



Deputy Attorney General Transcript

News Conference - Arthur Andersen Indictment Thursday, March 14, 2002 DOJ Conference Center

MR. THOMPSON: Good afternoon -- again. On October 17, the Securities and Exchange Commission launched an inquiry into the financial collapse of Enron, which had been considered the nation's seventh largest corporation. The SEC's inquiry focused attention on the role of Arthur Andersen LLP, Enron's long-time auditor and one of the nation's big five accounting firms. The Justice Department established a task force in January to investigate all the matters that have arisen from that collapse. Today we are unsealing an indictment obtained last week from a federal grand jury in Houston, Texas charging the Arthur Andersen partnership with obstruction of justice, for destroying literally tons of paper documents and other electronic information related to the Enron inquiries.

The indictment catalogues allegations of widespread criminal conduct by the Arthur Andersen firm, charging that the firm sought to undermine our justice system by destroying evidence relevant to the investigations. It alleges that at the firm's direction, Andersen personnel engaged in the wholesale destruction of tons of paperwork and attempted to purge huge volumes of electronic data or information.

The indictment further explains that at the time Andersen knew full well what -- that these documents were relevant to the inquiries and to Enron's collapse. The indictment alleges that Andersen partners and others personally directed these efforts to destroy evidence.

As the indictment lays out, the destruction initiative began on or about October 10, 2001, as Andersen foresaw imminent government investigations and civil litigation. The destruction continued through the SEC's announcement that an investigation had been launched and only ended nearly one month later when the SEC officially served Andersen with a subpoena for Enron documents.

As charged in the indictment, on October 16th Enron issued a press release announcing a \$618 million net loss for the third quarter of 2001.

The very next day, the SEC began an -- began its Enron investigation. By October 19th, Enron notified Andersen that the SEC was investigating the Enron special-purpose entities that Andersen, itself, had helped to establish, enabling Enron to camouflage the true financial condition of the company.

The next morning, Andersen's high-level management discussed the SEC inquiry on a conference call. On October 23rd, Andersen partners ordered their employees to destroy Enron documents in Andersen's offices in Houston. The indictment alleges that in urgent and mandatory meetings, Andersen partners and others told employees to immediately destroy documents related to Enron. Dozens of large trunks were brought in to haul documents from Andersen's office in Enron's building to Andersen's firm office in Houston, in order to destroy literally tons of documents, the indictment alleges. Employees were told to work overtime, if necessary, to finish the job of destroying documents. The shredder at the Andersen office in the Enron building ran virtually constantly.

The indictment charges that destruction of evidence extended far beyond Andersen's Houston-based Enron engagement team. This is the indictment of a firm, of a partnership. As the indictment clearly outlines, the obstruction effort was not just confined to a few isolated individuals or documents. This was a substantial undertaking over an extended period of time with a very wide scope. The Andersen firm instructed Andersen firm in Portland, Oregon; Chicago, Illinois; and London, England, to join in the shredding. In London, Andersen partners and others orchestrated a parallel, coordinated effort to destroy Enron documents within days of notice of the SEC inquiry. The shredding apparently stopped only after the SEC officially served Andersen on November 8th with the anticipated subpoena for documents related to the firm's work on Enron.

Obstruction of justice is a grave matter and one that this department takes very seriously. Arthur Andersen is charged with a crime that attacks the justice system itself by impeding investigators and regulators from getting at the truth. This indictment alleges just such subversion of our justice system by a firm responsible for upholding the standards of the accounting profession on which hundreds of millions of investors rely.

Now, when determining whether to charge an entity with criminal conduct, we consider many factors, including the seriousness of the alleged offense, the firm's history of wrongdoing, the pervasiveness of the wrongdoing, and the need to deter others from similar activity. Under these standards, we felt compelled to seek the indictment of the Arthur Andersen partnership.

Today's indictment charges Arthur Andersen with violating Section 1512 of Title 18 of the United States Code. The statute makes it a crime to, and I quote, "alter, destroy, mutilate or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding."

No individual employees or officers of Arthur Andersen have been personally charged in today's indictment. The department's investigation into the Enron matters actively continues, including the investigation into Arthur Andersen's conduct and that of its individual partners. And we cannot, however, discuss any matters about the investigation beyond this action by the grand jury.

I would like to commend Assistant Attorney General Michael Chertoff of the Criminal Division; Fraud Section Chief Josh Hochberg; the head of the task force, Leslie Caldwell; and the principal associate deputy attorney general, Christopher Ray; and FBI Executive Assistant Director Bruce Gebhardt -- thank you, Bruce -- and the entire task force for their work on this matter to date.

I would be happy to try to answer a few of your questions.

Q Yes, sir. It seems that you're going rather quickly in this matter. Could you explain to us why you've moved so quickly?

MR. THOMPSON: Without talking about any particular case, it's generally the policy of the department that when an investigation is ready to -- when an investigation is closed and the allegations pertaining to the investigation are ready to be indicted, it's best to go ahead and indict then.

The investigation as to these facts that are charged in the indictment, as to this defendant, had been completed, and it was determined that it was appropriate to proceed after the conclusion of the investigation as to these facts and this defendant.

Yes, sir?

Q The firm's lawyers are claiming that the charges amount to the death penalty for the firm. What's your reaction to that? Do you have any sympathy for that rationale?

MR. THOMPSON: As I mentioned previously, we considered a number of factors, and a number of factors are typically considered when a decision is made to charge an entity. And I'm confident that the team, the task force, as well as myself, considered all the appropriate charges in making the decision to seek the indictment that we announce today.

Q What is the maximum penalty the company faces, sir?

MR. THOMPSON: The maximum penalty is a \$500,000 fine and a five- year probation.

Q Mr. Thompson --

MR. THOMPSON: Beverly, go ahead.

Q Thank you. The company or the partnership is complaining that they wanted to make a presentation before the grand jury, and they were not afforded that opportunity. Why was that?

MR. THOMPSON: We can't talk about any of the matters that may or may not have appeared before the grand jury. We can't talk about any of the evidence in the case. But it's typically the department practice, when an individual or an entity is represented by counsel, to afford counsel all process as it relates to discussions with the department.

Yes, sir? In the yellow.

Q If it turns out, as Andersen says, that the firm is destroyed as a consequence of this indictment, is that an appropriate consequence, in your mind?

MR. THOMPSON: We -- as I said in our statement, these are serious charges, and it shouldn't be a surprise to anyone that serious charges have serious consequences. And again, without talking about any particular matter, but just generally, I think it would unfortunate for our criminal justice system if any individual or any entity could say that he or she or it was too big or too important, so as it couldn't be indicted. Yes, sir. (In the back ?).

Q Can you enumerate for us any contacts that might've been had with senior members of the department, including yourself, Mr. Chertoff, whatever -- on behalf of Andersen not from counsel but from other lobbyists, political figures and/or from other persons in other departments of this administration?

MR. THOMPSON: The latter part -- with respect to the latter part of your question, this matter has been handled entirely within the Department of Justice and within this task force. And I'm not aware of any contacts by anyone other than counsel representing Andersen.

Yes, sir.

Q Could you comment on how high up the obstruction went? Do you have any evidence -- you didn't seem to say that any of the top- top management at the national office was involved. Are you saying that they were involved? Did it go up to the CEO level? How high did it go?

MR. THOMPSON: I can't discuss any of the evidence in the matter.

Q Can you talk about any efforts to reach a plea agreement?

MR. THOMPSON: I can't discuss that.

Q Can you say when Andersen was informed of the indictment and how they were informed?

MR. THOMPSON: I should not discuss that, either. I'm sorry.

(Cross talk.)

MR. THOMPSON: Yes, sir. In the back. In the back.

Q Sir, on the question generally of obstruction of justice, Harvey Pitt, who's the head of the Securities and Exchange Commission, a number of years ago wrote a law-review article on this. And his advice seemed to be, if you're going to destroy documents, do it right up until the subpoena arrives or when the subpoena arrives. He basically seemed to be giving the green light to that. And I'm wondering: Is there some confusion in the law on when a company can destroy documents? Because Andersen stopped destroying as soon as the subpoena arrived.

MR. THOMPSON: I know Mr. Pitt. He's a fine lawyer. And I haven't read the article that you're talking about, but I would direct your attention to 18 USC 1512 (e), which makes it clear that an official proceeding does not have to be pending in order for someone to come within the ambit of the obstruction-of-justice statute.

Yes, sir.

Q Outside of the waste-management injunction, when you're talking about the history portion that played into the decision to indict the firm, were there other issues in the firm's history that played a role? And if so, what were they?

MR. THOMPSON: I cannot comment on any specific factor that led up to the prosecutive decision except to generally discuss the factors that are typically considered in any case.

Yes, sir.

Q One quick follow-up: In the destruction in Chicago, did that take place in the October 23rd time frame? And did that play a role in the decision, to indict the firm?

MR. THOMPSON: I'll refer you the indictment, and the facts as set forth in the indictment should speak for themselves.

Yes, sir, in the --

Q Can you characterize in any way the documents that were destroyed and what you -- what evidence you don't have?

MR. THOMPSON: No, sir, I cannot.

Yes, sir.

Q There has been some concern raised that if Andersen were to be indicted and disappear from the market, that we have sort of 2,300 public companies who have Andersen as an auditor who might be in some state of chaos if this were -- Andersen were to disappear. Was the -- financial markets and the stability of that taken into consideration when you thought about going forward with this indictment?

MR. THOMPSON: A number of factors were considered in making the prosecutive decision to seek an indictment in a case like this. We've discussed them generally. Beyond that, the only thing I can say is the indictment alleges serious conduct, serious crimes, and it shouldn't be a surprise to anyone that serious crimes should result, and most often do result, in serious consequences.

Q If I can --

Q Why was it necessary to bring this and seal it for a week?

MR. THOMPSON: I cannot discuss why we would ask a court to seal an indictment, but only say I'm confident that our decision in that regard follows typical department policies and procedures and practices.

Yes, sir.

Q In -- in layman's terms --

MR. THOMPSON: (Wait a minute ?).

Q Why indict the firm before the individuals? Will there be indictments for individuals, and what's the time frame?

MR. THOMPSON: The investigation continues. And as I said, the investigation as to these charges and against -- and as to this defendant was completed. And it's appropriate at that time when the investigation as to a particular set of charges and to an individual or an entity is completed to go ahead and bring the charges.

Q In layman's terms, why was it illegal for Andersen to have destroyed these documents prior to having received the subpoena?

MR. THOMPSON: I don't understand your question.

Q The -- following up on the question from before, you'd said that it's illegal even prior to receiving a subpoena for documents to destroy -- to have destroyed documents when you presumably know that there's an investigation. Could you sort of enumerate why it is -- or, why it was illegal for them to have begun destroying the documents prior to receiving that subpoena?

MR. THOMPSON: I think my question was -- my answer to the question was clear: 18 USC 1512(e) makes it clear that an official proceeding does not have to be pending for the obstruction of justice statute to kick in. And beyond that I will direct you to that statutory provision.

Q Was the SEC consulted before you filed the indictment?

MR. THOMPSON: I can't comment on what -- who was consulted in government with respect to other law enforcement agencies. I think that would be inappropriate.

STAFF: This is the last question.

MR. THOMPSON: Yes?

Q Mr. Thompson, where do you go from here now with Andersen? I suppose there's -- Andersen is saying that there's simply no room for any agreement. I guess you're prepared to go to trial in Houston at some point. Can you talk about, in practical terms, when that might be or what we can expect?

MR. THOMPSON: Well, the investigation does continue. The charges have been unsealed. And proceedings in the court will be set, and we're prepared to go to trial and vindicate the charges that were filed by the grand jury, that were brought by the grand jury.

Q How --

MR. THOMPSON: Anything beyond that, I think, would be inappropriate to comment on.

Q If they were willing to come back and talk about a possible plea deal, would you be willing to consider it again in the future?

MR. THOMPSON: Generally, in my experience as both a prosecutor and a defense lawyer, pleas do result after an indictment has been brought by a grand jury, and that's not an uncommon experience.

Thank you.

STAFF: Thank you.

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