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## Enron's Jeff Skilling May Get Decade Off Sentence in Deal

By Laurel Brubaker Calkins and Erik Larson - May 9, 2013

Jeffrey Skilling, the convicted former Enron Corp. chief executive officer, may get out of prison in as little as four years if a judge approves a deal with prosecutors over objections by victims of one of the biggest corporate frauds in U.S. history.

In exchange for getting as many as 10 years cut from his 24-year sentence, Skilling will drop his bid for a new trial and end litigation over his conviction. A jury found he spearheaded a fraud of as much as \$40 billion that destroyed the world's largest energy trader in 2001.

U.S. District Judge Sim Lake in Houston said he would take into consideration comments by ex-Enron employees, investors and other victims before accepting or rejecting the deal.

A sentencing agreement submitted yesterday to Lake by prosecutors and Skilling's lawyers calls for the former executive to give up all claims to \$40 million in forfeited assets and be resentenced to 14 to 17 years in prison, according to a filing in federal court in Houston. The bulk of the reduction comes from an appellate ruling that takes nine years off because sentencing guidelines were improperly applied by Lake the first time.

Lake held a series of closed-doors status conferences in the case on May 2, May 3, and again yesterday.

### 'This Magnitude'

"It seems unlikely that the government and Skilling's lawyers would've presented a deal to the judge without confidence it would be approved," David Berg, a Houston trial lawyer familiar with the Enron prosecutions and Lake, said in a phone interview. "That's what three days of closed-door hearings have been about. I'm unaware of any criminal case where a deal was reached of this magnitude -- 14 years is a lot of time -- and the judge rejected it."

Skilling, 59, has served more than six years of his 2006 sentence for fraud, conspiracy and insider trading. Given the nine years lopped off by the 2011 appellate ruling, and with the potential benefit of two more years off for good behavior and another year off for participation in a drug treatment

program, Skilling could be released in 2017 or early 2018, according to his lawyer and the agreement.

"The proposed agreement will bring certainty and finality to a long painful process, although the recommended sentence for Jeff would still be more than double that of any other Enron defendant, all of whom have long been out of prison," his lawyer, [Daniel Petrocelli](#), said in a phone interview. "Jeff will at least get the chance to get back a meaningful part of his life."

## Home Confinement

Skilling entered prison in December 2006, following roughly six weeks of home confinement. Prosecutors won a forfeiture of more than \$40 million of Skilling's assets at trial, which have been held in reserve while the former executive continued to appeal his conviction, according to the filing. In dropping his bid for a new trial and any further appeals, Skilling agreed not to challenge the forfeiture, which will immediately free up the funds for Enron victims.

"Today's agreement will put an end to the legal battles surrounding this case," [Peter Carr](#), a spokesman for the Justice Department's criminal division, said yesterday in an e-mailed statement. "Mr. Skilling will no longer be permitted to challenge his conviction for one of the most notorious frauds in American history, and victims of his crime will finally receive the more than \$40 million in restitution they are owed."

## Victim Opinions

In an order yesterday, Lake outlined procedures for victims to voice opinions in writing or in person at Skilling's re-sentencing on June 21. Lake said some victims had written him before the deal was formally announced and he may limit the number who will speak to avoid prolonging the hearing.

Former Enron investors and employees have until June 7 to send the judge letters and request to speak at the hearing.

"This agreement ensures that Mr. Skilling will be appropriately punished for his crimes and that victims will finally receive the restitution they deserve," Carr said.

There's a good chance Lake will impose the minimum sentence under the deal in spite of victims' objections, Jim DeVita, the white-collar attorney who defended former [Tyco International Ltd.](#) ([TYC](#)) Chief Executive Officer L. Dennis Kozlowski. Kozlowski was sentenced in 2005 to 8 1/3 to 25 years in prison for looting the company, and is presently seeking parole.

## 'Probably Enough'

"In a case of this nature, even though it involved the significant and monumental collapse of a company, 14 years is probably enough," DeVita, of Day Pitney LLP in [New York](#), said in a phone interview. "For someone like Mr. Skilling, the likelihood of recidivism is nil -- 14 years is more than enough to deter someone from doing that again."

When Skilling was sentenced in October 2006, Lake gave him the minimum term under nonbinding federal guidelines, which called for as long as 30 years in prison.

After a 16-week trial, a Houston jury convicted Skilling alongside [Kenneth Lay](#), Enron's former chairman, for conspiring to use off-books partnerships to manipulate the company's finances and mislead investors about the company's true financial condition. Lay died before he could appeal, and his conviction was erased.

More than 5,000 jobs and \$1 billion in employee retirement funds were wiped out when Enron plunged into bankruptcy in December 2001. Investors sued to recover more than \$40 billion in market losses.

Skilling is incarcerated in a federal prison in Englewood, [Colorado](#), outside of Denver.

## Retrial Sought

Petrocelli, Skilling's attorney, told Lake at a hearing last May that the former executive deserved a new trial because prosecutors failed to turn over potentially exonerating evidence that could have influenced Skilling's trial. The government provided some of the materials to Skilling during his appeal.

In 2010, the U.S. Supreme Court heard Skilling's appeal and agreed that his conviction was based in part on an invalid legal theory known as the "theft of honest services."

The [U.S. Court of Appeals](#) in [New Orleans](#) reviewed his case in 2011 and determined there was enough other trial evidence to convict Skilling without the flawed theory. The appellate court upheld the verdicts against Skilling and ordered Lake to recalculate his sentence, having earlier found that sentencing guidelines were misapplied in his case.

News that Skilling was in talks to reduce his sentence surfaced in early April, after the [Justice Department](#) posted a public notice on its website. The notice requested comments by April 17 from "Enron employees, stockholders and other victims" regarding an unspecified "sentencing agreement" with an unnamed defendant.

Harlan Protass, a partner at Clayman & Rosenberg LLP in New York who briefly represented one of the friends of the Boston Marathon bombing suspects, said the judge in Skilling's case has the ultimate authority to decide on sentencing.

The case is U.S. v. Causey, 04-00025, U.S. District Court, Southern District of [Texas](#) (Houston).

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