

R. Allen Stanford
Case No.: 3:09-cv-0298-N
Exhibit: **B**

U.S. District Court

SOUTHERN DISTRICT OF TEXAS

Notice of Electronic Filing

The following transaction was entered by Bennett, Robert on 6/11/2010 at 5:28 PM CDT and filed on 6/11/2010

Case Name: Laura Pendergest-Holt v. Certain Underwriters at Lloyd's of London
Case Number: [4:09-cv-03712](#)
Filer: R. Allen Stanford
Document Number: [141](#)

Docket Text:

First EMERGENCY MOTION(Motion Docket Date 7/2/2010.), First MOTION to Expedite Production of Attorney-Client files, First MOTION for Production of Documents by R. Allen Stanford, filed. (Attachments: # (1) Exhibit Email from Bob Bennett to Barry Chasnoff, and Neel Lane regarding production of documents. Dated June 9, 2010.) (Bennett, Robert)

4:09-cv-03712 Notice has been electronically mailed to:

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4:09-cv-03712 Notice has not been electronically mailed to:

<http://www.usd.uscourts.gov/cgi-bin/Dispatch.pl?401639565225061>

6/11/2010



IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LAURA PENDERGEST-HOLT,	§	
R. ALLEN STANFORD, GILBERTO	§	
LOPEZ, JR. and MARK KUHRT,	§	
<i>Plaintiffs,</i>	§	CIVIL ACTION NO.: 4:09-cv-03712
	§	
vs.	§	
	§	
CERTAIN UNDERWRITERS AT	§	
LLOYD’S OF LONDON and ARCH	§	
SPECIALTY INSURANCE	§	
COMPANY,	§	
<i>Defendants.</i>	§	

**EMERGENCY MOTION TO COMPEL AKIN GUMP HAUER & FELD
LLP TO FURNISH ANY AND ALL ATTORNEY—CLIENT FILES
AND/OR RECORDS OF R. ALLEN STANFORD, STANFORD
FINANCIAL GROUP AND ITS AFFILIATES UNDER EXPEDITED
CONDITIONS WITHIN TWO DAYS OR A REASONABLE PERIOD NOT
TO EXCEED FIVE (5) DAYS TO ROBERT S. BENNETT**

Before the Court is R. Allen Stanford (Stanford) Request for an EMERGENCY MOTION to compel Akin Gump Hauer & Feld LLP to furnish any and all attorney-client files and/or records due to its former attorney-client relationship under expedited conditions within two days or a reasonable period not to exceed one week, to current counsel Robert S. Bennett. The files requested include but are not limited to: documents, emails, communication, attorney work product, and attorney notes in connection with the representation of R. Allen Stanford, Stanford Financial Group and its affiliates.

I. **R. ALLEN STANFORD IS ENTITLED TO HIS COMPLETE CLIENT FILE OF HIMSELF, R. ALLEN STANFORD, STANFORD FINANCIAL GROUP, AND ITS AFFILIATES**

Mr. Stanford is entitled to receive his entire client file from Akin Gump which includes but is not limited to attorney notes, attorney work product, any and all communications, correspondence, emails between counsel and client, and memorandums. Furthermore, Mr. Stanford is a client both individually and as the sole shareholder of Stanford Financial Group, and its affiliate companies. Therefore, he is entitled to the files of these corporations, organizations, affiliations, etc. as well as his own personal file.

A. Mr. Stanford as a client is entitled to the *entire* file, including but not limited to attorney work product, attorney notes, memorandums, communications, emails, and correspondence.

Under rule 1.16 (d) of the Model Rules of Professional Conduct, “upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client’s interests, such as . . . , surrendering papers and property to which the client is entitled.” ABA MODEL R. PROF. CONDUCT 1.16 (d) (2009). Accordingly, Texas Disciplinary Rules of Professional Conduct 1.14 (b) obligates a lawyer to promptly deliver to a client any funds “or other property” that the client is entitled to receive. TEX. DISCIPLINARY R. PROF’L CONDUCT 1.14(b). Additionally, Texas Disciplinary Rules of Professional Conduct 1.15 (d) provides that at the end of a representation, a lawyer shall . . . surrendering papers to which the client is entitled. TEX. DISCIPLINARY R. PROF’L CONDUCT 1.15(d). Together rule 1.14(b) and 1.15(d) indicate that upon request by a client, “the

documents in a lawyer's file that are property to which the client is entitled must be transferred to the client upon request . . ." TX Eth. Op. 570, 2006 WL 2038682, at *2 (Tex. Prof. Eth. Comm. May 2006); *See also* ABA/BNA Lawyer's Manual on Professional Conduct, Current Reports: Ethics Opinions, CLIENT FILES: TEXAS LAWYERS USUALLY MUST HONOR CLIENT'S REQUEST TO SEE LAWYER'S NOTES, 22 LMPC 386 (August 9, 2006) ("Emphasizing a lawyer's status as an agent and a fiduciary of the client, the committee found that allowing a lawyer unilaterally to withhold notes created during the representation would put the lawyer's interest above those of the client, thereby undermining the duties attorneys owe their clients. In addition, withholding notes from a client denies the client the full benefit of the services the lawyer agreed to provide. . .").

Furthermore, several cases have found that an attorney must turn over the complete client file and cannot withhold anything, including attorney work product. *See Resolution Trust Corp. v. H---*, P.C., 128 F.R.D 647, 650 (N.D. Tex. 1989) (holding that the entire contents of a client's file belong to the client including such things as lawyer notes, legal memorandum and other work product, and neither the attorney-client privilege nor work-product doctrines were applicable) ("An attorney is hired to represent the interest of his client, and every service provided by the attorney, including the creation of legal memoranda and attorney's notes . . . is paid for by the client. To allow the attorney to decide which materials may or may not be revealed to the client from its files would deny the client the full benefit of the services for which he paid, often dearly."); *United*

States v. York, 2010 U.S. Dist. LEXIS 44891, at *2 n. 1 (5th Cir. May 7, 2010) (citing *Resolution Trust corp. V. H--*, P.C., 128 F.R.D. 647); *Hebisen v. Texas*, 615 S.W.2d 866, 868 (Tex. App.—Houston [1st Dist.] 1981, no writ) (holding that “other properties” from rule 1.14 (b) [then Disciplinary Rule 9-102(B) (4)] includes client’s papers and other documents the lawyer had in his file which require prompt delivery by the lawyer to the client upon the client’s request); *In re George*, 28 S.W.3d 511, 516 (Tex. 2000) (“the attorney is the agent of the client, and the work product generated by the attorney in representing the client belongs to the client.”) (citing rule 1.15 (d) and *Hesbien v. State*).

Consequently, this request by Mr. R. Allen Stanford through his attorney of record, Robert S. Bennett, for all client files regarding R. Allen Stanford personally, Stanford Financial Group and its affiliates to be turned over in its entirety to Robert S. Bennett should be granted. Attorney work product, notes, emails, communications and any other items in Mr. Stanford, Stanford Financial Group or its affiliate companies should be included and not withheld in accordance with precedent cited above. Akin Gump holds such records in a representative capacity only, and is not to decide which documents to turn over or not. Akin Gump being the agent of Mr. R. Allen Stanford is not the owner of the product produced by them in the course of representing Stanford, Stanford Financial Group or its affiliates. Instead, Mr. R. Allen Stanford is the owner of these files and as such requests the turnover of them in their entirety.

B. Mr. Stanford being the sole shareholder of Stanford Financial Group, is entitled to not only his individual client file, but also to the file of Stanford Financial Group and its affiliates.

Under Model Rule of Professional Conduct 1.13(a), “a lawyer employed or retained by an organization represents the organization acting *through its duly authorized constituents.*” ABA MODEL R. PROF. CONDUCT 1.13(a) com. 1 (2009) (emphasis added) (“An organizational client is a legal entity, but it cannot act except through its officers, directors, employees, shareholders, and other constituents.”). R. Allen Stanford being the sole shareholder and CEO of Stanford Financial Group is duly authorized to request the client file of himself personally, Stanford Financial Group, and its affiliates. *See Farmers' Fund v. Tooker* 207 A.D. 37, 39 (N.Y.A.D. 4 Dept. 1923) (“A corporation must act through its officers or agents. The officers charged by law, by the by-laws or action of the board of directors, with managerial or administrative authority, are thereby clothed with power to bind the corporation.”); see *Stinson v. Berry*, 123 N.M. 482, 487 (N.M. App. 1997) (“Directors are the agents of their corporate principal. . .”).

II. EXPEDITE DISCOVERY IS WARRANTED

Furthermore, “[Federal Rule of Civil Procedure 34] . . . grants a party access to designated tangible things relevant to an action, and (b)(2) of the Rule allows a court to shorten or enlarge the time for doing so. Thus, the requested relief . . . is certainly within the discretion of the Court pursuant to the Court's discovery powers at law, without requiring the Court to invoke its statutory or inherent equitable powers through an injunction order.” *AT&T Mobility LLC v.*

Miranda Holdings Corp., No. 08-20637-Civ-Moreno/Torres, 2008 U.S. Dist. LEXIS 111702, at *4-5 (S.D. Fla., May 7, 2008).

Given the fact that the Court has asked for us to file our Motion for Disqualification of Akin Gump within a week and because Akin Gump was put on notice of the possible filing of this motion at the hearing before Judge Atlas on June 3, 2010, good cause exist to expedite the discovery period. We respectfully ask the Court to use its power under Federal Rule of Civil Procedure 34(b)(2) and grant our motion that the files in their entirety be turned over to Robert S. Bennett within two days or within a reasonable time not to exceed one week.

June 11, 2010

Respectfully Submitted,

/s/ Robert S. Bennett
ROBERT S. BENNETT
Federal ID. No. 465
TBA No. 02150500
BENNETT NGUYEN JOINT VENTURE
515 Louisiana St. Suite 200
Houston, Texas 77009
713.225.6000
713.225.6001 (FAX)

ATTORNEY FOR PLAINTIFF
ROBERT ALLEN STANFORD

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LAURA PENDERGEST-HOLT,	§	
R. ALLEN STANFORD, GILBERTO	§	
LOPEZ, JR. and MARK KUHRT,	§	
<i>Plaintiffs,</i>	§	CIVIL ACTION NO.: 4:09-cv-03712
	§	
vs.	§	
	§	
CERTAIN UNDERWRITERS AT	§	
LLOYD’S OF LONDON and ARCH	§	
SPECIALTY INSURANCE	§	
COMPANY,	§	
<i>Defendants.</i>	§	

ORDER

Upon consideration of the Plaintiff’s Request for Emergency Motion to Compel Akin Gump Hauer & Feld LLP to Furnish Any and All Attorney—Client Files and/or Records of R. Allen Stanford, Stanford Financial Group and its Affiliates Under Expedited Conditions Within Two Days or a Reasonable Period Not to Exceed Five (5) Days to Robert S. Bennett, the responses and replies thereto, the evidence submitted by all parties, and the arguments of counsel, the Court is of the opinion that the Request should be GRANTED in its entirety and to be effective immediately.

SIGNED at Houston, Texas, this _____ day of _____, 2010.

Nancy F. Atlas
United States District Judge

CERTIFICATE OF CONFERENCE

I certify compliance with the Court's procedures regarding Certificate of Conference. Atlas J, S.D. Tex., (Houston) Loc. R. 6 (A)(2). On June 9, 2010, I contacted Barry Chasnoff to expedite this request and an email documenting this is contained herein. "Exhibit A." A telephone conference regarding the document request was made on June 9, 2010 as well, but no response has been forthcoming.

June 11, 2010

Respectfully Submitted,

/s/ Robert S. Bennett

ROBERT S. BENNETT
Federal ID. No. 465
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ATTORNEY FOR PLAINTIFF
ROBERT ALLEN STANFORD

Bea Sosa-Morris

From: Bob Bennett
Sent: Monday, June 14, 2010 9:55 PM
To: Chasnoff, Barry
Cc: Lane, Neel; Pena, McLean; Mungia, Manuel
Subject: RE: Hearing for Contempt for Setting requirements that are unfair and refusing to Pay

Dear Barry,

The sending of a generic budget in a civil case, is the reason we need to have a contempt action before Judge Hittner who has jurisdiction over the criminal case and the ability to make a determination if CJA funds should be used or not. After spending \$10 million dollars or before spending \$10 million dollars, no law firm or lawyer or any entity connected with the Stanford criminal case had to prepare a budget. While I am not adverse to doing a CRIMINAL case budget, I am curious as to why six months before trial, you are now just getting around to having this done.

You have constantly refused to provide approval to any witness needed for the criminal trial and this is causing great confusion and delay in the preparation of the criminal trial and needs to be brought to the attention of Judge Hittner. The government to date has probably spent millions on experts (especially if you include what the Receiver has spent - and those estimates are around \$80 million). We can not prepare for trial without experts and maybe the Court will allow us to have CJA funds for these experts.

You have previously received materials about Mike Essmyer's absurdities and you were aware that Judge Hittner appointed me Lead Trial Counsel for the criminal case after receiving all the materials concerning these false allegations. You have written that you would investigate "acts" of alleged insurance fraud and it takes about 20 minutes to read Mike Essmyer's statements and determine that there were not "acts". Additionally, you could have called and interviewed numerous witnesses to these "acts" and you have consistently refused to do that because you knew the witnesses would have told you the allegations were not true.

Again, we would like to see the budget that Dick DeGuerin prepared or Kent Schaffer prepared. The fact that you sent us a civil trial form budget and not a single completed budget from anyone connected to the case is proof positive that you approved spending \$10 million dollars and no one submitted a budget. These issues and the CJA budget need to be place in front of Judge Hittner and we plan to do that as soon as possible.

Finally, the continuing actions to control the defense by selecting the counsel that Mr. Stanford has to use and by controlling what experts are not selected or used, in essence makes you the trial counsel for Mr. Stanford. You are calling all the shots for the criminal case. He was your client and he continues to be your client by your actions in refusing to approve his counsel of choice and leaving him to hang in the wind by not approving of the experts he has chosen or the expenditures he finds necessary to defend himself in the criminal case.

Very truly yours,

Bob Bennett

From: Chasnoff, Barry [mailto:bchasnoff@AKINGUMP.COM]
Sent: 2010-06-14 7:10 PM
To: Bob Bennett
Cc: Lane, Neel; Pena, McLean; Mungia, Manuel
Subject: RE: Hearing for Contempt for dragging down the criminal case and blocking Mr Stanford's criminal due process rights.

Bob,

We write to address the numerous inaccuracies in your email below and to provide you a sample budget as we told you we would do during our earlier conversation.

To start, Underwriters have not, and would not, disregard any order from any court. As you are well aware, the coverage dispute concerning the payment of Mr. Stanford's *reasonable and necessary* fees is presently before Judge Atlas—not Judge Hittner. Indeed, the Fifth Circuit ordered as much. Judge Atlas made clear to you during her June 3 hearing that her previous orders "didn't tell the carrier to pay any particular lawyer . . . [and] didn't tell the carrier that they had to pay on fees that they dispute." H'rg Transcript at 127.

Judge Atlas did, however, indicate that she was "encourag[ing] the carrier to look hard at the [insurance fraud] materials," which she asked the parties jointly to request from Judge Hittner. H'rg Transcript at 126. Underwriters received a copy of those sealed materials *this morning*, and, consistent with Judge Atlas' orders, have begun their review and analysis. Underwriters will notify you whether or not they consent to your representation of Mr. Stanford after they have had a reasonable amount of time to consider and evaluate those documents.

In the meantime, Underwriters are providing you with a sample litigation budget as you requested. In the event Underwriters consent to your representation of Mr. Stanford, we will

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need you to provide a litigation budget. We will also need you to provide a budget for any expert that you want approved. Please let us know if you have any questions.

Finally, nothing in this email should be construed as a waiver of any of the rights that Underwriters may have under any applicable policy, nor as an admission of liability on the part of Underwriters. Underwriters expressly reserve their rights under all policies.

From: Bob Bennett [mailto:Bob@bennettlawfirm.com]
Sent: Monday, June 14, 2010 1:13 PM
To: Chasnoff, Barry; Lane, Neel; Pena, McLean
Subject: RE: Hearing for Contempt for dragging down the criminal case and blocking Mr Stanford's criminal due process rights.

Dear Barry,

We are trying to follow up our 10:15 am telephone conference of this morning with what you still wanted to have for Mr. Stanford's insurance company and your client, Lloyd's of London, to acquire so that approval will be forthcoming for the Bennett-Nguyen Joint Venture. Our approval is important so we can determine where we are in the criminal case. You have ignored Judge Hittner's ruling of June 1st that I am to be Lead Trial Counsel for the Criminal case and thus compensated. You have ignored Judge Atlas' ruling that I am to be coverage counsel for Mr. Stanford in the coverage case with her comments of how the coverage and criminal are related. You have continued to ignore what Judge Hittner ordered, the Fifth Circuit ordered, and what Judge Atlas ordered about making reasonable and necessary payments for fees and expenses. You have caused unbelievable delay in the criminal case. Let me review these issues with you.

MIKE ESSMYER LIBELOUS AND DEFAMATORY STATEMENTS

Judge Hittner has entered an Order to allow you to view what was placed under seal. Prior to the Order, we had provided our response and the affidavits of individuals who attended the meeting where NO acts in furtherance of insurance fraud were committed. We also provided you the names of third parties such as Lee Shidlofsky and Alan Yee who were at the meeting where the alleged acts occurred. As an act of bad faith, you have not interviewed these individuals which shows that you are only stalling and truly not concerned about these false and completely unfounded allegations. You have also not interviewed Dr. Nhan Nguyen, Attorney Ashley Tshe, or former federal public defender Tom Berg. Your refusal to engage in true due diligence on this matter further shows how you are dragging your feet to the detriment of your former client and present insured. We have sent to you all the documents that we believe comprise the Essmyer bs but if there is something that you believe you have not seen or you want to look at again that you may not have, please let me know.

BUDGET FOR THE TRIAL FOR LEAD TRIAL COUNSEL

As we stated in our telephone conference, our search of the files of former attorneys work product has not revealed a single budget that after more than a year, and your expenditure of \$10 million dollars of Mr. Stanford's insurance money has produced. Again, we have not been able to find a single budget that any lawyer, law firm, or expert has been required to prepare prior to getting funded by Llyods. As we stated in our telephone conference, if you have one, we would like to see it. Please produce a budget that any lawyer or law firm did in the Stanford matter so we can use it for a template.

Notwithstanding no other budget exists and you have not provided any guidance with the budget process, I would estimate that at least \$10 million would be needed for pretrial matters and another \$30 million for the trial. What is that based on? It is a complete random estimate. At the bottom of this email is a recent interview of Jeff Skilling from Fortune Magazine dated today. We have previously sent you information that from reliable sources the cost to Skilling was \$50 to \$60 million, and it may have been more. Can you honestly say that the money spent on Skilling was not necessary or fair or reasonable? But you have to consider that Skilling was not in prison and could work every day with his counsel. This is a significant factor that increases every aspect of the cost of the trial. You have read the Bond motions and you know what Mr. Stanford has to go through every day to simple have a meeting with his counsel or to sign a letter.

You are also aware of the candid conversation with Akin Gump Partner Neel Lane where he did not challenge that counsel for Mr. Stanford would have to be working full time 6.5 days a week and need at least six (6) full time attorneys.

BUDGET FOR EXPERTS

We have sent you the budget for Dr. Lehrer. What else do you need to approve his budget or approve him working as an expert in the criminal case? Does every expert we want to be approved need a budget? Was this the same for the \$10 million that was spent?

PUBLIC FUNDING

Before Judge Hittner, we will also ask for public funding because of your failure to pay what is owed. We have lost significant time preparing for trial because we have had to work on the criminal trial, address the coverage issues, and fight with you over payment. Sooner or later it has to end. We can not go six months without being paid and without having experts to help. It can not be done.

When and if Judge Hittner sets a hearing, we will let you know. Another example of how you have been unfair in this entire process is highlighted by your requesting that Mr. Stanford provide the names of the Akin Gump attorneys who had worked on the Stanford files so you could go talk to them about their representation. We immediately responded and provided these names. Seeking fairness and professional courtesy from you, we asked that you provide the names of the attorneys that you knew were involved with Stanford or related entities. Of course, you have not provided anything. You withhold information, fail to approve experts, require budgets when no one else did them, deny the authenticity of transcribed conversations, and generally make it as difficult as you can for Mr. Stanford to be represented and get a fair criminal trial. The height of all insults is your stating that you former client has engaged in criminal activity. You charged him millions of dollars in legal fees, took as much if not more in premium payments, and now will not even provide a list of the Akin Gump attorneys that represented him or related entities. Maybe there should be room for "harrassing comments and implicit threats", when you so dump on your former client by initially denying that you represented him and continue to make per se libelous statements against your former client by stating that he has engaged in ciminal acts or that he is some how involved with criminal property that AKin Gump as counsel for Mr. Stanford set up, advised about, or directly participated in. This sets a new standard for legal ethics and legal service. Very truly yours,

6/14/2010

Bob Bennett

FORTUNE -- When Jeff Skilling, the former Enron CEO, was convicted on 19 counts, the headline of the *Houston Chronicle* read "Guilty! Guilty!" Sentenced to 24-plus years in prison, Skilling had been a wealthy executive who went too far in pursuit of profit and caused financial pain and devastation to thousands of investors, employees, and contractors with his decisions at the helm of Enron. Few if any in the media or public rose to his defense or mourned his imprisonment.

Those wounds from Enron's devastating collapse may soon be reopened. Sometime this month the Supreme Court will decide whether Skilling failed to receive a fair trial because of possible errors in jury selection. The court will also issue a ruling on the constitutionality of the backbone of the prosecution's arguments, centered on the "honest services" statute, which makes it a crime for public officials and business executives not to act in the best interests of their constituents or employers.

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It's easy to imagine the outrage that could be stoked by his release or a retrial, especially in light of all the corporate misdeeds of recent years. What's not easy to know is what Skilling himself thinks about his current predicament.

Which is why I decided to ask him about it.

Two years ago I drove to the Federal Correctional Institution in Waseca, Minn., to meet Skilling. I hadn't met him prior to my visit. I simply wanted to talk with the vilified human being who was held responsible for one of the biggest bankruptcies and corporate scandals in history.

At the time, I had just left a senior executive position for a major company in the health-care industry. Enron's unraveling intrigued me, not only because of its historical significance, but because descriptions of the company's business environment seemed strikingly similar to UnitedHealth Group (UNH, Fortune 500), where I had worked for 11 years.

Both companies had been thought of as bold, innovative, and unafraid to redefine the status quo in their respective industries. Enron CEO Ken Lay's visionary leadership reminded me of Bill McGuire, former CEO and chairman of UnitedHealth.

Lay's successor, Jeff Skilling, had qualities of intensity, management discipline, and financial focus that were strikingly similar to Stephen Hemsley, then president and chief operating officer of UHG. And both companies had deep relationships with Arthur Andersen, the accounting firm that would be brought down in part because of Enron's scandals. I greatly admired United, and in my time there I never witnessed a reason to worry about the company's ethics or business practices.

In March 2006, in the midst of Lay and Skilling's four-month trial, UnitedHealth Group got embroiled in a stock option backdating case. I saw McGuire transformed from a respected health-care CEO into a pariah. He lost the professional respect he'd gained for growing United in value from about \$400 million in 1989 to \$70 billion in 2006.

Since Skilling was incarcerated a mere 90 minutes from my home, I wrote him a letter to request a meeting. I simply wanted to hear his story, and I wanted him to be able to tell it to me without judgment, in the hopes I could better understand what had transpired at United.

On May 10, 2008, I met with Skilling for four hours and was allowed no means of recording or taking notes. We sat in flimsy white plastic chairs in an open cafeteria-like setting. The room was filled with clusters of inmates and their Saturday visitors.

Dressed in his jailhouse khakis, Jeff was a bit thinner than in his old pictures, but looked physically healthy. Initially he was subdued, pausing before responding to simple questions, as if needing time to process things.

Eventually Skilling opened up. He didn't hesitate to talk about Enron and didn't dodge any of my questions. When I asked about the use of mark-to-market accounting to inflate revenue, he said, "Archelle, let me first explain the basics about how energy is traded." Then he discussed the company's rationale with the clarity of a business school professor.

I saw Skilling become agitated as he described CFO Andy Fastow's criminal actions relative to the "special-purpose entities" that Enron had used to hide its losses. But later, when I asked him whether he was angry with Fastow for cooperating with federal authorities, he just shook his head and -- in his words -- said he understood why certain people compromised their integrity. To him, Fastow's testimony to investigators was simply a way for Fastow and others like him to protect themselves and their families. Skilling's anger shifted in focus, from Fastow to the U.S. government, for what he claims was "prosecutorial abuse."

Ninety minutes into our meeting, Skilling lowered his eyes to the floor. "I apologize for asking," he said, embarrassment in his voice. "Could you buy me a cup of coffee? Inmates aren't allowed to touch money or approach the machines. They could put me in solitary for a week."

As I got his French-vanilla latte and recovered from astonishment that a man who had led a \$110 billion company was not allowed to handle two quarters, I took the opportunity to get more personal, asking, "What is life like in jail? What is the scariest part of being here?"

Over the previous 17 months, Skilling said, he had adapted to prison life. "You don't want to get sick in here," he said, as he talked about practicing yoga, walking four miles a

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day, and avoiding carbohydrate-heavy meals to stay fit.

Skilling pointed out several inmates in the cafeteria he had befriended, but did not hesitate to admit to how lonely he was. His sister, Sue, lived in Minnesota and visited regularly; the rest of the family was out of state. It was unclear whether his 2002 marriage to Rebecca Carter would survive, since she and Skilling had never experienced married life together without the looming stress of the Enron collapse.

His two oldest children, Kristin and Jeffrey, had recently made their first visit to Waseca, but J.T., his youngest son, didn't feel emotionally prepared to see his dad in jail. Skilling told me his greatest fear regarding a 24-year sentence was missing the opportunity to support his children as they navigated into adulthood.

As quickly as Skilling had become quiet, he shifted back into CEO mode after I asked, "Jeff, you didn't have a good outcome. Looking back, how would you have altered your legal strategy?" His McKinsey-instilled strategic responses sounded like a PowerPoint slide deck for business executives facing down allegations of white-collar crime:

1) Take the Fifth.

Contrary to his attorneys' advice, Jeff Skilling did not exercise his Fifth Amendment rights. He wanted to explain Enron's business decisions and couldn't bear the thought of being silent. Skilling said that he didn't regret testifying, but that he "talked too much and educated the prosecution on issues that they would otherwise have had to figure out on their own." In other words, Skilling now sees that testifying may have hurt his chances for an acquittal, but he thought it was a risk worth taking to be able to speak openly about what happened. In retrospect, it wasn't.

2) Go on a PR offensive.

During the four years leading up to the trial, Skilling was visible in Congress and in the courtroom, but as a discredited CEO, he wasn't focused on his standing in the public's eyes. Looking back, he regrets not maintaining relationships with key industry advocates in and outside the media. In addition, Skilling wished he had developed a media strategy to influence public opinion and worked to change the reputation of himself and his firm -- something he now believes could have had a positive influence on the outcome of his case.

3) Avoid sarcasm.

In May 2001, Skilling famously said, "They're onto us" to a group of Enron executives about a negative analyst report on the company. Five years later he was defending himself by claiming that his comment was sarcasm, not an admission of guilt. Skilling nervously chuckled as he recalled when he was publicly edgy and impatient during the episode, but he quickly got serious and seemed self-reflective when he said, "Sarcasm is easily misinterpreted and can be a tremendous liability."

Skilling was surprisingly self-analytical as he outlined his missteps. Then he shifted his focus once again, telling me about his appeal, filed in the Fifth Circuit Court of Appeals in April 2008. "We're investigating 'honest services,'" he said, explaining that several other Enron-related cases had been overturned based on interpretations of this statute later found to be incorrect.

He talked about spending hours reviewing legal documents and sounded optimistic but then said quietly, "If this doesn't work, I am going to be in here for a long time. You can visit if you want. It's nice to have someone new to talk to." Skilling was moved to Englewood, Colorado later that year, since the Minnesota facility I met him at was to be converted into a women's prison. I have not seen him since. Little did he know that two years later his case would be on the Supreme Court docket. The court will decide whether Skilling gets a new trial as soon as today.

Regardless of the outcome of the appeal, I got to know the Jeff Skilling who is a father, a husband, and an intelligent, driven business executive who decided he'd rather go to jail than not give voice to his side of the Enron tragedy. Was he arrogant? Yes. But that's not a surprise. After all, arrogance springs from the same well of confidence that led him to the big chair at Enron. And if things go his way in the Supreme Court, that arrogance may yet set him free.

-- Dr. Archelle Georgiou is the president of Georgiou Consulting, a health-care consulting firm based in Minneapolis. She was a senior executive in UnitedHealth Group from 1995 to 2007. ■

From: Chasnoff, Barry [mailto:bchasnoff@AKINGUMP.COM]
Sent: 2010-06-14 9:51 AM
To: Bob Bennett; 'kagorry@gmail.com'; 'drken@lehecoserv.com'
Subject: Re: Hearing for Contempt for dragging down the criminal case and blocking Mr Stanford' criminal due process rights.

I will try one more conversation with you. How about 10:15? Call my office

From: Bob Bennett
To: Chasnoff, Barry; kagorry@gmail.com ; drken@lehecoserv.com ; Bob Bennett
Sent: Mon Jun 14 09:44:03 2010
Subject: Re: Hearing for Contempt for dragging down the criminal case and blocking Mr Stanford' criminal due process rights.

That is not all she said and will let you know if we get it set for Wed. You have even refused to approve our experts who are desperately needed for the criminal case. We can go to the hearing first (if we get it set) and then to your office to pick up the documents. Please call if you wish to discuss these matters.
Very truly yours
Bob Bennett

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Chasnoff, Barry <bchasnoff@AKINGUMP.COM>
To: Bob Bennett
CC: Lane, Neel <nlane@AKINGUMP.COM>; Pena, McLean <mpena@akingump.com>; Mungia, Manuel <mmungia@AKINGUMP.com>; Pepping, Matthew <mpepping@akingump.com>
Sent: Mon Jun 14 09:32:42 2010
Subject: Re: Hearing for Contempt

Of course we oppose. The Fifth Circuit took issues of payment from Judge Hittner and gave them to Judge Atlas, who has said on the record that Underwriters are entitled to additional information before deciding whether to approve your engagement.

From: Bob Bennett
To: Chasnoff, Barry
Sent: Mon Jun 14 09:14:54 2010
Subject: Re: Hearing for Contempt

6/14/2010

Failure to follow court orders and make payments by May 30th

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Chasoff, Barry <bchasoff@AKINGUMP.COM>
To: Bob Bennett
CC: 'ashsummertse@yahoo.com' <ashsummertse@yahoo.com>, 'nhan@healthlawservice.com' <nhan@healthlawservice.com>
Sent: Mon Jun 14 09:11:47 2010
Subject: Re: Hearing for Contempt

Please describe the bases for the contempt motion

From: Bob Bennett
To: Chasoff, Barry
Cc: ashsummertse@yahoo.com ; nhan@healthlawservice.com ; Bob Bennett
Sent: Mon Jun 14 09:00:03 2010
Subject: Hearing for Contempt

In the criminal case, we plan to request a hearing on our to be filed and heard Motion for Contemp for Wed @ 10 before Judge Hitner. Should you wish to discuss the Contempt Action prior to our filing - please call me at any time.
Very truly yours
Bob Bennett

Sent from my BlackBerry Wireless Handheld

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6/14/2010