



## Enron: And Then There Were 15?

**Government seeks dismissal of ex-Enron exec's guilty plea.**

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A former Enron executive who had earlier pleaded guilty to wire fraud may soon be legally off the hook thanks to an appeals court ruling last year. Christopher Calger, former vice president in charge of the West Power Origination Group of Enron North America, pleaded guilty in 2005 to wire fraud stemming from the sale of a project called Coyote Springs II, which involved an interest in a power plant, according to the *Houston Chronicle*. The paper notes that Calger admitted to using that deal to help Enron record profits that hadn't yet been earned.

On Friday, however, prosecutors filed papers asking U.S. District Judge Lee Rosenthal to withdraw his guilty plea and to dismiss the case, said the paper. Reportedly, Calger's attorneys, who are seeking dismissal of the charges, were buoyed by a 2006 appeals court decision to reverse most criminal convictions of defendants in a different Enron case. The paper explains that Calger had asserted that he denied Enron of his "honest services" when he participated in a sale that ignored accounting rules so Enron could book immediate profits.

Generally, under the honest services concept, prosecutors can go after individuals they believe enabled corporate fraud whether or not they personally profited from their actions. However, last year the 5th Circuit Court of Appeals overturned all convictions of three former Merrill Lynch executives, and most against a fourth, in a 2004 Enron case, noting that their actions were consistent with corporate goals and didn't rob Enron or its shareholders of money or property, according to the paper. The *Chronicle* reported the theory would have held up had the deal involved bribery or theft.

Calger's attorneys subsequently moved to withdraw the defendant's guilty plea, arguing that his actions were approved by Enron and he did not personally gain from the deal, according to the report. Calger is not the first Enron-related defendant to withdraw a guilty plea. In 2005, former Arthur Andersen accountant David Duncan's request to erase his 2002 plea to obstruction of justice, noted the paper. The Duncan request was approved by a judge after the Supreme Court overturned the accounting firm's conviction of obstruction for destroying Enron-related audit documents related to the energy company's fall in late 2001.

If Calger's guilty plea is successfully removed, it would reduce the number of Enron-related guilty pleas to 15. According to the *Chronicle*, of the other former Enron executives who have pleaded guilty to crimes, five are serving prison terms; six are serving two- to four-year probation terms; two have finished prison terms; and two are awaiting sentencing.

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