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January 9, 2004

OP-ED COLUMNIST

## Enron and the System

By PAUL KRUGMAN

**T**wo years after Enron, then one of America's most admired companies, was revealed as a fraud, prosecutors finally seem to be getting somewhere. Andrew Fastow, the company's former chief financial officer, and his wife, Lea, are reported to be engaged in plea-bargaining. Mr. Fastow's testimony will probably lead to charges against other former Enron executives.

But it would be a big mistake to conclude that the system is working. It isn't.

For one thing, the progress in the Enron case is something of a fluke — sort of like convicting Al Capone for income tax evasion. The charges against Mrs. Fastow don't focus on dubious corporate deals; they focus on her failure to report the personal kickbacks she received from participants in those deals. And it's still unclear whether the company's top executives will ever face charges.

More important, in political terms the statute of limitations may already have run out. The political figures with the most direct ties to the Enron scandal, former Secretary of the Army Thomas White and former Senator Phil Gramm, are no longer in office. War and a rising market have, at least for the time being, diverted attention from the role of other political figures whose deference to corporate demands aided and abetted Enron and other corporate malefactors.

And that's unfortunate. The wave of scandal was made possible, if not caused, by a political climate in which corporate insiders got pretty much whatever they wanted. Since the politicians who did their bidding haven't paid any price, that climate hasn't changed.

A November profile of Lea Fastow in *Business Week* was, among other things, a reminder of just how important a permissive political environment was to the company's growing sense that it could get away with just about anything. One of Mrs. Fastow's earliest high-profile deals involved the creation of an elaborate tax shelter. It was obvious from the beginning that this type of shelter was a scam, and the Treasury Department tried to get this maneuver banned in 1994 — but Congress refused to act. In 1998 Treasury tried a different tack, getting the I.R.S. to disallow Enron's tax deduction, but the agency backed down in the face of an intense lobbying campaign.

So have things changed? No. In October the I.R.S. backed off its challenge to another transparent scam, the synfuel tax credit. The agency denies that it was buckling under

political pressure. Uh-huh.

Meanwhile, what about stock options? Just about every analysis of the emergence of widespread accounting fraud stresses the distorting role of huge options grants to top executives, which gave insiders a strong incentive to do whatever it took to push up stock prices. (A fixation on the stock price was central to the Enron scandal.) Companies might have issued fewer options, and accounting fraud might have been less of a problem, if accounting rules had required companies to count the issue of stock options as a cost, rather than pretending that they were somehow free.

But in 1994, when the Financial Accounting Standards Board tried to issue a rule to that effect, companies that issued lots of options mounted a lobbying campaign. And politicians rushed — in a fully bipartisan manner — to be of service. Senator Joseph Lieberman took the lead: he introduced a resolution opposing the change, the resolution was approved 88 to 9, and the board backed down.

So now it's clear that options were a big motivator for corporate fraud, has Congress moved to require that issuing them be counted against profits? No. In fact, the politicians who led the charge against reform back in 1994 haven't budged.

"The best comparison I can think of is the one the N.R.A. uses about guns — which is that guns don't kill people, criminals do," Senator Lieberman said on "Frontline" on PBS. "Options were not the problem with Enron; it was the way in which the executives at Enron sold their options."

Yesterday Gen. Wesley Clark made an appearance with Sherron Watkins, the Enron whistle-blower, and promised to crack down on corporate tax shelters. Howard Dean has also made a crackdown on tax shelters a central plank of his campaign. If these or other candidates actually succeed in making corporate abuse into a successful campaign issue, we may finally see some real reform. But right now, two years after Enron imploded, we have to say that the system is still broken.