trans-Alaska Pipeline System and other oil or gas pipeline transportation systems within Alaska; National Petroleum Reserve-Alaska; Alaska Native Claims Settlement Act; Alaska National Interest Lands Conservation Act; Antarctica; Arctic research and energy development; Native Hawaiian matters; and Ad Hoc issues.
Applicable areas of the Senate Finance Committee’s jurisdiction in the Enron case include health programs under the Social Security Act and health programs financed by a specific tax or trust fund and National social security. Goals that were set forth by Max Baucus in the Feb. 27 hearing included: finding out what went wrong with Enron’s pension plans and determining whether Enron is an isolated case or whether it reflects a broad, systemic problem.

Under the Chairmanship of Joe Lieberman the Senate Governmental Affairs Committee was the only committee that was able to say what it was doing each hearing. The jurisdiction for Governmental Affairs encompasses government information and intergovernmental relations. As a full committee the focus on the external controls and protectors, the federal agencies and laws is the primary goal. The hearing on Feb. 5th was for the discussion of Retirement Insecurity the committee looked to figure out what could and should be done to safeguard the 401(k)s. On Feb. 27th the focus was on the private analysts whose warnings could and should have alerted investors to the fiscal fissures in Enron’s foundation before everything crumbled. In the May 7th hearing the committee examined the role of a company’s board of directors namely Enron’s and what happened.

The Justice Department has a great responsibility to find the guilty parties in the Enron debacle and to facilitate this the Department decided to create a task force. Under the leadership of Ms. Leslie R. Caldwell a group of as many as ten prosecutors will work on the Enron case which is likely to last many months. Caldwell is the chief of the securities fraud division of the United States attorney's office in San Francisco, and will eventually set up offices in Washington and Houston. Having a single task force will reduce the burdens going forward on Enron, which has been struggling with the demands
from multiple civil and criminal investigations. By consolidating the criminal
investigations, Enron will have only one coordinated group of prosecutors seeking
information, decreasing the potential demands for documents and limiting the number of
officials to persuade of its position.

The main goal of the Department of Labor has been the care of the former
employees and their retirement benefit plans. The DOL ultimately worked out a deal with
Enron to turn over the pension plans to State Street Bank and Trust of Boston first
clearing it with the Southern District of New York Bankruptcy Court. With Sate Street as
the new independent fiduciary what ever is left of the pensions cannot be taken in the
court settlements.

The first investigator, the SEC, has jurisdiction over the Financial Accounting
Standards Board. Their primary goal is make sure that this never happens again. To reach
this goal the SEC has already come up with a list of initiatives. Proposed initiatives
include: more current disclosure, including “real-time” disclosure of unquestionably
material information, disclosure of significant trend data and more “evaluative” data,
financial statements that are more clear and informative for investors, disclosure of the
accounting principles that are most critical to the company’s financial status and that
involve complex or subjective decisions by management, private sector standard setting
that is more responsive to the current and immediate needs of investors.

In examining all of these governmental bodies legislative and otherwise there are
many reoccurring goals. For example the DOJ, the House Education and The Workforce
Committee the Senate Commerce, Science, and Transportation Committee, and the
Senate Finance Committee all have an interest in the pension plans of the former Enron
employees. To have one administrative body and one legislative body looking at the same issue would be enlightening but three legislative bodies seems to be overkill especially under the premise that all of the different organizations are conducting equally thorough investigations. One side effect of having so many agencies delving into the case is the potential problem of groups not communicating to one another about information obtained in the investigation. Another possible pitfall of so many investigations is that the witnesses called for questioning end up taking the fifth amendment right and until the legal system runs its course, the answers to what happened are not known.

Congress and the legal system should work side by side in the case of Enron. The effects of the fall will have lasting influence so many factors of the U.S. Market that it takes many entities to make sure that every avenue affected will be accounted for.
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