



## Enron's Causey Won't Testify as Prosecutors' Confidence Grows

May 4 (Bloomberg) -- U.S. prosecutors won't call former Enron Corp. Chief Accounting Officer Richard Causey to testify against Kenneth Lay and Jeffrey Skilling because of growing confidence in convicting the two men, legal experts said.

Causey's testimony may have buttressed the government's claims that ex-Chief Executive Officer Skilling knew about off-the-books partnerships set up by former finance chief Andrew Fastow and guaranteed that Fastow wouldn't lose any money on them. Fastow testified that both his and Causey's initials were on a document listing the deals, which the government says were used by Skilling to hide losses from investors and regulators.

The decision not to call Causey indicates that prosecutors feel they have proved their case adequately so far, experts said. Causey, who pleaded guilty to one count of securities fraud in late December to avoid standing trial alongside Enron's former top executives, was the 16th ex-Enron official to plead guilty to crimes related to the energy trader's collapse.

"The government has always viewed Rick Causey as their closer," said Jacob Frenkel, a former federal prosecutor now with Shulman, Rogers, Gandal, Porcy & Ecker in Rockville, Maryland. "If they felt they needed to come in and finish off their case in a strong way, Causey was their answer. They're not calling him because they feel they don't need him."

Skilling, 52, and ex-Chairman Lay, 64, are accused of conspiring to defraud investors in Enron, once the seventh-largest U.S. company by sales, by misrepresenting the company's financial performance. Both face at least 25 years in prison if convicted.

### Defense Claims

The defense claims that the company's financial statements were properly approved and reported and that Enron was destroyed by a crisis of investor confidence brought about by revelations of thievery by Fastow.

Nine former Enron employees with either plea deals or non-prosecution agreements have already testified in the trial, which began Jan. 30.

After Assistant U.S. Attorney John Hueston told U.S. District Judge Sim Lake that prosecutors don't plan to call Causey to the witness stand, Skilling's lead lawyer Daniel Petrocelli told reporters outside of court, "The government's not calling him, and neither are we." Previously, Petrocelli said he wanted Causey to testify to give the jury as much information about Enron's accounting practices as possible.

The decision not to include Causey in the 10 witnesses prosecutors may call in a rebuttal case

expected to last one or two days is `` a subtle but powerful statement of how confident they feel" about convicting Skilling and Lay, Frenkel said.

### Government Believes

`` The government obviously believes that Jeff Skilling didn't advance the ball far enough to potentially win acquittal, and that Ken Lay did everything possible to win his conviction," Frenkel said.

Prosecutors may prefer to keep Causey off the witness stand because he might support Skilling and Lay's argument that Enron's finances were blessed by accountants and properly reported to the public, said Robert Mintz, a former federal prosecutor with McCarter & English in New Jersey.

`` The government has determined there is more to lose than gain by calling Causey," Mintz said. `` The government has tried to make this case about right versus wrong as opposed to acceptable accounting principles versus illegal accounting tricks."

Prosecutors may also be concerned the jury is wearying of the case, which completed its 14th week of testimony today. The judge tentatively set closing arguments to begin on May 15th, and a lengthy cross examination of Causey on accounting issues may have delayed that schedule.

### Heard Enough

`` The government may want to get the case to the jury as quickly as they can," Mintz said. `` The prosecutors have been taking the jury's temperature to see whether they've heard enough or need to hear more. Their decision not to call Causey to the stand is an indication they've read jurors as having heard enough to make a decision."

Still, Causey's testimony may have bolstered the defense's contention that Enron's accounting was proper. Causey was part of the Skilling and Lay joint defense team for almost three years before he accepted a plea bargain five weeks before the trial began.

`` The fact neither side called him means both sides are very comfortable with the outcome of their cases at this point," said Joel Androphy, a Houston lawyer who has been following the testimony. `` Somebody's going to find out they were wrong."

The case is U.S. v. Skilling, 04-cr-25, U.S. District Court, Southern District of Texas (Houston).

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