

# LOBBY WATCH



★ TEXANS FOR PUBLIC JUSTICE 609 W. 18TH ST., SUITE E, AUSTIN, TX 78701 PH: (512)472-9770 FAX: (512)472-9830

Bushron Tort Dodgers!

February 12, 2002

## Bush, Lay Shielded Errant TX Businesses From Lawsuits

With a thicket of high-profile lawsuits pending against Enron and its henchmen, it's time to review President Bush and Ken Lay's *ménage à trois* with tort reform.

In a January 1994 speech following his election as chair of Houston's leading business booster group, "Kenny Boy" Lay raised the topic of lawsuit abuse in conjunction with his lifelong obsession with defending *shareholder interests*. Denouncing runaway litigation, Lay warned that, "Many of us who love this city and state wonder whether it is prudent for our shareholders to keep operations or headquarters in this state."

Later that year, Lay wrote two things that kept Enron in Texas: (1) His first check to the newly formed Texans for Lawsuit Reform PAC; and (2) A letter to newly elected Governor George W. Bush urging him to slash legal liabilities to prevent corporate flight from Texas. It was the beginning of a beautiful relationship.

Although neither one of them advertises it now, Bush and Texans for Lawsuit Reform (TLR) both count Ken Lay among their top donors. The largest single source of Bush's gubernatorial money was Enron's PAC and executives (\$312,500). Another 10 percent of the \$41 million that Bush raised for his gubernatorial races came from the tort-reform lobby—led by TLR.

Bush gave Lay and other tort-sensitive big donors a fast payback after he won his first election with just 53 percent of the vote. In his first months in office, Governor Bush fast-tracked tort reform by

declaring it a legislative "emergency." Tort laws that Bush signed in 1995 include:

- Slashing punitive damages (used to punish the worst wrongdoers) to \$200,000 or two times the economic damages inflicted;
- Ending treble damages to punish deceptive trade practices on sales exceeding \$500,000 or involving personal injuries or deaths; and
- Raising the threshold needed to be held jointly liable from 11 percent of total responsibility for an injury to 51 percent.

Like Lay, many wealthy interests simultaneously bankrolled Bush and the TLR PAC, which has raised \$5,610,315 to influence Texas politicians since its 1994 inception. More than half of this TLR PAC money (\$2,850,834) came from just 20 donors—most of whom made fortunes in toxic chemicals, construction, energy or other dangerous industries with elevated legal liabilities.

The only non-tycoon among TLR's top-20 donors is the Texas Society of Certified Public Accountants (\$83,334 to TLR). In fact, four of the Big Five accounting firms (including Enron auditor Arthur Andersen) directly contributed to TLR's PAC, pushing its total accountant industry contributions to \$168,097.

A TLR-backed bill to protect accountants who sign off on cooked books floundered in 1997. Members of a Texas House committee let the bill die after the accountants could not provide any *numbers* to back their claim that they were victims of runaway lawsuits.

## TLR's Auditors

Donor	TLR Money*
TX Society of CPAs	\$83,334
Price Waterhouse	\$33,332
Ernst & Young	\$18,097
Arthur Anderson	\$16,667
Deloitte & Touche	\$16,667
<b>TOTAL:</b>	<b>\$168,097</b>

\*1994 through 2001 PAC contributions.

### Enron litigation

At a time when Enron-related decision makers face a barrage of litigation (if not criminal charges), Ken Lay now looks prescient in his 1994 obsession with granting legal protection to businesses that harm people or communities. But Ken Lay and Enron frequented the courts long before Enron's collapse.

Even as the Bush tort revolution got underway in 1995 and 1996, Enron was hit with 18 personal injury and damage suits in Harris County state district courts. These included:

- Gail Baker's lawsuit charging her Enron supervisor with sexual discrimination;
- Age discrimination claims by three gas controllers who were fired after their 50th birthday; and
- Technician Charles Hayslett's hearing-loss claims following a 1994 explosion at an Enron methanol plant.

Such lawsuits are nothing compared to what businesses file against each other. In 1997, for example, Enron said it would pay \$440 million to settle claims filed after it reneged on gas contracts to supply its European power plants.

From 1998 through 2001, Enron was a party to dozens of civil cases in Harris County state district courts, often appearing as the *plaintiff* in contract disputes that pitted one business against another. Contract disputes accounted for far more of Enron's litigation docket than did the personal injury claims that the business lobby focuses on.

### Lay litigation

In 1986 Ken Lay sued a motorist who rear-ended his daughter's car. Represented by Vinson & Elkins, Lay sued a special education aide, seeking \$6,025 for car damages and another \$4,000 for such things as Robyn Lay's "pain and suffering"

## 20 Donors Gave 51% of TLR's PAC Money

Donor*	Business	TLR PAC Donations
Robert McNair	Cogen Technologies (electricity)	\$475,000
Richard Weekley	David Weekley Homes	\$442,000
Harlan Crow	Trammell Crow (real estate)	\$331,500
Gordon Cain	Sterling Group (chemicals)	\$240,000
William McMinn	Sterling Group (chemicals)	\$190,000
James Leininger	Kinetic Concepts (hospital beds)	\$175,000
Bob Perry	Perry Homes	\$140,000
Harold Simmons	Contran (takeovers/toxic waste)	\$130,000
David Underwood	Everen Securities	\$97,500
TX Society of CPAs	Accountant trade group	\$83,334
Kenneth Lay	Enron Corp.	\$80,000
Terry Huffington	Huffco, Inc. (oil/gas)	\$65,500
Peter O'Donnell	First National Bank	\$65,000
Dan Duncan	Enterprise Products (oil/gas)	\$58,000
Michael Stevens	Stevens Interests (apartments)	\$56,000
James Lightner	Electrospace Systems (defense)	\$53,500
Robert Folsom	Folsom Investments (developer)	\$50,500
Andrew Beal	Beal Bank/Beal Aerospace	\$45,000
T. Boone Pickens	Mesa Oil	\$37,000
S. Reed Morian	DX Holding Co. (chemicals)	\$36,000
<b>TOTAL:</b>		<b>\$2,850,834</b>

\*Includes 1994 through 2000 donations by family members.

and "mental anguish." Under questioning, the plaintiffs admitted that Robyn did not seek medical attention until a week after the accident and that their insurer had paid their car repair bill—which was half of what they demanded.

Lay committed tort-reform heresy as chair of the University of Houston Regents in 1991 by pursuing justice through litigation. After the regents voted to sue university financial officers who were indicted in a \$600,000 kickback scheme, Lay said, "We hope this action will help us recover lost funds and bring this matter to justice."

Despite Bush's "tort reforms," many people wish the same today for the workers and investors who are suing Enron's officers, directors and auditors. •

### TLR PAC's Enron Money

Enron Donor	TLR PAC Money
Ken Lay	\$80,000
Forrest Hogle	\$11,500
Enron PAC	\$5,000
Edward Gaylord	\$5,000
Other Enron employees	\$1,750
<b>TOTAL:</b>	<b>\$103,250</b>

\*1994 through 2001