

**CORPORATE PERFORMANCES IN SPACE:
SITUATING FRAUD IN THE ENRON CASE**

by

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ABSTRACT

This thesis concerns the collapse of Houston based Enron Corporation and its ongoing economic, political and legal implications. Specifically, I investigate spaces of corporate fraud to broadly ask, how is fraud located in the varied spatial contexts of the firm? My goal is to demonstrate that the corporation is contingent upon social, cultural and material relationships across space. In this regard, I explore three distinct corporate spaces. They include (1) financial statements, where I discuss Enron's financial performances in two spatial contexts, what the public saw, and what went on in private, (2) the bodies of workers, where I consider the gendered exposure of Enron's fraud to the public, and (3) the spaces of the courtroom where I document how the corporation, as a non-bodied entity, became embodied in a courtroom context. In each case, I demonstrate how fraud is situated differently, and in each case, I suggest the implications of corporate fraud play out with differing results for those involved.

The research for this thesis involved an archeological and ethnographic approach towards gathering and analyzing narratives around Enron's downfall. This means I rely on financial documents and other important papers published by the former company, semi-structured interviews with former Enron employees, interviews with key media persons documenting the Enron story, participant-observation of the criminal trial against former CEOs (Chief Executive Officer) Ken Lay and Jeff Skilling, media analysis of news articles and other popular culture texts, and finally, journaling.

Far from being solely a *homo economicus*, a rational economic actor guided by capitalist imperatives to extract profit, my data suggests that the corporation is constituted through cultural, social and material agents that are unstable and breakdown. With this, I suggest the use of a new metaphor for the corporation, the corporation as a body. The body I conceive is conceptually drawn from feminist post-structural theory. It is open, porous and embodied. This new metaphor enables me to draw on the corporation's diverse embodiments as important constitutive moments of corporate fraud.

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LIST OF ACRONYMS AND ABBREVIATIONS

ABC	American Broadcasting Company
ANT	Actor Network Theory
BHP	Broken Hill Proprietary Limited
BOD	Board of Directors
CAO	Chief Accounting Officer
CBS	Columbia Broadcasting System
CEO	Chief Executive Officer
CFO	Chief Financial Officer
CIBC	Canadian Bank of International Commerce
CLO	Collateralized Loan Obligation
CNN	Cable News Network
COO	Chief Operating Officer
DOJ	Department of Justice
EBS	Enron Broadband Systems
EES	Enron Energy Services
EKG	Electrocardiogram
FBI	Federal Bureau of Investigation
GAAP	Generally Accepted Accounting Principles
HNG	Houston Natural Gas
IPO	Initial Public Offering
JEDI	Joint Energy Development Initiative
LJM	Lea Jeffrey Matthew (name of Fastow's off balance sheet partnership)

LLP	Limited Liability Partnership
NBC	National Broadcasting Company
Q1	First quarter of the financial reporting period
Q2	Second quarter of the financial reporting period
Q3	Third quarter of the financial reporting period
Q4	Fourth quarter of the financial reporting period
SEC	Securities and Exchange Commission
SPE	Special Purpose Entity
STS	Science and Technology Studies
TCV	Total Contract Value

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At the start of my senior thesis project in the Department of Economics as an undergrad, I submitted a list of research questions to my advisor. Many of these questions queried the role of culture in the economy. After reading this list, my advisor's gaze turned up from the sheet of paper and met mine. He said quite frankly, "you can't ask those kinds of questions in *this* Department". So I didn't. This moment marked my move from economics to geography. The intellectual curiosity fostered since then began here with the help of Christine Drennon (in Geography) and Alfred Norman (in Economics) at the University of Texas. Both encouraged me and gave me the confidence to pursue my curiosity and attend graduate school.

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DEDICATION

*To all former Enroners whose experiences,
jubilations and tribulations,
made this project possible.*

CHAPTER 1: INTRODUCTION

LOCATING A PROJECT ON CORPORATE FRAUD

“There’s an appearance that you’re hiding something.”

David Fleishman to Ken Lay on Oct. 23, 2001

On December 2nd 2001 Houston, Texas based energy giant Enron Corporation, the seventh largest firm in the United States (US), shocked the financial and energy communities by filing bankruptcy papers. Certain events in the weeks prior to this date lead many to presume the reasons for this bankruptcy involved suspect accounting practices, which effectively masked Enron’s true financial condition from the public. Fleishman’s statement above, spoken to CEO (Chief Executive Officer) Ken Lay during a conference call, reflected the growing concerns of analysts that Enron was hiding something. Just what that was at the time was unclear. Five years of criminal investigations revealed that hidden ‘something’ was corporate fraud. With the aid of complex accounting and financial techniques Enron had been mis-representing itself to the public for several years leading up to late 2001. As a consequence of this revelation, many of Enron’s former executives and directors were indicted by the US Department of Justice (DOJ) for conspiracy to commit fraud. With the knowledge of Enron’s fraud now out in the open, some former employees opted to negotiate plea bargains, while others went to trial. In all, 15 former executives have served or are serving time in federal prisons for their illegal actions at Enron, including former CEO and COO (Chief

Operating Officer) Jeffery Skilling.¹ Another six are on probation (Houston Chronicle 2008).

This thesis is about the spaces of corporate fraud. How is fraud located in the varied spatial contexts of the firm? The term fraud refers legally to an act in which “one is induced to part with money or valuables through deceit, lies or mis-representations” (Simon 2005, 2). That fraud has a location is indicated by Fleishman’s statement above. His supposition that fraud was hidden implies it was located somewhere, in this case out of view. Examining exactly where it was hidden is the central concern of this thesis.

In working to locate fraud in space, I do not mean to imply a search for specific offices in Enron’s headquarter buildings in downtown Houston where the decisions to commit fraud may have occurred. My conceptions of fraud and of space are more complicated and fluid. Former Enron employee Sherron Watkins summarized fraudulent behaviors at the firm well. She believed that the decisions made by those who were eventually convicted of fraud began gradually, in small ways. Employees rationalized their (fraudulent) business choices in comments like, “we’re providing more efficient energy markets”, or “this allows us to meet our earnings targets” (Watkins 2006). Watkins used the image of walking atop an egg, “slowly you walk downward until eventually you fall off the edge” (Watkins 2006). The point at which you fall or remain on the egg is unclear. She contrasts this image with one of walking

¹ Former CEO and founder Ken Lay was convicted of fraud along with Skilling, but his conviction was vacated due to his death, occurring before the sentencing phase of the trial. This event is addressed in the conclusion chapter. Skilling was sentenced to 24 years, which he currently serves in Waseca, Minnesota (MSNBC.com 2006). Because his conviction was in a federal court for criminal conduct, he is not eligible for parole.

off a cliff. Decisions to commit fraud at Enron were rarely clear-cut. Instead, “they were far subtler”. I like her imagery and explanation because it acknowledges the grey spaces between right and wrong. Fraudulent acts are complex.

My notion of the spaces of corporate fraud operates similarly. To locate fraud in space is not merely to situate it in a static container, a mere backdrop to human interaction. Rather, I view space as always in the making, as dynamic, as performed. Space is influenced by and influences social relationships. Hence, we should not view fraud as somehow separate from the spatial contexts in which it is situated. Certain spaces facilitate the masking of fraud, while others position it more proximately for public scrutiny. And, in many ways habitual fraud helped to define corporate space at Enron. Some of the spaces I examine here include the courtroom, the media, even on pieces of paper like financial statements, and of course in Enron’s head offices and corporate boardrooms. In each of these cases, fraud is situated differently, and in each case, the implications of corporate fraud play out with differing results for those involved.

To be clear, I have not gone out in search of fraud in Enron’s documents or sought statements of misconduct from former employees not yet revealed to the public. After five years of investigation by the FBI (Federal Bureau of Investigation) and the DOJ, I suspect all leads on fraudulent action have been exhausted. In this way, this thesis is not simply a continuation of many of the already published versions, or spoken versions (from the courtroom) of the Enron story. I am not interested in determining the

specific acts of fraud and the locations where those acts were committed. Instead, I am more concerned by the larger and more varied spatial relations in which fraud emerges. This larger premise guides this thesis, and its individual chapters.

This chapter situates my project on Enron. First, I discuss how I came to this research highlighting the compelling character of the Enron story for me and providing a very basic background of the firm. I then articulate a conceptualization of the corporation that draws from a variety of scholarships, including law, economics, political science, and geography. To this existing mix of work on the firm, I add two additional perspectives, those of science studies and feminist theory. Building a working conception of the firm is important because in order to discuss the possibility of locating corporate fraud, I need to first think critically about where the corporation sits in geographical space. Following, I discuss briefly my methodology, although there is a separate chapter later that more substantially covers the topic. Finally, I provide a general chapter-by-chapter outline of the thesis describing the major themes of each chapter and how they inform the larger project.

1.1 Why Enron, why fraud?

The origin for my project lay in the moments Enron's bankruptcy was first revealed to the world. On the December 3rd, 2001, I was sitting in the kitchen of the house I rented in Lexington, Kentucky with two other geography graduate students. We were having a casual Monday morning breakfast with the sounds of National Public Radio in the background...“And in other news, Enron Corporation, the nation's 7th

largest company filed for bankruptcy protection yesterday...”. Up to this point, unlike many North Americans, I had no idea the company was in trouble. I was in the second year of my Masters degree and deeply entwined in an MA thesis on an entirely unrelated topic. When the word ‘bankruptcy’ hit the air, I was filled with a moment of shock and bewilderment. How could the one company that had been such a defining force in my hometown of Houston, in the whole state of Texas really, be bankrupt? The only word I could muster was “What?” I heard myself say it aloud and felt a grimace take shape on my face.

It is difficult to explain my bewilderment in that moment. Enron was founded in Houston in the mid 1980’s when I was only ten years old. As I grew older, the company’s business activities, revenue margins and media exposure also grew. Enron evolved from a small natural gas pipeline company with activities in the mid-western and southern US to a multi-national firm engaged in the business of delivering products like gas, electricity and media content through flexible distribution networks. Though headquartered in a shiny oval shaped tower in downtown Houston (see Figure 1.1), by 2001 the company had offices in Europe, Japan, Canada and Australia. Further, Enron owned utilities and electricity plants and projects in countries across the world, including Korea, the Caribbean, India, China, Europe, South and Central America, Mexico and Canada. Enron’s vast presence in the US included projects from Louisiana to Minnesota and offices in New York City, Chicago and Portland, Oregon. In the years leading to late 2001, Enron’s profits likewise grew substantially, from \$13 million in 1996 to \$31 million in 1998, and finally \$100 million at the close of 2000 (Enron

Corporation 2000d). With nearly 20,000 employees worldwide, and 7000 of those in Houston alone, Enron had a staggering presence on the corporate landscape. It also held a dominant presence in my mind.

Figure 1.1 Enron Towers in downtown Houston, TX



Source: Photo taken by author

My ties to Enron are closer than merely growing up in Houston. My father, an employee with the energy industry, though not Enron, worked closely with the firm at his own company. In fact, Ken Lay, Enron's former CEO, had at one time been considered for the chief position at my father's firm in the early 1980's (Bryce 2002). Our family owned stock in Enron, and as the company's successes mounted, so did our personal wealth. When I was on the brink of graduating from University in the late 1990's, Enron was *the* hot spot to find work. I recall a significant portion of my

economics graduating class sending resumes and aspiring to a position with the company. Some of my student cohort found work with the firm. Others went on to take jobs with dot.com firms burgeoning at the time.

I came of age, as it were, in a time of economic possibility. Following my undergraduate degree in 1999, friends and student colleagues were inundated with job offers, finding work with high tech companies across the US. Creativity and ingenuity were in high demand. I remember being enamored with the energy and excitement of the period, riding the wave of economic fortune and believing wholeheartedly in the prospects of the new economy. Indeed, my undergraduate honors thesis examined one of the components of that new economy, high-tech start-up firms in Austin, TX.

Enron embodied the economic successes of the 1990's. It was its poster child. The bulk of its employees were new university graduates, making the firm energetic and youthful. The company moved early on into broadband, a cornerstone business of the new economy. The Houston media, as well as the national media, loved Enron. So did Houstonians. The company brought fame and affirmation to the city, which in the past was stigmatized for the old ways of the oil industry; clunky, slow and masculinist. Enron even saved the Houston Astros, the city's major league baseball team, by agreeing to front the money to build a new downtown stadium (part of a downtown revitalization effort). Enron Field (since renamed Minute Maid Park) opened its doors on April 7th, 2000 with Ken Lay throwing the first pitch (see Figure 1.2). This was the

Enron of my youth and adolescence. To hear then the words ‘bankruptcy’ associated with the firm at the breakfast table early in the morning on December 3rd was shocking.

Figure 1.2 Opening season of Enron Field, Houston, TX (June 2000)



Source: Photo taken by author

To try and understand what moved Enron from seventh largest company in the US to bankrupt in a matter of months, I found myself reading nearly every news article I could detailing the collapse. This practice went on for months after the bankruptcy. I distinctly remember one January morning in particular. Following my routine at the computer of catching up on news before working, I came across an article in the New York Times profiling Fortune journalist Bethany McLean. She was interviewed for her role in detecting accounting misdeeds early on in the company. Her words resonated with me; “Numbers can lie...[In accounting] there is no fundamental truth underlying it.

It is just based on rules. These rules create an incentive to get around rules...This means getting away from...accounting [as a practice] portraying the fundamental economic reality of a company” (Barringer 2002, A11). I printed the article and kept it in a file on my desk. I loved what her words made me think: that economic space had no essence, it was manufactured, constituted through practices arbitrarily selected.

One of the reasons why McLean’s words resonated so much with me was because of a passage I recalled reading a month earlier in the Introduction to Eric Sheppard and Trevor Barnes’ Companion to Economic Geography (2000). In a discussion of economic innovation in the book’s introduction, the editors made brief mention of the impact of double-entry bookkeeping in the construction and validation of economic facts.² I understood their comment as a nudge towards a new research direction. Armed with the thoughts of Barnes, Sheppard and McLean, I only applied to two schools for graduate study to pursue my interests in Enron; University of British Columbia (UBC) to work with Barnes, and University of Minnesota to work with Sheppard. Incidentally, McLean’s words opened my statement of research for both applications.

Since arriving at UBC, this project has taken many twists and turns. These shifts reflect the varied theoretical approaches exposed to me in the department of geography, which I discuss below. One constant in all these shifts however, has been my concern

² While writing this chapter, I was actually unable to find that passage in Sheppard and Barnes’ work that inspired my application for Ph.D. work. Barnes writes that biography (or in this case autobiography) is ‘controlled fiction’, a “mélange of fact and fiction of events that happen” (Barnes 2001a, 415). And, as I can only write what I remember, this seems to be the case here. Barnes has since pointed out to me that this discussion is located in a different paper (Barnes 2001b).

for socially just economic spaces, spaces in which people's political and economic rights are heard and protected. Instead, Enron created spaces of social injustice. Some 4000 employees in Houston alone lost their jobs in the days following the bankruptcy (Kaplan and Sixel 2001). Linda, a middle-aged employee with Enron's broadband division recalled that day; "on my floor [of the office], everyone was brought to a corner of the building and told 'if you haven't already been tapped on the shoulder, then you must leave' and 'please leave with dignity'".³ Employees then had 30 minutes to vacate the building. Those who stayed on with the firm did so only to assist with the liquidation of assets for creditors. These employees described the difficulty of returning to work in those early weeks just following the bankruptcy. Half empty coke cans and coffee mugs sat for days on the desks of former colleagues while cheerful Christmas décor adorned the walls. Both sights were a constant reminder of the hardships and loss brought on by Enron's demise, and the precariousness of their own positions. Most of those employees who stayed were eventually let go as the liquidation process was completed.

Throughout this project, I have always tried to keep these injustices in mind, to remember the importance of corporate accountability and responsibility towards investors and question the role of the corporation in the public sphere. Employees at Enron did not simply lose a job, they lost a job they loved, one to which they devoted themselves. Most of these people were innocent, well-meaning employees who got caught up in Enron's fraud. Hence, they were equally as dismayed by the failure of the

³ I have given all former Enron employees I interviewed pseudonyms to protect their anonymity. The exception is Sherron Watkins, whose story is already familiar to the public.

company as the public was. Furthermore, former employees, and many others in Houston working in the energy industry saw their pension plans reduced to pennies on the dollar (Enron's fall vastly affected the financial community's faith in other energy firms similar to Enron). The impact was jaw dropping for one's personal net worth. But, Enron's impacts reached beyond its employees and its shareholders. Consumers of electricity, such as in California and Maharashtra, India were subject to periods of price gouging during which significant portions of their monthly incomes were devoted to paying electricity bills.

The reach of the corporation's impacts, from its employees to shareholders and even to consumers has now entered mainstream discourses on corporate responsibility. It is in this spirit that historian Joel Seligman said of Enron, "this was the most important corporate scandal of our lifetimes" (Johnson 2006a). It is also in this same spirit that I took on this project. My hope is to contribute to mainstream conversations on corporate accountability. In doing so, I also aim to open the discipline of geography to such conversations. I draw this link more explicitly by situating this project within economic geography's study of the firm. As I said earlier, to understand the complex dimensions of fraud in corporate spaces, it is necessary to articulate what I mean by the corporation and corporate spaces conceptually. In what follows, I discuss this through a review of various scholarly studies on the firm.

1.2 Conceptualizing the corporation

1.2.1 Orthodoxy, heterodoxy, and the cultural turn

“The firm is an island in a sea of market relations” —Ronald Coase, 1937, 392.

“There is only one social responsibility of business—to use its resources and engage in activities designed to increase its profits” —Milton Friedman, 1970.

“Corporations have ceased to be merely legal devices through which the private business transactions of individuals may be carried on...The corporation has, in fact, become both a method of property tenure and a means of organizing economic life”

—Adolf Berle and Gardiner Means, 1932, 3.

“The firm [is]...a site of power relations embedded in broader discourses and practices...where day to day operations are as much about distribution (in both economic and social senses) as they are about accumulation”

—Phillip O'Neill, 2001, 182.

Although there is a wide diversity of interpretations and understandings of the corporation, they can be crudely divided into two camps. First, there are those writers who ascribe to an orthodox viewpoint, that is, a neo-classical economic conceptualization. Here the firm is treated as if it were self-contained, operating according to strict rational principles in the single pursuit of profit maximization (see Hayter 1997). Second, there are those who ascribe to a heterodox perspective, viewing the firm as enmeshed in internal and external networks, which shape its form, character and purposes. In this case, the firm is not self-contained, but is open to the outside, and characterized by a variety of ends, some of which may be inconsistent with one another (Hayter 1997). These two camps are the starting point for my review of the corporation. They are important to identify because the contemporary economic geographical literature on which I draw has adopted both of these approaches for studies of the corporation. While these two camps are presented as opposites, I argue that we need

both perspectives together. This is precisely the kind of productive joining now being found in the geographical literature, particularly under the label of “cultural turn”. I review this work at the end of this section.

The productive joining of heterodoxy and orthodoxy goes to an important point that I make throughout the thesis. While large firms like Enron are always embedded in external networks, for companies to be sustained, they need also to generate profits. Consequently, it is necessary to retain elements of both heterodox and orthodox theories of the firm. Joining these two perspectives allows the corporation to emerge for what it is, a conflicted and complex entity. To analyze further the conflicted and complex form of the corporation, I add to my review, following the discussion of the “cultural turn”, some works from feminism and science studies. Both these literatures, rather than shying away from conflict and complexity, embrace them, seeing them as critical and productive. Consequently, they have something useful to contribute in understanding the institution of the corporation.

1.2.1.1 Orthodoxy

Academic studies of the firm date from the works of Alfred Weber in the early 1900s (see Weber 1909). As an orthodox viewpoint, Weber conceptualized the firm as an entity that sought to maximize profits by minimizing costs across space. Weber was concerned with two kinds of spatially variable costs: labor and transportation. He argued that profit-maximizing firms would choose a location that minimized its labor and transportation costs. He theorized that these two costs were in turn determined by

three separate factors: the weight of material inputs used in production, the presence of agglomeration economies, and the type of labor used (Weber 1909). Known more simply as the locational triangle, Weber's theory conceived the firm as a rational calculator, adding up and comparing the costs of production at every potential site on a spatial plane, and then choosing the site where costs were lowest.

A contemporary of Weber, also part of the orthodoxy school of thought, was Roland Coase. In 1937, Coase famously described the firm as "an island in a sea of market relations" (Coase 1937, 392). That node or island was populated by the spectral figure of *homo economicus*. *Homo economicus* is a term derived from 19th century political economy literature (see Smith 1776 and Mill 1836) and refers to the idea that economic actors are motivated only by self-interest in their desire for wealth or utility. More specifically, actors in the market are assumed to be rational, possess complete information and are able to make decisions based only on maximizing utility, or in the case of the firm, maximizing profit for shareholders (Barnes 1996). For Coase, owners of a firm, also the prime decision-makers, would rationally weigh up all costs of production including both internal and external transactions, and that basis would determine the profit maximizing location.

Perhaps the most extreme version of the orthodox view is found in the Chicago School of Economics. In particular, its most well known spokesperson Milton Friedman, advocated for an understanding of the corporation rooted in free market ideologies, ones that celebrate the firm as a rational economic actor. Friedman wrote on

more than one occasion that the corporation had only one responsibility: to pursue profit (Friedman 1962, 1970). This responsibility was best served in a capitalist system free of government intervention. In his mind, the regulation of corporations by governments only inhibited profit-making, causing corporations to be less efficient. Friedman ferociously believed in the market's ability to allocate resources in the best possible way. In contrast, government directed allocation would always be sub-optimal. Like other orthodox perspectives of the firm, Friedman's conception is economistic and presumes that rational calculation within the invariant laws of the market will produce optimality.

1.2.1.2 Heterodoxy

Missing in the orthodox view is social context. Decision-making in that tradition is (methodologically) reduced to the rational individual, *homo economicus*. However, the failure of orthodoxy to take into account social context was not for lack of options. Developing side-by-side with orthodoxy was an alternative institutionalist perspective that conceptualized the firm as enmeshed in larger networks. The origins of this heterodox view is found in the writings of political economists including Marx (1867), and later the American economist Thorstein Veblen (Veblen 1889, 1904). By the 1930s, the same period in which Weber's and Coase's theories were propagated, this institutionalist perspective was presented by the corporate legal scholar Adolf Berle and the economist Gardiner Means. Their work, The Modern Corporation and Private Property (1932), represented the corporation not as bounded and complete, as purely an economic model constrained by price inputs, but rather as a legal entity torn between

two different factions: The corporation's owners, or investors who purchase stock in the corporation, and those who ran the firm, its managers.

According to Berle and Means, the management faction becomes more important over time as ownership of corporations becomes more dispersed across increasing numbers of spatially scattered owners. As the power of any individual shareholder declines, control shifts to corporate managers, hired by stockholders to run the firm and to manage their wealth. Thus, it becomes the managers who take charge of enterprise decisions. Berle and Means cite the key problem with this arrangement as now “a controlling group [of managers] may hold the power to divert profit into their own pockets. There is no longer any certainty that a corporation will in fact be run primarily in the interests of stockholders” but instead in the interests of managers (Berle and Means 1932, 293).⁴ Given the shift in this relationship between property and enterprise or ownership and management, and the potential harm that could result, the authors ask, “in whose interests should the great quasi-public corporation be operated...who should receive the profit?” (ibid, 293). Their answer: “Neither the claims of ownership, nor those of control can stand against the paramount interests of the community” (ibid, 312). In other words, from their heterodox perspective, Berle and Means offer a new concept of the corporation, one that serves society more widely than simply the goals of shareholders.

⁴ This is a sentiment elaborated upon by Adam Smith in his *Inquiry into the Nature and Causes of the Wealth of Nations* (1776). Describing the corporation's predecessor, the joint-stock company in Britain, Smith suggested that the schism between ownership and management would lead to “Negligence and profusion” (Smith 1776, 741).

The institutionalist view of Berle and Means was taken up and developed in the post-war period by John Kenneth Galbraith. Galbraith's writings worked to debunk myths surrounding the rational corporation, exploring instead non-market avenues of economic force and power embedded in the firm's structure and survival. In American Capitalism: the concept of countervailing power (1952), he represented the corporation as an entity that necessarily co-existed and was intertwined with other large-scale institutions (countervailing powers he termed them) like government and labor groups. Galbraith suggested that big business achieved social stability through these other interests groups, and not through the forces of the market.

Later, Galbraith in his book The New Industrial State (1967), expanded his notion of the corporation by exploring something he termed the technostructure. Galbraith describes the technostructure as an "apparatus for group decision making" composed of persons with specialized or expert knowledge such as marketing and advertising personnel, economists, scientists, accountants, and so on (Galbraith 1967, 88). The importance of the technostructure is that as the decision-making apparatus of a company, it supplants any one single leader, or even the shareholders more broadly, as the controlling party in determining corporate decisions. Experts now held greater sway over corporate strategies, more so than any other group inside or outside of the firm. Thus, in Galbraith's mind, it is not consumers or the forces of the market, which harbor power and determine the corporation's successes and survivability. Instead, he believes the corporate entity functions through its technostructure, but also through the countervailing powers of government and labor that kept it in check.

It was Galbraith's work that made a difference to economic geographers. After devoutly following orthodox economists with their rational, *homo economicus* model, that is the kind found in Weber's and Coase's work, some economic geographers from the late 1950s began pursuing Galbraith's institutionalist line. Robert McNee, a corporate geographer was the first. McNee articulated a theory of behavioralism. As in previous geographical studies, McNee emphasized the importance of institutions in organizing space. But he also saw the firm as both humanly created (influenced by culture, politics and economics), and the site at which decisions regarding spatial interaction concerning cost minimization were made. In this way, behavioralism began to introduce social aspects to a firm's geographical decisions, much like Galbraith's work did. Later in the 1960s and 1970s other institutionalist economic geographers, including Gunter Krumme and Roger Hayter, began to consider more seriously the social and cultural aspects of firm life. Again like Galbraith, Krumme sharply questioned the reality of the assumptions underlying traditional micro-economic theories in general and location theories in particular (Krumme 1969). He incorporated qualitative research methods like interviewing and surveys to ask managers their reasons or motivations for their location decisions. In other words, Krumme understood that cultural and social factors underlay the decisions made by entrepreneurs and firm managers. In one case, he noted a manager's choice for a factory location centered on the quality of the community's schools for his children (Krumme 1969). These kinds of works in geography initiated an opening up of the firm as a social and cultural entity in the discipline, exposing geographers to a heterodox perspective.

1.2.1.3 The “cultural turn”

These two seemingly opposing images of the firm, orthodox and heterodox, for years occupied academic strongholds in theorizations of the corporation. But lately their dominance has shifted, countered now by a cultural perspective of the firm, one that aims to incorporate both images simultaneously. This shift is a consequence of a larger cultural turn that has enveloped the human sciences over the last twenty years affecting a significant number of social science disciplines including geography, and even economic geography. In some ways the cultural approach is another variant on the institutionalist tradition. Whereas before in the work of McNee, Krumme and Hayter the emphasis was put on individual behavior, now the stress is culture, that the economy is always culturally inflected. But, the cultural turn also makes a space for orthodox perspectives. It acknowledges that discourses around free market ideologies, while also culturally constituted, have significant bearings on how corporate decisions are made.

The cultural turn has had a number of implications on geographical studies of the firm. First, the firm is no longer viewed as simply a creature of a narrowly defined rational economy, but is instead considered an agent subject to competing and contradictory influences. While these influences include academic theories like neo-classical economics and *homo economicus*, they also encompass social, cultural, and political influences like government politics and regulation or even community activism. The point is that all angles of influence are important moments to consider in understanding how and why firms behave as they do. The second key trend to emerge

from cultural studies of the firm concern studies of those who make decisions about corporations, that is, higher level managers and CEOs. In this research, managers and executives are seen not as rational automatons, but as sentient human subjects whose identities are forged by larger cultural norms, rules, dictates, and contingencies. In other words, to understand the firm one must understand the cultures in which its decision-makers' identities are rooted. These two points are further developed below through an elaboration of specific research projects conducted by three cultural economic geographers.

Economic geographer Erica Schoenberger's The cultural crisis of the firm (1997) incorporates the concepts of the cultural turn. She interviewed executives and directors at several prominent corporations such as Xerox and Lockheed-Martin in order to understand how a firm's corporate culture was affected by changes in its competitive environment. In particular, her focus was the shift in the capitalist system in the 1970's and 1980's from mass production to flexible accumulation. She says that with stagnating markets, excess capacity of workers and goods, and increased overseas competition, the traditional business practices associated with mass production began to breakdown. She asked, how did some firms emerge from these economic changes successfully, and why did others fail (Schoenberger 1997)?

Schoenberger's central thesis argues "corporate cultures and managerial identities and commitments exerted a powerful force that structured the possibilities for change [in the firm]" (Schoenberger 1997, 6). She calls for a messy version of

“culture”, one that accounts for the everyday material practices of the firm, power relations, and competing modes of thinking. Her examples of the personal commitments that influence business owners and managers in defining competitive strategies illustrate this messy and embodied perspective of culture. She found that often times a manager or executive’s personal desires and allegiances accounted for businesses decisions and not more rational explanations such as the price competitiveness of a particular strategy. The importance of Schoenberger’s work is that she breaks down traditional explanations of firm behavior (that corporations are rational economic actors), as well as introducing a range of non-economic, social and cultural forces. In doing so, she questions the very nature of a corporation. Companies are no longer represented in academic literatures as stable and bounded entities organized solely along economic lines. Instead, Schoenberger’s work partly undercuts rationalist explanations of human agency in the firm by revealing that corporate strategies are the result of tensions between neo-classical ideals around profit maximization, and a complex mesh of personal or managerial identities and corporate cultures. With Schoenberger, culture is both inside and outside the firm.

A second take on the corporation within the cultural turn is the work of Phillip O’Neill and Julie-Kathy Gibson-Graham (two geographers writing together). Their work pushes Schoenberger’s cultural approach to the firm even further (Gibson-Graham 1996; O’Neill and Gibson-Graham 1999; O’Neill 2001). To O’Neill and Gibson-Graham, the firm is constituted entirely through material and discursive practices such as executives’ language, legal rulings and/or accountancy practices. So,

in addition to the cultural identities of managers studied by Schoenberger, O'Neill and Gibson-Graham show that the corporation is constituted by multiplicitous cultural agents, each of which possesses its own logic, and which collectively may be contradictory. This approach is illustrated in their paper 'Enterprise discourse and executive talk: stories that destabilize the company' (1999). They examine the Australian multi-national firm BHP (Broken Hill Proprietary Company Limited), drawing on interview data with managers and executives about restructuring and possible closure of one specific coal plant in Newcastle, New South Wales. Their data reveals each executive spoke about quite different corporate goals and strategies. While those executives at the head office in Melbourne upheld strategies of restructuring or closure to cope with global market pressures, others proposed different ends and solutions. Minority voices working at the plant pushed to keep Newcastle open citing alternative, equally compelling logics, namely that Newcastle was profitable and competitive despite changes in the global market. In the end, the Newcastle plant remained in operation for a number of years, saving the jobs of thousands in the nearby community (O'Neill and Gibson-Graham 1999). In this way, the firm emerges as an internal site of differentiated power relations and struggles variegated across space (from Melbourne to Newcastle) and employee rank in the firm (corporate executive versus plant director).

In the above work, O'Neill and Gibson-Graham illustrate the firm as a dis-unified entity, in this case, dis-unified in the pursuit of profit. Its fragmentation means that it can never be wholly knowable and wholly complete. It is an entity, which is

constituted differently in different times and spaces. In each moment the firm comes into being, the essence or meaning of the corporation can shift, calling into question a corporate identity defined by any one, single goal, such as the efficient pursuit of profit. On this point, O'Neill adds that this is not to suggest that corporate managers or corporations exist within "wildly chaotic, disconnected fields of economic transactions" (O'Neill 2001, 182). Instead, he believes that the task of managers is to "propel a set of languages and images designed to intentionally displace alternative or contradictory representations of the firm" (ibid, 182). This managerial task constitutes one of the multiple logics operating at the firm level. The value in O'Neill and Gibson-Graham's work is that they locate places where the firm breaks down, that is, sites of disunity or sites of tension in the larger corporate narrative. Such points represent weak elements of corporate infrastructures, and open up the possibility of a disjointed and splintered corporation. Consequently, the firm is now viewed as a weak and fragile entity requiring constant effort on the part of many actors to maintain and reproduce, and not the strong and unified body portrayed within orthodox economics.

Why articulate an image of the firm in this way? The reason lies in an explicit political end. By de-centering the presumed rationality or stability of the firm, Gibson-Graham and O'Neill see possibilities for cutting new political paths for those impacted by corporations. No longer is there a single or universal logic behind corporate strategy: to maximize profit. Instead, understanding new logics opens up new spaces that might benefit the corporation and its workers, as well as others living in communities affected by the firm.

More generally, the relevance of the cultural turn for my own work involves viewing the corporation through a broadened image, one that includes a variety of social, cultural, legal, political and even economic factors. These factors are seen as important constitutive moments of the firm, not simply to add color to analyses. In other words, I want to see the firm as open ended and with multiple purposes, but also as an entity that strives to make profit. To achieve this image I draw on the theoretical concepts detailed above, Schoenberger's embodied culture notion and Gibson-Graham and O'Neill's firm fragmentation. Within their complex visions of corporate life are the heterodox and orthodox ideas described at the start of the section. But, in addition to the concepts of the cultural turn in economic geography, I also draw on theoretical interventions outside the discipline, those of science studies and feminist theory. The following section expands on the relevance of these two bodies of literature for the concept of the corporation I try to construct.

1.2.2 Science Studies

In addition to the works above, I draw my conceptualization of the corporation from theories and approaches undertaken in science studies (or science and technology studies, hereafter STS). STS is a field of research that situates the practice, expertise, and history of science within larger social settings. Scientific facts, research and technologies are contextualized to reveal their historical, political, social and cultural underpinnings. Researchers like Steve Woolgar, Bruno Latour, John Law and Michel Callon (among many others) assert that it is as important to understand the processes

behind the production of science as the end products of science itself (Woolgar and Latour 1986; Bijker and Law 1992; Callon 1998; Law 1999). Latour in particular refers to this process as opening up science's "black box" (Latour 1999). The black box refers to when scientific work "is made invisible by its own successes...When a fact is settled, one need only focus on its inputs and outputs and not its internal complexity" (Latour 1999, 304). To open up the black box, scientific achievements are situated within the social processes that gave rise to them. Thus, in similar ways to how geographers are opening up the firm to see how it functions within its social context, STS scholars are doing the same with science to understand how it is practiced.

A key question for STS scholars then is how is scientific knowledge made or constructed? How is knowledge produced? There are a variety of approaches to answering this question, but the approach I find particularly compelling follows the works of Latour, Law and Callon. Referred to often as actor-network theory (or ANT), these scholars consider scientific knowledge as fragile and precarious, the result of bringing together a heterogeneous assortment of various elements—human and nonhuman, material and non-material—that are then made to work together as a network (in the language of ANT, individuals or actants are enrolled to produce networks). My interests in ANT lie here. By thinking about the construction of knowledge as achieved through the engagement of both humans and physical objects (such as a graph, map or Bunsen burner), there is a sense of both the social processes necessary for scientific knowledge, but also of the material processes as well. There is the recognition that scientists do not practice alone. Objects too, matter, and they matter

in important ways. Some of Latour's works very clearly illustrate these dynamics as he follows scientists in an ethnographic approach and observes and documents their practices and engagements with objects and other scientists (Latour 1987, 1988, 1996). In one project where he studies soil scientists in the Brazilian Amazon, Latour notes that objects like cardboard boxes, pens, pencils, glass tubes, diagrams, and more, come together collectively in the form of a network to produce knowledge about the forest floor (Latour 1999). Scientific information is no longer understood as 'out there' waiting to be discovered. There is nothing inevitable or natural about scientific discoveries or accomplishments. Instead, STS scholars write science as situated in broader social and technological networks forged through alliances between humans and non-humans.

More recently, many of the concepts behind STS have been imported to studies outside of the practice of science. Michel Callon for example, works through these ideas in the context of economics and studies of the economy. Callon asserts that the discipline of economics, "in the broad sense of the term, *performs*, shapes and formats the economy, rather than observing how it functions" (Callon 1998, 2). He includes in his notion of economics, the use of graphs and charts, but also theories like comparative advantage. He calls for scholars to think about the role of the performance and practice of economic theories in reformulating the larger economy. For example, how might managers in the corporation, particularly managers whose education is steeped in orthodox economics, perform the theory of *homo economicus*, or rational market behavior? What would the impact of such performances be on the wider economy?

Another aspect of concern for Callon is the “material reality of calculation”(ibid, 4), which he identifies as the visual re-presentation of information and those calculative technologies behind such visuals. He suggests graphs, charts and other visual materials “are decisive in performing calculations” (ibid, 5). These kinds of calculative technologies, while human produced, often have effects far beyond what humans alone could produce. What this means is that Callon insists human beings alone are unable to produce economic space, as we understand it. The market is performed not simply through human interaction, but also through graphs and charts or economic texts and calculative practices. Taken together both elements make the market possible.

Callon’s notion of an economy performed has been empirically and substantially taken up by Donald MacKenzie in An Engine not a Camera (2006). MacKenzie demonstrates the degree to which economic theories, particularly financial theories such as the Black-Scholes-Merton equation, are performed in the economy. He asks, what are the relationships between finance theory and shifts in financial markets? He traces the varying degrees of performances by tracing the socio-cultural and technical elements around which Black Scholes (and other financial theories) brought the financial market economy into being. As the subtitle of the book has it: “how financial models shape markets” (MacKenzie 2006). For MacKenzie, considering markets as performed, rather than as constructed, through visual images and calculative techniques offers a politics. It frees us from a strict, stable and structured economy and opens us to possibilities for new performances of the economy.

My incorporation of STS ideas center on understanding the firm as constituted by networks and interactions consisting of humans and nonhumans. And, following Callon and MacKenzie, these interactions are engaged in performances that construct reality, meaning that in constructing reality, they also make that reality. I use the ideas of STS and Callon to help me include not only workers and building sites in the geography of the corporation, but also to include texts, documents, and calculative practices like accounting, and other financial techniques crucial to constituting and performing corporate spaces. The inter-minglings of these objects give rise to the corporate form, and the shape and spaces of the corporation change as alliances or networks are reworked. Dorothy Smith, a Canadian sociologist, touched on the importance of objects to the objectification or constitution of large organizations. Using textual documents, she writes that these objects are essential because they “coordinate the [varied] local sites of people’s work” (Smith 2001, 160). Others in critical accounting theory and even geography have echoed similar sentiments, but not quite as explicitly (see Hopwood 1987; Miller 2001; O’Neill 2001). At Enron, the company achieved its financial successes, particularly its high stock price, in part through the numerical figures communicated to investors in financial statements, the content of which was produced with the aid of highly sophisticated calculative practices which masked fraud in public view. They also extended and coordinated the network of the firm to disparate sites across the world. I most directly discuss these texts and their calculative practices in the fourth chapter when considering how Enron’s financial statements performed the firm. Though, the importance of physical objects for each narrative of the thesis is implicit from chapter to chapter.

1.2.3 Post-structural Feminist Theory

Recently many scholars have begun to engage critically with the concepts of STS, in particular, feminist science scholars like Donna Haraway (Haraway 1991, 1997). Haraway's approach to the study of scientific knowledge in many ways follows people like Latour. She writes, "Any interesting being in technoscience, such as a textbook, molecule, equation, mouse, pipette, bomb, fungus, agitator or scientist, can- and often should-be teased open to show the sticky economic, technical, political, organic, historical mythic, and textual threads that make up its tissues" (Haraway 1997, 68). Where she departs from STS is in calling for far greater attention to subjects and subjectivities (a point Latour barely touches on). That racialized and gendered identities play very powerful and important roles in the production of scientific knowledge (or knowledge more broadly) is something Haraway emphasizes. This is also something many other feminist scholars emphasize, particularly in the post-structural school of thought.

Gibson-Graham write that post-structuralism "is a theoretical approach to knowledge and society that embraces...the constitutive power of discourse, and the political effectivity of theory and research" (Gibson-Graham 2000, 95). This approach characterizes the geographical research on the firm I outlined above; a departure from stable, coherent and predictable notions of the corporation and a move towards open, fluid and constitutive notions of the firm. As a means to demonstrate this constitutive power and political effectivity in the study of knowledge, feminist researchers focus their scholarly attention on the flesh and blood body. This is because the body is seen as

an important site on which social values and meanings about concepts like gender, race and class are inscribed and constituted. And, it is also the site at which oppressions and injustices on the basis of the aforementioned social categories take place. But perhaps more importantly, studies of the body offer a new politics, which I expand on below.

In keeping with the ideas of post-structuralism, feminist scholars view the body as a fluid and permeable entity (see for example Grosz 1994; Gatens 1996). It is not a concrete and discrete being, but rather should be understood as de-centered, porous and open. With no singular essence, the body's boundaries are then theorized to materialize and dematerialize in and through social and spatial interaction (see Haraway 1991). In this way, bodies come into being (and lose their being) according to socio-spatial relations. By opening up the body in this way, feminist researchers have been able to destabilize and contest the presumed stability of gender, race, and sexuality (among other subject-positions) to show that embodied subjectivities vary across space and time, and are multiple and sometimes contradictory.

Judith Butler's notion of performativity (the idea that we perform our feminine or masculine traits) has been pivotal in demonstrating this larger argument. She argues, following Simon de Beauvoir's famous phrase, that "one is not born a woman, but rather becomes one" (Beauvoir cited in Butler, 1990, 113). That is, the category of gender cannot be reduced to an intrinsic biological essence. Rather, gender is enacted through a series of citational practices where women and men come into being by performing hegemonic hetero-normative discourses. Theorizing gender as performed

disrupts the masculine/feminine dualism. These dualisms are particular spatio-temporal instances and not inherent states of being. So, gender is no longer an essential characteristic of male and female bodies, but instead something that is produced and reproduced through reiterative performances of discourses. Viewing the body as fluid and always in the making, as in Butler's notion of performativity, illuminates opportunities for new subject-positions and political projects. If we recognize the potential for embodied subjects to shift, possibilities open, possibilities that might include allowing bodies to move beyond strict gendered, raced or sexed subjectivities.

The importance of the body and embodiment for feminist theory does not end with breaking down and shifting subject identities of gender or race. There is also a methodological component concerning the ways in which we, as scholars, practice research and construct knowledge. Haraway writes that traditional notions of knowledge construction (in science) emphasize neutral objectivity. In doing so, a disembodied account of research is presented, one that has the effect of distancing the researcher from that which is researched (Haraway 1991). She argues that this kind of objectivity reinforces the idea that scientific practice is neutral, that one can see the world with transparency. Far from innocent, Haraway critiques this "gaze from nowhere" suggesting a move towards an alternative notion of objectivity with her concept of situated knowledges and embodied objectivity. In short, situated knowledge attests knowledge as embodied. It is knowledge that is simultaneously positioned within different frameworks of power, class, race and gender, originating from some body and from somewhere. Situated knowledge is about locating research claims,

making known the knowledge maker and the conditions under which the knowledge was produced. In her own words, “irresponsible [knowledge] means [it is] unable to be called into account” (ibid, 191). In contrast, situated or embodied knowledges work against un-locatable, and thus irresponsible claims. “This is feminist objectivity” (ibid, 188). It is non-innocent, joins the subject and object, and allows itself to be answerable for what it claims.

For this thesis, and for my conception of the corporation, I draw on post-structural feminisms in a variety of ways. While very interested in the role non human or physical objects play in the materializations of the firm, I am also concerned with how varying subject-positions, namely gender, figure into the shapes of corporate spaces, particularly when fraud also enters. These ideas comprise the subject of the fifth chapter when I examine the gendered exposures of Enron’s fraud to the public. Further, I draw on Haraway’s situated knowledges throughout this thesis to emphasize that my conception of the corporation arises from a particular body, that of my own. My experiences and thoughts are intertwined with various scholarly literatures to provide a locatable account of Enron. This notion is further expanded in the next section of this chapter, ‘a note on methodology’. Finally, drawing from feminist theorizations of the body, I put forth a conceptualization of the corporation as a body, in the post-structural feminist sense. In other words, I understand the corporate body as an entity that materializes and de-materializes in and through social and spatial relations (Haraway 1991).

1.2.4 Conceiving the corporation as a body

Since the 18th century and the emergence of the modern corporate form, scholars have utilized the metaphor of the body to refer to the corporation. Stewart Kyd wrote in 1793 that the corporation was “a collection of many individuals united into one body...under an artificial form, and vested...with the capacity of acting in several respects as an individual” (Kyd 1793, 13). In a contemporary legal context, this metaphorical relation of the corporation to a body has shifted. As Canadian legal scholar Joel Bakan writes, the corporation is now understood under the law as a legal body (see Bakan 2004). Denoted as “corporate personhood”, this legal attribution of a body status in the law has a number of implications. Corporate personhood grants firms legal rights equivalent to those rights available to flesh and blood citizens.⁵ They can freely own property and other assets, conduct business, employ workers, and make campaign contributions, just as any other body can. This personhood status goes as far as to position the corporation as a legal personality separate from those fleshy bodies that compose it (Bakan 2004). Denoting personhood to an artificial entity, whose existence is based on a state-granted paper document (known as the corporate charter), raises a number of ethical issues concerning the law and corporate behavior. Who or what guides companies to operate ethically, and who or what bears the burden of punishment or accountability to the public and to the law?

Bakan’s book The Corporation (2004) uses the body metaphor to problematize the disjuncture between those who run the corporation, and the legal frameworks that

⁵ The legal decision granting this status took place in Santa Clara County in 1886. I discuss this topic more substantially in chapter 6.

organize it. This leads him to relate the corporation to a pathological person. Because it has no flesh and blood body, it has no conscience. He roots this pathological behavior in the legal mandate required of all corporations; that they are bound by law to pursue profit for shareholders. If they fail to do so, shareholders can take action against the corporation. In other words, it is their legal mandate to make money. Bakan suggests this translates into corporate behavior which is similar to that of a human psychopath; “unlike the humans who inhabit it, the corporation is singularly self interested and unable to feel genuine concern for others” (ibid, 54). The psychopathic attributes Bakan suggests are visible in corporate behavior include: irresponsibility, manipulation, grandiosity, lack of sympathy, asocial tendencies, and refusal to accept responsibility for its own actions (Bakan 2004). For Bakan, the corporation cannot escape this psychopathic diagnosis unless its corporate charter is revoked by the state (what Bakan refers to as a corporate death), or its corporate legal mandate is changed.

Like Bakan, I too am interested in the metaphor of the corporation as a body. My reasons for this interest though, are different from his. The body metaphor allows me to emphasize that the corporation is embodied. What I mean is that like any body, it is gendered, raced, classed and sexed. Further, this entails that the corporate body is also subsumed within cultural, social, political and economic logics that work on differing or competing registers of that marked body. Those logics and bodily inscriptions are never wholly stable. In other words, there is no rational disembodied corporate body that exists outside the spaces of everyday life. Instead, the corporate body is open and porous. Its embodiments prevent stability. My use of the metaphor of the body enables

me to draw on the corporation's embodiments as important constitutive moments of corporate fraud. This idea builds on Schoenberger's work in geography, reviewed above. While she looked at how individual manager's or CEOs embodiments affected specific companies, I pursue a range of various corporate actors to think about how their culture/backgrounds impacted the Enron narrative.

But, the body metaphor as a means to conceptualize or theorize the corporation also highlights possible instabilities in its (bodily) performances. Then, as Butler and MacKenzie suggest (though from different theoretical standpoints), a politics of change can emerge. New corporate subject-positions may be performed, and possibilities for changes and shifts in corporate form and behavior might occur. Ways forward not previously seen may come into view. Here, the connection to Gibson-Graham and O'Neill's work is clear. Recall these geographers conceptualize the firm as entirely constituted through material and discursive practices, practices which bring the firm together, but which also reveal its weak points. In these weak moments, the authors see possibilities for alternative corporate performances, ones which are not confined to the single logic of rational profit maximization.

There is one last reason to expand on the body metaphor in the context of corporate fraud. Fraud is not simply a legal document, an indictment, or a graph of falling stock prices and dwindling pension funds. It is not disembodied. There are flesh and blood people who are impacted by corporate behavior. Real bodies have been profoundly affected by Enron. Considering the body as a metaphor for the corporation

reminds us of this fact. It places the body as a central constitutive moment around corporate fraud and the economy. Our bodies, our emotions, our gendered experiences and cultural backgrounds all work to give rise to corporate practices.

1.3 A note on methodology

This project was originally envisioned as explicitly examining Enron's corporate culture. After all, many speculated it was Enron's culture that led to the firm's failure. I intended to ask what was that culture and how did it contribute to the firm's demise? These sorts of questions required that I interview former employees for their recollections of Enron's day-to-day culture. However, circumstances in the field shaped by criminal investigations and trials undid my plans. Almost no employee would talk to me. (Potential) interview subjects were reluctant to speak, or simply were silent. I address these reluctances and silences more substantially in the following chapter. But I want to add here that these reluctances to speak on Enron did not end with my interview subjects. I need to include myself in this group.

When I began this project in the fall of 2003, I was more than overwhelmed. I had moved to a new University (and a new country) and was subject to new professors, different standards, and new rules and regulations. In conjunction with this, a mounting pile of information on Enron was already flooding popular culture. Several books had been published on the firm's demise building on the already thousands of newspaper articles on the subject. Further, two movies were in the works, and another continues in

production as I write.⁶ When asked to speak about my research to fellow student colleagues, visiting professors, and even my own advisor!, I shamefully avoided responses. My one sentence, “I’m looking at the connections between fraudulent business practices and corporate culture” could only take me so far, and in all truth, I wasn’t certain I knew anything beyond that. I hadn’t read all the books, nor all the news articles, and hence hadn’t even begun to make sense of the Enron world “out there”. This attitude continued in the field when the media at the trial, and even my interview subjects pressed me for more details on my research. Looking back, my silence or reluctance to speak on my own project may in part have been a result of my own fear of being labeled as “fraud”, that in the end someone would discover I really didn’t know anything about Enron. I regret this behavior because I feel now it kept me from more lively conversations and debates about my work.

Since then, I have come to learn that research and writing is a process of self discovery often characterized by a series of struggles (to utter a sentence, to get an interview, to write a paragraph). The journey of conducting research on and writing this thesis have taught me that we can never know everything about our project. As Gillian Rose reminds us, “We cannot know everything...What we may be able to do is something rather more modest, but perhaps, more radical: to inscribe into our research practice some absences and fallibilities” (Rose 1997, 319). In writing this I make

⁶ These movies were a CBS (Columbian Broadcasting System) TV movie entitled, *The crooked ‘E’: the unshredded truth about Enron*, based on Brian Cruver’s book, *Anatomy of Greed* (2002) (Spheeris 2003). A movie based on McLean and Elkind’s book, *The Smartest Guys in the Room* (2003) (see Gibney 2005). More recently there is news that Leonardo Di Caprio is producing a more fictional account of the company’s downfall, in which he intends to star as the whistleblower (CNNMoney.com 2007). This film is reportedly based on *New York Times* reporter Kirk Eichenwald’s book *Conspiracy of Fools* (2005).

myself vulnerable as the “knowledge producer” of this project. But, I think it also opens the possibility to practice a more accountable and non-authoritative or non-masculinist geography (see Rose 1993; Staeheli and Lawson 1995; Sundberg 2003), one consisting of partial truths about Enron, rather than complete and finished truths. My truth about Enron is that I remain insecure about what I know on the topic, what I can claim to know on the topic. But I no longer view this as something necessarily negative. A little insecurity, a little modesty might make a space for new kinds of knowledges. Knowledges which do not claim to uncover a universal “truth” “untainted by any particular social position” (Rose 1993, 7). But which instead claim their partial nature and their situated origins. This is an issue to which I am particularly sensitive given that Enron perpetuated itself through false accounts of finances and effectively destroyed a commonly accepted trust in the reporting practices of public corporations.

The varied methodologies employed in the remaining chapters speak to the partial and incomplete practice of research and knowledge production. Because of my experiences in interviewing former employees, I utilize very little first-hand data (including what data I was able to gather). For this reason, my textual evidence is far more prominent. In fact, I show how evidence such as media articles, court documents, court transcripts, financial statements, personal field notes, and an assortment of other Enron related documents, texts and even films were central to how Enron was performed. The methods and means by which I draw on this data are explained in each chapter, and tailored according to their specific uses. Finally, in keeping with my desire for a situated research account, there are times through this thesis when I chose

to write myself into the story, to give the reader greater context as to how I am entwined with the stories I write on Enron. At times these moments are very visible, such as in the next chapter, and other times they are subtle. My hope is that the reader will obtain a sense of the ongoing negotiations and conversations between myself, as the author, and the research, as a piece of knowledge about corporations and corporate fraud.

1.4 Thesis summary

Enron is only one of many other corporate failures due to fraud during the early 2000s, but it is arguably the most high-profile example.⁷ What makes the Enron story compelling to so many is that it is a story of a triumphant rise followed by an even more colossal fall. It is the plot of a Greek tragedy. In that fall, a series of excesses were exposed, excessive money, greed, sex, and hyper-masculine behavior (Flood 2006a).⁸ Some of these themes and their details are touched on here, and indeed served to entertain me while writing this project. But, underneath these seemingly light hearted and almost comical events that are part of the Enron story is a much larger concern over the impact that corporate fraud and the corporation has on our economy and our society. In the six chapters that follow, I work to situate fraud in the Enron case by looking at some of the different spaces through which fraud was both hidden from view

⁷ Other examples during this time period include Worldcom, Tyco, Global Crossing, Adelphia Communications, and Xerox. These companies also incurred fraud charges for dubious accounting and misrepresentations to public shareholders.

⁸ This thesis does not explicitly explore the hyper-masculinity that ran through Enron's executives. One of the most brazen displays of hyper-masculinity was a Skilling organized race of motorbikes through a Mexican desert (see especially Swartz and Watkins (2003) for other examples).

and positioned more publicly. Further, I work to consider the impacts of those spatial situations in terms of justice and injustice.

The second chapter of this thesis addresses some of the methodological issues in researching a company in which many of the key actors were under investigation for criminal conduct. I used two key methods in this project. First, I drew on archeology, a piecing together of Enron from bits of its past, bits that included documents and interviews with those who knew the company. The second method was ethnography, a participant-observation of Enron's criminal trial in Houston. This chapter focuses primarily on the first of these, archeology, and in particular, my difficulties in interviewing former employees (chapter six expands on my ethnography). As I alluded to above, my fieldwork was characterized by a series of silences and reluctances to speak about Enron. I put this behavior in context by thinking about how spaces of the law and the courtroom found their way into my interviews. This challenge was unlike any I could find in the interviewing literature in geography, so I turned to feminist anthropology and the work of Kamala Visweswaren to help me make sense of my experiences. Using Visweswaren, I read my subjects' silences not as failures of fieldwork, but as acts of resistance on their part. Beginning the thesis here allows readers to understand why later chapters take the shape they do, why, for example, I use primarily textual evidence from news clipping and court testimonies and not interview data. But, this chapter also highlights the prominence of the law in shaping the Enron story.

The third chapter provides historical context. I tell the story of what happened at Enron. Rather than do this as one large singular narrative, I use the lives, experiences and actions (or the bodies) of six different key actors in the story. Aside from an introduction and conclusion, that chapter is divided into six smaller narratives, each of which speak to the larger story of the company. My strategy for choosing to write the chapter in this way is explained in the introduction to that chapter.

The next three chapters, chapter 4, 5, and 6 comprise the empirical weight of this thesis. The first of these ‘Performances in public and private’ explores Enron’s financial statements as performances of the firm. Drawing on Callon’s economy as performed notion (Callon 1998) and Erving Goffman’s front stage and backstage performances (Goffman 1959), I discuss Enron’s financial performances in two spatial contexts, what the public saw, and what went on in private. The public performances, where Enron presented its financial information to investors, was well orchestrated and deliberate. Behind the scenes however, structured financial techniques shifted revenue and losses around, practices which eventually amounted to fraud. In effect, Enron’s private performances had immense impacts for its public image. I demonstrate these dual performances more specifically with an account of how one particular division in the firm was represented in public through four quarterly reports for the year 2000. Following, I detail the “true” financial performances of that division in private.

The next chapter, ‘Hetero-sexualizing fraud’, considers the gendered exposure of Enron’s fraud to the public. I say gendered because, as I show, women’s bodies were

positioned as exposing bodies. They were talked about and written about as having exposed Enron over men, and I use two examples to explain how this was done. First, Bethany McLean, a Fortune journalist, and Sherron Watkins, an Enron accountant were credited by the media as first speaking out against Enron, despite that in both cases male counterparts did so earlier. Second, women's bodies exposed another side of Enron, its fleshy side, in a Playboy spread photographed a few months following the firm's downfall. Men's bodies of course are notable only by their absence in these two narratives. Using literature exploring gender relations in the workplace I speculate as to why these two narratives unfolded as they did. Can corporate misdeeds be located or situated on women's bodies in the Enron story? Who can embody fraud?

Chapter 6, 'Becoming a body', takes the reader inside the Enron trial against Skilling and Lay in 2006. I discuss the legal testimonies and strategies of both the prosecution and defense teams and the efforts of each to locate fraud for the jury. I also rely on my ethnographic experiences to better lay the context for how fraud came to light in the courtroom. The rhetoric that emerged from the courtroom opened a new line of questioning for me. I ask, how did the corporation, as a non-bodied entity, become embodied in a courtroom context? To answer this question, I investigate the ways in which metaphors of the body were drawn into the courtroom as legal strategies. Examining court testimony, I highlight two significant ways this was done. First, the corporation was represented as an organic body. The defendants and their lawyers spoke of Enron's ill health, and finally its death and subsequent autopsy. Second, there were moments where the two defendants attempted to embody the corporation, to

suggest they *were* Enron. They used their bodies as stand-ins for the larger corporate body. I discuss possible reasons behind these strategies and raise questions of who or what is the corporation, and who is accountable for its actions.

The concluding chapter synthesizes and summarizes the main ideas presented in the thesis. I do this by connecting my scholarship to Julie-Kathy Gibson-Graham's larger political project to undo capitalist hegemony in economic thinking (Gibson-Graham 2006). The corporation is not unequivocally about the unified pursuit of profit, as purported by orthodox economic traditions (see Freidman 1970) but instead is a contradictory, fragile and embodied entity fraught with tensions and weaknesses. Therein lies its progressive possibilities.

CHAPTER 2: METHODOLOGY

‘I USED TO WORK AT ENRON, BUT WAIT, DON’T QUOTE ME ON THAT’

How does one research a dead company? My initial take on this question, and in fact my plan as I entered the field, was to conduct an archeology of Enron, meaning I wanted to piece together the company’s past to tell the story of what happened, what circumstances lead to Enron’s downfall. How did the company present itself on paper as profitable, and what role did the Enron’s corporate culture play in this achievement? To do this, I intended to collect an archive of physical documents about the firm, including spreadsheets, annual reports, emails, congressional testimonies, media articles, and so on. Also to be included were transcripts of interviews with former employees. By incorporating interviews, Enron’s past workers could provide greater social or cultural context to the more numerical accounts presented in the company’s accounting ledgers or quarterly reports. In essence, they would provide the workplace tone or data about Enron’s corporate culture. In some ways, archeology is what I did. I gathered numerous documents and materials from Enron’s life, including interview data, and worked to piece these fragments together to better understand what happened. However, in other ways my plans went awry. The ongoing civil and criminal investigations and lawsuits against former Enron executives created a climate of fear among my potential interview subjects to speak aloud about Enron for worry of prosecution. This meant that my ending tally of interviews was small.

I thus sought to learn about the company from other mediums. Rather than viewing the litigation efforts only as an impediment to my gaining information on Enron, I began to learn about the firm through an ethnography of the criminal trial against Lay and Skilling. I observed, documented, and participated in the trial's daily events, writing journal entries, keeping fieldnotes, and building a rapport with (potential) contacts and informants. Further, my newly acquired network of informants and contacts were used to generate additional leads towards interview subjects.

Interviewing former employees was a tie that bound both my ethnographic and archeological data. I asked subjects not only about their past experiences working with Enron, but also their present thoughts on media coverage and the ongoing criminal trial against Lay and Skilling. But, because of that criminal trial, and the litigation efforts surrounding the investigation, most everyone I approached declined to be interviewed. Thus, be my method archeology or ethnography, interviewing data continued to be absent from the archive of materials generated for this thesis. In place of the voices of Enron's past workers was dead space, silence. This silence is the primary concern of this methodology chapter. I discuss the challenges I endured in getting former Enroners to speak, and further, what their silences mean for my project. I make a deliberate move to situate my subjects' reluctances and/or refusals to speak in the interview space and consider how these circumstances impacted the directions my research would take. In other words, I do not interpret their silence as a lack of something to say. Feminist anthropologist Kamala Visweswaren encountered similar challenges with her interview subjects' refusals to speak (Visweswaren 1994). She read their silences and framed them

as acts of resistance on the part of her subjects. Drawing from her work, I interrogate two moments of my field research on Enron. They include the reluctance to speak on the part of many of my subjects, and the refusal to speak on the part of other (potential) subjects. My goal is to contextualize subjects' silences, to hear what they might say.

The chapter begins by putting into larger perspective the circumstances of my fieldwork, primarily the ongoing criminal investigations into Enron's executives. I use my ethnographic experiences to locate much of my subjects' refusals or reluctances to speak as a result of pending civil and criminal trials, primarily the criminal trial against Ken Lay and Jeff Skilling. The legal consequences and fears of being involved in a criminal investigation then bled into my interview spaces. The interview space was no longer a site for research exchange, but instead became a potentially threatening space. I discuss my field encounters with interviewees, whom I term reluctant witnesses and silent subjects. By accounting for silence, I hope to allow a more complex interview subject to emerge. Finally, I address the tension between working with Enron's dead remains, in the form of archeology, and witnessing, participating and writing about the company's revival in a Houston courtroom, in the form of ethnography.

2.1 Setting the scene...arriving in the field

Email correspondence received during fieldwork:

Employee A: Nancy's daughter is doing her PhD thesis on Enron and would like to depose...(correction-interview) some former Enron types. I have been assured that she is not secretly working for the Justice Department. Would you be willing to talk to her? Her Interrogatories...(correction – letter) is attached.

Employee B response: I can neither confirm nor deny my involvement or lack of involvement with Enron. I would be happy to help out.

The above email exchange encapsulates the research climate I faced in Houston. I first interpreted this email as witty banter between friends and former colleagues, but as time wore on I read exchanges like this as illustrative of a larger lived fear employees harbored for the law in the Enron context. I was fortunate enough to interview the employee who wrote the email above, and he passed me to two other former employees. This however was a rare occurrence. Much more often than not, I encountered scared looks, dead end contacts, and an overall reluctance to speak on the part of interviewees and potential subjects. The following section sets the scene for my fieldwork by elaborating on the research climate I encountered in Houston.

The fieldwork for this project coincided with Enron's criminal trial against former CEO's Jeffery Skilling and Ken Lay in Houston, Texas, beginning in January ending in May of the same year 2006. Given my research aim of investigating corporate fraud in the Enron case, my field tasks in Houston were threefold: first to conduct interviews with former Enron employees regarding the firm's corporate culture and business practices (I had aimed to do between 40 and 50 interviews); second, to attend Skilling and Lay's criminal trial in order to better grasp how the law figures into the Enron story; and third to gather as many documents on Enron's finances as I could so that I might understand how the company constructed a profitable image of itself to investors. The latter two of these research aims I achieved with great success. Nearly every weekday, I observed and participated in the Enron trial traveling from the suburbs to downtown Houston on the crowded freeways. While there I made valuable contacts with attorneys and reporters, and gained significant insight into the company's corporate

strategies and business practices. Furthermore, because of the widespread public interest in the trial many of the company's financial documents entered into evidence were posted online. I was able to download thousands of pages of information and managed to gain access to the transcripts of the trial testimony. Where I failed to excel in my research objectives was obtaining interviews with former Enron employees.

Houston was my childhood home before heading to university, and remained my parents' home, a place I often spent summers during my undergraduate and graduate degrees. Though I grew up in a very white-collar southwest suburb (Tom Delay's former representative district), we were not far from downtown and the operations of various corporate energy firms located in the city. Even more significant, I had many friends and family who worked in the energy industry, including my own father. The livelihood of our family was directly connected to the performance of the industry. I grew up subject to the booms and busts of the industry, and knowledgeable more than perhaps I wanted to be about the degree to which Houston, energy capital of the US, was moved by the successes or losses of firms such as Exxon, Texaco, Shell and of course Enron. In short, researching Enron in Houston was a topic of comfort and familiarity, an ideal circumstance in which to base a project.

In hindsight, I mistook the comfort and familiarity of my hometown for an assumed belief that former Enron employees would talk to me. I had assumed that because I was a native Houstonian, and *not* a member of the media or an FBI agent investigating the fraud at the company, that people would allow me to interview them,

even that they might be eager to (cathartically) tell their stories. The research climate I experienced was the opposite. Instead, I encountered lies, excuses and silences. When I met former Enron employees in passing, through friends or at the trial, they were keen to hear about my own research. But, when I asked if I could interview them, even anonymously, I was met with wide eyes, awkward shifts in body language, and quick exits. Clearly I massively underestimated the effects the criminal investigation into Enron's collapse would have on the desire or willingness for former employees to speak their story.

Just before the trial's start in January 2006, many of the company's former executives remained under investigation by the FBI, SEC (Securities and Exchange Commission) and the DOJ for the conspiracy to commit fraud. Already by January, fifteen former executives had signed plea bargains with the prosecution and three employees were serving or just finished serving prison sentences (Houston Chronicle 2008). Furthermore, during the trial SEC and FBI members had a sustained presence dispersed throughout the courtroom's public seating. Also at the start of the trial, there were approximately 100 un-indicted co-conspirators tied to the criminal charges against Lay and Skilling. The Houston Chronicle published a news article days before the trial's start listing and profiling some of these co-conspirators, complete with photo and details of their involvement in the firm (Flood 2006b). Some were informants for the prosecution. Others, I was told by those I interviewed, were intent on maintaining a low profile, themselves facing possible future indictment. Finally, there were and remain

numerous pending civil lawsuits brought forth by shareholders in which co-conspirators are liable.

With so many former employees (and potential interview subjects) connected to the criminal and/or pending civil proceedings, the surrender of information to me by former employees, no matter how insignificant, was unlikely to happen. Further, any employees who signed plea bargains with the prosecution surrendered the right to speak about Enron outside the courtroom. Added to this, the media had an overwhelming presence during the trial, and was also there in the period immediately during and after Enron's declared bankruptcy in late 2001. As one subject John explained, "you would come out of the elevator and ABC, NBC all the major networks were outside the [Enron] building. CNN even had an 18 wheeler planted out front of the building." This same armada of media trucks was situated outside the courthouse during the trial (see Figure 2.1). Most of my interview subjects expressed distrust towards the media suggesting they "contorted" and "twisted" the truth about what happened at Enron. I gathered from such comments that speaking to the media was undesirable. And, I suspect those I interviewed (and those I tried to interview) translated this fear and distrust towards the media onto my own project and agenda.

All of these circumstances meant I pursued an "opportunistic" approach in securing interviews (England 2002). I drew on contacts I had in the industry, people I knew who worked at Enron, as well as the contacts my parents had with former

employees. I tried tracking down email addresses and phone numbers of people I knew or had read about in the newspaper. Those I was able to contact (through cold-calling or

Figure 2.1 Armada of media trucks outside the courthouse (May 2006)



Source: Photo taken by author

emailing) declined to speak with me. A few months into my fieldwork, I had only little progress and mounting frustrations to show for my research. With the bankruptcy of the firm in 2001, Enron's various divisions were disbanded or acquired by competitors. Hence, there was no building to enter, no phone number to call and no institution to track down. Enron was effectively dead. With this reality, exacerbated by constant and immediate rejection, I gave up on pursuing employees outright (at parties, the trial, or cold calling/emailing). Instead, I would focus all my energies on making use of already established contacts and leads. Networks of friends and family could vouch for my trustworthiness and debunk any thoughts of my being involved in the investigation from

a legal standpoint. Slowly, this approach seemed to work and people began to contact me. By letting subjects come to me, I allowed them control over the process. They decided when and how to speak with me. My work simply involved keeping networks and contacts open and active. Mostly, subjects were friends of a friend, or colleagues with a friend or family member. In the strangest of these circumstances, I used my own dentist who had former Enron employees as clients, one of whom who owed him a favor. I also shamefully attended a Christian Fellowship for men lunch event (I was invited by a friend) to meet Sherron Watkins.

Each of these aspects surrounding the Enron trial characterized the research climate I faced in Houston during fieldwork. With hindsight, it is surprising that I was able to get even one person to speak with me given the pervasive litigation efforts surrounding the company. But, in the end I did interview 11 former employees---6 men and 5 women. I even reinvented my project while in the field by turning to media persons as interview subjects, something that became possible because of the depth of relationships developed through ethnographic research at the trial. This added another 4 interviews to the total. I was comforted when in one interview, the Fortune magazine representative at the trial, Bethany McLean, revealed to me that for every one interview she was able to get while writing her book with co-author Peter Elkind (McLean & Elkind 2003), she had nearly 20 people turn her down (McLean 2006). In the next section, I work to situate theoretically these difficulties in interviewing by turning to the work of Kamala Visweswaren. But before this, I touch on the contributions of feminist economic geographers to the corporate interviewing literature.

2.2 Navigating positionality and silence in the interview space

In 1991, Erica Schoenberger wrote a paper on the merits of an open ended, semi-structured corporate interview for economic geographical research (Schoenberger 1991). In it, she made a strong case for incorporating qualitative methods into the study of industry, studies that at the time were dominated by quantitative analyses (exceptions include the corporate geographies of Robert McNee and Gunter Krume). The corporate interview she argued, offered insight into “a firm’s observed behavior (regarding for example its locational strategies) in light of the firm’s own history and circumstances” (Schoenberger 1991, 180). In her paper, she also considered potential problems with the practice of the corporate interview, and offered strategies to overcome these, or at least prepare the researcher for them. These problems included a possible loss of control over the interview direction (corporate subjects are likely used to being in control) and a risk of the subject imposing his or her agenda onto the interview (Schoenberger 1991).

Linda McDowell responded to Schoenberger’s paper initiating a conversation around the corporate interview as research tool (McDowell 1992). In McDowell’s response, she was critical of Schoenberger for not addressing the social positionalities between the interviewer and respondent. Specifically, she pointed to Schoenberger’s failure to mention or consider that she is a woman, and her respondents often male. Thinking about the inter-subjectivities of those involved in the interview process would require the researcher to be attuned not only to issues of control in the interview, but also to power relations concerning gender, class, age and race. McDowell argues that in interviews, both researcher and subject construct partial versions of themselves, and that

these partial versions are often based on negotiations or power struggles around our various positionalities (as researcher, as subject, as corporate manager, as a woman, etc). Schoenberger replied to McDowell's comments by agreeing, "we must, as McDowell asserts, be alert to questions of power and identity" (Schoenberger 1992, 218).

This conversation between Schoenberger (1991, 1992) and McDowell (1992) helped to lay a foundation for the use of interviewing as a method in economic geography, a method more recently noted as the one most predominately used by researchers in the sub-discipline (Barnes et. al. 2007). And, since then many scholars, particularly feminist geographers, have expanded their methodological points on the role of identity and power in interviews. For example, McDowell makes that point very clear in her writings on her interviews with merchant bankers in London, where she admits to positioning herself in different ways feeding off the differing situations of her interviewees (McDowell 1997). In a later piece reflecting on those interviews, McDowell describes the positions she took as varying from supplicant, when interviewing elders in the industry, to mother, when interviewing younger members of firms (McDowell 1998). Kim England had similar experiences interviewing bank managers in Toronto: "my reliance on [banking] managers was obvious...and I usually felt I had little control over whether to position myself as supplicant or not. If anything, I was assigned that role by the managers" (England 2002, 210).

My point is that feminist geographers researching the firm have written about and reflected upon a variety of interview circumstances and struggles in the field that deal

with positionality, gender and power. In grappling with my own interview experiences, I found many of these works helpful. However, there were some distinct differences between the experiences I read of by geographers, and those of my own. Unlike many female geographers, particularly those researching the corporate world and often finding themselves in the supplicant position during interviews, I was perceived differently. My position had less to do with my gender or age, and more to do with the legal landscape that emerged as a consequence of the Enron trial. In this way, I was perceived as a threat by my subjects. This threat is evidenced by the email exchange above where potential subjects make light of the continuing criminal investigations by the government. I was a threat because of the potential that I could be a government agent (as indicated in the email), or that my interview transcripts could be confiscated by the government or be handed to attorneys working on civil suits. In any of these cases, a subject's freedom or reputation could possibly be at stake. In other words, the varied spaces of justice and the law drastically impeded my research possibilities refiguring both my position as well as the positions of my subjects in the interview space.

This leads me to a second distinction between my field experience and those previously written or published in geography, that of silence in the interview. Few academics write about this in their research. An exception is Kamela Visweswaren, an anthropologist. In her Fictions of feminist ethnography (1994), she draws on her field experiences researching women in India and their role in the country's Nationalist Movement. Like myself, she struggles with her positionality and that of her subjects in getting them to speak. Visweswaren's book is a wider attempt to rearticulate what it

means to practice a feminist ethnography. I draw specifically from two chapters in the book. The first concerns Visweswaren's dilemma to deal with overtly false statements (betrayals she calls them) and silences made by two subjects she speaks with over a series of interviews. The second chapter details the story of an acquaintance that refused to be made into an interview subject for her project.

The two interview subjects of Visweswaren's first chapter are Uma and Janaki, two women who met while imprisoned during the Indian Nationalist movement. Visweswaren tells of two separate betrayals, one committed by each woman. During Visweswaren's first interview with Uma, Uma tells her that she was first married at the age of 16. However, when interviewing Uma's friend Janaki days later, Janaki reveals that Uma was a child widow, married first when she was five or six. Uma had lied to Visweswaren. The second scenario of betrayal concerns Janaki. Janaki told Visweswaren that she never married. Visweswaren later found archives indicating otherwise, archives which revealed that like Uma, Janaki too had been a child bride whose husband abandoned her because the family provided no dowry (Visweswaren 1994).⁹

In the next chapter of Visweswaren's book, she details a story not of betrayal, but of a refusal to speak "on the record", the story of a woman who refused to be made into an interview subject. Visweswaren explains that she had asked a friend if she could speak with a relative of the friend's aunt, a woman who had been a pivotal leader in the

⁹ It is interesting that Visweswaren privileges the archival account of Uma's marriage over Uma's own spoken account. I touch on this in the chapter's conclusion by revealing which accounts I tended to privilege in research and writing.

Nationalist movement in Madras. The friend warned Visweswaren that this relative had a passionate dislike for journalists and in 30 years never once granted an interview. Nevertheless, the woman agreed to see Visweswaren. When she arrived at the woman's home, and after brief small talk, Visweswaren pulled out her tape recorder. This caused the woman to get up hastily, dismiss herself from the room, return and then ask Visweswaren to leave, indicating that she no longer had time to visit. Visweswaren made another attempt to meet with the woman several months later. During this visit Visweswaren decided to focus her energies on the current interests of this woman, namely questions about her work with an orphanage. While answering questions about this orphanage, the woman launched into a long history of her life during the Nationalist movement. This time Visweswaren did not pull out her notepad or recorder, she merely listened, "willing myself to accept her narrative on the terms she had set" (Visweswaren 1994, 65-6). Just before Visweswaren left, the woman affirmed her dislike of journalists saying, "this work is not about one individual or personality" (ibid, 66).

Visweswaren's difficulties in reconciling these two experiences forced her to examine her own positionality, which is no doubt complex. She characterizes herself as a Western educated feminist academic. As a feminist, and as an Indian national, she sought to draw lines of similarity and collectivity between herself and her subjects. When instead she was betrayed, she questioned the possibility of a feminist project to establish a collective force across space, time and circumstance. However, rather than dismissing these interviews as failures broadly in feminism and her fieldwork specifically, she began

to query the context of her participants' behavior within much larger struggles to speak (Visweswaren 1994).

She makes the important point that as researchers we cannot assume the freedom or desire to speak on the part of our research subjects. This leads her to put forward three new tactics for interpreting field data, one not based on reproducing fact and "truth", but which instead recognizes shifting identities, the temporality of speech (what is said, and when and where it is said), and understanding the meaning of silences (Visweswaren 1994). She wants to shape a notion of subject agency that is not reduced to speech or speaking and view "silence as a tool...as a marker of agency" (ibid, 51). In considering these tactics for her own experiences, Visweswaren makes two larger points. She emphasizes that hegemonic discourses profoundly shape what subjects can say. And second, she writes that truth is situational, that the meaning of truth shifts from person to person, and circumstance to circumstance.

On this first point of discourse and speaking, Visweswaren interprets her subjects' silences as strategic, as a powerful tactic for the interviewee to prevent the researcher from producing certain knowledges about her or himself. In Visweswaren's case, she is forced to consider what these silences mean in terms of the larger discourses of the Indian National Movement, especially concerning the family. In the case of Janaki and Uma, nationalist discourses position women's social roles as either married or unmarried. If unmarried, one is considered a spinster or widow, both negative roles. Visweswaren says of Janaki that she, "never desired marriage and hence cannot be called a spinster, and

never was married [according to Janaki's representation of herself to Visweswaren] and hence cannot be called a widow" (Visweswaren 1994, 55). This meta-narrative leaves no language or discursive space for Janaki to speak about her own story as neither a wife, nor a widow or spinster. She "resists with her silences the negative subject positions national ideology would slot her into" (ibid, 55).

On the second point of truth as situational, Visweswaren says, "truth is refracted through a series of unequal relations of power" and that how we interpret truth is "seriated through a chain of relationships" (Visweswaren 1994, 51). These relationships might include the subject and discourse, the subject and researcher and the subject with another subject. Her point is that "Knowledge is produced both in and for a specific context" (ibid, 49). Visweswaren's interpretation of Janaki's silence on her marriage as betrayal could also be seen (on Janaki's part) as "moments of self-staging and fashioning" (ibid, 49). In her silence, Janaki crafts an alternate image of herself, an image that disallows representations of her in traditional female roles (as articulated by the Nationalist movement) and instead positions her as a "courageous and independent" crusader for women's rights in India (ibid, 49).

Reading each of their silences, Visweswaren unfixes the identities of her subjects. They are no longer static, but complex and shifting and able to manipulate the research relationship. The overt use of silence shaped the research encounter in ways beyond her control. Visweswaren's account of the silences in her work is also strategic for herself as

a feminist scholar. By acknowledging silences, she acknowledges gaps in her research. In other words, she destabilizes herself as the ultimate authority on her project.

I want to suggest that the work of Visweswaren has much to offer geographers. For my own purposes, I am less concerned with the betrayal aspect of her analysis (Janaki's betrayal of Uma) and focus more on her view towards silence.¹⁰ She provides careful theorizations on how to frame reluctances and silences in research and how to better understand what discourse permits us to say, and what it prevents us from saying. Working towards a repositioning of power, identity and authority in field research is something, which concerns the feminist project. Just as McDowell believes that both researchers and interviewees present partial versions of themselves in (corporate) interviews (McDowell 1998), Visweswaren finds that identities are "staged" in the interview, that they are constituted by the partial accounts subjects provide (silences and all) (Visweswaren 1994). A reflexive approach towards interviewing has the potential to open new understandings of the configuration of power and partial identities. With this said, using Visweswaren in my own work poses some concern, namely the vastly different circumstances of our backgrounds as scholars, our fieldwork sites, and the positions of our participants. She is measuring silences in the sense of how Gayatri Spivak measures silences in "Can the subaltern speak?" (Spivak 1988). What possibilities

¹⁰ In Visweswaren's case she only later discovered that these subjects made false statements to her, both about themselves and each other. Her analysis as to why particular narratives came out as they did, focuses on the issue of silence as well as betrayal. She felt her subjects betrayed her through lies. My circumstance is different. I cannot verify whether or not I was lied to. In fact, I perceive the silences of my subjects as in part a strategy to avoid lying to me. Instead of refusing to answer particular questions, my subjects could simply have made up false accounts. Hence, I never felt betrayal in the ways that Visweswaren did.

do Visweswaren's women have to speak, and given our position as Western academics, can we hear or understand them? In making this point however, my purpose here is not to transpose her theorizations directly onto my own, but instead to seek out similarities. I gather strategies from her work, which I find useful, specifically her understanding of silence as a marker of agency in hegemonic discourses and truth as situational. Her ideas are worked into the context of my own research. I start by recounting my experiences with those 11 subjects I did interview, and then move to the issue of silence.

2.3 Reluctant witnesses

The term "reluctant witness" in the context of the law refers to a witness for a trial, usually for the prosecution, who is reluctant to speak out for fear of retaliation by the accused (Kirtley 1996). While prominent in legal discourses, the term has yet to enter the geographical lexicon. I refer to the people who I interviewed as "reluctant witnesses", because even when people spoke, there was hesitation, and this hesitation affected the research encounter. Everyone I interviewed was acutely aware of his or her position in relinquishing information. All but two of my 11 interviews with former employees began with an exchange concerning their anonymity in my project, "So, this is anonymous right? You're not going to use my name, correct?"¹¹ Some even made joking references to the possibility of me being a DOJ lawyer or undercover FBI agent. I quickly had to come to terms with the fact that while my interviewees may have seen me as a hometown girl/graduate student, they also viewed me as a potential threat, as someone who could possibly implicate them in certain Enron events (hence with legal implications), or less

¹¹ There were two employees who didn't mind my using their name. Their stories are well documented such that even were I to give them a pseudonym, it would be easy to determine an identity.

harmful, someone who might pass judgment on their behavior or actions at Enron or simply challenge their personal recollections of the company. My position threatened them and hence affected our discussions. Realizing this halfway through my research, I worked hard to appease some of these concerns, but nevertheless, interviewees remained reluctant.

The degree of reluctance varied from interviewee to interviewee. I conducted only 6 of my 11 interviews face to face. These interviews took place at a variety of locations, office buildings, coffee shops and restaurants. My requests to record interviews were often denied. In fact, only one of my 11 interviews with employees was recorded (interestingly, this was a post-trial interview).¹² Because of this, I took extensive notes and spent considerable time typing written text and general impressions hours following a meeting. These in-person interviews were interesting for many reasons, most notably because of a visible reluctance to speak. I found participants would often move closer to me to utter words such as Ken Lay or Jeff Skilling in a more hushed tone. I capture this with an excerpt from my fieldnotes following a workday lunch hour interview with Theresa at a Houston restaurant:

“The background noise factor of a lunchtime chatter was less an issue than the subject’s constant hesitation to utter particular words like ‘Arthur Andersen’, ‘Ken Lay’ or ‘Jeff Skilling’. She whispered them as she used them. She seemed to be conscious of the other patrons in the establishment. It was obvious that these people were also employees in corporate contexts who might likely be familiar with any or all of the Enron characters. Clearly she did not want to draw attention to our conversation. What else might she be hiding from other patrons, and consequently from me?” (Fieldnotes, July 13, 2005)

¹² Sherron Watkins also agreed to be audio-recorded, but my voice recorder failed to work that day.

Theresa's reluctance to offer her opinions on certain Enron topics was indicative of other face-to-face interviewees. If the words "Arthur Andersen" caused her concern, then I suspect there were several times in the interview where she held back. I tried making her feel at ease with interjections of everyday conversation about the weather, or the city within the interview. Despite this, she exercised great caution in answering specific questions and uttering certain words. A hushed tone or long pauses before responses suggested subjects considered how what they said would be interpreted by those around us and myself. I do not know why she agreed to be interviewed publicly, particularly considering her reluctances. We might have had a more "meaningful" discussion had the interview occurred over the phone. Of course, I can only speculate here.

The remaining five interviews I conducted were over the phone at the subjects' request. At first I interpreted this as part of a larger fear to speak on the record about Enron, and this may very well have been the case. The phone could lend a comfort, a distancing that allows an interview subject to not show their face during an interview.¹³ Also, subjects could more easily leave the interview space by simply hanging up the phone. As a researcher in this context, it could have also been a benefit to me, meaning I could have recorded the interviews without the subjects' knowledge, though this would be against the research ethics policy outlined by the University. I did not record them, and none of my interviewees ever asked if I was recording. Interestingly though, I found that phone interviewees were more open with their comments. The pauses or hesitations

¹³ These interviews were not pre-arranged as were my in-person interviews. Subjects would phone my home impromptu and explain they wanted to contribute to my project and at that moment could help. I kept a notebook and pen by the phone during those months for these cases.

in answering particular questions were less than face-to-face research encounters. Also, topics of conversation differed slightly. Subjects spoke at length about Jeff Skilling's and Ken Lay's role in the company's fall, and Sherron Watkins' portrayal as company savior. It is significant to note that all of my phone interviews were conducted after the workday, usually between 6 and 9pm. At these hours, most subjects would be at home in a private space, and hence must have felt safer to speak. Just as the phone had the advantage of hiding the subject's face from my view, it also hid my face. My subjects could not read my expressions and did not know who I was. Hence, my position as a threat seemed lessened by the distance the phone offered. This in turn seemed to lessen the reluctance to speak. Despite this advantage, I felt my phone interviews were more scripted (I felt pressured to stick to my list of questions point by point) and had less of a conversation. Also, I did not have the advantage of reading facial expressions or body language, an advantage that would allow me to gauge how far I could press an interviewee for information.

Few interviewees relinquished information that was particularly juicy, and many recounted stories similar to those I had already read in books or heard on news broadcasts covering the firm's demise. Most everyone praised working with Enron, "it was the most exciting" or "the best job" they have had. When asked about what it was like to work for Enron on a day-to-day basis, subjects quickly responded with comments like "invigorating" and "dynamic". Subjects spoke almost nostalgically about access to a "full service concierge who would address Christmas cards and pick up dry cleaning", "impromptu happy hours", and surprise novelties like James Coney Island hotdogs on

Fridays. One subject, who I call Eric, summed up many of my interviewees' comments by explaining simply that "Enron was a great place to work", "I loved coming to work and didn't know anyone who wouldn't come in early, stay late or have busy travel schedules". The Enron portrayed to me was idyllic. In fact, it was hard to get past these characterizations and I often had to ask highly specific questions to get a greater sense of the day-to-day company. Just as Schoenberger (1997) experienced in her interviews of managers on similarly sinking corporate ships, most of my interviewees remained tightly allied with Enron. They defended the company and expressed dismay at both the fraud, and Jeffery Skilling, expressing much anger against him.

I savor the 11 interviews I was able to conduct because of the great effort it took in getting them, but also because they offer a slightly different, more intimate account of Enron, accounts that diverge from those found in the media, financial documents, or legal testimonies. Meeting former employees exposed me to their personal trials and struggles, emotional and financial, in dealing with Enron's downfall. My subjects reminded me of why I initially became involved or interested in this project, to interrogate spaces of economic injustice. It is in this context that their voices are heard in this thesis. Their thoughts and experiences provide illustrations of injustices, no matter how small. For example, the cold manner with which some employees were let go (as mentioned in the previous chapter), or how other employees feel they have been mischaracterized by the media (as the following section of this chapter will assert). But, I also use their voices at times to interject a more intimate perspective or account to the story, such as what a subject thought of working with Ken Lay or other key Enron actors.

While I did get some people to speak to me about particular topics, there was a reluctance to voice opinions on other topics, as my interview with Theresa illustrated. I feel it important to make note of the reticence that surrounded the research exchange because it points to the fear even those not involved with Enron's fraud held. In other words, it points to the significance of the law in defining and dictating how the Enron story gets told, making some afraid to speak about even small details, and silencing others who might know more substantial bits of information. The following section traces two incidences of silence from my fieldwork, the first in an interview with a research subject and the second, in working to obtain a subject's participation. In highlighting a subject's silences in the research exchange, I search for meaning, a voice if you will.

2.4 Silent subjects

2.4.1 Silence in the interview

On the evening of May 17th just before dinner, I unexpectedly received a phone call from man who said he used to work with Enron, and that he got my name and number from a mutual contact. He told me he wanted to contribute to my project by allowing me to interview him. Don, as I call him, spoke very quickly and very definitively and often referred to me by my first name as if we were friends engaged in everyday conversation. I frequently needed to interrupt the flow of the interview to write notes in my book. He patiently waited as I recorded his comments ranging from how he came to Enron, specific experiences or perspectives on the company's climate or culture

and his view on how the media had handled or was handling the reporting of the company's demise.

Part of my standard interview asks what kind of work subjects did with the company. Don explained that he worked with Andy's group in Enron Corporate Finance in the treasury division (Andy being Andrew Fastow, the company's Chief Financial Officer (CFO) and presumed lead architect behind Enron's accounting fraud). Up to this point, the interview had proceeded rather typically, but when I asked what he did there specifically in Fastow's group, he replied that he would rather not say. Don elaborated briefly suggesting that he worked on one of Enron's structured finance vehicles. Structured finance is a branch of finance, which is intended to move financial risk from one location to another (this is further explained in chapters 3 and 4). In Enron's case, it moved less productive investments or assets, or even failing assets off its accounting books to the accounting books of special purpose entities sometimes set up by Enron, but not officially a part of the company. In addition to removing risk from Enron's accounting ledgers, structured finance also provided Enron with an illusion of greater profitability. These vehicles are not themselves illegal, but the ways in which Enron abused them led to a series of other illegal acts.

I continued to press Don on which vehicle he was involved in, and which assets had been moved. I even threw some names of vehicles out there such as Raptor with the hope of eliciting a confession, but he would not budge. Finally, I asked simply, "did you feel your practices at Enron were ethical?" Don's response was "I can't answer that

question. You need to remember that I worked in Andy's group—no one left Andy's group unless they were leaving the company". Don said he was fired in early 2001 from Enron for "not being a team player". On this point he added, "When you have disagreements with group leaders and cease to assist" their cause, they no longer have use for you. "Andy didn't like me because I wouldn't tell him what he wanted to hear". Again I pressed him on this matter, but he changed the subject sidestepping my question.

2.4.2 On not getting an interview

The silences I experienced in the field were not confined to a subject's refusals to speak during the interview. There were numerous occurrences in which I approached former Enroners either in public or through community networks of family and friends and was rejected for an interview. Previous contacts went silent and new contacts never returned my messages. I tried re-framing my interview to a 'discussion' suggesting a more innocent and light encounter; that did not work either. I even worked on being more aggressive, following the lead of media with whom I sat alongside day in and day out at the trial. That was certainly a turn-off. By the end of my fieldwork, I had lost count of how many times I was rejected. This is the story of one of these rejections, a man who for reasons explained later, I refer to as only W.

I met W in April of 2006 in Houston on an Enron bus tour of the city arranged by Sandra Lord, a local professional guide and owner of Discover Houston Tours. Entitled 'Lifestyles of Houston's Rich and Infamous—The Enron Tour', it was designed around Enron hotspots in the city of Houston including visits to various former executives'

homes, and the location of the famous crooked ‘E’.¹⁴ The tour began at the Kirby Mansion just off downtown Houston about a half a mile from the former Enron towers on Smith Street.¹⁵ There were around 40 people in attendance, all of varied white-collar backgrounds, most from Houston, some with intimate Enron ties. Most were like me, interested in the story of the company and how it had affected the city. In addition, two journalists were invited, one from the Los Angeles Times and another from the Financial Times. I met W as we loaded the bus. He and I sat together.

Once on the bus, W quickly shared with me his distaste for the media and their propensity to distort the truth. When the Los Angeles Times reporter leaned over and asked him for a statement about his expectations and why he was participating in the tour, without hesitation W refused to comment. I knew at that moment he would not be an interview subject. I felt it pertinent to warn him that I was recording Lord’s tour presentation, and anything he said would be picked up by the device. As a result, I assured him I would not transcribe his words. Indeed, my transcript of the tour today does not reflect his comments or our conversation. Once I established this trust, W began to open up to me. We exchanged our own stories of Enron, perspectives on the continuing criminal trial, and thoughts of the tour as the bus proceeded from site to site. “Off the record” we exchanged a few emails and photographs from the tour and even met once more in person before I returned to Canada (see Figure 2.2). “On the record”, I will not

¹⁴ This was the only group tour on Enron Lord gave. She also gave a handful of private tours on the subject.

¹⁵ Now a historical site, Kirby Mansion was built by John Kirby in 1928. Kirby was the founder of Houston Oil Company, which after a bankruptcy and a series of mergers eventually became Enron Corp in 1986 (Bryce 2002).

say much else about W. By respecting his silence I gained his trust. In the end, he was the crucial link to me getting an interview with famed Enron whistleblower Sherron Watkins.

Figure 2.2 Author standing with the crooked ‘E’ during the Enron bus tour



Source: Photo taken by W

2.4.3 Giving silence a voice

When the issue of unwilling participants is raised in the methods literature in geography, it is often framed as a problem and usually cast as a failure in fieldwork (see Gilbert 1994). But, rather than accept our unwilling participants as “failures”, these encounters can be framed more productively. I include the stories of Don and W to make the point that silence exists in our research projects, sometimes in a subtle way such as a decline to be interviewed, and sometimes more abruptly like an outright refusal to answer interview questions. My point for this section is to illuminate some of the roles that silence can play in our research. Rather than simply being silent, what can silence offer?

Following Visweswaren, I suggest a subject's silence wields power for him or herself in the practice of knowledge production, the power to manipulate their own representations. As researchers we cannot author what was not uttered. Lastly, I argue that capturing silences in research narratives enables more transparent accounts of a project. In other words, it acknowledges gaps in research, a particularly important theme for a project on Enron where the company produced financial statements with gaps of knowledge that in the end had devastating results.

Let me continue with the story of Don. After my interview with Don, I struggled with what his silences would mean for my project. As I typed up my interview notes, the harsh reality of his refusals to speak took the form of blank spaces under questions on the computer screen. Initially I felt a sense of failure as a researcher. However, with the benefit of hindsight, and Visweswaren's words, I later understood my encounter with Don in a new light. Thinking about silence "as a marker of agency", Don's behavior reflects something much larger than simply my inability to elicit information, or my presence as a threat to him (Visweswaren 1994, 51).

As I've said, it is significant that he, as well as my other research participants, were former employees with a company involved in one the largest and most widely reported on corporate scandals in history. This was the single most important factor affecting my ability to interview and the willingness of participants to speak. With 100 un-indicted co-conspirators, and pending civil suits, Don may well have been in any of these circumstances, or possibly none of them. His refusal to answer certain questions

should be put into this larger context. Don's silences prevent me from pinpointing him in particular narratives around the company, in this case possibly labeling him as criminal. In refusing to speak about his ethics and work tasks at Enron, I cannot position him as either unlawful or not. In other words, I cannot pass judgment on him. "Criminal" is a label frequently (even if jokingly) placed on former Enroners both within the business community and the larger media. Several of the former employees I interviewed expressed difficulty in finding employment just after Enron's fall, and they perceived these difficulties as a result of the criminal ascription accorded to Enron. One employee I spoke with, only with the company a short while before its collapse, went as far as to remove the Enron experience entirely from his resume.

This criminal label was partly perpetuated by the media, on television and in films.¹⁶ Of the 11 employees I interviewed, 7 told me they wished the media would focus more on the 6900 employees who were not involved in the fraud (there were 7000 employees in total at Enron's Houston headquarters). In Don's own words, Enron has been "characterized to sell newspapers. The focus is on individuals who got greedy, what the stock price was doing and the retired folks who lost everything". He went on to say, "the stories nobody wants to hear about, the good everyone saw everyday isn't the focus. This is 'typical press'". Don cited the example of former Enron employee Dan Boyle, defendant at the Enron Nigerian Barge Trial.¹⁷ Don described Boyle as "a decent human

¹⁶ The movie 'Fun with Dick and Jane' (2005) exemplifies this. In the film, after losing his job at Globodyne in an Enronesque fashion, Jim Carrey's character Dick and his wife Jane (played by Tea Leoni) turn to armed robbery to make ends meet. At the movie's conclusion, the producers and writers give credit to Enron for their inspiration.

¹⁷ The Enron Nigerian Barge trial took place in fall 2004. It involved Enron's dubious sale of some Nigerian barges to Merrill Lynch (Flood 2004a).

being” and criticized the work of the prosecution for contorting the truth of what happened for the sake of a jury conviction (indeed, Boyle was found guilty and is serving his 3 years, 10 months). Further, he believed the media was equally responsible for the criminalized portrayal of Boyle to a wider audience. During the Barge trial, news articles mentioned Boyle primarily in reference to his accused illegal acts (Flood 2004 a, b). For example, Flood writes in an article of the prosecution’s portrayal of Boyle during opening statements that “[Boyle] stole more with a briefcase than the Sopranos could steal with a machine gun” (Flood 2004b). It was not until after Boyle’s guilty conviction, during the sentencing phase of the trial, that the public learned of his philanthropic contributions to Houston society, the adoption of his two daughters from overseas, and the opinions of those who worked with Boyle at Enron, as a person of “great character” (Flood 2005a).

I find Don’s discussion of Boyle during our interview telling. In one move, he rebuked the slant of the press, especially its perpetuation of the “criminal” label, and at the same time he maintained his own silence about his own ethics and potential criminality. In a sense, he dirties the water of what is right and wrong in corporate fraud, insinuating that “criminal” in the Enron case is not black and white. We could interpret his silences as moments of self-strategy, where he dictated the conditions of the story I tell about him. In this way, silence was a refusal to be positioned in a stigmatized way. This circumstance has many parallels to Visweswaren’s dealings with Janaki. In that case, Visweswaren concluded that there was no language within the dominant discourse for Janaki to narrate her experiences as she saw them. I could argue the same of Don. Many of my interview subjects insisted that dominant understandings of Enron

represented employees as greedy and arrogant criminals. Don refuses this negative subject-position by not engaging me on his own ethics in the workplace. Instead, the silences of Don's story are bordered by his discussion of Boyle. Don uses Boyle's narrative to craft an alternate account of Enroners for me. He resists media representations for himself, through his silence, and for Boyle by choosing to emphasize attributes of Boyle that are not acknowledged by mainstream discourses, Boyle's ethics in other parts of his life (as a father and community figure).

In fact, the crafting of alternate narratives is a point I could make for many of my interviewees. As I have said, most everyone I interviewed spoke highly of Enron, emphasizing positive characteristics of the company, ones that were not being circulated by the media. The positive characteristics emphasized are not confined to rewriting employees as decent and ethical people. Subjects also countered narratives that the firm was a hyper-masculinized place where blonde, big-haired women with large chests paraded around (see for example *Playboy* 2002 and Spheeris 2003). It is possible that subjects saw me as a means to get their version of what happened out by telling a different kind of story. This crafting of alternate narratives is again in line with Visweswaren's work. As she suggests, it demonstrates that truth is situational. She reminds us, "Knowledge is produced both in and for specific contexts" (Visweswaren 1994, 49). The knowledge about Enron, as represented by the media, was produced, according to Don, to "sell newspapers". Whereas knowledge about Enron told to me by my interviewees represented themselves and Enron in a more positive light, or as

Visweswaren might say, it represented “moments of self-staging” (Visweswaren 1994, 49).

I admit that it was rare for interview subjects to refuse outright to answer some of my questions during the interview. The more common silence in the field I experienced involved a simple decline or refusal to be interviewed. W’s story serves as a reflection of these research encounters. I want to make mention of such encounters, because for my project they were important. Many of the people I met who declined to be interviewed served as important contacts in clarifying information about Enron and connecting me with other employees who agreed to be interviewed. They served more as informants in the ethnographic sense, and their role in my project was critical. While I was not able to convince certain informants to become interview subjects, they have relevance for understanding the process of research on corporate fraud, particularly in highlighting the prominence of the law in shaping the Enron narrative.

The story of W should be situated differently from Don. Primarily, in not speaking “on the record,” W could not be made into an interview subject.¹⁸ As I’ve mentioned, Visweswaren worked with a similar circumstance in her fieldwork. She spoke with a woman in what she thought was an interview, only to be told at the end of their discussion that the woman had intended their conversation not as an interview, but simply as a conversation. This woman refused to be made into a research subject. Visweswaren

¹⁸ Though I never formally asked W for an interview, and he thus never formally refused, after having dealt with the sensitive issue of interview requests in the field for four months, I made a judgment call regarding W’s willingness to speak. In the end I think it was the right call and I would do it again.

identifies the woman in her book only by her first initial, M. In struggling with the naming of a subject who refused ‘subjectification’, she argues, “the pseudonym stands for a real person, yet this subject neither authored nor authorized her own representation. She did not wish to be real outside of her own daily life” (Visweswaren 1994, 62). In following Visweswaren’s lead, I too refer to W only by his first initial avoiding a pseudonym, which would signify his authorization to be represented.

Visweswaren interpreted M’s refusals to be ‘subjectified’ as an act of personal critique around the larger written history concerning India’s National Movement (Visweswaren 1994). In refusing to be written down, Visweswaren suggests a person refuses to engage with the telling of a story in the ways it has been or is being told. In the case of W, I interpret his silence similarly. He was clearly upset with media portrayals of Enron, suggesting they contorted and misconstrued the various facts. This was evidenced by his behavior towards the Los Angeles Times reporter on the tour. I can only speculate that he saw my role as a researcher in a similar light, in a position with the power or potential to misrepresent people, or the facts. His silence was a means to disengage with the dominant written accounts of Enron. The only person W authorized to speak on behalf of him was himself.¹⁹

I wasn’t the only person finding it difficult to get the “truth” about Enron. Citing a prosecutorial “wave of terror”, the defense teams of Skilling and Lay repeatedly called

¹⁹ At least this was true in our engagement. Like others, he too could have been forced to testify through a subpoena. This would have elicited his account of Enron, but not in the space of the interview—rather—in the space of the courtroom.

for former employees to come forward to prove “that Enron was a real company, a substantial company, and an honest company that had vision and values” (Ken Lay as quoted in Flood 2005b). Their calls were not well received, and very few former employees testified on their behalf. In the end, both Lay and Skilling were found guilty on conspiracy to commit fraud on May 25, 2006. Some have suggested that the Enron story, a story that has come to be known as one about fraud and greed, was so entrenched in our imaginations that no amount of speaking on the part of the defendants could usurp the criminal characterizations of the company and its leaders. In reference to this, Carrie Johnson, a reporter with The Washington Post stated, “I think that’s been one of the biggest challenges for the defense, because they’re crafting this counter narrative that stands in the face of four years of adopted public opinion” (Johnson 2006b). In the context of W and Don, choosing to *not* participate in the Enron story, or to participate on one’s own terms, avoids the challenge of usurping adopted public opinion. Ultimately, as researchers we must be attuned to the degrees to which interview subjects participate in our research objectives, and how in doing so they challenge those objectives.

Having made this point about the value of reading silence in the project, I do not want to suggest that a question of ethics or the criminality of Enron’s behavior should unequivocally go unanswered. In part this thesis aims to unravel the complicated task of assigning blame and drawing resolutions around acts of corporate fraud. Interestingly, when I asked Don his thoughts on whom or what deserved the blame for Enron’s downfall, he swiftly stated that he believed Jeff Skilling was guilty and “deserved to go to jail”. On one hand Don is careful to shroud his acts in silence, while on the other hand, he

freely assigns blame to others in the company. Don's decisiveness on Skilling, and his silence for himself vastly complicate my tasks here. My point is that the refusal to speak matters for our research projects. It matters in that it invariably shapes the research I was able to do, and the thesis I am able to write, and it matters for the identity, and in some cases possibly the livelihood of my research subjects.

2.5 Conclusion

This chapter was written in effort to provide a space in this thesis for the voices of some of Enron's former employees. While financially dead, Enron lived on in the memories and experiences of its former employees. But, the company also lived on in other ways. Most importantly for myself and my interview subjects, Enron's legacy continued through the many pending criminal and civil lawsuits brought against its former executives. The legal landscape that resulted from these investigations created an atmosphere of silence and fear among (potential) interview subjects. Navigating my way through the silences uttered by my subjects offered an opportunity to newly interpret their subject-positions. Using Visweswaren, I saw silence as an act of resistance against dominant characterizations of events and/or people. In this case, I positioned the silences of Don and some of those who refused to be interviewed, as a means to avoid the characterization of criminal.

Thus, in writing the chapter as I have, I demonstrated where some of the gaps in my research data are. I have revealed gaps in my knowledge of Enron's day-to-day work environment, and consequently also breaks in my understanding about how Enron's fraud occurred. These gaps in the archive were the result of silences of interview subjects. But,

rather than be blank spaces on interview transcripts, I showed that these silences should be considered more complexly as acts of resistance, as a means to mitigate or negotiate the litigation efforts of the government towards Enron. These silences are a part of my archive in this way. They do not enter into some of the more rigorous analyses of later chapters, but serve primarily as context. I discuss them here because otherwise they would be excluded from this story. In other words, their silences would have persisted.

The methodological challenges I encountered in the field ultimately lead me not only to archeology, but also to ethnography, a method I take up again in chapter 6 when I discuss the Enron corporate criminal trial. I should add here that I could never have even partially understood the silences of my subjects were it not for my ethnography. Being in Houston for half a year, bumping into potential subjects in court, in shopping centers, or even on bus tours, listening to local nightly news broadcasts and reading local papers, chatting with Houstonians not involved in Enron---all of these elemental experiences allow me to better grasp the circumstances of my subjects, namely their silences and reluctances.

Throughout the thesis, these two methods combine in expected and unexpected ways. With regard to the former, my archeological data benefited from information gathered ethnographically. The ethnography provided the missing social and cultural contexts to the stories written in Enron's physical documents. In other words, with my ethnographic data I embed the story of Enron's numbers within the company's texts, but also within the lives, experiences and actions of the firm's employees as told on the witness stand.

Then there were the unexpected tensions that arose from the coupling of these methods. This tension is most simply explained by thinking about where I located the empirical hard edges of my project. Where is truth in the Enron story? Visweswaren finds sanctity or truth in the document archives she consults. Those legal or governmental papers lead her to discover the betrayals of Janaki and Uma. In a sense, her excavation of the archive and her experiences with her interview subjects result in a situation where she privileges some data or information as more truthful or factual (government documents) than other accounts (interview data). Considering this point in the context of my own project, a project that dealt with dead remains in the form of material documents, but also lived ethnographic experiences, I found myself locating truth not in my paper documents, but in the accounts published by a select group of investigative journalists. The reason for this lies in the root of Enron's story, a story of fraud and deception where "our assumption that people and events are generally what they appear to be" is consistently compromised (Pithouse 1999, 171). Sitting in court day in and day out, I grew aware of the trickery behind the presentation of Enron's numbers in its financial statements. In short, I learned that a good deal of my archeological data was not to be trusted, not to be taken at face value to reflect some truth about the company. What was presented on the page in the form of charts and numerical figures, was in actuality steeped in deceptive financial techniques used to deliberately obfuscate the company's fiscal "reality".

I also grew aware of the trickery behind the performances of both lawyers and witnesses in the courtroom. For example, I recall one occasion early on during testimony

when an audience member gasped loudly at a witness' revelation of a piece of information. As a result of the outburst, everyone's eyes immediately fell upon her. I quietly whispered the word "goodness" to the FBI agent sitting beside me. He turned to me, smiling, with a comment that insinuated the outburst had been planned, or rather planted by the legal team to elicit a reaction and force everyone to take notice. In that moment, as my eyebrow raised and head shook, I realized that once again I had been deceived by what lay before me.

As a consequence of my witnessing the deception surrounding Enron's performances in court and its financial documents, I found myself turning to other accounts of the firm for shreds of "truth". Those narratives tended to be media publications written by some of the journalists with whom I sat alongside everyday sharing conversations. To me the media were components to my ethnography, serving as contacts and informants for this project, but they also became friends. This is a topic I further in chapter 6. In short, the journalists I met included me in their social group, and engaged me in a dialogue over the trial and Enron issues more broadly. Because of the media, I gained access to crucial trial transcripts, and to my coveted permanent courtroom pass allowing me daily entry without hassle. I commiserated with them on the difficulties of getting interviews. I learned of their extensive access to resources and informants, networks built through years of reporting on Enron. More broadly, they helped me to navigate my way through the trial experience with advice, feedback and explanations on a number and range of issues. Thus, through my daily interactions with certain media, and my increasing understanding of their perspective, I grew to trust them.

I did not feel as though I was deliberately deceived or manipulated by the media, something I felt with other Enron accounts. For this reason, the relationships I built with Mary Flood, Carrie Johnson, Bethany McLean and John Emshwiller in and outside the courtroom seemed more secure, faithful and true. This was why I privileged their accounts of the Enron story. Having said that though, I do exercise judgment in relying on their narratives, as well as other media documented narratives concerning Enron. Nowhere is this more evident than in chapter 5 where I critically analyze media representations of Enron's downfall.

My purpose in making this revelation is to point to the unusual ways that my different methodological data sets and experiences combine and how these combinations have impacted the writing of this thesis. The trust I built with the media through my bodily reactions or performances in the ethnography bled into my interpretations of the information collected. In other words, the emotional and physical experience of my ethnographic labor is ingrained in this thesis not just in the content of the data collected, but also in how I came to read or analyze that data. My distrust of the court testimony and archival records lead me to view that data performatively, to see the pieces of the Enron story not as reflections or representations of some larger truth, but as performances. This is the perspective I take in the remaining chapters.

CHAPTER 3

TELLING THE STORY

“People perceive the Enron story as a story about numbers, but in reality, it’s a story about people” -Bethany McLean in The Smartest Guys in the Room (Gibney 2005)

This chapter provides context to the history of Enron and its financial dealings. My approach is to write the narrative around the primary actors involved in the story. These actors include Ken Lay, Jeff Skilling, Andrew Fastow, Ben Glisan, Sherron Watkins, and three key media persons including Bethany McLean with Fortune and Rebecca Smith and John Emshwiller with the Wall Street Journal (written together as a single media narrative). Each biographical narrative represents a different moment in the tale of Enron’s fraud. For example, I consider how each person figured into the construction, complacency, and exposure of Enron’s misdeeds. The accounts are told individually using personal quotes from news articles, texts, interviews and court testimony. The stories are not intended as the actor’s own voices; I selectively choose how to represent each person. In some cases, the stories significantly overlap, while in others they barely touch. Given the fragmented nature of this writing style, I try to have the characters’ stories speak to one another, allowing one person’s tale to blend into another’s.

Why choose such an unconventional means of telling this story? I have three reasons, each of which link to my conceptualization of the corporation as a corporate

body discussed in the introductory chapter. First, this fragmented narrative is a reflection of the firm itself. Either from the outside, or the inside, we can never see the whole picture of the corporation. We see only parts or pieces. Cumulatively these pieces add up to partial knowledges of Enron. Gibson-Graham suggest such an account of the corporation is important because it “dislodge[s] the more familiar image of the enterprise as a calculating subject that maximizes revenues and then distributes them in accordance with a strategic imperative that must be obeyed if the firm is to survive and prosper” (Gibson-Graham 1996, 197). In line with this, my purpose is to move beyond narratives of the firm that represent it as cohesive and complete or singularly motivated, such as many orthodox representations assert, and make room for an image of the corporation that privileges the tensions and struggles that constitute it. I locate some of these sites of tension within the non-economic or social and cultural spaces of the firm, further discussed below (Gibson-Graham 1996).

The second reason behind my writing strategy in this chapter is to emphasize the individuals (their bodies) and their stories. I want to link them to a performative perspective of the firm. These key people are actors engaged in the performance of Enron, making the story on which I build subsequent chapters. My intent is to present the Enron narrative as a theatre of social drama played out by people like Ken Lay and Sherron Watkins.

My final reason for constructing the narrative as I do is to highlight the cultural aspects of the corporation. Researchers like Schoenberger, O'Neill, and Gibson-Graham write that the firm is a reflection of the character of the individuals that constitute it. Particular individuals and their culture become the firm such that we cannot disentangle one from another. They incorporate the cultural in their accounts of corporate space by writing about how individuals operate on a day-to-day basis (Gibson-Graham 1996; Schoenberger 1997; Gibson-Graham and O'Neill 1999; O'Neill 2001). What did people say or do? Who are they? Where are they from? What motivates them? Gibson-Graham, O'Neill and Schoenberger show that at times different actors are coordinated, working together, but at other times they diverge in their goals and interests. I attribute these divergences in the story told below to cultural or social values and backgrounds, which individuals bring to the firm. How do these backgrounds impact the performances each individual enacted, and how did that impact Enron?

Thus, to understand what happened at Enron is to in part understand the differing values and experiences each actor highlighted brought to the company. By situating individuals in larger social and cultural contexts, I highlight those opposing backgrounds, and in turn stress the constitutive nature of "culture" and economy; that neither is outside the other. Enron employees shape corporate strategy through personal preferences and values, and they are in turn also shaped by work with the company. Recognizing this means also acknowledging that contradictory logics might operate simultaneously in the many spaces of the firm (such as what O'Neill and Gibson-Graham found with BHP (1999)). For example, in the case of Andy Fastow and Sherron Watkins, both felt that

through their actions (Fastow committing fraud by hiding debt and Watkins confronting and exposing fraud) they were being heroic, saving Enron from doom. These competing logics contradict representations of the firm as singularly coordinated and stable. In other words, my point is that the firm does not act outside of the many bodies, which constitute it. Writing this chapter around individual bodies emphasizes this. Both Enron and its fraud emerge and fall apart in and through the socio-spatial circumstances of the characters brought in to tell the story. Put differently, I want to emphasize that Enron is constituted through a patchwork of identities, values and/or ideas. The firm is never complete, but is always in the making. Finally, on this last point of being incomplete, the reader will note as the narrative in this chapter progresses, certain aspects of Enron's story are missing. Most obviously key characters are not included. I discuss this lack of completeness in the chapter's conclusion.

3.1 Ken Lay

Ken Lay once admitted to an interviewer that as a youth on the farm in Missouri, he daydreamed of becoming the next J.D. Rockefeller (Bryce 2002). In pursuit of this dream, Lay enrolled at the University of Missouri to study economics. He went on to get both his Masters (Univ. of Missouri-1965) and Doctorate (Univ. of Houston-1970)²⁰ in the subject (Bryce 2002). Lay's mentor and economics professor at Missouri, Pinkney

²⁰ Lay's Doctoral Thesis title was 'The measurement of the timing of the economic impact of defense procurement activity: an analysis of the Vietnam buildup' (Bryce 2002). The subject matter concerned how military spending impacts the domestic economy. Lay developed a model to estimate the changes in economic production that resulted in an increasing demand for products related to defense procurement (Lay 1970).

Walker, described Lay's grasp of the subject; "he understood that an unregulated market with free choice, where market forces can work, will create greater incentives and maximize the well-being of many" (Tolson 2006). Walker's comment firmly positions Lay's business politics within the then rising neo-liberal economics dispelled by Milton Friedman and the Chicago School of the 1960's and 70's (Harvey 2006; Klein 2007). That the market knows best how to allocate resources is a value Lay carried with him through his life, and he nurtured it through his business practices at Enron, namely the company's profiting or capitalizing on the slightest market imperfections (Economist 2000).

Following his education in 1971, Lay took a position with Walker, his former professor, at the Federal Power Commission, now the Federal Energy Regulatory Commission, in Washington, D.C, a position to which President Nixon had appointed Walker (McLean and Elkind 2003). This was a time when the energy industry was rather "sleepy". Historically, the federal government controlled the industry. Individual producers and distributors of energy were restricted in the prices they could charge for their services, as was the amount of gas flowing through pipelines. And, market entry was controlled as well, with only one main supplier per geographical area. Every aspect of the industry was under government rules. This structure began to come under pressure in the 1970's due in part to the energy crisis resulting from an Arab Oil Embargo, which raised gas prices at the pumps, and a decreasing supply of natural gas in the US, causing electrical brownouts across the country (Bryce 2002). Many on the corporate side of the industry argued the solution to this energy crisis would be to increase the government

mandated prices at which companies were required to sell gas. This would in turn encourage new exploration and production of commodities like natural gas. Though a slow beginning, this was the first step towards more widespread deregulation that took hold in the mid-late 1980s. Excited by the possibilities these changes would open for businesses, Lay left government after only a few years to work on the corporate side of the energy industry. From 1974-1981, Lay worked with Florida Gas Company as the company's vice president of corporate planning, and later became president of the company (McLean and Elkind 2003).

After a series of posts with companies from Florida to Texas, Lay accepted an offer for a CEO position with a firm named Houston Natural Gas (HNG) in 1985. His successes with HNG impressed not only those inside the company, but also those in the wider energy industry. Shortly after Lay's arrival, HNG was approached by Nebraska's InterNorth Pipeline for merger talks. InterNorth was battling a hostile takeover crisis and a merger with HNG would halt the takeover bid. In 1985, the merger was complete and the new entity known as Enron Corporation headquartered in Houston, TX was founded.²¹ Lay would be CEO of Enron and head of the largest natural gas company in the US, one with a vast network of pipeline holdings stretching coast-to-coast (Bryce 2002).

²¹ The site of the new company's headquarters was a bitter battle between the companies. At the advice of outside consulting firm McKinsey, Houston was selected for its position as the capital of US energy firms (McLean and Elkind 2003).

With large-scale deregulation on the horizon under President Reagan's increasingly neo-liberal policies in the late 1980's, there was an emerging uncertainty for the industry. Slowly the government released price controls, and many firms were unclear about what the implications for their business practices would be, how they would manage the risks associated with price fluctuations, and where new avenues of profit were to be found. How would this affect business strategy? Lay made the decision to hire an outside consulting firm, McKinsey & Company, to develop a business plan that would help Enron transition successfully to a deregulated market (McLean and Elkind 2003). The business model devised (discussed in the Jeff Skilling narrative) was a success and was later emulated by other companies in the energy industry.

It is significant to note that the deregulation Lay (through Enron) championed and built his business around was not an inevitability for the energy industry. And, neither were Enron's financial successes on this front. In part, these achievements, or rather Enron's performances, were the result of Lay's vast network of politically connected Washington elites, people from whom he drew upon to further his deregulation vision in the legislature. Perhaps the most influential and widely known of those elites was the Bush family, first George H. Bush and then his son George W. The Lay family donated generously to George W.'s campaign for Texas governor and even more generously to his campaign for president in 2000. The importance of the link is best evidenced by some examples. For instance, during George W.'s governor post, Lay wrote a letter to him urging him to make it a state law to deregulate the retail electricity market. In Lay's words, "We can't afford to wait...Delay is dangerous....It's time to let the forces of the

market work their magic” (McLean and Elkind 2003, 173). Reportedly, Bush did nothing to accommodate Lay’s request at this time. But, this non-involvement on Bush’s part changed when George W. became president.

In early 2001 during the initial wave of appointments President Bush began making to various positions in the administration, Enron is said to have backed particular candidates, who later became important figures in the Federal Energy Regulatory Commission (Gordon 2002). Furthermore, as Bush’s vice president Dick Cheney formed an energy task force to begin developing a national energy policy, Enron’s Lay was not far from the planning. Lay was invited to attend a meeting of this task force on April 17, 2001. As stated by top Cheney aids, Lay handed Cheney a “wish list” of corporate recommendations towards any new policies the task force might devise. According to a General Accounting Office investigation following Enron’s downfall, it was found that the Cheney task force adopted large portions of Enron’s recommendations in 7 out of 8 key areas (US GAO 2003).²² After reviewing Enron’s “wish list” against energy policy changes made by the Bush administration, congressman Henry Waxman, head of the house committee on government oversight, remarked to Cheney “there is no company in the country that stood to gain as much from the White house plan as Enron” (Nichols 2002). Those connections between Lay and Bush that helped to facilitate some of Enron’s achievements and successes remained open until the company fell under investigation for accounting fraud in the fall of 2001, a point elaborated on in chapter 6.

²² The General Accounting Office has since been renamed to the Government Accountability Office.

Many employees at Enron, including Sherron Watkins, described Lay as the “grandfatherly” type. “He was always warm and greeted me by name on the elevator”, recalled one employee I interviewed. Some characterized Lay’s management style as aloof particularly in his later years as Enron CEO. As the company grew, he relied more and more on his trust of Enron’s higher ranked executives. The final few years of Lay’s tenure at Enron were spent traveling and meeting with high ranking government officials like Cheney and even Alan Greenspan, then chairman of the Federal Reserve, in the US as well as government leaders in foreign countries to “preach” the ideas of deregulation. Lay’s message to these leaders is crystallized in a 1998 article he wrote for World Energy Magazine where he proclaimed, “individual choice and competition are the strongest forces for efficiency, value, a cleaner earth, and more reliable energy supplies and services” (Lay 1998, 33). These are the values Lay helped to instill both inside and out of Enron.

Lay held Enron’s CEO post from 1985 to the firm’s demise in December 2001 (except 8 months from February to August 2001 when Jeffery Skilling was CEO).²³ At the end of Lay’s term at Enron, he would be one of the highest compensated CEO’s in America, the highest in the energy industry (Forbes.com 2007). For the year 2000 alone, he received \$8.6 million in salary/bonus and was granted stock awards valued at \$7.5 million (McLean and Elkind 2003). According to the Enron Board, Lay’s level of

²³ Lay left his post as CEO in February 2001 to retire after having worked at Enron for over 15 years in the head position. He was 58 years old.

compensation was appropriate given the wealth creation Lay brought to the company over the years he was CEO. Between 1985 to early 2001, the company grew from \$2 billion to \$60 billion in gross revenues, and those who invested in the firm from the start saw their investment increase 15 fold (two to three times on average more than simply investing in the S&P 500) (US v. Skilling and Lay, Ken Lay testimony, April 26 2006). However, this immense wealth creation attributed to Lay's leadership changed in the middle and end of 2001. As Enron's stock price began to fall sharply particularly in the summer and fall of 2001 (from 78\$ to 10\$ a share), Lay sold a total of \$70.1 million worth of stock back to the company (O'Rourke 2002). He explains he did this to meet margin calls for other investments that were triggered by changes in the value of Enron's stock (US v. Skilling and Lay, Ken Lay testimony, April 26 2006). As he quietly sold his stock, Lay encouraged Enron employees in the month of October 2001 to hold onto their own and if possible buy more. He said the same to analysts and other outside investors (Barrionuevo 2006a).

In 2004, after a detailed investigation conducted by the FBI into what happened at Enron, Lay was taken into custody at the federal courthouse in Houston wearing a suit with his hands bound behind him in handcuffs. He was indicted with 18 counts of conspiracy to commit fraud, many charges directly related to actions he took as CEO at Enron. During his testimony on the stand, he remained true to his values of free enterprise and frequently launched into monologues on this topic. Lay's performance on the stand was combative, yet retained sincerity. In his own words, "I am truly remorseful for what happened, but I am innocent" (US v. Skilling and Lay, Ken Lay testimony, April

26 2006). His trial lasted 5 months, and in the end he was convicted in 16 of those 18 counts. While waiting to hear his sentence, Lay died of a heart attack at his second home near Aspen, CO on July 6, 2006 (Johnson 2006c). Because of his death, his conviction was vacated (Wastler 2006).

3.2 Jeffrey Skilling

While Lay was the deregulation zealot of Enron and the energy industry, Skilling was credited with being the man who saw a means to profit from it. Many of those who worked with Skilling have commented on his unparalleled intellect. McLean and Elkind write that “when people describe Skilling, they don’t just use the word ‘smart’, they use phrases like ‘incandescently brilliant’ or ‘the smartest person I ever knew’” (McLean and Elkind 2003, 28). Skilling, born in Pennsylvania in 1953, attended Southern Methodist University in Texas for his bachelors in Applied Science (1974). Though, he admits in his own court testimony, “the engineering I didn’t particularly like; and when I got into business classes, I loved them” (US v. Skilling and Lay, Jeff Skilling testimony, 11863 April 6 2006). Friends of his girlfriend at the time even called him AB (All Business) (ibid, 11863). Upon graduation, Skilling moved to Houston to work for a bank, where he then decided to apply for his Masters in business at Harvard. Apparently, during the admissions interview, the Harvard representative asked Skilling if he was smart. Skilling’s reply was, “I’m fucking smart” (Swartz and Watkins 2003, 42). After receiving his MBA from Harvard (1979), Skilling went to work as a consultant with the firm McKinsey & Company. There he had his first exposures to Enron, most notably working

on a project to develop a new business model to navigate the newly deregulating industry. Federal laws in the mid to late 1980's dictating who could sell what to whom and at which prices were being disbanded, and Enron, with the aid of Skilling and McKinsey, successfully developed a way to maneuver the new risks and uncertainties in the market.

Skilling's most significant early contribution to Enron was his idea for the Gas Bank, which he presented to Lay in 1987. The purpose of the Gas Bank was to bring buyers and sellers of natural gas together, to create a commodity market with Enron acting as a facilitator. The deregulation of government controlled prices paved the way for this business to take hold. How the Gas Bank worked more specifically was that Enron would buy natural gas from a supplier and turn around and act as seller to firms who needed gas in wholesale quantities to run their plants. As a wholesaler, Enron put the two buyers and sellers together facilitating and dictating a market for the trading of commodities (Markham 2006). It is important to emphasize that this type of business was entirely novel to the energy industry. Enron was the forerunner and other energy firms merely followed Enron's footsteps. The Gas Bank was desirable for market participants because with deregulation, producers and consumers of natural gas were subject to huge spikes or declines depending on the movements of the market. The Gas Bank offered a means to mitigate the risk of such price changes for both sides. But, there was also another aspect to this business. Once fixed-price long-term contracts were signed, Enron then hedged the risk of these contracts by "buying gas 'futures'...—a 'future' being a standardized contract to buy or sell a set quantity of a given asset at a set price on a given

date” (MacKenzie 2003). Enron profited vastly from the speculative position as natural gas wholesaler and from the hedging of its contracts so much so that towards the end of its life, the Gas Bank, later called Enron Wholesale, was reporting the vast majority of the firm’s total income (over \$700 million in income for Q1 2001) (Enron Corporation 2001).

Lay asked Skilling to leave McKinsey and come to Enron full time to implement his new business model. Skilling agreed, but under one condition. Enron needed to petition the SEC for permission to use mark-to-market accounting rather than traditional accrual accounting, a right usually reserved for financial institutions such as banks (McLean and Elkind 2003). Mark-to-market accounting allows you to book estimated revenue for the value of a contract the day the contract is signed, rather than as revenue comes through the door year-to-year or month-to-month. By changing the way assets such as contracts were recorded in company books, firms could make their deals appear profitable from the outset irrespective of when the cash from the sale (if ever) was received. Skilling proclaimed mark-to-market would portray a more accurate economic reality of Enron (McLean and Elkind 2003).

The SEC did grant Enron’s request and Skilling began his role as head of Enron Finance, later named Enron Capital and Trade in 1990 to implement his Gas Bank. His eventual successes with the new business model impressed both Lay and Wall Street, and Skilling began to gain the trust of both. Lay later appointed Skilling as COO (Chief

Operating Officer) of Enron in late 1996 with the approval of the Board of Directors (BOD). Once in this position, Skilling began implementing more of his business mandates. For example, he made it a priority to propel Enron towards an asset light strategy (Markham 2006). An asset light strategy refers to an emphasis on company assets like knowledge, employees, and businesses processes. In Enron's case, the Gas Bank idea epitomized this strategy. It relied on knowledge of the market, connections with suppliers and end users and highly skilled employees. Skilling's rationale behind this shift was that he believed hard assets like the ownership of pipelines or electricity plants weighed Enron's growth down by tying up idle capital (Swartz and Watkins 2003). This prevented the mobility required to profit from the quick paced business world of the mid to late 1990's. An asset light strategy would free up capital making moves from one investment to the next more easily.

Becoming asset light was crucial because in 1994, the Enron board (to which Skilling and Lay were both members) formulated a corporate strategy that promised investors the company would grow at 15% a year (McLean and Elkind 2003). Meeting such a growth rate gives a company, 'growth company status' on Wall Street. This growth rate would be reflected in the company's quarterly and annual filing of its financial performances to the SEC. Not an official Wall Street category, though used as lingo on the Street, acquiring the status of "growth company" is significant because growth companies tend to have higher stock values and draw larger numbers of investors. This strategy was a double edge sword for Skilling and Enron. If Enron could meet this 15% rate each year, Wall Street would reward the company with higher stock prices.

However, if the target was not met, the stock price could plunge (US v. Skilling and Lay, Mark Koenig testimony, February 5 2006).

Many employees have said that it was during this time that Skilling became obsessed with meeting the expectations of Wall Street. “Meet or beat” the numbers became his mantra. He had stock tickers placed in Enron’s elevators and in the entrance to the building as a constant reminder to employees of their performance. He also admits to having considered Enron’s stock price as his own report card (US v. Skilling and Lay, Jeff Skilling testimony, April 11 2006). One employee recalls the significance of these stock tickers, “Everywhere you looked, the stock ticker was going...In the lobby of the building. In the lobby of your floor. It was on the screen of your computer. Everybody was focused on the stock price. You couldn’t get away from it. When the stock wasn’t doing well, the mood changed” (McLean and Elkind 2003, 187).

Achieving 15% growth rates year after year is not easy for an energy company, in fact it is highly aggressive (McLean 2006). This would require reinvesting any profit Enron made into new business ideas. And, Skilling supplied Enron with the new business investment areas and financial strategies it needed to grow. Four years after Enron’s move into natural gas mediation, Skilling extended Enron’s wholesale position (the Gas Bank) into the electricity markets in 1997, only then in the process of deregulation. Known as Enron Energy Services (EES), the division sold electricity directly to homes and businesses and was intended to work much like the Gas Bank. He later tried to

reproduce the Gas Bank idea in other industries such as a slowly deregulating water industry (1998) and later an emerging broadband industry (1999) (Swartz and Watkins 2003).

At the time of Enron's demise, there were four core divisions that formed the larger company, Enron Wholesale (formerly known as the Gas Bank, and referred to by many as the trading operations)²⁴, Enron Energy Services (EES), Enron Broadband Services (EBS), and the original pipeline division (US v. Skilling and Lay, Prosecutor's opening statement, January 31 2006). Three of Enron's four core operations were Skilling's own inventions. By Enron's bankruptcy though, both the broadband and the electricity retail business were decided failures in their ability to produce revenues to cover their costs. Broadband faltered with the bust of the Internet bubble and subsequent meltdown of the telecommunications industry in late 2000. For the third quarter of 2001, the division reported only \$4 million in gross revenues (-\$80 million in income after expenses), a stark contrast from the year previously when EBS had \$136 million in revenues (and only -\$20 million in income after expenses) (Enron Corporation 2001b). EES, Enron's electricity retail division, failed for a variety of reasons, but the one cited to me by my informants suggested that there simply was not a market for electricity retail.

²⁴ Up to Enron's demise, Skilling and other Enron officials consistently referred to Enron Wholesale in investor and analyst meetings as a mediation business, the putting together of buyers and sellers of gas. This characterization of the division continued in the courtroom, perpetuated by both Skilling, Lay and their respective legal teams. However, the prosecution, along with many former employees of the Wholesale division, insisted it was primarily a trading business, meaning it was far more risky, but also potentially far more lucrative than simply mediation. Whether or not Enron Wholesale was indeed a trading or mediation business continues to be a source of disagreement today by those who tell or write the Enron story (see in particular the contrasting views presented in Eichenwald (2005) and McLean and Elkind (2003)).

Designed much like the wholesale gas business (functioning as a market facilitator by taking advantage of electricity deregulation), the problem in the electricity market was that individual consumer households were not interested in purchasing long-term electricity contracts from Enron. Consequently, at the close of the third quarter in 2001, EES sales of power were in the red by \$7 million. Again, this was in significant contrast to the third quarter of 2000 when the division reported a positive \$161 million in power sales (Enron Corporation 2001b).

Skilling briefly held the post of Enron CEO from February to August 2001, but he resigned abruptly stating personal reasons (Houston Business Journal 2001). Many speculated, including the government, that his resignation reflects his own admission that he knew Enron was headed for a downturn. This suspicion was further fueled by the fact that he put in an order to sell millions worth of Enron shares in early September 2001 (US v. Skilling and Lay, Jeff Skilling testimony, April 10 2006). Skilling took the success and failures of Enron's businesses as personal reflections of his own successes and failures. Just prior to and after Enron's downfall, he admitted to having been depressed and contemplated suicide (Houston Chronicle 2006). In early 2004, Skilling was indicted on 35 counts (later reduced to 29 counts) on conspiracy to commit fraud for charges including issuing false statements to investors about the status of Enron's businesses. At his trial many who knew him during his Enron days described his state as subdued, in opposition to his usual loud and argumentative self. When testifying he repeatedly asked for permission to speak and did so in a soft and quiet voice. Following his conviction and

subsequent sentencing, he began serving prison time in December of 2006 in a federal prison in Minnesota (MSNBC.com 2006).

3.3 Andrew Fastow

The successes of Skilling's new business ventures needed to maintain Enron's "growth" status and high stock price required large amounts of money. Skilling could not rely on the traditional means of cash for reinvestment that companies often use (i.e. profits, bank loans, or stock equity). Because mark-to-market accounting allowed Enron to post revenue before the cash actually came in the door, the accounting books looked plush, but the economic reality was different. The company was not turning nearly as much profit on a month-to-month basis as the accounting books indicated.²⁵ Further, Enron could not take on more debt from loans given how heavily involved the firm was in its energy mediation or wholesale business. This business requires access to swift and often large bank loans to close deals.²⁶ Taking on debt for purposes other than this (like to finance the development of a project) might downgrade the company's credit rating. This rating sat at BBB+, and was already lower than desired by firm executives (McLean and Elkind 2003). A rating any lower would place the ability to do business in jeopardy.²⁷

²⁵ Posting revenues from 10-year contracts looks good on your books, but the reality is that that revenue arrives over the course of the 10 years and not all at once. This makes the actual acquisition of cash far slower than it appears in the financials. This is why Enron had so little cash on hand.

²⁶ The reason for the access to large loans is best illustrated through an example. If Enron signed a 10-year contract to buy gas from a supplier at a particular price, it would need to secure a loan to make good on its purchase. Banks would provide the loan with the understanding that Enron would turn around and act as a seller to that gas (at hopefully a higher price) to an end-user. At that point, Enron could pay off its loan from the purchase of the gas and derive a profit at the same time.

²⁷ Credit ratings for corporations issued by Standard and Poor's follow this range; AAA, AA, A, BBB, BB...D. The lower your rating, the higher the interest rate is that you are required to pay on your bonds.

Finally, Skilling was adamant about not issuing new stock shares. He feared it would dilute the price of shares already in the market (McLean and Elkind 2003). Enron's circumstances called for a fourth source of capital, a way to bring money in without taking on debt. Skilling found that fourth source in Andy Fastow.

Andrew Fastow came to Enron in 1990 shortly after Skilling joined. He was recruited by Skilling from a bank in Chicago for his expertise in a branch of finance known as structured finance (US v. Skilling and Lay, Andrew Fastow testimony, March 7 2006). Initially Fastow worked with Skilling raising funds for his Gas Bank business. But, as Skilling climbed the corporate ladder to COO and later CEO, Fastow followed, eventually becoming CFO of Enron in late 1998. As CFO, Fastow continued to report directly to Skilling and worked intimately with Enron's CAO (Chief Accounting Officer) Rick Causey. During those first eight years, Fastow became well known throughout Enron for his financial wizardry, for finding money where there appeared to be none, and helping Enron meet its 15% growth targets. He embodied the type of person Skilling liked to hire, a 'guy with a spike', meaning someone with expertise in one specific area rather than a well-rounded individual (McLean and Elkind 2003). In this regard, Fastow narrowly defined his CFO role as simply to raise money for Enron and to solve financial problems. For both tasks, Fastow relied heavily on the practice of structured finance.

This means it costs you more to maintain your debt. On the other hand, a higher rating, like an A, would make your debt cheaper, and allow you to take on debt more easily (MacKenzie 2003). Anything lower than a BBB status is considered junk bond status. Companies with junk bond status are not as highly regarded by investors and banks as stable investments. Enron was teetering on this line. A downgrade would have been devastating to the firm in terms of gaining access to loans to do business.

Structured finance is used by companies to raise capital without adding to existing balance sheet debt, like a bank loan. It does this by utilizing financial techniques known as off-balance-sheet partnerships and/or special purpose entities (SPEs). Off-balance-sheet partnerships would, for example, allow a firm to transfer a risky venture off its accounting books and put it in a partnership outside the firm. The partnership, a pool of capital raised from various individuals and institutions, would hold the asset until a later time. During this period, the partnership would incur any losses or gains in the asset's value. This makes the partnership a risky endeavor, but if the investment pays off, it could be financially rewarding (Markham 2006). Fastow's most infamous use off-balance-sheet partnerships began in June 1999 with the formation of LJM.²⁸

The idea for LJM was to allow Enron to lock in gains from investing in an Internet start-up known as Rhythms Net. When Rhythms Net went public its stock price increased dramatically (US v. Skilling and Lay, Andrew Fastow testimony, March 7 2006). The tens of millions Enron invested initially turned to hundreds of millions in a matter of days. Skilling wanted to capture these gains in Enron's books for the second quarter of 1999, but he knew the stock price was volatile and would likely decrease before the close of the quarter (Enron could not sell its shares in the company because they had an agreement to hold them for a period of time after the IPO, Initial Public Offering). To avoid having to record any losses associated with the Rhythms investment

²⁸ LJM are the initials of Fastow's wife and two sons, Lea, Jeffrey (named after Jeff Skilling) and Matthew (McLean and Elkind 2003).

(and to lock in the gains on Enron's quarterly report), Fastow's solution was to create an off-balance-sheet partnership to hold the asset. The investment is transferred to the partnership at a particular value through the structured financial transaction. Holding the investment in the partnership would ensure that any wild adjustments in the value of Rhythms would affect the partnership's books and not appear on Enron's books.²⁹ Fastow proposed the partnership to Skilling and then offered to run it as the general partner (US v. Skilling and Lay, Andrew Fastow testimony, March 7 2006).

The way the arrangement would work is that Fastow would head LJM, managing its day-to-day operations. He would solicit the outside investments needed for the partnership to form, fronting up some of his own money as well. Further, all the coordination between the partnership's investors would be Fastow's duty. He would also perform any due diligence on the investments the partnership took on. And, it would be Fastow who would negotiate with Enron the terms of any transactions between the company and the partnership (US v. Skilling and Lay, Andrew Fastow testimony, March 7 2006).

Having Enron's CFO act as the general partner of an off-balance-sheet partnership that transacts with Enron is an incredibly odd arrangement. It was not illegal, but it also had never been done before. The arrangement is odd because it raises conflict

²⁹ A company's use of off-balance-sheet partnerships must usually be described in the quarterly financial statements. They are reflected in the footnotes of the filings. I discuss this in greater detail in the next chapter.

of interest issues (Swartz and Watkins 2003). As a senior officer of Enron, Fastow had signed a code of ethics to not engage in transactions against Enron. LJM would require that Fastow negotiate on the opposite side of the table.³⁰ The BOD raised this concern in June 1999 when Fastow and Skilling sought their approval to create the partnership. Fastow insisted that he would not let his duties with LJM interfere with his duties as Enron CFO. The BOD also raised the question of what risks LJM would pose for both Enron and Fastow. For Enron, Skilling outlined was what he called the “Wall Street Journal risk” (US v. Skilling and Lay, Andrew Fastow testimony, March 7 2006). Skilling feared that if the media were to report on LJM, it would (rightly or wrongly) put Enron under scrutiny, which could be detrimental to the stock price. Fastow considered the transaction to pose no serious risk to him financially. As general partner, he would receive fees for operating the partnership (\$500,000 a year) and a potential share of the profits. The BOD approved LJM and waived Enron’s code of ethics for Fastow allowing him to run the partnership (Powers, et. al. 2002). This allowed Fastow to still be an employee with Enron, despite not adhering to the company’s ethical code.

The use of off-balance-sheet transactions requires companies to follow a series of accounting rules and regulations. One of the most important of these rules is that the outside partnership put up a minimum of three percent of the total capital for the transaction. Enron is required to contribute the remaining 97% of the capital (Swartz and

³⁰ Fastow said in court testimony that both he and Skilling felt this was an ideal arrangement. Fastow would have inside knowledge into the transactions LJM was entering, and Skilling could rely on LJM to engage in transactions that other partnerships would deem too risky, and hence too expensive for Enron. Fastow also points out that Enron would not want to use any other off-balance-sheet partnership for this purpose because they would clearly see what Enron was doing, inflating earnings with the company’s own shares.

Watkins 2003). This makes the transaction legitimate, to find an outside investor willing to put their own capital at risk and potentially lose money. Otherwise, the transaction would not qualify for off-balance-sheet status and potential losses or gains would need to be reported in the firm's quarterly and annual financial statements. Further, the partnership should operate at an arm's length distance. This means, they should conduct their own due diligence on the transactions, and function independently of Enron. The three percent investment is intended to ensure this (Markham 2006).

Shortly after board approval, Fastow raised \$15 million dollars for LJM adding \$1 million of his own money (or the necessary three percent). For its part, Enron transferred about \$276 million dollars worth of Enron stock shares (or 3.4 million shares) to LJM. Fastow explains the agreement as "a swap between Enron and a part of LJM to hedge, to provide basically an insurance policy to Enron so that if the stock price of Rhythms went down, LJM would then have to pay money to Enron to make up the differences, so Enron would not have to record those losses" once the transaction ended (US v. Skilling and Lay, Andrew Fastow testimony, March 7 2006). But, the transaction was set up so that any losses on the value of Rhythms stock were offset by the gains in the value of Enron's stock (the capital Enron used to finance the transaction). As long as Enron's share price continued to rise, the transaction would have more than enough money to cover any losses, and both LJM and Enron could only benefit. To state this more simply, Enron was using its own stock shares to remove a volatile investment off its balance sheet while at

the same time inflating its earnings.³¹ I take this topic up more substantially in the following chapter.

Once LJM used its \$16 million in funds to support transactions like Rhythms, Fastow proposed only months later to create another partnership, this one to be called LJM 2.³² LJM 2 was used in similar ways to the first partnership (hedging investments like Rhythms Net), but it was also used to hold large mostly international assets like power plants. In effect, those power plants would be transferred off Enron's balance sheet. This partnership was wealthier than the first, boasting around \$200 million dollars to use as the 3% equity for transactions (as opposed to the \$16 million used by LJM1) (McLean and Elkind 2003). Eventually the funds of LJM 2 were entirely committed, and Fastow again proposed an LJM 3. However, LJM 3 never materialized. Skilling felt Fastow was spending far too much time running the partnerships and not enough time acting as Enron CFO. Further, Skilling had been fielding complaints from employees of Fastow's whose job it was to negotiate against the LJM partnerships. Apparently Fastow would tell these employees that if they did not give LJM the terms Fastow wanted (as general partner) for individual transactions, Fastow would write poor performance reviews for their work at Enron (Swartz and Watkins 2003). Because of these issues, Skilling forced Fastow to sell his share of LJM in the summer of 2001. Fastow sold it to

³¹ While the asset involved in the off-balance-sheet transaction is removed from Enron's balance sheet, the fact that the company is engaged in such a transaction is reported in its financial statements. The specifics of the transaction are not reported, namely which partnership is involved, and which assets are involved. However, monetary values still show up, in this case as gains. In essence, the transaction itself becomes an asset to be reported. The more the transaction was worth, the greater gains Enron realized in its financials.

³² Hereafter I refer to the original LJM as LJM 1.

former Enron employee Michael Kopper who then managed the partnership. Keeping the partnership “in the family” was a deliberate strategy on the part of Enron so that it could continue to rely on LJM for future transactions. In LJM 1 and 2’s lifetime, approximately 20 transactions took place, all with Enron (Powers et. al. 2002).

Pushing the limits of the accounting rules is where Fastow and Enron went awry. It was later determined that LJM’s investments were never truly at risk. The deception amounted to a transfer of accounting risk (on paper), but no transfer of real economic risk (US v. Skilling and Lay, Andrew Fastow testimony, March 7 2006). What I mean is that LJM’s money was never truly at risk of loss. For example, because of the way the Rhythms transaction was designed, so that LJM got all its money back before hedging began (this was a term Fastow insisted upon), LJM was never at risk of losing any money were Rhythms’ value to go sour (Powers et. al. 2002). This kind of arrangement, while not explicitly illegal at the time, was very irregular. Further, because Fastow worked both sides of the transaction, there was no true third party status. Fastow also bragged to those close to him that Skilling agreed to secret side deals where according to the CFO, “LJM would be taken care of” and be protected against loss (US v. Skilling and Lay, Andrew Fastow testimony, March 7 2006) Fastow insists these secret side deals were recorded in a three page document the prosecution termed “Global Galactic” (US v. Skilling and Lay, Andrew Fastow testimony, March 7 2006). On the document are the names of deals between Enron and LJM accompanied by both Fastow and Causey’s (Enron’s CAO) initials. Skilling’s initials remain absent. These secret side deals are one large aspect of what made LJM’s activities with Enron illegal. The authenticity of this document was

challenged extensively in court as it only appeared after Fastow pled guilty. Fastow insists he had tucked it away in safety deposit box and only found it when he was cleaning out the box in 2004 (US v. Skilling and Lay, Andrew Fastow testimony, March 7 2006).

In 2004, Fastow pled guilty to 98 counts of fraud including money laundering and obstruction of justice charges (for attempting to destroy documents and erase computer hard drives) and agreed to work with the government by testifying against Lay and Skilling during their criminal trial (CNNMoney.com 2004). This was only after the government charged his wife with tax fraud and forced her to serve one year in prison for filing a false tax return (Markham 2006). In his court testimony, Fastow repeatedly admitted that, “the whole purpose of the partnerships was to help Enron make its numbers look the way it wanted them to look” (US v. Skilling and Lay, vol. 21 2006). He allowed Enron to remove volatile assets from its books with the effect of boosting the company’s financials. He saw his work at the time as heroic, by masking hundreds of millions of dollars in losses on investments Enron could meet its 15% growth target and keep its stock price high. After Fastow’s testimony at Enron’s criminal trial, a judge sentenced Fastow to six years in prison, which he currently serves (Taub 2006)

3.4 Ben Glisan

To implement financial transactions such as the ones undertaken by Fastow’s LJM’s, a diverse group of actors are needed both inside and outside the firm. First, the

transaction must be approved by Enron's own Risk Assessment Control division, a group designed to determine the potential risk of each transaction. Next, Enron's own lawyers review the paperwork to determine potential legal liabilities. This is followed by a consultation with outside auditor Arthur Anderson for their expertise on accounting rules and regulations.³³ Then, Enron's outside law firm Vinson & Elkins (V&E) would draw up the papers for the transaction based on their own expertise in securities law. Finally, the CEO is required to sign off on the transaction. All these steps occur before the transaction goes to Enron's BOD for final approval or disapproval (McLean and Elkind 2003). In effect, Andrew Fastow did not work alone. He garnered people from across the firm, and especially in his own finance division to help put Enron's financial transactions together. One of Fastow's most trusted and relied upon employees was Ben Glisan.

Glisan came to Enron in 1996 from Arthur Andersen where he served as a consultant on the Enron account. Fastow and Rick Causey recruited Glisan to work in the finance group of Enron Capital and Trade (Skilling's since renamed Gas Bank). Initially Glisan worked in an administrative capacity under Fastow managing a team of accountants. But, as Glisan explains in his court testimony, more and more of his work was solely devoted to structuring transactions in which the finance group was involved (US v. Skilling and Lay, Ben Glisan testimony, March 22 2006). By the time he made Enron Treasurer in May of 2000, he already masterminded many of the complex financial

³³ Interestingly, this was a practice unique to Enron. Not all firms require their outside auditors to regularly review transactions. This policy was put in place to demonstrate to Wall Street that Enron had a number of controls, including the Risk Assessment Control division, put in place to prevent potentially economically harmful business transactions (McLean and Elkind 2003).

transactions relied upon to meet earnings targets. Glisan's most famous transactions involved a series of projects called the Raptors. In total there were four Raptors (I-IV) and each of them transacted with the LJM 2 partnership (Powers et. al. 2002).

For the sake of simplicity earlier, I referred to Enron's off-balance-sheet financing as between the LJM partnerships and Enron. But, these various transactions involve not only Enron and an outside partnership; they also utilize newly created entities known as special purpose entities (SPEs). The role of an SPE in an off-balance-sheet transaction is to hold or finance the asset, which was removed from Enron's balance sheet. SPEs have their own legal status, such as a limited liability or a trust. The use of an SPE for a transaction varies according to how the transaction is structured. Depending on the structure of the transaction, SPEs perform different functions for example with regard to risk and/or liability (Markham 2006). Each SPE at Enron had a name, to indicate its identity. In the Raptor project, one of the primary SPEs used was Talon.

The first Raptor project worked a great deal like the Rhythms Net hedge with LJM 1. Again, Skilling wanted to lock in gains that Enron had booked from investments the company made into a firm called Avici (a telecommunications start-up). When Avici was set to go public, Enron wanted to avoid including potential losses on Avici's stock value within its financial statements. Glisan headed the team, including both Enron employees and accountants from Arthur Andersen, to create project Raptor 1 for this purpose. He devised a structure that in a grossly simplified form consisted of LJM 2,

Enron and an SPE called Talon. The transaction was created on April, 18 2000 with LJM 2 investing \$30 million dollars (the required 3%) and Enron investing \$537 million (mostly in the form of stock shares that were transferred to Talon at a discounted price) (Powers, et. al. 2002). The paperwork for the transaction submitted as evidence at the trial noted that the actual hedging began later in August following the public offering on Avici's stock (US v. Skilling and Lay, Ben Glisan testimony, March 21 2006).³⁴ Again because the structure was set up using Enron stock (and this time at a discounted value), there was already flexibility or room for Avici to lose value and not affect Talon's ability to offset those losses for Enron (or to pay Enron back) with the financed capital. Just as before, as long as Enron's stock price increased, Talon could meet the obligations set out by the transaction. If the stock price decreased, the structure would owe Enron money. When Enron's stock price started to fall in 2001, the Raptor projects were restructured (US v. Skilling and Lay, Ben Glisan testimony, March 21 2006). For future losses in the value of the assets in the transactions (like Avici inside Talon), Enron would simply inject more stock into the SPE so that it could meet its financial obligations. More simply stated, Enron was using its own stock so that Talon could pay Enron back on Avici's losses (Swartz and Watkins 2003).

³⁴ Interestingly though the paperwork notes an August 3, 2000 date to initiate the transaction, other evidence in diaries and email suggest that the final terms of the transaction were not agreed upon until September 2000. August 3rd incidentally was the date that Avici's stock price was the highest, at \$162.50/share. By September, the price had dropped to around \$90. By dating the documents as done, Enron was able to maximize its earnings from the investment. Employees have called this practice of backdating the Enron time machine (McLean and Elkind 2003).

The Finance committee of the BOD met on May 1st 2000 with Lay, Skilling, Fastow and Glisan all in attendance to discuss the transaction. In that meeting, Glisan described the transaction as “a risk management program to enable the company to hedge the profit and loss volatility of the company’s investments” (Powers, et. al. 2002). The transaction was approved by the board the next day. There is evidence that they discussed the fact that the transaction was not a true economic hedge. In her notes Board secretary Rebecca Carter (Skilling’s girlfriend and now wife) wrote of the Raptor projects, “does not transfer economic risk, but transfers P & L volatility” (profit and loss) (ibid, 106). Skilling reportedly had said of the Raptors “that this is not a deal that he would recommend except for the fact that it allowed him to circumvent accounting rules” (US v. Skilling and Lay, Ben Glisan testimony, March 21 2006).

Raptor I was initially described by one unnamed executives as an “accounting miracle” (McLean and Elkind 2003, 305). In fact, from the third quarter 2000 to the third quarter 2001, when the Raptors were in effect, they made enormous contributions to Enron’s financial statements. According to the Power’s Report, Enron avoided almost \$1 billion dollars worth of losses on various investments (including Avici) in its quarterly filings.³⁵ Further, during the year the Raptors were in effect, Enron’s pre-tax earnings were \$1.5 billion dollars. This means that Enron should have only reported \$429 million dollars of income for the entire period, and not the \$1.5 billion (Powers, et. al. 2002).

³⁵ The Powers report was an investigatory report into Enron’s use of off-balance-sheet entities and SPEs that was initiated and researched by three Enron board members, William Powers, Raymond Toubh, and Herbert Winokur. The research began on October 28, 2001 and was completed after bankruptcy in February 2002.

Glisan was fired from Enron by Lay on November 7, 2001 less than a month before the bankruptcy. An internal probe into Fastow's actions found that Glisan had wrongly participated in one of LJM 1's investments (known as Southampton). He gave Fastow \$5,000 to invest in the partnership (at Fastow's insistence) and two months later a deposit for \$1 million was made into Glisan's account (US v. Skilling and Lay, Ben Glisan testimony, March 21 2006) As an employee with the company, the code of ethics prevents Glisan from being involved in such a transaction. Doing so could result in firing of an employee. Fastow was only permitted to do so because the BOD waived the code of ethics for the purpose of establishing LJM. In the case of Southampton, apparently Fastow had cheated Enron by overcharging the company for service fees related to the LJM transactions, and he distributed a portion of the earnings to those around him. Rather than question this enormous rate of return, Glisan paid his taxes on the money and kept his mouth shut (US v. Skilling and Lay, Ben Glisan testimony, March 21 2006).

Glisan was the second Enron executive to plead guilty to having been "engaged in a conspiracy to manipulate artificially Enron's financial statements" (Taub 2003). He never cooperated with the government except to testify in court as a witness for the prosecution, though he was under no obligation to do so. This lent him credibility with the jury. During Glisan's testimony at Lay and Skilling's criminal trial, he spoke candidly and clearly about his role and the role of others around him in orchestrating fraudulent acts. He also corroborated the existence of the Global Galactic document, having never

seen it, but having discussed the document with Fastow while at Enron. It was widely assessed that his testimony was the most damaging for the defense. In 2003, he was sentenced to five years in federal prison. Including time already served, he has since been released (Lattman 2007).

3.5 Sherron Watkins

During the formation of the Raptor vehicles, voices inside Enron protested against the transaction. Some like Enron derivatives expert Vince Kaminski argued it could not be done properly, while others such as Enron lawyer Stuart Zisman criticized the fact that only underperforming assets were being placed in the vehicle. Zisman wrote a memo to his superiors stating that this fact “might lead one to believe that the financial books at Enron are being ‘cooked’ in order to eliminate a drag on earnings” (McLean and Elkind 2003, 309). But, no voice of protest against Raptors was heard more loudly both inside and outside Enron than Sherron Watkins.

Like Glisan, Watkins was also a former Arthur Andersen employee, joining Enron in 1993. She started under Andrew Fastow managing one of his off-balance-sheet joint ventures, JEDI (Joint Energy Development Initiative).³⁶ After two years however,

³⁶ According to Watkins’ own account of Enron, Fastow chose the name JEDI “to evoke the brave Jedi knights of the Star Wars series. The board objected...but Fastow had persevered, and it stuck” (Swartz and Watkins, 64-65). Others have written about Fastow’s affinity for the Star Wars series and science fiction/fantasy more broadly. He named another transaction (which worked with JEDI) Chewco, after the Chewbacca character in Star Wars. His naming of the Global Galactic document further signifies a pre-occupation with science fiction/fantasy.

Watkins began to grow tired of what she described as Fastow's "childish" behavior and "terrible temper" (Swartz and Watkins 2003, 73). He is reported to have thrown tantrums until he got his way, particularly with LJM dealings and Enron. She also grew increasingly uncomfortable with some of the accounting techniques she was asked to use on JEDI. Before Watkins could change her position though, Skilling mandated organizational changes, and Watkins found herself in two other divisions of Enron (Enron International and Enron Broadband Services). Eventually she made her way back to work under Fastow's command in the summer of 2001 at Enron Corporate Finance. Fastow had charged her with the task of reviewing Enron's international asset portfolio and determining which assets Enron could afford to sell (Swartz and Watkins 2003).

Early in her new position with Fastow, Watkins was reviewing the large spreadsheet inventory of Enron's international and domestic assets. She came across a series of assets tied to a vehicle named Raptor. These assets were unique in that they were all performing at huge losses. She soon discovered that the "Raptors...owed Enron hundreds of millions of dollars. They were capitalized with contingent (that is, promised) Enron stock, which was declining in value" (Swartz and Watkins 2003, 270). As the stock declined in value, the Raptors owed Enron an increasing amount of money. Enron's solution was simply to put more stock into the vehicles to prop them up. Watkins described this as, "hedging risks in its left pocket with money from its right" (ibid, 270). It was clear to Watkins that Enron was in effect improperly hiding millions in losses from

its shareholders, and that these financial vehicles were on the verge of collapse. She recalls thinking it was the worst accounting sham she had ever seen.³⁷

Watkins' initial reaction was to begin searching for jobs outside Enron. Her plan was to meet with Skilling on her last day at Enron to warn him of what she had discovered. However, Skilling's abrupt resignation on August 14th superseded her finding a new job. Her concerns mounted and on the next day, August 15th, she sat at her computer to write her now famous whistle-blowing letter to Lay, who had been reinstated as CEO by the board upon Skilling's departure. The letter began with "Dear Mr. Lay, Has Enron become a risky place to work?" (Watkins 2001). She met with Lay shortly after to discuss her concerns in person and make recommendations for Enron to come clean and go public by restating its financials. Watkins' memory of that meeting recalls Lay at one point asking her, "Andy's a good CFO, right?" (Swartz and Watkins 2003, 288). She was confused by the question particularly given the details of her presentation, namely Fastow's conflict of interest associated with LJM, and the problems with the Raptors, which Fastow had approved. Despite this, the meeting ended with Watkins believing that Lay would work to resolve the problems she highlighted (Swartz and Watkins 2003).

³⁷ Watkins' initial concerns were over how such accounting practices would be viewed on Wall Street. If investors knew that Enron was hiding millions of dollars in under-valued assets, the stock price could plummet. And further, Enron could lose its credit rating, hindering its ability to take loans out from banks. What she discovered was not illegal per se, but rather sits in a grey area of the law (Swartz and Watkins 2003). There is no law that says you cannot use SPEs dubiously. The illegalities that Enron, or rather those at Enron, did engage in involved making side deals to cover money lost on the LJM partnerships, namely the deals listed in the Global Galactic Document.

Indeed shortly after this meeting, Lay launched an investigation into Enron's use of SPE's and off-balance-sheet partnerships. Rather than using lawyers unassociated with Enron to ensure a more "objective" view as Watkins had suggested, Lay relied on Enron's outside law firm Vinson & Elkins (V&E) (Swartz and Watkins 2003). The two lawyers in charge of the investigation, Joe Dilg and Max Hendrick III began questioning Enron executives including Fastow and Watkins in late August. In all they met with nine Enron executives and two Arthur Andersen partners. Interestingly they never spoke with Glisan or Skilling. Many believe the investigation was doomed to fail from the start. Lay gave V&E strict instructions that they were not to "second guess Arthur Andersen's accounting treatments" and perform "no transaction analyses" (US v. Skilling and Lay, Max Hendrick testimony, April 5 2006). The investigation came to a conclusion in mid October, and V&E reported that the facts learned did not require an independent investigation. This pacified Lay, but disappointed Watkins. She later learned that the handwritten notes taken by the lawyers from her interview cast doubt on her truthfulness and characterized the information she offered as mere "office gossip" (US v. Skilling and Lay, Max Hendrick testimony, April 5 2006).

Watkins eventually got her way with the Raptors deals. The transactions were finally dissolved on September 25th, 2001 because of their instability, due mostly to Enron's falling stock price. As a result, Enron was forced to announce a \$544 million dollar hit to earnings (Powers, et. al. 2002). With the disintegration of both the Raptor transactions and other downward price adjustments to international assets, Enron's third quarter financial statement released on October 16th reflected a \$1.01 billion hit to its

income statement (or negative charges to the income statement). It was the first time the company failed to meet its 15% growth targets since 1997 (Powers, et. al. 2002).

To some employees Watkins is a hero, but others recall a different Watkins, one who drank and often used foul language. This paints an interesting juxtaposition to her image as company star, but perhaps reflects what other former female employees have noted about working at Enron. Women I interviewed said they needed to be “loud”, to “stick up for themselves” and be “bitchy” to get ahead in many of the company’s male dominated divisions. Two months following Enron’s collapse, Watkins testified in front of Congress to discuss the letter she wrote to Lay the previous August. She later testified on the same topic in the Houston courtroom where Skilling and Lay were on trial. Watkins was never charged by the government for her actions at Enron, though some suggest she is guilty of insider trading, unloading Enron stock following Skilling’s departure. Today Watkins is independently employed as a public speaker traveling North America and Europe lecturing on corporate ethics and accountability (Texas Monthly 2003). Her story with Enron is further expanded on in chapter 5.

3.6 Bethany McLean, John Emshwiller, and Rebecca Smith

In early 2001, the dot.com bubble was in the midst of bursting and investors, analysts and reporters were on the lookout for overvalued stock prices (McLean 2006). Enron’s own stock price had fallen to a near \$55/share from a high less than a year ago at around \$90/share (MacKenzie 2003). Executives at Enron knew of the risks their

accounting practices posed to SEC scrutiny as well as the media. Skilling's own admission of the "Wall Street Journal risk" at the board meeting to gain approval for LJM reflects this. In 2001, the risk associated with the media reporting on Enron's dubious uses of off-balance-sheet partnerships turned into a reality for Enron. And as stories by Bethany McLean of Fortune (in March 2001) and John Emshwiller and Rebecca Smith of the Wall Street Journal (in October 2001) were published, Enron's financial façade representing its 15% yearly growth rates began to crack.

In March 2001, a young and unknown reporter with Fortune got a tip from a short-seller (a person looking for stock prices to decline in value) named Jim Chanos to take a closer look at Enron's financial statements (McLean 2006). Bethany McLean had been with Fortune for 6 years and worked primarily on accounting pieces for the magazine. Writing these pieces involved her reviewing companies' financial statements on a regular basis. When she examined Enron, she noticed something unusual. "Their earnings per share were growing nicely and they always met earnings targets every quarter, but their cash flow from operations was actually negative and you can't run a business without cash. The debt on their balance sheet was going up really rapidly and that was not commensurate with the notion of a highly robust company" (McLean 2006). With this observation, McLean wrote what she now regards as a meek piece on Enron titled 'Is Enron overpriced?' The overarching question of the story was simply, how does Enron make its money (McLean 2001)? McLean says that those she talked to described Enron as a black box, "meaning that something came in on one end and earnings got spat out of the other end. But nobody saw what happened in the middle" (McLean 2006).

Before printing the story, McLean phoned Skilling, by then Enron's CEO, to ask for his comments. Skilling accused her of not knowing the energy business and called her unethical for printing a story, which in his mind was devoid of the facts. After this call, McLean admits to being unsure of her story and feared for her job, or even that she might be sued (McLean 2006). The next day Enron sent Fastow and two other executives to New York to meet with McLean and her editors to convince them that McLean had missed something big, that she 'didn't get it' (McLean and Elkind 2003). Reportedly at the end of the meeting as Fastow exited the room, he told McLean, "I don't care what you say about Enron, just don't say anything bad about me" (McLean 2006). Despite the efforts of Enron, both McLean and her editors still were unclear what they were missing, and they decided to print the story anyhow. Five years later during my interview with her in 2006, McLean questions whether if Skilling had flown to New York rather than Fastow, would she have printed the story. In the end, her article caught little public attention, and she admits to having been relieved. It was not until the congressional investigation into Enron's collapse in January and February of 2002 that McLean's article resurfaced as one of the few early warning signs. McLean was thrust into the spotlight and subsequently wrote a book about Enron and its downfall with colleague Peter Elkind. Later this book was turned into a documentary known as the Enron movie.³⁸ The pair continued to work and write together during the Enron trial. Like Watkins, McLean's story is further explored in chapter 5.

³⁸ The book was titled, The smartest guys in the room: the amazing rise and scandalous fall of Enron (2003).

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When Skilling stepped down as CEO in mid August of 2001, and Lay took his place, Lay vowed to be more open to both the media and analysts amid criticisms like McLean's that Enron's financial statements were opaque and difficult to read (Smith and Emshwiller 2003). He visited with investors, banks and Enron's employees to reassure them of Enron's strong core and to replay the story that Skilling stepped down for personal reasons and not because of an inherent problem with the company. He made comments like: "I can honestly say that the company is probably in the strongest and best shape that it has ever been" and "there's no other shoe to drop" (SEC 2004). However, these reassurances lost serious credibility with the public (and perhaps even Lay himself) as a series of stories were published in the Wall Street Journal regarding Fastow's LJM and its links to Enron.

It began with a short three paragraph column in the Journal's "Heard on the Street" section explaining that Enron was preparing to become a more open company, and that the CFO "had quietly ended his ownership and management ties with certain limited partnerships" (Smith and Emshwiller 2003, 38). The article was written by Rebecca Smith and John Emshwiller. The two began working together in 2000 during the California energy crisis, Smith the lead energy reporter for the Los Angeles Bureau, and Emshwiller a reporter who covered corporate fraud and white-collar crime (Smith and Emshwiller 2003). Shortly after the 'Heard on the Street' piece was published, Smith got a phone message from a reader suggesting she and Emshwiller had merely "scratched

the surface” (Smith and Emshwiller 2003, 67). The caller, preferring to be anonymous, then elaborated explaining that Fastow’s involvement with the partnerships likely earned him more compensation than his paycheck as Enron CFO. The caller, whom Smith named “our mutual friend”, also detailed Fastow’s conflict of interest. The second call by the source was followed by a transfer of documents related to one of Fastow’s partnerships, LJM2. After more calls and more documents, the reporters drew up a list of questions for the company concerning Fastow, Skilling, Lay and the nature of the partnerships and their connections to Enron. One of the most significant questions was: how much had Fastow made as a result of his general management with the partnership? They sent these questions to Enron on September 25th, the day the Raptor transactions were dissolved. Smith and Emswiller later learned that in the few days after their questions reached Enron headquarters, there was a fierce debate about how to respond. In the end, rather than grant interviews, Enron responded with a written statement saying little more than “the board of directors had reviewed and approved of Enron’s CFO’s participation in the LJM partnerships” (Smith and Emshwiller 2003, 87).

With the close of the second quarter on September 30th, the reporters waited for Enron’s financial statements to be released, looking for more information. The earnings results were announced on October 16th. Enron declared a \$1 billion charge to earnings, which were related to mark downs on poorly performing assets (adjustments to the

market value in the accounting books).³⁹ And, less public, was the announcement that the company planned to reduce shareholder equity by \$1.2 billion (a \$1 billion dollar accounting error on Arthur Andersen's part) (Smith and Emshwiller 2003).⁴⁰ The next day on October 17th, the reporters published a story linking the asset write-downs to Fastow's two off-balance-sheet partnerships. This was followed by another story on October 18th which connected the recent reduction in shareholder equity to Enron's use of SPE's (which relied heavily on financing through Enron stock). Finally on Friday October 19th, the Journal headlined, "Enron CFO's partnership had millions in profits" (Smith and Emshwiller 2001). This final piece detailed how much Fastow gained from his involvement with the LJM partnerships. In all, it was reported as \$50 million (though bankruptcy examiners later adjusted that number to over \$60 million dollars). It was at this time that Enron executives, including Lay, and the board first learned how lucrative the partnerships were for Fastow. Surprisingly, before this time, he had never been asked. During this week, Enron's stock fell 20% to \$26.00 (Smith and Emshwiller 2003).

The following Monday, Lay announced to the public that the SEC had launched an informal probe into Enron and the Fastow partnerships. By then the stock price had

³⁹ Arthur Anderson, Enron's outside auditor, advised the firm to restate its financials to reflect the errors in treating LJM transactions as off-balance-sheet transactions. Since these assets were no longer viewed as off-balance-sheet, they needed to be accounted for in Enron's books, hence the report of losses. This advice was given only once Sherron Watkins' whistle-blowing letter became known to the accounting firm (she had sent a friend there a copy of the letter) and the SEC launched an informal probe into the company in late September/early October 2001.

⁴⁰ During the third quarter, Arthur Andersen accountants realized they had mistakenly made an accounting entry during the Raptor restructurings in early 2001. When Enron contributed \$1.2 billion in shares to Raptor, Anderson recorded the amount to the plus side of the balance sheet rather than the negative side. This mistake was only found in August, nearly nine months later (Swartz and Watkins 2003).

dropped to \$20/share and continued to fall. During those intense 24 days of reporting on Fastow and Enron from October 16th to November 8th, the company's stock price went from \$33 to \$10/share. As more information leaked out, a furious Lay placed Fastow on official leave of absence. The company continued to fall into what was termed a "death spiral" until its bankruptcy declaration on December 2nd, 2001 (Smith and Emshwiller 2003). For their efforts reporting on Enron, Smith and Emshwiller received the prestigious Gerald Loeb Award in 2002 and the two later wrote a book on the downfall entitled 24 Days: How two Wall Street Journal reporters uncovered the lies that destroyed faith in corporate America (2003). Emshwiller continued to cover Enron at Skilling and Lay's criminal trial working from the Journal's office in Houston.

3.7 Conclusion

The aftermath of Enron's downfall and subsequent prosecution of 32 former executives has, since the completion of writing this thesis, resulted in a total of 15 guilty pleas, 5 jury convictions, 2 acquittals, 3 convictions over-turned, and the remaining still in limbo (Houston Chronicle 2008). The story in no way ends with what I have written here. My version is only a partial account, one that omits other key events, concepts and even people crucial to the story. For example, Rick Causey, another important Enron character is missing. Causey was Enron's CAO. He was initially set to go to trial with Lay and Skilling, but in the weeks before the start, he entered a guilty plea opting to work with the prosecution. For this, he was prohibited from speaking with the defense team. Interestingly though, he was not called as a government witness (Fowler and Roper,

2005). Some at the trial suggested that Causey remained too close to the defense team, even that he might add more to their cause than the government's. Still, Causey could have corroborated the existence of the Global Galactic document as well as make other comments with regard to what Skilling and Lay knew. Causey is currently serving a five-year, six-month sentence (Brubaker-Calkins 2007). Another character of importance is Michael Kopper. Kopper worked under Fastow for years and aided in Fastow's financial schemes. When Fastow was asked to sell his share of LJM 2, he sold it to Kopper, by then no longer an Enron employee. Kopper was the first of all ex-Enron employees to plead guilty and work with the government. He also did not testify during the Skilling and Lay trial. He currently serves a three-year, one-month sentence for charges related to LJM and improper use of SPEs (Hays 2006).

In addition, former division heads Ken Rice and Lou Pai are also absent. Rice headed Enron's broadband division and testified at the criminal trial against Lay and Skilling. His testimony helped to verify how EBS hid its failing performances through off-balance-sheet finance (Barrionuevo 2006b). I draw on his testimony in the following chapter. Pai was the CEO of Enron's electricity retail division. He retired from Enron in 2000 cashing in all his stock options (required because of divorce proceedings) and moved to Colorado. Once there, he purchased the largest piece of privately owned ranch land in the state and remarried. His new wife was a former exotic dancer Pai met at one of his many now famed Enron business meetings at various Houston gentlemen's clubs (McLean and Elkind 2003). His story remains largely unknown, as he has not spoken out about the firm, nor was he a government witness.

Finally, the deliberate organization of my story in this chapter was an effort to expand my notion of the corporation. Accounting for, and more importantly highlighting individual passions, actions and backgrounds of Enron actors, my intent has been to open the corporation up as a geographical entity in order to make spaces for the performances of individuals. This is important because these individual performances were crucial elements for how the larger Enron narrative is enacted. Lay's pre-occupation with the neo-liberal economics of market deregulation and his political connections with various leaders guided Enron's business operations. Similarly, Skilling's obsession with the firm's stock price dictated the company's financial strategies, and ultimately the use of off-balance-sheet finance. In other words, each body impacted Enron in big ways, and when positioned together, their narratives chart a new story of the firm. Enron emerges subject to diverse and diverging embodiments or performances, rather than a unified economic entity.

CHAPTER 4

PUBLIC AND PRIVATE PERFORMANCES:

LOCATING FRAUD IN THE FINANCIALS

“Financial statements are looked at to evaluate the health of the company, to make decisions regarding investing. Transactions that have no economic substance distort that analysis”
-Ben Glisan, March 22, 2006, Trial testimony

Former Enron treasurer Ben Glisan spoke these words during the recent criminal trial against former CEOs Ken Lay and Jeff Skilling in the spring of 2006. His words reference Enron’s use of off-balance-sheet finance, or structured finance, and the effects these financial practices had on the public portrayal of the company in its quarterly and annual financial statements. Glisan testified that he believed Enron’s use of structured finance was intended primarily to distort representations of the firm’s financial condition for the public. Indeed, the Powers Report, written just months after Enron’s declared bankruptcy in late 2001, estimated that these financial practices shielded Enron from recording over \$1 billion dollars in losses (Powers, et. al. 2002). In other words, the “true” nature of Enron’s economic performance was altered from public view through the creation of financial documents created with the aid of structured finance.

This chapter is intended to draw on a larger theme of the Enron story, that the company’s problems derived in part from its questionable and deceptive use of complex

financial instruments like structured finance and other derivative techniques. Some have suggested that Enron's bankruptcy was caused by its marketing of these discursively constructed financial derivatives, that the company was somehow "more imagined than real" (Committee on Governmental Affairs 2002). The evidence however, points in a different direction. Yes, the firm was overzealous in its use of derivative techniques, a point legal scholar and former Wall Street derivative seller Frank Partnoy asserts (Partnoy 2003). This was particularly so as time wore on and Skilling focused more on building the firm's portfolio of light assets over hard assets. But, Enron's problems stemmed just as much from its poor business investments in hard assets as they did from improper SPE use. In fact, many of Enron's SPEs were designed to hide poorly performing international assets, like the Dahbol project in India, from its quarterly numbers. These hidden assets also included pieces of failing business enterprises like Enron's move to broadband, the subject of this chapter. The point is that the two, hard assets and light assets, were very much intertwined.⁴¹

My focus here is on structured finance and how this particular technique discursively constructed Enron's economic performances on paper, how structured finance aided in actively making Enron successful by manipulating its numerical representations and obfuscating poor or unprofitable business decisions. The paper

⁴¹ This being the case, I cite Enron's failure as more directly a result of a liquidity crisis brought on by a loss of confidence on the part of investors and others as Fastow's, and Enron's, deceptive use of SPEs became public. The Wall Street Journal's press coverage on this resulted in investors and banks pulling their money out of the company, leaving Enron with no cash, forcing the company into bankruptcy. This is the same line of thinking Skilling's own defense team asserted, as well as derivatives expert Frank Partnoy (Partnoy 2003; Pasha 2006b). In the criminal case against Skilling and Lay, Skilling's legal team stuck to this story, rather than addressing what the court case was about, where and what was the fraud, and who was behind its orchestration. These ideas are discussed in greater detail in chapter 6.

performances analyzed are Enron's publicly filed quarterly financial reports, the statements to which Glisan refers to in the opening quote. Quarterly reports are used by investors and analysts to make judgments about a firm's market value and are a large factor in persuading (or dissuading) investment into the firm. They are texts or documents that vastly contribute to the making of corporate space, and in this case Enron's success, by bringing the firm into being. What I mean is that through the use of complicated texts and tabular diagrams, financial statements create the reality they describe. Michel Callon's "economy as performed" notion, as well as the works of other scholars working in this realm, lay the framework for this discussion (Callon 1998). Callon suggests that the economy is always performed. It is done so through technologies like double-entry bookkeeping, diagrams, maps, etc. A diagram of supply and demand curves not only describes a set of economic exchanges, it also reproduces that set of exchanges becoming the basis for them, bringing them into existence. Following Callon's work I argue that Enron too is performed, here the focus being performances orchestrated through the corporation's financial statements. Those statements, as well as the calculative practices behind them, brought about a particular kind of visual performance accessible to the public. It was one of a financially viable and successful company, revenue rich, growing and stable. Further, the company was rewarded for this performance with an increasing stock price and a growing prestige for its executives.

What is so interesting about Enron though, is that this performance was not the only one it was giving. There was also a second one, but which was hidden, private, and visible only to a few. Here the work of American sociologist Erving Goffman is useful.

Goffman argues that performances have two spatial contexts, a front stage (in public for the audience) and a backstage (in private) (Goffman 1959). Goffman uses this theatrical metaphor to explain the differences between how people react to one another in different contexts. In public, we put one “self” forward, while in private a different “self” emerges. I draw on Goffman’s distinction to consider the two spatial performances of Enron and its financial numbers.⁴² In its public performances, Enron was successful. Quarterly reports and annual reports were the embodiment of success. But, these reports were contingent on another performance, Enron’s improper use of structured finance, SPE’s and off-balance-sheet financing, a performance that took place in private on balance sheets not made for public view. Embodying not success but failure, these private performances represent a hemorrhaging of money rather than an infusion.

To ground these ideas empirically, I examine Enron’s front stage and backstage financial performances using the four quarterly reports filed by Enron in 2000 and their portrayal of Enron Broadband Services (EBS), the newest of the company’s divisions. How was the division’s revenue and growth over time presented in the financials and how was structured finance utilized to arrive at those front stage representations? What were the division’s numbers behind the scenes? How did these two performances differ? The reason I focus on these four quarters specifically is because they represent the peak

⁴² I draw on Goffman’s distinction of the spatiality of performance (that there is a front and backstage), not on his version of the subject, that characters on stage are “active...and conscious” (Gregson and Rose 2000, 433). I view STS theorizations of performance as not an elaboration of a theory of subject formation per se (like with Butler 1990 or Goffman 1959), but as the coupling of relations between humans and nonhumans, and the effects that those couplings have on producing and reproducing reality. They bring reality into being.

of Enron's stock performance. The year 2000 saw the company hit its highest stock price, at \$90/share in August, and maintained that height until early 2001 (McLean and Elkind 2003).

When the two stages (front and back), or spaces (public and private) intersect, Goffman says this leads to a "spoiled performance" (Goffman 1959). Indeed, Enron's financial performances were spoiled when the private spaces of the firm came to the fore and the media made public the private dealings between Fastow, his partnership and Enron.⁴³ Finally, the public could understand what "really" happened. I discuss this spoiled corporate performance in the conclusion to the chapter.

4.1 The economy as performed

Many scholars locate the origins of performance theory or performativity with the works of John L. Austin. In his book, How to Do Things with Words (1962), Austin suggests that words and sentences should not be thought of as mere descriptions of reality. The uttering of words and sentences are performances, actively shaping social circumstances. He cites many examples of what he calls speech acts or performance utterances where sentences actively do something; "I take this woman to be my lawfully wedded partner" performs the task of marriage. And, the fact that I've deliberately exchanged the word 'partner' for 'wife' indicates an active reshaping of the social

⁴³ While these partnerships were often disclosed in the financials, albeit most cryptically, what was not disclosed were the verbal agreements between Fastow and Enron, and Fastow's compensation levels. This topic is further taken up during the chapter.

relationships bound up with marriage. Words indeed are powerful. While Austin's work sits within linguistic and philosophy, more recently scholars in feminist theory and STS have incorporated the notion of performance and performativity to understand and explain other aspects of social life as performed. Scholars like Judith Butler's work on gender as performed through iterations of discourse, and Michel Callon's writings on the economy as performed through complex associations between humans and nonhumans, are key moments in the varied directions of performance theory (Butler 1990; Callon 1998). In this chapter I focus on Callon's work, amongst others in STS, economic geography and economic sociology, to make the argument that the economy, as well as the corporation, are performed (Callon 1998; Barnes 2002; Zaloom 2004; MacKenzie 2006; Barnes forthcoming) What distinguishes these works from other theories is that they view performances as playing out with both humans and objects. In other words, physical props are as integral to the performances of social life as human agents.

Callon argues that the economy is actively performed in the introduction to his edited collection, The Laws of the Markets (1998). He states that economics, "in the broad sense of the term, *performs*, shapes and formats the economy, rather than observing how it functions" (Callon, 1998, 2). He includes within economics, the use of graphs, charts, and calculation technologies like double-entry bookkeeping but also economic theories like the theory of supply and demand. Callon challenges us to think critically about the active role of such objects and theorems. These objects have agency and shape reality in particular ways (see ANT, particularly Latour 1999). We should consider the use of objects like financial spreadsheets as one element of the performance producing

the larger economy. To Callon, the economy is assembled from a variety of agencies and forces, some human and others non-human, though he cautions us against envisioning humans, objects and networks or associations as wholly separate entities. They work in conjunction where “the agent is neither immersed in the network nor framed by it; the network does not serve as [mere] context” (Callon 1998, 8). Only when taken intimately together can the varied agents of the economy be thought to perform the market.

These performances occur on a variety of scales and spaces. In some cases, economic performances are located at the scale of the entire economy. Susan Buck Morss’ work on Francois Quesnay’s Economic Table (1759) highlights such a performance. In the mid-18th century, political scientist Francois Quesnay was commissioned by the French government to compile a study on farming in the country. From this, he developed an economic theory that drew links between the income flows of three economic classes, artisans, landowners and farmers. He presented these flows and sectors in his Economic Table, a diagram that Buck Morss explains was the first to map the economy (Buck Morss 1995). Buck Morss argues that Quesnay’s table was important because it underscores that “the economy is not found [out there] as an empirical object”, instead it must undergo processes of translation and representation (ibid, 440). Unique about Quesnay’s work was that in translating his data into the visual diagram, he established a new vantage point to see the economy, a “god’s eye view” (Haraway 1991). According to Buck-Morss, no one had done that before. The very idea of the economy as an object came into being through its creation in the diagram. People understood the economy as particular sets of relations of exchange. Moreover, representing the economy

as an object in this way, enabled people to intervene in its production and interpretation, to manipulate it. To act on it.

Buck Morss does not explicitly position herself within performance theories, but the fact that she recognizes the practical possibilities of diagrams like Quesnay's Economic Table suggests that she would be sympathetic. Quesnay's table contributed to a new performance of the economy by producing that which it named, a wholly identifiable economic space. In doing so the table, as a performance, reshaped how the economy was envisioned, understood and deliberately manipulated. As John Law and Victoria Singleton say: the Economic Table "is a performance of reality, [in] that it makes present a representation of reality, and at the same time makes that reality" (Law and Singleton 2000, 1).

Other scales at which the economy is performed include the scale of the national economy or space. Timothy Mitchell's work on the making of modern Egypt extends this idea. In his book, Rule of Experts (2002), Mitchell is concerned with how objects are used by humans to bring together something called Egypt, both as an economic and a political space. Mitchell says, "in economics, a distinction is made between the agency of humans and the role of all the other elements of an economy, which by contrast are considered essentially passive" (Mitchell 2002, 299). Instead, Mitchell emphasizes, "nonhuman agencies enter into human partnerships not just as passive elements to be costed and arranged, but as dynamic and mobile forces" where the "human element is

never wholly in control” (ibid, 10). This theoretical framework sets Mitchell’s foundation to interrogate how the making of Egypt’s market economy was in part achieved by the practices of making cadastral maps and associated with a whole series of specific material objects: steel tapes, survey poles, theodolites, feddan combs, cotton thread, paper and ink (Mitchell 2002).

The cadastral map, as a map showing boundaries and ownership of parcels of land, was brought to Egypt under British colonial occupation in the 19th century. Mitchell suggests that both colonial occupation and the establishment of a capitalist economy in Egypt were enabled in part through using cadastral maps. He goes into meticulous detail to explain the specific practices behind the production of these maps, and the effects these maps had on spatial organization. To briefly summarize some of his points, the map’s creation involved laying a grid onto the map paper. This grid served to organize the territory or individual land parcels on the map. But, in doing so the grid also (re)organized territory on the ground. Villages and land parcels on the ground were made to fit into the map’s grid. This practice had many important effects. First, it moved the center of calculation from outside spaces using local knowledges, to inside the survey office, where technical expertise was required. The map became the site where knowledge was held (Mitchell 2002).

Additionally, these new forms of measurement, representation and calculation embedded in the maps established a property rights regime in Egypt. Practices of

calculation reorganized the land tenure such that individual land parcels now belonged to particular individuals. A private property regime was crucial for the formation of the economy, because it better facilitated activities like agricultural production and simplified the collection of tax revenues for the state (Mitchell 2002). Finally, these new maps traveled from one part of the country to another (and even back to Britain). Not only were they portable from a physical standpoint, but because they implemented standardized forms of calculation, there was a greater comparability and legibility with other maps. In effect, the practice of making cadastral maps in Egypt worked to organize a homogenous economic and political space not only for the Egyptians, but also for the British.

Like Buck-Morss, Mitchell does not directly link his work to performance theories. However, the connections again are clear. In this case, calculative practices embedded in the maps re-formatted social relations. Expert knowledge was privileged over local knowledge, and the location of this knowledge shifted to centralized areas. The maps did not report on the ground relations of land tenure, they constituted those relations, performing and re-performing them actively with the map (Mitchell 2002). In both the previous cases, Mitchell's maps and Buck Morss' discussion of Quesnay's Economic Table, the documents were integral to the performance of the economy, representing space, but also making that space. And, the technologies behind these documents, the grid and/or the table, bring about differing kinds of performances each of which are vital to the larger performance of the economy.

The emphasis in these performances has been the object, or objects and the calculative practices behind the formation of these objects. In ANT's vocabulary, Latour refers to these objects as immutable mobiles. Immutable mobiles are comprised of two characteristics. First, they are mobile, in that they easily move through space or travel. They can be put in purses or placed on flash drives and printed time and again from a computer. Hence, these objects are generally small, compact and durable. Secondly, immutable mobiles must be immutable. This means that in travel, there is no physical damage to the object (Latour 1999). What appears on the page in one context, continues to appear on the page when located to a different context.

Economic geographer Trevor Barnes expands on the significance of immutable mobiles and other important characteristics of objects in coordinating performances across space. He focuses on two pivotal textbooks in the sub-discipline of economic geography as examples of objects which were powerful actors in shaping and reshaping scholarship in the field (Barnes 2002). These objects were powerful performances because of four elements. First, they are immutable mobiles, in the Latourian sense suggested above. "Their very immutability and mobility allow for their geographical diffusion, permitting connections to be forged between quite different and geographically separated local communities" (Barnes 2002, 493). Second, textbooks provide "optical consistency and semiotic homogeneity" (ibid, 494). This means that there are certain qualities about the object, such as its flatness and the fact that it can be "dominated with the eyes and held by the hands, no matter when and where they come from or what their original size" (Latour 1990 as quoted in Barnes 2002, 493). These qualities strengthen the

performance. Third, in an academic discipline, Barnes suggests textbooks are (or at least have been) “obligatory passage points” (ibid, 495). Professors tell their students, “So you want to do economic geography? Then read this” (ibid, 496). This practice also strengthens their performance as networks are extended further out and more allies added. Finally, textbooks are important pieces of rhetoric. Meaning that readers are “not only going up against a single author, but against all the allies assembled in the book”, allies like previous authors cited, previously agreed upon techniques of calculation, and so on (ibid, 496). These four elements make the textbook a critical actor in the performance of economic geography. Students and scholars in Washington state can read and learn the same information as students in another part of the country. The possibility that the information will be received differently from location to location exists. But, the point is that the performances of those texts brought together a community of scholarship (in one of Barnes’ examples, launching economic geography into the quantitative revolution) because they excelled at being persuasive by mobilizing allies within their pages.

What I particularly appreciate about Barnes’ work is his attention to the spatial dynamics of performances in addition to the physical characteristics of objects involved in those performances. For Barnes, the performance of relations, be they economic, academic or otherwise, occur in space. And, different spaces matter for the ways in which performances play out (Barnes 2002, see also Barnes unpublished manuscript). Put succinctly in the context of economy as performed literatures, space impacts the ways in which markets are performed. Bringing the textbook example above to my own work, I

suggest financial statements, as objects with very unique characteristics, performed Enron. They produced the “reality” that was Enron by galvanizing allies like investors, accountants and bankers across space. These ideas comprise the first part of this chapter’s analysis. The second point of the chapter is to tease out the different spatial contexts of Enron’s performances, that what was seen by the public was contingent on private happenings. I want to expand on this idea before moving to the analysis.

On the point of private performances, aspects of Erving Goffman’s work The Presentation of Everyday Self (1959) are useful. The very title of the book suggests the importance of the performative drawing as it does on a theatrical metaphor. Specifically Goffman suggests that people put on different selves, depending on the social context. By those performances, we manage the impressions of ourselves we give to others, which are necessarily different in different spaces. Goffman refers to two distinct spatial contexts: the backstage (in private) and front stage (for public). He says that on the front stage, actors perform for an audience. These performances are usually more formal and structured, more reserved and highly orchestrated or planned. In contrast, back stage, actors let loose and reveal a more relaxed self. Often backstage, performers knowingly contradict their front stage performances, because it is expected that the audience will not intrude in that space. In this way, performances are tailored to fit the requirements of a given situation. Goffman does point out that there are times when the two stages intersect, for instance the audience might witness a backstage performance. He calls this a “spoiled performance” (Goffman 1959). The implications of spoiled performances

range from mild embarrassment to hurt, outrage and shock, and as we will see in Enron's case, a major financial scandal and disaster.

The remaining of this chapter utilizes both Goffman's theatrical metaphor, specifically I take from him his notion of the spatiality of performances, and STS work on the economy as performed. I bring these ideas to bear on describing Enron's corporate financial performances. I contend that what went on in private was different from the public performances of the firm. But, rather than consider them as separate and distinct spaces, with contrasting performances, I suggest the private performances were utilized to enhance what the public saw. The public was contingent upon the private. The primary prop used to tie these performances together is the financial statement. As immutable mobiles, financial statements represent Enron to its investors. They draw together an investment community across space and construct particular knowledges about the firm's financial state. Further, the knowledge presented in those statements was persuasive. More important than this, I suggest that Enron's financial statements were not mere representations, they produced the reality that was the firm, they performed Enron. In this case, they performed Enron as successful. In the sections that follow, I detail the specifics of Enron's financial performances, both for public view, and the corresponding private performances. The financial statements themselves occupy Goffman's front stage. The documents were intended for public consumption and the information represented in them was the result of calculated financial strategies intended to create a profitable and growing Enron. Backstage, or in private, a quite different performance was put on. This is where the illegal aspects of Enron's activities played out. Finally, I discuss the

culmination of these performances with Enron's "spoiled performance" when the "true" nature of Enron's financial statements were made public.

4.2 Performing the firm: financial reports and structured finance

4.2.1 Public performances

As I have suggested, quarterly reports or financial statements are important props integral to Enron's performances in public. Without them Enron's performance would have been substantially less compelling. Skilling and Lay's words in conference calls and speeches alone could not convince the market of Enron's successes. The figures and numbers presented in Enron's financials also offered very persuasive evidence as to the firm's financial state.

The purpose of the quarterly reports is to deliver information on a firm's financial performance to shareholders, employees, and other potential investors. All public firms must file financial statements with the SEC. This has been the practice of companies since it was institutionalized and required by law during the time of President Franklin Roosevelt in the 1930s (Markham 2006). These documents were part of a series of financial regulations and reforms intended to inform and protect ordinary investors from corporate malfeasance following the stock market crash of 1929. Companies were expected (as they still are) to report fairly and accurately the financial conditions of the firm based on government defined guidelines. Investors and others rely on these

statements as key indicators of the financial health of the corporation (as evidence by Glisan's opening quote). Like previously, today's investors read what is presented and make decisions regarding whether or not to invest (including both private investors and Wall Street firms). Financial statements are particularly important because of the distance that often separates shareholders from company directors. They communicate, or rather mediate, information across space organizing the firm from disparate sites.

Public companies like Enron file financial statements four times a year with the SEC.⁴⁴ Known most often as quarterly reports or 10Qs, these statements are composed of three primary components. First, is the income statement. This statement describes the state of the firm's income, how much profit has been made or lost from activities like the sale of an asset (a gain) or the payment of taxes (a loss). Figure 4.1 is an example of Enron's Q3 2000 income statement. Information is neatly organized and placed in column form for greater legibility.

⁴⁴ Known as 10-Q's, quarterly statements are filed after the financial period ending March 31st (Q1), June 30th (Q2), September 30 (Q3) and December 31st (Q4 or more generally known as the Annual Report).

Figure 4.1 Enron's Third Quarter 2000 Income Statement

ITEM 1. FINANCIAL STATEMENTS CONSOLIDATED INCOME STATEMENT (In Millions, Except Per Share Amounts) (Unaudited)		ENRON CORP. AND SUBSIDIARIES			
		Three Months Ended September 30, 2000 1999		Nine Months Ended September 30, 2000 1999	
Revenues		\$30,007	\$11,835	\$60,038	\$29,139
Costs and Expenses					
Cost of gas, electricity and other products		28,289	10,489	55,501	25,137
Operating expenses		855	671	2,494	2,140
Depreciation, depletion and amortization		256	225	620	676
Impairment of long-lived assets		-	441	-	441
Taxes, other than income taxes		65	45	190	163
		29,465	11,871	58,805	28,557
Operating Income (Loss)		542	(36)	1,233	582
Other Income and Deductions					
Equity in earnings of unconsolidated affiliates		46	38	365	269
Gains on sales of assets and investments		45	456	135	468
Other income, net		33	62	166	203
Income Before Interest, Minority Interests and Income Taxes		666	520	1,899	1,522
Interest and Related Charges, net		247	187	604	537
Dividends on Company-Obligated Preferred Securities of Subsidiaries		20	19	59	57
Minority Interests		35	38	109	94
Income Tax Expense (Benefit)		72	(14)	208	69
Net Income Before Cumulative Effect of Accounting Changes		292	290	919	765
Cumulative Effect of Accounting Changes, net of tax		-	-	-	(131)
Net Income		292	290	919	634
Preferred Stock Dividends		21	19	62	42
Earnings on Common Stock		\$ 271	\$ 271	\$ 857	\$ 592
Earnings Per Share of Common Stock					
Basic					
Before Cumulative Effect of Accounting Changes		\$ 0.37	\$ 0.38	\$ 1.17	\$ 1.03
Cumulative Effect of Accounting Changes		-	-	-	(0.19)
Basic Earnings per Share		\$ 0.37	\$ 0.38	\$ 1.17	\$ 0.84
Diluted					
Before Cumulative Effect of Accounting Changes		\$ 0.34	\$ 0.35	\$ 1.07	\$ 0.96
Cumulative Effect of Accounting Changes		-	-	-	(0.17)
Diluted Earnings per Share		\$ 0.34	\$ 0.35	\$ 1.07	\$ 0.79
Average Number of Common Shares Used in Computation					
Basic		741	714	732	702
Diluted		870	781	861	766
The accompanying notes are an integral part of these consolidated financial statements.					

Source: Enron Corporation 2000c, 5

The second main part of a financial statement is the cash flow statement (see Figure 4.2). This statement details specific operating costs of various assets like an electric plant, cash flow investment activities (such as the sale of an investment or acquisition of stock like Rhythms Net from the previous chapter), and finally cash gained

from financing activities such as the issuing of new stock or payment of dividends. Essentially, the cash flow statement gives readers a sense of how much cash a company takes in or has on hand in order to pay bills or purchase new assets. Was Enron generating cash this quarter? A quick skim reveals no. Enron's total cash flow for the period ending the first nine months of Q3 is negative \$188 million (the parenthesis on the statement indicate a negative numerical value). This negative cash flow is actually an improvement from 1999 where the firm was over a billion dollars in the red. While this may seem surprising, a firm can still be profitable despite a negative cash flow. This is because some cash flow expenses are not listed on the income statement, expenses like the repayment of a loan (Brealey, et. al. 2004).

Figure 4.2 Enron's Third Quarter 2000 Cash Flow Statement

ENRON CORP. AND SUBSIDIARIES CONSOLIDATED STATEMENT OF CASH FLOWS (In Millions) (Unaudited)			
	Nine Months Ended September 30, 2000		1999
Cash Flows From Operating Activities			
Reconciliation of net income to net cash provided by (used in) operating activities			
Net income	\$	919	\$ 634
Cumulative effect of accounting changes		-	131
Depreciation, depletion and amortization		620	676
Deferred income taxes		22	(38)
Equity in earnings of unconsolidated affiliates		(365)	(269)
Impairment of long-lived assets		-	441
Gains on sales of assets and investments		(135)	(461)
Changes in components of working capital		(188)	(1,072)
Net assets from price risk management activities		(952)	55
Merchant assets and investments:			
Realized gains on sales		15	(252)
Proceeds from sales		683	708
Additions and unrealized gains and losses		(1,414)	(657)
Other operating activities		895	61
Net Cash Provided by (Used in) Operating Activities		100	(43)
Cash Flows From Investing Activities			
Capital expenditures		(1,549)	(2,022)
Equity investments		(870)	(718)
Proceeds from sales of investments and other assets		222	245
Acquisition of subsidiary stock		(743)	-
Business acquisitions, net of cash acquired		(515)	(213)
Other investing activities		(147)	(447)
Net Cash Used in Investing Activities		(3,602)	(3,155)
Cash Flows From Financing Activities			
Issuance of long-term debt		2,725	1,570
Repayment of long-term debt		(545)	(1,417)
Net increase in short-term borrowings		1,694	2,038
Net redemption of preferred securities of subsidiaries		(95)	-
Issuance of subsidiary equity		-	513
Issuance of common stock		182	889
Dividends paid		(396)	(346)
Net disposition of treasury stock		354	223
Other financing activities		(8)	(67)
Net Cash Provided by Financing Activities		3,911	3,403
Increase in Cash and Cash Equivalents		409	205
Cash and Cash Equivalents, Beginning of Period		288	111
Cash and Cash Equivalents, End of Period	\$	697	\$ 316
Changes in Components of Working Capital			
Receivables	\$	(3,694)	\$ (994)
Inventories		339	(112)
Payables		3,081	(45)
Other		86	79
Total	\$	(188)	\$ (1,072)
The accompanying notes are an integral part of these consolidated financial statements.			

Source: Enron Corporation 2000c, 9

Finally, there is the balance sheet. The balance sheet offers a snapshot of the worth of a company's assets (including equipment owned by Enron), liabilities (including debt), and shareholder equity (the total capital that would be left to shareholders once all assets were liquidated, also a liability) at a particular moment in time (see Figure 4.3 (assets) and 4.4 (liabilities)). For example, according to Figure 4.3, Enron owned nearly \$53 billion dollars in assets related to investments, physical property ownership, and so on. In the case of all three statements, income, cash flow and balance sheet, a textual description corresponds to a numerical figure, and interestingly, that numerical figure is situated across time (from 1999 to 2000). This arrangement allows comparability over time to ascertain levels of growth. Such comparisons are commonplace throughout the quarterly report. Establishing this relationship in the financial statement indicates the importance of demonstrating growth on the part of the firm.

Figure 4.3 Enron's Third Quarter 2000 Balance Sheet (Assets)

PART I. FINANCIAL INFORMATION - (Continued)		
ITEM 1. FINANCIAL STATEMENTS - (Continued)		
ENRON CORP. AND SUBSIDIARIES		
CONSOLIDATED BALANCE SHEET		
(In Millions)		
(Unaudited)		
	September 30, 2000	December 31, 1999
ASSETS		
Current Assets		
Cash and cash equivalents	\$ 697	\$ 288
Trade receivables (net of allowance for doubtful accounts of \$35 and \$31, respectively)	6,494	3,030
Other receivables	1,181	518
Assets from price risk management activities	7,294	2,205
Inventories	1,942	598
Other	1,198	616
Total Current Assets	18,806	7,255
Investments and Other Assets		
Investments in and advances to unconsolidated affiliates	5,376	5,036
Assets from price risk management activities	7,367	2,929
Goodwill	3,646	2,799
Other	6,348	4,681
Total Investments and Other Assets	22,737	15,445
Property, Plant and Equipment, at cost		
Natural gas transmission	6,908	6,948
Electric generation and distribution	4,284	3,552
Construction in progress	1,382	1,491
Oil and gas, successful efforts method	720	690
Other	1,839	1,231
	15,133	13,912
Less accumulated depreciation, depletion and amortization	3,680	3,231
Net Property, Plant and Equipment	11,453	10,681
Total Assets	\$52,996	\$33,381
The accompanying notes are an integral part of these consolidated financial statements.		

Source: Enron Corporation 2000, 6

Figure 4.4 Enron's Third Quarter 2000 Balance Sheet (Liabilities)

LIABILITIES AND SHAREHOLDERS' EQUITY		
Current Liabilities		
Accounts payable	\$ 5,390	\$2,154
Liabilities from price risk management activities	6,187	1,836
Short-term debt	3,117	1,001
Other	2,408	1,768
Total Current Liabilities	17,102	6,759
Long-Term Debt	10,664	7,151
Deferred Credits and Other Liabilities		
Deferred income taxes	1,565	1,894
Liabilities from price risk management activities	7,314	2,990
Other	2,282	1,587
Total Deferred Credits and Other Liabilities	11,161	6,471
Minority Interests	1,889	2,430
Company-Obligated Preferred Securities of Subsidiaries	904	1,000
Shareholders' Equity		
Second preferred stock, cumulative, no par value	127	130
Mandatorily Convertible Junior Preferred Stock, Series B, no par value	1,000	1,000
Common stock, no par value	8,003	6,637
Retained earnings	3,277	2,698
Accumulated other comprehensive income	(958)	(741)
Common stock held in treasury	(18)	(49)
Other	(155)	(105)
Total	11,276	9,570
Total Liabilities and Shareholders' Equity	\$52,996	\$33,381
The accompanying notes are an integral part of these consolidated financial statements.		

Source: Enron Corporation 2000c, 7

Aside from these three aggregated main components, the remainder of a financial statement consists of sections devoted specifically to the different business divisions of the firm. At Enron for example, there are smaller individual statements for the pipeline transit division, the trading division (or Gas Bank), electricity retail, and the broadband division. These smaller statements report more specifically on operating costs, income and revenue for each division so that investors get a sense of the origin of Enron's larger

profits or cash flows. In addition to these more specified performance evaluations, financial statements also contain a ‘Management discussion and analysis’ section that would include footnotes, which might clarify certain financial transactions, or changes in accounting practices, and legal notes detailing lawsuits or potential lawsuits involving the company. Described by Powers Report as “obtusely” or “cryptically” written, the following is an example of one such footnote discussing Fastow’s involvement with Enron in Enron’s 2000 Annual Report:

“In 2000 and 1999, Enron entered into transactions with limited partnerships (the related party) whose general partner’s managing member is a senior officer of Enron. The limited partners of the Related Party are unrelated to Enron. Management believes that the terms of the transactions with the Related Party were reasonable compared to those what could have been negotiated with unrelated third parties.

In 2000, Enron entered into transactions with the Related Party to hedge certain merchant investments and other assets. As part of the transaction, Enron (i) contributed to newly-formed entities (the Entities) assets valued at approximately \$1.2 billion, including \$150 million in Enron notes payable, 3.7 million restricted shares of outstanding Enron common stock in March 2003 (subject to certain conditions) and (ii) transferred to the Entities assets valued at approximately \$309 million in notes receivable, of which \$259 million is recorded at Enron’s carryover basis of zero, and a special distribution from the Entities in the form of \$1.2 billion in notes receivable, subject to changes in the principal for the amounts payable by Enron in connection of additional derivative instruments” (Enron Corporation 2000d, 48).

The SEC requires that financial filings, including footnotes, be written in “plain English”, though as you can see, there is nothing plain about what its represented above (Markham 2006). I further discuss the limitations of Enron’s footnotes, such as the one above, in disclosing Enron’s true financial actions later in the chapter.

To more specifically demonstrate the kind public performance generated of Enron in its statements, I zero in on a particular aspect of it, that of its emerging broadband business. How was it portrayed in quarterly reports during the year 2000? According to the documents provided to investors, how was EBS represented as a viable, revenue generating division? What were the origins of its revenue? The revenue figure is important to investigate because it is a critical indicator of business performance. Rising revenue indicates growth and success, while falling revenue indicates trouble in the business. Put simply, decreasing revenues from one quarter to the next turn investors off. Paula Rieker, an executive with Enron's investment relations division, who dealt primarily with Wall Street investment firms, testified to this phenomenon at Skilling and Lay's trial (US v. Skilling and Lay, Paula Rieker testimony, February 21 2006).

The story of EBS begins in 1999 when Skilling started work on a new business venture for Enron, a broadband data delivery and trading business. This telecommunications arm of Enron would benefit from the massive wealth being generated by businesses associated with the Internet rage of the late 1990s. To put this in context, this was a time when "companies would go public in the morning and have a \$100 share price by 4 p.m...Valuations were so high they bore no relation to profits or revenues—which for many Internet companies, were non-existent" (McLean and Elkind 2003, 185). The seeming limitless increases in stock prices of these Internet companies like Yahoo or Amazon no doubt inspired Skilling, a man self-admittedly obsessed by Enron's stock value. If Skilling could move Enron into the Internet business, then Enron too could have an Internet stock valuation. And, according to those around Skilling,

“there was nothing he wanted more...[than] to convince Wall Street that Enron was becoming, at least in part, an Internet company” (ibid, 185).

According to Enron’s financial statements, EBS’s business entailed three components. First, the division would develop an Enron Intelligent Network (EIN) or a nationwide fiber optic network, which would serve as a transport mechanism to deliver high bandwidth media content. Second, with this transport network in place, Enron could then enter into an intermediation business. Like the Gas Bank, Enron would put buyers and sellers of bandwidth content together using the newly created EIN. And, just as with the Gas Bank, EBS’s business strategy included helping buyers and sellers to mitigate risk against price fluctuations concerning the transfer of bandwidth content. Finally, the division would make investments into businesses with similar or related telecommunication technologies. Given the similarity of EBS to the Gas Bank (by this point in time called Enron Wholesale division), the hope or expectation was that EBS’s profits would soon mirror those of the Wholesale division, the company’s most profitable division. To these ends, top employees from across the firm were being recruited to work for EBS, and the company invested heavily in outfitting these employees with expensive, top of the line high-tech gadgets like palm pilots and laptops (Swartz and Watkins 2003). EBS exuded an Internet cool atmosphere. The offices were decorated in vintage dot-com style, “with whiteboards that hung floor to ceiling and funky indirect lighting” (McLean and Elkind 2003, 287). Further, the CEO of the division, Ken Rice, had a “gleaming red Hellcat motorcycle, custom-built in Louisiana for \$30,000, outside the elevators of EBS’s executive floor. It was inscribed with the words BANDWIDTH HOG” (ibid, 287).

When formal news of EBS went public in early 2000, Skilling's vision of an Enron stock valuation similar to Internet companies began ringing true. Skilling told analysts that he believed EBS would be producing more than \$1 billion in profits by 2004, and "insisted that it *already* deserved an extra \$37 in the price of every Enron share" (McLean and Elkind 2003, 284). In one day, Enron's price went from \$50/share to \$65/share (New York Times 2006). It was clear that stock analysts and other investors were keen on the eventual profit potential of broadband trading and media content delivery, particularly in the height of the dot.com bubble. Usually when a new division in a firm starts, investors are sensitive to revenue or income delays. But, this was Enron and it was the late 1990s. With these conditions and Skilling's grand revenue predictions to Wall Street, EBS had to perform. And perform it did, or so that was the message indicated in the financial statements.

In its first quarterly report, Q1 of 2000, EBS reported \$59 million in revenue (see Figure 4.5). According to the statement, revenue was offset by operating expenses leaving the division in the red. Still, reporting this magnitude of revenue is impressive for the first three months of a company. Text in the financial statement suggested that reported revenues derived from two places. First, revenue resulted from increases in the value of investments made under EBS into related companies (the third component of the business mentioned above). Second, the division's earnings reported also included "sales of excess fiber capacity" from the EIN (Enron Corporation 2000a), or sale of the physical

dark fiber intended for the fiber optic network used to transport media content (the business' first component).

Figure 4.5 EBS First Quarter 2000 Financial Performance

6. BUSINESS SEGMENT INFORMATION						
<p>Enron's business is divided into operating segments, defined as components of an enterprise about which financial information is available and evaluated regularly by the Office of the Chairman, which serves as the chief operating decision making group.</p> <p>In the first quarter of 2000, Enron's communications business is being managed as a separate operating segment named Broadband Services and therefore, based on criteria set by Statement of Financial Accounting Standards No. 131, "Disclosures about Segments of an Enterprise and Related Information," is reported separately.</p> <p>Enron's broadband services business includes the construction and management of the Enron Intelligent Network, a nationwide fiber optic network, the marketing and management of bandwidth and the delivery of high-bandwidth media rich content such as video streaming, high capacity data transport and video conferencing.</p>						
(In Millions) Three Months Ended March 31, 2000	Transportation and Distribution	Wholesale Energy Operations and Services	Retail Energy Services	Broadband Services	Corporate and Other(c)	Total
Unaffiliated revenues(a)	\$ 599	\$11,847	\$ 603	\$ 59	\$ 37	\$13,145
Intersegment revenues(b)	4	154	39	-	(197)	-
Total revenues	\$ 603	\$12,001	\$ 642	\$ 59	\$ (160)	\$13,145
Income (loss) before interest, minority interests and income taxes	\$ 233	\$ 419	\$ 16	\$ -	\$ (44)	\$ 624

Source: Enron Corporation 2000a, 16

The derivation of earnings for the second quarter of 2000 looks similar to those from the first. EBS reported \$151 million dollars in revenue (Figure 4.6). This revenue was again offset by business operations costs, leaving EBS in the red this time by only \$8 million dollars. In this quarter the business finally looks to be taking off. Revenues increased substantially from the first quarter (just under \$100 million), and it appears that

by next quarter EBS should be turning a profit if revenues continue to grow at present pace. Weeks after this report was filed, Enron's stock price hit \$90/share in August 2000. This was its peak. The source of the revenue reported however, is somewhat vague. We observe that earnings were again from "sales of excess fiber capacity" (Enron Corporation 2000b, 17). In a separate part of the financial statement, a section entitled "Related party transactions" where Enron disclosed its structured finance deals, it is written that this fiber was sold to a "related party" (though this party is unnamed), and that Enron recognized a gross margin of \$53 million from the sale (again the exact structure of the deal is also not disclosed) (Enron Corporation 2000b). This information reveals that over one third of revenues reported for EBS resulted in the sale of fiber that would seem to be intended for the bandwidth fiber optic network.

Figure 4.6 EBS Second Quarter 2000 Financial Performance

6. BUSINESS SEGMENT INFORMATION						
<p>Enron's business is divided into operating segments, defined as components of an enterprise about which financial information is available and evaluated regularly by the Office of the Chairman, which serves as the chief operating decision making group.</p> <p>Beginning in the first quarter of 2000, Enron's communications business is being managed as a separate operating segment named Broadband Services and therefore, based on criteria set by Statement of Financial Accounting Standards No. 131, "Disclosures about Segments of an Enterprise and Related Information," is reported separately.</p> <p>Enron's broadband services business includes the construction and management of the Enron Intelligent Network, a nationwide fiber optic network, the marketing and management of bandwidth and the delivery of high-bandwidth media rich content such as video streaming, high capacity data transport and video conferencing.</p>						
(In Millions)	Transportation and Distribution	Wholesale Energy Operations and Services	Retail Energy Services	Broadband Services	Corporate and Other(c)	Total
Three Months Ended June 30, 2000						
Unaffiliated revenues(a)	\$ 545	\$15,272	\$ 769	\$ 151	\$ 149	\$16,886
Intersegment revenues(b)	52	275	71	-	(398)	-
Total revenues	\$ 597	\$15,547	\$ 840	\$ 151	\$ (249)	\$16,886
Income (loss) before interest, minority interests and income taxes	\$ 139	\$ 437	\$ 24	\$ (8)	\$ 17	\$ 609
Six Months Ended June 30, 2000						
Unaffiliated revenues(a)	\$1,144	\$27,119	\$1,372	\$ 210	\$ 186	\$30,031
Intersegment revenues(b)	56	429	110	-	(595)	-
Total revenues	\$1,200	\$27,548	\$1,482	\$ 210	\$ (409)	\$30,031
Income (loss) before interest, minority interests and income taxes	\$ 372	\$ 856	\$ 40	\$ (8)	\$ (27)	\$ 1,233

Source: Enron Corporation 2000b, 17

In the third quarter of 2000, EBS reported \$155 million in revenues (with a net overall loss of \$20 million after incurring \$175 million in operating costs) (Enron Corporation 2000c) (see Figure 4.7). According to the financial statement, revenues were generated from significant increases in investments made by Enron and EBS into companies with similar technologies. The exact specifics of which investments and how much revenue resulted are unspecified. In further review of other sections of the

statement, it is revealed once more that Enron engaged in transactions with a related party (again unspecified) to hedge certain investments, and that it did this by creating a newly formed “entity”. The entity and the related party are unnamed (Enron Corporation 2000c). As far as investors are concerned, EBS is performing well for a newly formed company with \$155 million dollars in revenue for its third quarter in operation.

The Annual Report for 2000 recorded EBS’s revenue performance for the fourth quarter at \$53 million dollars (see Figure 4.8)(Enron Corporation 2000d). The total income before taxes was negative \$60 million. The figures in the fourth quarter do seem grim relative to the three previous reporting periods. Though, analysts would have placed these numbers in the larger context of the telecom industry. In the late spring of 2000, the technology bubble of the previous five years burst, and Internet start-up companies everywhere began collapsing. As an industry heavily tied to technology, telecom companies soon followed with their own increasingly dismal performances. Enron’s broadband business was no exception. Despite this, Skilling told analysts in January 2001, with the release of the Annual Report for 2000, that while the entire market for telecomm was in a “meltdown”, EBS would “weather the storm”. According to Ken Rice, the division’s head, Skilling’s words to Wall Street on this matter were, “EBS was lookin’ good” (US v. Skilling and Lay, Ken Rice testimony, February 14 2006).

Figure 4.7 EBS Third Quarter 2000 Financial Performance

Broadband Services

Enron's broadband services business (Broadband Services) provides customers with a single source for broadband services. In implementing Enron's network strategy, Broadband Services is constructing the Enron Intelligent Network (EIN), a nationwide fiber optic network that consists of both fiber deployed by Enron and acquired capacity on non-Enron networks. The EIN, managed by Enron's Broadband Operating System software, provides a bandwidth-on-demand platform allowing Broadband Services to deliver high-bandwidth media rich content such as video streaming, high capacity data transport and video conferencing. In addition, Enron is extending its market-making and risk management skills from its energy business to develop the bandwidth intermediation business to help customers manage unexpected fluctuation in the price, supply and demand of bandwidth. Broadband Services also makes investments in companies with related technologies and with the potential for capital appreciation. Earnings from these merchant investments, which are accounted for on a fair value basis and are included in revenues, result from changes in the market value of the securities. Broadband Services uses risk management disciplines, including hedging transactions, to manage the impact of market price movements on its merchant investments.

The components of Broadband Services' businesses include the development and construction of the EIN, sales of excess fiber and software, the marketing and management of bandwidth and the delivery of content. Significant components of Broadband Services' results are as follows (in millions):

	Third Quarter 2000
Gross Margin	\$154
Operating expenses	123
Depreciation and amortization	52
Other income, net	1
Income before interest and taxes	\$(20)

Broadband Services recognized a loss before interest, minority interests and taxes of \$20 million in the third quarter of 2000. Gross margin benefited from the significant increase in the market value of Broadband Services' merchant investments. Expenses incurred during the period include certain incentive-based compensation costs, expenses related to building the business and depreciation and amortization.

Source: Enron Corporation 2000c, 26

Figure 4.8 EBS Fourth Quarter Financial Performance

Broadband Services

In implementing Enron's network strategy, Broadband Services is constructing the Enron Intelligent Network, a nation-wide fiber-optic network that consists of both fiber deployed by Enron and acquired capacity on non-Enron networks and is managed by Enron's Broadband Operating System software. Enron is extending its market-making and risk management skills from its energy business to develop the bandwidth intermediation business to help customers manage unexpected fluctuation in the price, supply and demand of bandwidth. Enron's bandwidth-on-demand platform allows delivery of high-bandwidth media-rich content such as video streaming, high capacity data transport and video conferencing. Broadband Services also makes investments in companies with related technologies and with the potential for capital appreciation. Earnings from these merchant investments, which are accounted for on a fair value basis and are included in revenues, result from changes in the market value of the securities. Broadband Services uses risk management disciplines, including hedging transactions, to manage the impact of market price movements on its merchant investments. Broadband Services also sells interests in certain investments and other assets to improve liquidity and overall return, the timing of which is dependent on market conditions and management's expectations of the investment's value.

The components of Broadband Services' businesses include the development and construction of the Enron Intelligent Network, sales of excess fiber and software, bandwidth intermediation and the delivery of content. Significant components of Broadband Services' results are as follows:

(In millions)	2000
Gross margin	\$ 318
Operating expenses	305
Depreciation and amortization	77
Other, net	4
Loss before interest, minority interests and taxes	\$ (60)

Broadband Services recognized a loss before interest, minority interests and taxes of \$60 million in 2000. Gross margin included earnings from sales of excess fiber capacity, a significant increase in the market value of Broadband Services' merchant investments and the monetization of a portion of Enron's broadband content delivery platform. Expenses incurred during the period include expenses related to building the business and depreciation and amortization.

Source: Enron Corporation 2000d, 25

In sum, each of the four quarters examined for the year 2000 represented EBS as a viable and growing business. The firm emerges time and again as space of revenue generation, and this is verified through the financial statements. In other words, the documents do not merely construct a reality of profit and growth, they performed it, they make that reality available for inspection. Enron's positive public performances were effectual. The company's climbing stock price during the year 2000, closing the year around \$85/share, reflected faith in the reality in part performed by the documents (McLean and Elkind 2003).

But, like any performance, a great deal of work goes on behind the scenes to arrive at what the public eventually sees. With financial reports, numerous calculations are made to determine figures like revenue, profit or even the monetary valuation of an asset, figures that comprise the bulk of what we see in financial reports. These calculations are hidden from view, and are presented as a matter of fact with little or no chain of information detailing the composition of the number. Readers are assumed to have the knowledge and experience to understand on a general basis how particular figures are determined. For example, if you were to ask an accountant how the value of assets, such as an electricity plant, are arrived at, they would say the figure is based on the asset's fair market value on the day ending the quarterly reporting period (fair value meaning the price at which that asset could be sold on that day). Numerical figures attached to asset valuations are then simply the going rate at which you could sell the asset.

Of course, deciding that going rate is subject to interpretation. Accountants do not call up potential buyers to ask the price at which they might purchase the asset on the day ending each quarter. This is where the Generally Accepted Accounting Principles (or the GAAP) play an important role. With respect to determining an asset's value, GAAP and the SEC expect accountants to follow the principle of prudence. This means that accountants should be realistic about the value of assets and income taking care to not overstate income and understate liabilities (Markham 2006). In other words, "reality" should be represented as it is, and numbers should not be dressed up or dressed down. This principle serves as a guideline, and though it seems that determining value is a rather transparent process, there remains a great deal of room for intervention on the part of accountants and others. This is precisely what Enron accountants and financiers like Andy Fastow did. If the documents discussed above seemed obtuse and confusing, that is because they were intended to be so. The vague wording of many footnotes and figures, particularly with regard to structured financial entities, masked what was going on behind the scenes. What were the private spaces or performances of the firm? How did these private performances impact both EBS and Enron's public performance?

4.2.2 Private performances

What occurred in the private spaces of the firm is still in some senses unknown. Some former employees have stepped forward either anonymously to journalists or through testifying at the trial to reveal their version of Enron's backstage performances.

When I say backstage performance or refer to Enron's private spaces, I am speaking of two elements. First, this refers to the conversations that took place among employees like Fastow, Glisan, Skilling and Ken Rice, EBS's CEO, and all those conference rooms and offices where decisions to implement certain financial structures were discussed and/or agreed upon. But, I am also referring to spaces behind or off the balance sheet. Off-balance-sheet structures, like LJM, were private performances in that their balance sheets were not required to be reported to the public. In what follows, I discuss how these structures were used as private performances. How did structured financial transactions impact Enron's public performances? To begin, I elaborate on what structured finance and off-balance-sheet transactions are and why companies rely on them. From here, I demonstrate the impacts of these private performances for each of EBS's four quarterly reports in 2000.

The reasons behind why companies use structured finance are many and vary from firm to firm or even from transaction to transaction within a company. But, the practice is primarily used to raise capital without adding to existing debt on the balance sheet, such as a loan would do. It does this by utilizing financial techniques known as off-balance-sheet partnerships and/or special purpose entities (SPEs) (Markham 2006). The structures are designed with both the partnership and Enron placing money into a pool. This money is then used to purchase assets or engage in hedging. Both parties would agree on a completion date for the transaction, at which time the asset is transferred back to Enron or sold off elsewhere. The use of off-balance-sheet transactions requires companies to follow a series of accounting rules and regulations. One of the most

important of these rules is that the outside partnership put up a minimum of three percent of the total capital for the transaction. This makes the transaction legitimate, to find an outside investor willing to put their own capital at risk and potentially lose money. Otherwise, the transaction would not qualify for off-balance-sheet status and potential losses or gains would need to be reported in the firm's quarterly and annual financial statements. Further, the partnership should also operate at an arm's length distance, doing its own due diligence on the level of risk of each transaction (see Fastow and Glisan discussion in chapter 3). These factors combined are what allow structured finance transactions to be private performances of the firm, rather than for public inspection.

As chapter three indicated, Enron's use of Fastow's LJM partnerships began in 1999 with the formation of LJM 1. To briefly review, LJM 1 was used to capture gains Enron made in a specific investment into an Internet start up company named Rhythms Net. Once Rhythms Net went public, its stock value increased dramatically. Skilling expressed a fear that the stock value might fluctuate and decrease before stabilizing. Rather than record such fluctuations, and likely inevitable declines in the value of the investment on Enron's balance sheet, Fastow devised a plan to transfer Enron's investment into Rhythms Net into an off-balance-sheet partnership. This partnership was his LJM 1. Fastow put up the necessary 3% equity, and Enron transferred the rest, mostly in the form of Enron stock. This transfer to LJM 1, at the high point of Rhythms Net's stock worth, enabled Enron to record on its balance sheet the value of its investment into the company at that high point (the transfer to LJM is somewhat like a sale to the partnership on Enron's part. Enron records the price at which it sold (or transferred) the

investment to the partnership). This means that declines in the investment's value (meaning Rhythms Net's stock price) would show up on LJM's balance sheet at the end of each quarter and not Enron's. In effect, Enron was able to capture massive gains on the investment in its balance sheet and report those gains in forthcoming financial statements without having to report the corresponding losses when the start-up's stock price inevitably declined.

In the fourth quarter of 1999, LJM 2 was formed, not with a single transaction in mind, but more as a general partnership able to take on a number and range of deals. LJM 2, \$386 million dollars wealthy, took on six deals just days before the close of the fourth quarter of 1999 (US v. Lay and Skilling, Fastow testimony, March 7 2006).⁴⁵ Enron's 1999 annual report sent out to investors and filed with the SEC reported an income level of just about \$1 billion dollars (Enron Corporation 1999). The six rushed deals with LJM 2 at the close of the quarter no doubt influenced Enron's performances in a positive light. In effect, structured finance is one of the many financial technologies that impacts a firm's performance to the public. Through careful maneuvers orchestrated backstage (in off-balance-sheet partnerships), the front stage performance is enhanced.

⁴⁵ As Fastow outlined in court, the names and details of these 6 deals included: 1. Margaux: on December 22nd, 1999, LJM 2 did what it described as a "bridge to the closing of Margaux", which transferred the asset to LJM 2 for year end to hide losses. 2. Enron North America CLO (Collateralized Loan Obligation): Also on December 22nd, 1999, Enron sold a portfolio of assets to LJM 2 to hide losses. 3. Broadband Notes: LJM 2 was the 'plug' for the broadband notes that could not be sold. It was called the plug because LJM 2 became the buyer and stopped a potentially huge loss from occurring. 4. Bob West Treasure: On December 29th, 1999, Enron's equity in Bob West Treasure was sold down. Enron also created fictitious dates as necessary to make the transaction believable. 5. Pluto: LJM 2 also made a purchase of debt and equity for Pluto because Fastow says that no arms length third party (or partnership) would have bought this from Enron at year's end. 6. Yosemite: Finally, on December 29th, 1999, LJM 2 fronted a deal called Yosemite because Enron could not get the tax benefits desired if it did the deal directly on its own balance sheet (US v. Skilling and Lay, vol. 21 2006).

To gain a better understanding of the specific impacts, I closely examine the financial relationships between Enron's broadband business and structured financial partnerships like LJM 2.

Ken Rice, former CEO or head of EBS testified for the prosecution in mid-February 2006 at Skilling and Lay's trial. He ran the division from mid 1999 to July 2001. The purpose of Rice's testimony was to present evidence that Skilling and Lay had misrepresented the division's earnings to the public. He bluntly stated to the jury on several occasions that EBS was a "charade", and that "we [at EBS] had no customers and no deal flow", despite spending nearly a \$100 million a quarter (US v. Skilling and Lay, Ken Rice testimony, February 14 2006). When asked by the prosecution, "did you intend to mislead analysts" with respect to financial representations?, Rice answered "yes" (US v. Skilling and Lay, Ken Rice testimony, February 14 2006). The prosecution with the help of Rice took the jury step by step from quarterly statement to quarterly statement to demonstrate the "charade" Rice described. Following their lead, this is my next task.

We know now, from Rice's testimony and other employees' comments that despite what was reported in the financial statements and Skilling's positive words to Wall Street, little happened in EBS. For example, in the first quarter 2000, Rice acknowledges that few deals were in the works, and even fewer had been closed (only 3 completed transactions in Q1)(US v. Skilling and Lay, Ken Rice testimony, February 14

2006).⁴⁶ The only thing the company was doing was laying the fiber optic cable necessary for the EIN, the fiber optic network required for bandwidth. Despite the minimal number of business deals in this quarter, recall that the division reported \$59 million in revenues. But, as indicated in the statement, these revenues derived in part from “sales of excess fiber capacity” from the EIN (Enron Corporation 2000a). Rice was critical of this act in court suggesting that it was only done to generate earnings for EBS. It made little sense for the division to sell the very cable it was laying for its network.

The charade of EBS continued into the second quarter when the division reported \$151 million in revenues. As I’ve already indicated, the financial statement reveal that over one third of the revenue reported came again from the sale of excess physical (known in the industry as “dark”) fiber to an “entity”. Since the firm’s downfall, we know more about the sale of this fiber. According to Rice’s testimony, the sale of this fiber was intended specifically to manufacture revenues; there was no other business purpose to the transaction. In the second quarter, the purchaser of this fiber was LJM 2. The reason for brining Fastow’s partnership in was because at the close of the second quarter (when the revenue was needed to make projected targets), no other outside legitimate buyer would commit to a purchase. Fastow agreed to do the deal using LJM 2

⁴⁶ Enron created indicators for some of its businesses, indicators that would demonstrate performance in ways other than profit or revenue. For broadband, the company disclosed how many bandwidth transactions were completed per quarter of reporting. The more transactions completed, the more the business appeared to be growing. For Enron’s energy retail division, the firm created the total contract value indicator or the TCV. The TCV measured the total value of the contracts Enron had negotiated. One accountant said of the TCV that “it was a PR [public relations] message embedded in a financial disclosure” (McLean and Elkind, 2003, 179). Essentially, the metric “gave Wall Street something else to focus on besides profits” (ibid, 179).

to hold onto the fiber until another buyer could be found. Eventually a buyer was found in the third quarter of 2000 (McLean and Elkind 2003).

EBS's financial statement for the third quarter of 2000 makes an even more compelling story of manufactured revenues procured through transactions made in private, concealed from public view. Recall again, EBS reported \$155 million in revenues, and that those revenues were in part generated from increases in investments made by the division and Enron. The statement does not reveal the name of that investment, only that it involved a related party to which Enron transferred a large sum of money. Again with the benefit of journalistic investigations as well as information revealed during court testimony by those involved in these transactions, we now know that the related party involved was once more Fastow's LJM 2. We also learned that the investment was Avici Systems.

Avici Systems is a company that produces high-speed routers, which are important for improved connection to the Internet. In 1999, Enron made a \$15 million dollar investment into the start up firm and allowed EBS to buy into that investment in the amount of \$1 million dollars (McLean and Elkind 2003). When Avici was set to go public in the summer of 2000, Skilling was concerned about having to mark potential future losses or volatilities in the price of the stock share on both Enron's and EBS's balance sheet. As a result, Ben Glisan spearheaded a team of accountants to devise a scheme to remove Avici from the balance sheets of the firm just following the IPO, much

like what was done with LJM 1 and the Rhythms Net transaction (McLean & Elkind 2003). The scheme became known as Raptor I. In a grossly simplified form, the financial transaction consisted of off-balance-sheet partnership LJM 2 (putting up the necessary 3% outside equity), Enron, and an SPE known as Talon. Together the three made up the Raptor entity. When Avici went public, its stock price soared to \$162.50/share, giving Enron a return on its investment of \$150 million dollars, and EBS a return of \$35 million dollars (Powers, et.al 2002). By locking in the gains in the investment, and then moving the investment into LJM 2, both Enron and EBS benefited immensely for the purpose of financial reporting.

The documents used to record the Raptor transaction note the date as having occurred on August 3rd, incidentally the highest point reached by Avici's stock. Other documentation, including emails and daily calendars suggest the decision to move Avici to LJM 2 actually occurred later in September when Avici's stock price had fallen to \$90/share (McLean & Elkind 2003). By backdating the documents to August 3rd, Enron was able to record nearly twice as much a return on the investment as opposed to correctly or appropriately using the September date. In this way, EBS should have reported about \$10 million less in revenue for the third quarter or around \$140 million. But, this would have meant a drop in reported revenues from the second to third quarter, something not tolerated by Wall Street at this time.

The constant struggle for the division to make earnings, as indicated by Rice's testimony, translated into the use of accounting tactics that emphatically dressed public numbers up. The sale of unused fiber and the transfer of the Avici investment to LJM 2 were strategies Enron used to push money from a public performance to a private one, and call that transfer revenue. Rice says that he told Skilling on a number of private occasions in Skilling's office that he was concerned about the business' ability to meet earnings targets. According to Rice, Skilling's response was, "we had a lot of pressure from analysts" and that Skilling "didn't need anymore bad news" (US v. Skilling and Lay, Ken Rice testimony, February 15 2006). But, in early 2001, just before filing the fourth quarter financials for 2000, Rice said EBS began to struggle even greater than previously (with the collapse of the telecom industry more widely). Rice said that in the six months previous, EBS had not completed any deals, but Skilling still wanted an optimistic image of the division. According to Rice, "we wanted to give the message [to Wall Street] that things were going good, that we were moving along with our plan... We wanted to maximize the value of EBS in our stock price" (US v. Skilling and Lay, Ken Rice testimony, February 15 2006). So, if the second and third quarter of 2000 seemed a "charade" of earnings in Rice's words, then the fourth quarter involved an even greater deception. The accounting tricks used by EBS to meet its fourth quarter numbers was described by Rice on the stand as Enron's "one more hit of cocaine on those earnings" (US v. Skilling and Lay, Ken Rice testimony, February 14 2006), insinuating the company was a crack addict, addicted to meeting earnings targets at all (ethical) costs.

What Enron and EBS did in the fourth quarter was to sell future revenue from the broadband content business, which was the part of Enron's business to deliver media content (like movies) via high-speed connections. Earlier in 2000, EBS had made a 20-year business agreement with Blockbuster, the video rental store, to provide a new video-on-demand service. The idea was that Blockbuster "would use its Hollywood clout to obtain licenses for films and other content while Enron would be responsible for figuring out how to stream it into homes" (McLean and Elkind 2003, 291). The deal was announced to the public in July 2000. Between the political difficulties in lining up the studios to agree with the new service, and the technical difficulties of actually getting the content from Enron's fiber network to people's homes, the deal eventually died in March of 2001 (McLean and Elkind 2003). But, before its death, Enron tried to capitalize from it. Below is what Enron accountants did (in private).

A structured financial transaction called Braveheart (named for the 1995 Mel Gibson movie) was set up, and the Blockbuster contract was moved there. According to McLean and Elkind, Enron "calculated a value for the entire 20-year Blockbuster deal, based on projections--wildly speculative of course--about future DSL use, computer video purchases, the speed of rollout, market share, expenses and other factors" (McLean and Elkind 2003, 293). Then, as the US DOJ explains, Enron executives "created a joint venture to implement the Blockbuster contract with two investors: nCube, Inc., a small video technology company, and Thunderbird, an investment fund controlled by Enron" (USDOJ 2003). From here, a piece of the joint venture was sold off (including anticipated revenues from the contract) to an undisclosed Canadian bank, we now know as CIBC

(Canadian Imperial Bank of Commerce), for \$115 million. Fastow assured the bank that the earnings from the Blockbuster deal would go directly to CIBC. And, if earnings were not sufficient to repay the original \$115 million, then Enron itself would repay the bank its money (US DOJ 2003). As discussed in previous chapters, these verbal assurances are illegal. The law requires that business transactions must have economic purposes, that they must involve risk. Attaching a verbal assurance to repay an investment negates that risk.

For EBS's financial reporting purposes, this \$115 million in revenue generated from the Braveheart deal was spread across two quarters, 4Q 2000 and 1Q 2001 at \$53 million and \$58 million respectively. For the 4Q 2000 report mentioned earlier, the \$53 million in revenue from Braveheart comprised the entire earnings reported by EBS. With Braveheart, the nature of the performance shifts. Rather than simply transfer an asset into an off-balance-sheet entity, like with Avici, Braveheart involved a complex mixture of structured finance and mark-to-market accounting. The basis for the transaction was not on a tangible asset, but rather the promise of the future value of an asset. One employee with EBS who found out about the deal said, "It didn't make any sense. When we heard what they did, everybody's mouths just hung open. We weren't doing business on any scale close to those numbers" (Norris and Eichenwald 2002).

Eventually the charade of EBS ended. Structured financial performances in private could no longer enhance Enron's public persona. The first three quarters of 2001

(Enron's last three quarters prior to bankruptcy) the division continued to perform slowly. The firm downsized employees laying off many of those recruited to EBS from other parts of the company. And, at one point Enron tried to merge EBS with another outside telecomm firm, but the merger was unsuccessful (McLean and Elkind 2003). EBS would never reach the revenue margins it did in its heyday during the first 10 months of 2000. Enron's falling stock price beginning in early 2001 reflected a loss in faith in the company's move into the broadband business.

When you take into account the values involved in these off-balance-sheet transactions with EBS, they seem insignificant considering Enron reported revenues of \$1.5 billion dollars from July 2000 to July 2001 (Powers, et. al. 2002). However, when you consider all the off-balance-sheet transactions combined to which only just LJM 2 was involved (not including other transactions like Braveheart), the numbers become more striking. Enron completed over 20 transactions with LJM 2 in the lifetime of the partnership. Together, they allowed the firm to avoid publicly reporting nearly \$1 billion dollars in losses during this period, meaning the company should have reported \$429 million in profit, not \$1.5 billion in that July 2000 to July 2001 period (Powers, et. al. 2002). The manipulations of the company's overall image are obvious. How then did dozens of well-educated Wall Street analysts miss such enormous manipulations? I asked this question to financial journalist Bethany McLean in an interview. She responded that at the time,

“Wall Street was about buy [Enron] stock. And so all the analysts had buy ratings on its stock because they were getting Enron's investment banking business and they wanted to

get Enron's investment banking business. And, portfolio managers who owned the stock wanted to see it keep going up. The whole machinery of Wall Street is geared towards getting stocks to keep going up" (McLean 2006).

Witnesses in court and contributors to books on Enron suggested the same, that analysts and banks had too much riding on the good performance of Enron. And further, that Enron's outside auditors and counsel had similar conflict of interest issues. In order to keep Enron's business, they went along with what Enron wanted (Enron's outside auditor Arthur Andersen earned nearly \$52 million in fees each year for work on the Enron account) (Markham 2006). They (what McLean refers to as the machinery of Wall Street) all had a vested interest, much like Enron's own executives. Hence, they were blinded from critically reading the financials.

I need to pause now to clarify that the transactions I have outlined above involving EBS were in fact disclosed in Enron's financial filings. The problem was, they were not disclosed clearly. The Powers Report cites that while Enron did disclose that the CFO had an interest in various large transactions involving Enron, not mentioned was Fastow's rate of compensation, the purposes behind the transactions, nor the effects these transactions had on Enron's overall financial performance. Further, the disclosures in Enron's statements indicated that all transactions completed with the LJM partnerships were done so at an arm's length distance (with 3% equity at stake) (Powers, et. al. 2002). These details remained private, hence my reference to Enron's use of structured financial transactions as private performances. In this way, not only did the transactions allow Enron to manufacture revenue and shielding the firm from losses, the vague disclosures

permitted by SEC laws further protected Enron from public scrutiny and a critical reading of the company's overall picture.⁴⁷

These technologies allowed for a continuation of representations of Enron as successful to investors. The results for the year 2000 were increases in investment into the firm. This is evidenced by a continually growing stock price during this period, August 2000 being the highest point the stock ever reached. The documents and their calculative techniques did not simply comment on the realities of Enron, they re-ordered those realities by constructing particular economic values like growth, revenue and profit and by galvanizing investors into its performances. I have tried to suggest that part of the reason for the success of Enron's performance lay in what its financial statements communicated. This communication involved more than what was simply represented on the page. Critical was the way the information was presented.

As Barnes has explained in his article on the performances of textbooks in economic geography, there are four moments that make the text a compelling actor in a performance (Barnes 2002). First, the object must be an immutable mobile. Like a textbook, financial statements travel great distances over email, by plane or by hand, and

⁴⁷ Had these related party transactions been legitimate, it is wholly legal that Enron not disclose the specifics of what it was doing. The illegal aspects to the structures amounted to how they were designed. Fastow would receive a return on his investment before his money was at risk. In the case of Avici, as LJM 2 fronted the required 3% equity, the partnership received a return on the investment immediately, rather than as the asset appreciated (Powers, et. al. 2002). Essentially, Enron was transacting with itself, since only Enron's money remained in the structure. There was no arm's length distance. Thus, these transactions should have been disclosed in the publicly filed finances.

their content never changes. Second, objects must have “optical consistency and semiotic homogeneity” (ibid, 494). In other words, the data comprised on pages in the textbook “order, control, shuffle and manipulate varied events and things—imbuing both writers and readers with an extraordinary degree of certainty about the phenomenon described” (ibid, 494). The same can be said for financial statements. The information presented on the page is the result of numerous equations, spreadsheet calculations, and subjective interpretations of figures, all condensed or collapsed into “easy” to read charts and tables. Third, textbooks are “obligatory passage points” (ibid, 495). In the case of the financial statement, it too is an “obligatory passage point” in the sense that the SEC requires public companies to produce them, and financial statements are the primary way by which analysts and investors read into and interpret a company’s performance (ibid, 495). This passage from hand to hand, or desktop to desktop, extends the network of associations involved in Enron’s performance. Finally, the object must be a “piece of rhetoric” (ibid, 496). It must galvanize already established norms and practices. In the case of Enron’s financial statements, they were the result of a corporate chain of approval commonly accepted or taken for granted by Wall Street; Enron accountants write the statements, Enron lawyers review them, the statements are then sent for outside review at Arthur Andersen and Vinson and Elkins, and finally CAO Causey approves them (Powers, et. al. 2002).

As long as Enron’s financial statements maintained these characteristics, they put on a compelling performance. Furthermore, as long as the private details of how Enron’s public persona was arrived at remained private, for the most part Enron’s successes

continued. However, this distinction between private and public performances did not hold forever. In the late summer and early fall 2001, many of Enron's private shenanigans were made public. The conclusion explores this.

4.3 Conclusion: spoiled performances

Enron prosecutor John Hueston used his opening statement to the jury to draw a contrast between what the public saw of Enron, its “magically growing earnings at 15% rates” and what went on inside the firm, “accounting chicanery” (Pasha 2006a). This distinction between Enron's public performance and private actions occurred, according to the prosecution, from 1999 to early-mid 2001. Why or how did these performances change? A number of forces brought Enron's private spaces into the public light.

First, and perhaps ironically, the very calculative techniques of structured finance, used to prop the company up, eventually collapsed themselves. This collapse had to do with the design of the structures and Enron's falling stock value. Each off-balance-sheet transaction with LJM 2 was financed on Enron's part with company stock. As the stock value increased, so did the value of the partnerships. But, once the stock price began to slip, beginning in early 2001 (coinciding with the meltdown of the telecommunications industry and Internet bust), the partnerships lost value rapidly. You could say the structures became dehydrated, needing fresh infusions of cash to survive. Resultantly, in mid-2001 a team of Enron accountants restructured the four Raptor transactions between LJM 2 and Enron such that those which were making money (because the assets or

investments in them were profitable), could support those that were losing money (like Avici, whose stock value declined over 90% by the end of 2000) (McLean and Elkind 2003).

But, eventually this restructuring failed as Enron's stock value declined ever more rapidly in the summer of 2001 (in the \$30 range, down from a \$90 high). The reduced monetary value of the transactions in the partnerships no longer matched the inflated value captured and represented in Enron's books. Consequently, the transactions were forced to be unwound, meaning they were forced back onto Enron's public balance sheet. The unwinding of these transactions took place in 3Q 2001. For that quarterly report released in November, Enron announced a \$1 billion dollar charge to earnings related to markdowns on poorly performing assets and investments. Its past public performances had been spoiled by the now defunct private spaces of Enron's off-balance-sheet transactions.

The second means by which Enron's performances in public were eventually spoiled was through financial journalism, particularly the news articles written by Smith and Emshwiller from the Wall Street Journal. Their informant, "our mutual friend", revealed to the reporters what went on behind the closed doors of Fastow's partnership. With this information Smith and Emshwiller reported to the world how much Fastow was really making from his involvement running the LJM's, somewhere between \$50 and \$60 million dollars (Smith and Emshwiller 2003). Further, the reporters linked the \$1 billion

asset write-downs of the 3Q 2001 report to Fastow's failing partnerships. Smith and Emshwiller's articles, along with Enron's dismal 3Q report prompted an SEC investigation into the company, further drawing out Enron's private spaces. Now, with the bankruptcy examination and state prosecution, a great deal is known of Enron's private actions with LJM. For example, we know that what made Fastow's partnerships so dubious, aside from being funded with Enron stock, was the fact that he and his partnership investors received their return from the transactions even before the official transactions or hedging occurred. In effect, there was no equity at risk on their part (Powers, et. al. 2002). And, of course Fastow alleges that Skilling gave him verbal guarantees that LJM would not lose money (an allegation Ben Glisan helped to corroborate in court, but which Skilling still denies).

Investigating both Enron's public and private financial performances reveals one aspect of how the corporation is constructed. Corporate performances are fragile, forged together through complicated and precarious networks. They involve unstable processes and the aligning of associations comprised of humans and non-humans, associations which do not always hold in place. The amount of coordination, illegal and legal, involved to bring these performances out is evidence to this. Further, the impact of objects like financial statements and techniques like structured finance on performing public stories of the firm is immense (\$1 billion immense).

By drawing on the impact of objects in this narrative, I do not mean to suggest that financial techniques are somehow responsible for what happened at Enron. I merely point to the importance of these objects in understanding the complicated performances of corporate fraud. On this point of agency and objects, Timothy Mitchell cautions scholars to consider power and agency as a question, rather than an answer known in advance. “It means acknowledging something of the unresolvable tension, the inseparable mixture, the impossible multiplicity, out of which intention and expertise must emerge” in performances (Mitchell 2002, 53). In this way, the role of financial statements in performances should not be taken as starting points for analyses, but instead “to think of them as an uncertain outcome of a historical process” (ibid, 74). I have worked to accomplish this difficult task by considering not simply what Enron’s statements communicated, but also the story behind the statements, how and why they came together as they did. The goal was to situate Enron’s fraudulent paper performances as outcomes that were constituted through a larger dynamic of forces, forces that include Skilling’s desire to meet Wall Street numbers and Fastow’s greed, amongst other factors. With this noted, I further take up the social and cultural aspects of corporate fraud in the next chapter by exploring the gendered nature of Enron’s exposures to the public.

Chapter 5

Hetero-sexualizing fraud: gendered exposures of Enron⁴⁸

In April 2002, four months after the Enron Corporation's declared bankruptcy, Playboy posted a press release seeking Enron women to pose nude under a 'Women of Enron' spread. The advertisement requested interested women to provide a headshot and a bikini shot in addition to proof of former or current employment with Enron. This was Playboy's first issue featuring women of a company involved in a corporate scandal.⁴⁹ After receiving over 450 applications and conducting 300 interviews with former and current female Enron employees, Playboy selected ten women for the spread (Houston Business Journal 2002).

Just months earlier, two women were being credited with risking their careers to expose Enron's fraudulent accounting. Bethany McLean, *the* lead uncovering journalist during Enron's downfall, and Sherron Watkins, *the* Enron whistleblower set into motion the events leading to at the time the largest corporate bankruptcy in history. These two sets of women, exposing both Enron's false financial assets as well as the firm's fleshy

⁴⁸ An earlier version of this chapter was published previously (see Walenta 2006).

⁴⁹ Playboy's first encounter with corporate women was its August 1989 'Women of Wall Street' spread, but no single firm was featured. The 'Women of Enron' was Playboy's first take on a single corporate firm. Since then the magazine has launched a series of themed 'Women of Company X'. Next after Enron were the 'Women of 7-11', the 'Women of Worldcom' (like Enron also a company involved in a fraud scandal), the 'Women of Hooters', and the 'Women of Starbucks'.

assets, comprise the subject of this chapter. I analyze how these women were positioned by the media in the fall of Enron to ask how cultures of capital constitute gendered bodies in the corporate context. In effect, I am concerned with an age-old relation: sex and money. But, wrought in this case is a fraudulent and bankrupt corporation.

In the previous chapter, I explored the constitution of the corporate body in the context of interactions between human and non-human objects, or between investors, employees and financial statements. This chapter furthers my notion of the corporate body, but in a different way. I invoke feminist scholarship in order to situate the corporate body as a gendered body. In other words, I show how gender spirals through the Enron affair, particularly in discussions of fraud. This is illustrated through the two examples above, what I term Enron's "good" girls (the whistleblowers) and "bad" girls (the Playboy women). These terms are derived from feminist literature that explores the restricted representations or positionings of women in society; here the focus is on women as moral/ethical or motherly beings, and women as seductresses. How are hetero-sexed scripts, like the mother and the seductresses, woven through capital cultures? When I say hetero-sexed scripts or the desire for hetero-sexed scripts, I am referring to the desire for socially traditional heterosexual positionings of women. The corporation that emerges here is an entity constituted through mainstream cultures of heterosexuality and gendered bodily scripts. The link between corporate cultures and sexuality works to constitute scripted roles for men and women, how they should look, behave, etc. in the workplace. How are such narratives around gender imbricated in capital cultures and the exposure of fraud?

The chapter is divided into three primary sections. First, I situate my discussions within works by geographers and others dealing with the intersection of heterosexuality and capital cultures. How is heterosexuality bound up in the workplace? How have women in the working realm been positioned through historical narratives around social understandings of heterosexuality? The second section follows the stories of Enron's "good" girls. I explore the positioning of female bodies in the role of whistleblower (Watkins) and uncovering journalist (McLean) by mainstream media. I link their bodies to a scripting of the female body as a corporate housekeeper, a "moral" body situated as both ethical and honest. Finally, I use a textual and visual analysis of the Playboy spread to understand how the body is constituted in the fleshy exposure of Enron. In this section I draw on scholars who have interpreted the positioning of women's bodies in both art and photography. These two analyses help me to demonstrate the parallels between capitalist desire and heterosexual desire in the Enron context.⁵⁰ Because I argue that each of the narratives of exposure is constructed through gendered explanations, I make note of the conspicuous absence of male bodies. Finally, it is significant that the two accounts investigated in this chapter are derived from media discourse. In my conclusion I draw out that significance and counter-pose representations of gender and the corporation as indicated in the media with representations of gender as perceived by some of those former employees I interviewed. From there I speculate as to what these media generated hetero-sexualized representations (the "good" and the "bad" girl) mean specifically for narratives of corporate fraud?

⁵⁰ In following Gibson-Graham (1996) and their work on de-centering the system of capitalism, I maintain that the hetero-normative and capitalist desires I discuss have their own unique economic geography. This paper is in part an investigation of this geography inside the context of two publicly narrated accounts of Enron's exposure. So rather than understanding these desires as absolute examples of the relationship between heterosexuality and capital, I try to draw out their specifics.

5.1 Positioning women in the workplace

Few geographers write about the intersection between heterosexual desire and cultures of capital, and certainly even fewer have considered the sexed-constructions of the corporation. A notable exception is the work of Gibson-Graham. On a global scale, they write that the whole of the capitalist economy is scripted in discourses of heterosexual desire (Gibson-Graham 1996). Rather than being mere words or discourse, Gibson-Graham show that these hetero-normative accounts make a difference in the successes of capital. They draw upon metaphors like “virgin territory” and “market penetration” to show the effects of such naturalized scripts on the ground (Gibson-Graham 1996, 124). Referring to a territory as “virgin” not only sexualizes the land, and the people on it, according to Gibson-Graham, this sexualisation further legitimates or justifies penetration on the part of capitalism. Their larger focus on language and heterosexual discourses in capitalism on the whole opens up questions about how such narratives work on smaller scales, like workplaces and bodies.

Linda McDowell (1997) and Arlie Hoschchild (1983) are two pivotal scholars who investigate the gendered and sexed aspects of workplace culture. McDowell’s work on the corporate finance industry in London emphasizes that the body is an important site at which sexualization at work occurs (see also Judy Wajcman 1998).⁵¹ She demonstrates these processes through a range of examples including media representations of men and women at work. She looks specifically at corporate financiers in London and contrasts

⁵¹ Wajcman is a researcher in Organization Theory. (see also Collinson & Hearn 1994; Gherardi 1995; and Kanter 1977)

male and female images. In photographs, the man, “seldom removes his jacket. Considered contemplation and careful assessment overheats neither the brain nor the body. It is here that the image of disembodied rational masculinity reaches its apotheosis” (McDowell 1997, 186). These men are often alone in the image, represented from the belt up. In contrast, women are less likely to be in vertical poses, and often there is “an emphasis on the whole body or on a close-up shot of the face rather than a head and shoulders business-like shot” (ibid, 193). This kind of bodily positioning emphasizes women as embodied, as unable to escape their bodies or their gender attributes. Also McDowell notes women are often photographed in locales that are either unidentifiable or are in their homes, as opposed to the office spaces in which men are photographed.

Rosabeth Moss Kanter’s work (1977) broadly situates much of what McDowell noted in the images she analyzed. Kanter suggests that how men and women are viewed in society, in heterosexual terms, spills over into the corporate context. She links larger social scripts of sexuality to what plays out in the firm. From her extensive interviews with a service oriented corporation in Men and Women of the Corporation (1977), she identifies four conventional roles men assign women that help maintain familiar forms of social-hetero-normative interaction across the home to the workplace. These traditional notions of femininity include (1) the mother and/or the Madonna, (2) the seductress or whore, (3) the pet, encouraged to be girlish, and finally (4) the iron maiden, a tough women’s libber (Kanter 1977, 233-236). Women often find they ascribe to one of these roles, and/or find others scripting them through these familiar female identities. Many feminist scholars have gone on to further Kanter’s typology by situating the gendering of

women's bodies as sexualized beings explicitly within the production processes of capitalist firms.

For example, Pei Chia Lan's work is concerned with how bodies and identities are constructed as integral to the labour process (Lan 2003). Lan investigates cosmetic salespeople in the beauty industry who work in department stores in Taiwan. She finds that workplaces such as the cosmetics counter are rampant with images of desire and femininity, which salespeople, especially women, are expected to embody. Thus, their bodily labour as hyper-sexualized women is required for the very profitability of the industry. The work of Leslie Salzinger on the maquiladora factories on the Mexico-US border further expands the interconnections of sexuality and desire as intrinsic parts of capitalist production (Salzinger 2000, 2003). Salzinger notes how the design of a factory in her study and its labour control processes produces sexualized subjects; men in management upstairs who gaze upon female workers below on the factory floor. Women are encouraged by their peers and the labour process to perform a highly sexualized femininity, one that includes wearing mini-skirts and high heels to work on the assembly line. Such a workplace constitutes women as desirable objects and men as desiring subjects, where women are productive precisely because they are seen (and see themselves) as sexually desirable.

Each of the above works notes the importance of bodies and preserving traditional forms of heterosexuality in work contexts. Thus, furthering Kanter's typology above, and

building broadly from the ideas of Lan and Salzinger, I suggest below that the publicly narrated accounts of the Enron debacle produced sexualized subjects. My focus is on the “good” and “bad” girls of Enron, who loosely comprise Kanter’s mother or Madonna role and the seductress role (respectively). And, I maintain that these subjects are central to how we understand both the exposure of Enron and the positioning of women more broadly in the corporate context.

5.2 Enron’s “good” girls

Following Enron’s bankruptcy on December 2, 2001, the US Senate and House committees on Energy and Commerce launched investigations into the company to detect corporate fraud, their reason being that no firm so large should fold so quickly. These investigations revealed several voices both in and out of Enron warning executives of its troubles. In particular, two women’s names came up repeatedly in the context of these warnings. The testimonies decidedly target Sherron Watkins as the “lone voice who sought to warn Enron [that it] was in danger of imploding in a wave of accounting scandals” and Bethany McLean as “a reporter with Fortune magazine [who] first raised questions about Enron’s financial condition” (Committee on Energy and Commerce 2002; Committee on Governmental Affairs 2002). The result of this targeting meant that, with the release of testimonial witness lists on January 15, 2002, McLean and Watkins were thrust into the media spotlight.

Given the focus on each in the congressional investigations, I turned to media accounts of the debacle to examine articles, which specifically profiled the women. With these articles, I employed a content analysis to evaluate the underlying meanings of the women's positions in the narrative of Enron's fall. I looked at major national and international papers and one regional newspaper to determine how many such articles existed and in what ways the women were characterized in the year following the exposure, from January 15, 2002 to December 31, 2002.⁵² Many of these primary materials referred me to other journalistic accounts in magazines and books written on the Enron debacle. In all, I examined over three hundred newspaper and magazine articles, twenty-six of which are devoted specifically to the women's role in the scandal (six cover McLean and twenty profile Watkins), and three books which broadly cover the Enron debacle.⁵³ Below, I trace their stories in those months leading to and just after Enron's exposure, and ask how their bodies were produced in relation to male bodies in defining the role of whistle-blower and lead uncovering journalist in the Enron case.

5.2.1 "The one virgin in the whorehouse"

As already noted in chapter 3, in March 2001 Bethany McLean, a journalist writing for Fortune, published a story that critically questioned the value of Enron (Fortune 2001). Until then, reporting on Enron had been mostly favorable. Investors and

⁵² I limited my focus to the following national or international newspapers: Financial Times, New York Times, Washington Post, The Guardian, Toronto Star, The Wall Street Journal, and USA Today. Additionally, I looked at the Houston Chronicle, the main newspaper for Houston, Texas, the location of Enron's headquarters.

⁵³ Many of the newspaper articles cite McLean and Watkins only in passing, referring to them as either the uncovering journalist or the Enron whistleblower. Consequently, I chose to examine those texts, which specifically profile the women and their roles.

reporters were only interested in stock price and at the time, Enron's "stock price [then \$80 a share] convey[ed] legitimacy" (Barringer 2002, A11). By simply asking 'Is Enron Overpriced?', she countered the predominately positive coverage of the firm and Enron responded by sending three executives, including Fastow, to New York to dispute McLean's claims and prevent the publication of the article. Despite this, Fortune decided to print the article anyhow, but it received little attention. It was McLean's only article on Enron, at least until closer to the bankruptcy in the fall of 2001.

According to the media, Enron's efforts to silence McLean worked initially. The New York Times reported that the Fortune journalist, previously writing on corporate financial reports was demoted to reporting on Prozac and soymilk (New York Times 2002a).⁵⁴ She resumed her coverage on Enron closer to the bankruptcy when other reporters began paying attention to McLean's questions in October 2001, specifically Wall Street Journal's Rebecca Smith and John Emshwiller. After her name was released in congressional documents, McLean was interviewed on NBC's Today Show about her role in detecting Enron's false reporting. She was given a consulting contract with the network, appearing to discuss current Enron events and its complex financial concepts (Johnson 2002). McLean also signed a generous book contract with a co-worker to write about Enron's fall (Mnookin 2002). This book was later reformatted into an Oscar nominated documentary, known as 'The smartest guys in the room' (2006), but more affectionately referred to as "The Enron Movie".

⁵⁴ Though interestingly, McLean said in her interview with me that she was never demoted. She does not know why The New York Times said otherwise. I expand more on her version of events in the chapter's conclusion.

Months after McLean's article appeared, on August 15, 2001, Enron executive Sherron Watkins wrote an anonymous letter to Chairman Ken Lay after discovering large accounting oddities in spreadsheets documenting some of Enron's international assets. In it she said, "I am incredibly nervous that we [Enron] will implode in a wave of accounting scandals" (Watkins 2001).⁵⁵ Further, she raised concerns about Enron's "aggressive" accounting practices, the abrupt resignation of CEO Jeff Skilling the day before, and the welfare of investors and employees whose stock was now only \$38 a share (Swartz & Watkins 2003, 370).

Watkins wrote two further memos to Lay a few days later, this time including her signature, which detailed the precise ethical problems she had with Enron's accounting. The second two were longer and included hypothetical scenarios Enron might consider for disclosing its "accounting oddities" and rebuilding investor confidence in the firm and stock. It was not her intent to create bad press around Enron, but rather to help the company through this challenge. To this effect, she met with Lay, lawyers and other executives on numerous occasions in late August and September to argue for changes in company practices and make a case for gradual public disclosures (Swartz & Watkins 2003). The changes she requested were not granted, and the gradual disclosure strategy never took hold. During this time, Lay reportedly debated whether or not to fire her. The state of Texas has no whistle-blowing laws, so Watkins' job was not protected. But, there

⁵⁵ At this time, Watkins worked with CFO Andy Fastow in Enron's accounting division. This position gave her unique access to financial information related to Enron's business practices.

was speculation that she might go to the SEC. According to Watkins, during this period, she was asked numerous times to keep quiet until matters had been resolved (Swartz & Watkins 2003). Following Enron's downfall, on February 14, 2002, Watkins testified in front of the Senate and House committees investigating the firm regarding her memos to Lay and knowledge of Enron's financial affairs. She was kept on staff at Enron until November 2002. Now she speaks publicly about corporate ethics and received a contract to co-write a book about her role in exposing Enron (Colloff 2003).

In both Watkins' and McLean's cases, each is credited with exposing Enron, one from the inside (Watkins) and one from the outside (McLean). And, in both instances, they were not the only people asking critical questions of the company. According to the proliferating literatures on Enron's fall, including Watkins' own account, others are documented, and specifically men, as having made complaints about business practices to "higher ups" in the firm before Watkins (Swartz and Watkins 2003; McCoy 2002; Lublin 2002). Two examples highlighted in Watkins' own 'whistle-blowing' letter to Lay were Enron executives Cliff Baxter and Jeff McMahon. In her letter, Watkins describes them as having "complained mightily" to then COO Skilling and other Enron officials about Fastow's dubious accounting (Watkins 2001). However, their complaints were ignored. Cliff Baxter resigned from Enron in May 2001, and following the firm's exposure and the impending investigations, he committed suicide on January 25, 2002 (The Observer 2002). In the case of McMahon, Watkins testified that in March 2001, McMahon had outlined "five changes he thought should be taken if he were to remain treasurer [at Enron]" (Watkins 2001). Again ignored, McMahon was re-assigned to a post outside of

Enron headquarters (McCoy 2002). He was later named Enron CFO after Fastow was forced out in October 2001 (Bryce 2002).

In those stories documented by the media, books and congressional testimonies, men who expressed concern regarding Enron's practices were silenced through re-assignments or by resigning. Watkins managed to avoid either fate. Moreover, of the twenty articles I examined which profiled Watkins and her role in the Enron fall, only two make mention of McMahon and Baxter as peripheral whistleblowers. Since Watkins' testimony, she has been glorified as *the* Enron whistleblower (see Solomon 2004 and Colloff 2003). Chosen as 'Person of the Week' for Time.com in January 2002 (Time.com 2002 <http://www.time.com/time/POW/article/0,8599,194927,00.html>), she was later named 'Person of the Year' 2002, sharing the spotlight with two other whistleblowers, all female, Cynthia Cooper (Worldcom) and Coleen Rowley (FBI).⁵⁶ When the three women were asked if they thought there was a connection between whistleblowers and women, Watkins responded, "I do think there's something to being a woman...I am really comfortable with making general statements. But, men are more reluctant to put their friends in jeopardy. I don't necessarily want friendship in the workplace. Also, society doesn't ask women what you do for a living. Your ego or self worth isn't as tied to what you do" (Lacayo and Ripley 2002, 8).

⁵⁶ As of December 2001, Enron was the largest corporate bankruptcy in history. This title was surpassed by Worldcom in early 2002 when the global internet telecommunications giant filed for chapter 11.

McLean's own narrative unfolds similarly to Watkins'. Her story in Fortune was pre-dated by that of male Houston-based journalist, John Weil, writing for the Wall Street Journal's regional office in Texas in September 2000. Weil's article focused more broadly on Texas energy companies and their accounting practices, but devoted four paragraphs specifically to Enron (Mnookin 2002). "Enronathon", an article in New York Magazine, tries to piece together who really was *the* first reporter to ask the critical questions of Enron. In a marathon of reporting on Enron, the article traces three separate journalistic accounts: Weil's (September 2000), McLean's (March 2001), and two reporters from the Wall Street Journal, Rebecca Smith and John Emshwiller (October 2001). According to the article, Weil is reported to feel like he should get the credit for crossing the "finish line" first, while Smith and Emshwiller are certain it was their story, which caused the critical speculation about Enron's finances. The article concludes with a 'judging' section in which McLean is credited with being the first to raise specific questions (Mnookin 2002). Not surprisingly, of the six articles I examined on McLean's role, none make mention of men as journalistic contributors to uncovering Enron's fraud.

The absence of the male body as the exposing body in these narratives is striking. While men were certainly involved in questioning the principles of Enron, the media glorified the women of the Enron scandal as ethical beings, as capable of detecting corporate wrongdoing. Moreover, following the release of Watkins' and McLean's names to the media, a series of news articles were written questioning whether women

are more intrinsically ethical than men in the corporate environment.⁵⁷ Lynne Bowes-Sperry of the Academy of Management's Gender and Diversity is quoted in one article saying that "Men tend to use principles of justice, and women tend to use principles of caring, so women...do things more for the good of the family, or in this case the company" (Meyer 2003, D1). In what follows, I expand on this idea of women, and not men, as "ethical bodies" in these corporate fraud narratives.

5.2.2 Scripting women's bodies as corporate housekeepers

Adam Tickell, in his article on the response of print media to the collapse of Barings bank, makes note that "media do not merely 'report' the 'facts' of any particular case, they present partial interpretations which contribute to the discursive understandings of an event" (Tickell 1996, 19). In the case of Enron, media coverage on the event aided in framing the exposure of the firm as gendered, as accomplished through female bodies. But, more importantly, the media wrote about these women in particular ways. Below, I suggest that media coverage of the Enron scandal constituted McLean's and Watkins' bodies through three distinct narratives; the rational yet sexually desirable body, the truthful body and the maternal body. These narratives closely align to what Kanter and McDowell found of corporate women discussed earlier. I argue that these scripts were vital in singling out women as *'the exposers'* over men.

⁵⁷ Some of these articles include Meyer (2003), Financial Times (2002), Dowd (2002), Williams-Walsh (2002), and Fahri (2002).

Media coverage on McLean tended to frame her as feminine through a combined narrative of heterosexual attractiveness and accounts of her analytical ability. The reporter's age, appearance and voice all become subjects of description scripting her body. She is described by the Washington Post as having an "impossibly soft voice", and the New York Times makes note of her "photogenic smile" (Barringer 2002; Kurtz 2002). The most striking portrayal of McLean as a sexualized body is in the New York Magazine "Enronathon" piece. The text is accompanied with a small cartoon of the reporter standing on the Enron 'E', which is turned on its side. Wearing a blouse and pants, a blonde, very curvy McLean, with red lips, stands in the centre of the 'E' holding a bouquet of flowers and waving. Around her on the ground are four men (possibly fellow journalists) gazing up at her. The article's following quote captures the moment; "While McLean was being anointed as a journalistic sex symbol in a story hitherto dominated by a balding Ken Lay, folks at the [Wall Street] Journal felt they were robbed" (Mnookin 2002)

These sexualized depictions framing McLean's body are accompanied by notes regarding her analytical ability. Readers learn where she went to school, "at Williams College, majoring in both Math and English" (Barringer 2002, A11), and how she worked at Goldman Sachs, a major investment banking firm, before joining Fortune (Kurtz 2002). These notes on McLean's logical abilities work to justify and explain her insight into Enron, working to disprove Enron's original attack on her as "incompetent and...a 'looker' who didn't know how to read a balance sheet" (Krum 2002, 8). Of particular note in this narrative is the fact that the sexualized body runs alongside a

“rational” body. Feminist scholars such as McDowell (1997) have pointed to the ways in which men are often disembodied in the workplace. They are portrayed as “rational”, or rather appear to lack emotion or sexuality.⁵⁸ On the contrary, women in the workplace seem incapable of escaping embodied accounts. McLean is no exception. Her descriptions include both an embodied sexuality (her hair colour, smile, voice, marital status) alongside accounts of her business knowledge.

The notion of a truthful body underlay the majority of the descriptions of Watkins in the media (eighteen of the twenty articles on Watkins). A body lauded for its courage, ethics and moral values, these characterizations of Watkins have their root in Congressional testimonies where Watkins is described as “a loyal employee who sought valiantly...to save the company” (Committee on Energy and Commerce 2002). She “played by the rules” and “contributes to the integrity” of commerce (Committee on Energy and Commerce 2002). Watkins is further noted in several journalistic accounts for her “small town values” and her “strict Lutheran upbringing that stressed you do your best” (The Observer 2002, 20) (see also Business Week 2002; McNulty and Spiegel 2002; Colloff 2003; Frey 2002). The Houston Chronicle describes her as having a “good moral compass” (Flood 2002). And, Time Magazine named Watkins “Person of the Year” because of her “ability as an ordinary person to speak up” and “she ought to be

⁵⁸ I refer specifically to those men who subscribe to hegemonic heterosexual masculine values.

applauded for making sure that *truth* was something that was never taken off the books” (Lacayo and Ripley 2002, 8).⁵⁹

This portrayal of Watkins as the bearer of truth slips into a discourse on ethical behavior. In one account, the whistle-blower is shockingly described as “the one virgin in the whorehouse” by Forbes Magazine (Ackman 2002), which incidentally in 2002 led all other business publications in circulation, occupying the number one spot for readership (Forbes Inc. 2003).⁶⁰ The combined effect in these depictions is Watkins elevated status to hero, and former Enron employees have reportedly printed t-shirts with her face above the text “our hero” (Krum 2002; The Observer 2002; Frey 2002). Portraying Watkins as a truthful body guided by Christian values helps to explain her motivation for speaking out against Enron’s unethical accounting.

The final narrative characterizing Watkins in the media is the portrayal of her as maternal. Exactly half of the media accounts I examined place Watkins in this role. She is described as a “high-powered executive mom” (Frey 2002; see also The Observer 2002). Her heterosexual body is further evidenced by the mention of her loving husband and the recent birth of her daughter Marion (The Observer 2002). The media points to Watkins’

⁵⁹ My italics.

⁶⁰ Forbes, Inc. also says that for the year of 2002, it reached the top management audience of any other business publication at the time, including its rivals *Fortune* and *Time* (Forbes, Inc. 2003). While we learn that the publication reaches a predominately middle and upper class readership, indicating the income class of people consuming this discourse, the breakdown by gender of this audience is not clear. The representation of the remainder of Enron employees as “whores”, or people of dubious character, and the company as a whorehouse, reinforced some of the themes discussed in chapter 2, that mainstream accounts of Enron tend to characterize the whole of the company as wrought with corrupt or greedy tendencies.

devotion to her daughter, highlighting how much she enjoys motherhood (McNulty and Spiegel 2002). The Washington Post ends its profile on Watkins noting that “at that time, Watkins’ biggest crisis was common in the life of a mom with a 2 year old. She was trying---repeatedly, futilely—to convince Marion that cookies were not a breakfast option” (Frey 2002, C1). Finally, not only does Watkins serve as the mother to her daughter and spouse to her husband, Forbes magazine paints a picture of her testimony to Congress as a Valentine’s date with Senators where Watkins served as America’s sweetheart (Ackman 2002).

These three narratives are crucial to understanding women’s roles in the corporate context. While I contend that Kanter’s typology does not directly map onto the narratives of McLean and Watkins, there are significant overlaps, particularly concerning the specific embodied accounts like the role of the mother. I suggest these public scripts were important in that they contributed to a positioning of women’s bodies as what I term corporate housekeeper. Drawing from Sallie Marston (2000), Western women have traditionally been positioned as the bearers of domestic labour, keeping things clean and organized. These abilities defined a ‘good’ wife, mother and citizen (i.e. wholesome and ethical). Keeping things clean was considered part of one’s moral duty as a woman. In the past, women translated their domestic abilities across scales as “the home (and homemaking) was seen not as a private undertaking, but as a public function [where] the private and public became linked through the interaction of sound domestic management and responsible municipal housekeeping” (Marston 2000, 238). Early 20th century examples include women’s involvement in reform for conservation and the environment.

In those cases, women's sexualization as moral bodies enrolled them in a responsibility to keep waterways and air clean because of the direct affect on health in American homes (Hoy 1980). In this way, part of being feminine in the traditional, and Marston would argue patriotic sense, is to extend one's housekeeping abilities beyond the private realm into the public. This includes speaking out to keep municipalities "clean", organized and efficient.

This municipal housekeeper or "good" girl script that held governments accountable at the turn to the 20th century runs parallel to the contemporary narratives of ethics and fraud that position Watkins and McLean in the corporate contexts of the Enron story. I do not mean to suggest that these women physically cleaned up Enron. Nor do I think that the municipal housekeeping metaphor can be placed cleanly onto their bodies. Rather, I am suggesting that their reified profiles as '*the exposers*' shedding light on Enron's fraud and bringing the question of ethics to the forefront are rooted in the same hetero-normative values that positioned earlier women as municipal housekeepers. Watkins and McLean are corporate housekeepers because they too are considered through their actions to be ethical and moral in a traditionally feminine sense. While the men of the Enron narrative were not credited with first leaking the story or first blowing the whistle, female bodies were. I suggest here that part of the reason lay in the corporate housekeeper script, a script that reconstitutes female (not male) bodies as honest and ethical.

I have one final point to note. I performed this media analysis before going into the field. Thus, in my interviews with McLean and Watkins they were able to comment on my findings after generously reading an earlier draft of this chapter. McLean said in our interview:

“I never thought that the people of Enron would have treated me any different if I were male, female, green or purple. I don’t think they cared, I just think they didn’t like being asked questions. I think the media after the fact turned it into, turned me into an emblem of their own, their own preconceptions, and I found that really interesting because people in the media like to pride themselves as being beyond sexism much more so than a company based in Houston, TX whatever be beyond sexism, right? But that’s actually, I didn’t think that was true. I think the company based in Houston, TX didn’t give a damn [about my gender] and I think the media actually really played into stereotypes both in building me up into something I wasn’t probably because I was young and female” (McLean 2006).

Here, McLean points to the differences between how she was perceived by the media versus how she believed was perceived by Enron. After reading this chapter, she said of her role as a journalist:

It’s also really good for a journalist to read things that are written about you because it makes you much more sensitive to what you write about other people. You know there are those moments like ‘wait that’s not me!’, but that’s good training and it makes me more sensitive on the other end of things, or so I hope” (McLean 2006).

My discussions with Sherron Watkins revealed a similar sentiment. She admits to being shocked by the level and type of media attention received following the announcement of her letter to Lay (Watkins 2006). She furthers this by adding that:

“Like in any profession there are high integrity journalists and low integrity ones. I’ve learned to be cautious and talk only to high integrity journalists...some have hidden agendas, others print outright lies” (Watkins 2006).

Watkins then told me that she later found out that Jeff Skilling had paid an author of Business Week to print a bad op-ed piece about her (Watkins 2006). Clearly, according to Watkins, a greater level of scrutiny is required in reading and analyzing media accounts of the Enron downfall. Recalling Tickell’s words again, the “media do not merely ‘report’ the ‘facts’ of any particular case, they present partial interpretations” (Tickell 1996, 19). In this case, these partial interpretations were powerful in part because they played upon (and perpetuated) traditional social understandings of gender and the workplace.

5.3 Enron’s “bad” girls

The August 2002 Playboy issue highlights Enron’s culture, its image and the ways these two moments constitute each other through desire and deception. Through its text and photographic images, the spread brings together discourses of sex and the fleshy body with discourses of finance and the corporate body. The 10 women pictured in the nine-page spread express a femininity that relies on an understanding of the female body as sex object. In what follows, I consider the opposing script in Enron’s exposure that of its “bad” girls. I conduct a textual and visual analysis of the nine-page spread to ascertain the representations of female bodies as seductresses. I specifically draw attention to the women’s surroundings, their costumes and jewelry, and their positions in the photographs to explicitly demonstrate the parallels between a corporate desire for profit and

heterosexual desire. To do this, I bring in literatures on the gendered notions of spectatorship, in particular Griselda Pollock (1988) and John Berger (1977) to provide insight into the constructed role of women in exposing Enron.

While these “bad” girls of Enron offer a contrasting portrayal of femininity to McLean and Watkins, I maintain like the corporate housekeeper, they too are positioned in capitalist discourses preoccupied with a feminine body. My analysis highlights this point by drawing out a parallel the spread brings together, that is the parallel between heterosexual desire (represented through a female body sexualized in particular ways) and capitalist desire (or the desire for money, objects, status).⁶¹ While I limit my discussion to the Playboy spread and its representation of Enron, I think some larger connections between capitalist cultures and women’s bodies are evident.

In writing a textual analysis about corporate women posing nude, like many feminist geographers (especially McDowell 1997), my intent is to provide theoretical interventions that reconfigure women’s agency in the firm. This entails moving away from conclusions that present women as victims of a patriarchal structure, or places them as “resistors” of male power. In a corporate culture where some female employees complain about being treated like commodities (Bryce 2002) and other women speak openly about using their sexuality to sway investor decisions (McLean & Elkind 2003),

⁶¹ There are of course other desires at play which I do not pursue here. One example in particular would be the desire for ‘whiteness’.

there is no one static script of the female worker. I want to move towards an analysis that sees the female agent inside the firm as fraught with both complexity and ambivalence. Hence, I recognize that the women in Playboy have multiple and conflicting reasons for their decision to pose.

The Playboy “Women of Enron” spread takes up nine full pages inside the magazine in addition to the picture on the cover. It includes text on Enron written by Playboy staff, and both quotes and photographs of ten of Enron’s employees. Each woman is pictured once, except for the woman on the cover and the last woman featured who has her own two pages. Of the women, five are photographed among signs of material wealth inside opulent residences, two women sit in corporate offices, and three are displayed among leisurely activities such as horseback riding. Together they comprise different aspects of Enron’s corporate culture both inside and outside the firm. Before analyzing the images, I describe the photographs to the reader to give an idea of the contents and positions of the women. Though note, I choose not to reproduce the images here because I want to (re)position the female body and the reader in ways that are not presented in the Playboy spread. In my describing them textually, I no doubt re-present some problematic aspects of the representations because I frame them as I see them framed, through a particular heterosexual and capital desire. At the same time, I write towards a different gaze, one which does not reproduce the sexual intimacy of the

photographs, but parodies by naming and abstracting problematic aspects of the representation.⁶²

First, Lori Hodges' image encapsulates the combined wealth and sex appeal the Playboy editors try to create. The former Enron sales representative is standing in a lighted atrium of a house on marble flooring. She is positioned next to a black piano that is draped with a long string of pearls. One hand rests on the piano, while the other is on her hip. She wears only a white flower embroidered corset, which covers her from mid-stomach to just below her breasts. Her head is slightly tilted downward and she stares straight into the camera with a slight smile. Around her neck is an ornate gold necklace. Her blond hair is worn down touching her shoulders, and she wears glass high heel shoes. There are four other women who are photographed similarly in opulent or decadent surroundings in the home. Each in her separate photograph, these women sit on divans and lay on plush bedding. Most are draped in pearls or other elaborate jewels, and all are wearing slinky, strapped high heel shoes and many are dressed in richly designed corsets. One woman even holds a chess piece in a suggestive manner.

In addition to women posed in the home, there are two other women who are situated in leisure activities. For instance, twenty-seven year old Courtney Parker leans into a large leather horse saddle. Oddly enough she wears red suede heels and a ruffle top while preparing her saddle for riding. And Janine Howard, 39, stands on the wing of what

⁶² Thanks to Bonnie Kaserman and Geraldine Pratt for helping me think through this.

appears to be a one-person fighter jet. On her is an unzipped cropped bomber jacket. She clutches a pair of headphones as she prepares to enter the cockpit.

These women of wealth and leisure are pictured alongside other women posed in corporate environments. For example, Carey Lorenzo, 31, sits in a large high back black leather desk chair. She wears a partially tightened corset, an unbuttoned pin-stripped work shirt and black patent leather sandals. One arm is raised, resting on the chair's high back. One leg is comfortably situated on a large desk covered with executive office gear. The large wooden doors in the background suggest the room is not an office, but rather a conference room. In addition to this photo, Vanessa Schulte, 28, sprawls across a large wooden desk in an office, also in pinstripes. She holds an expensive looking silver pen to her mouth. Behind her is a sprawling view of the city of Houston. On the desk is a legal pad atop an open book.

The last image of the spread features 22-year-old Shari Daugherty. Wealth, leisure and the corporation are all manifested in this image. Daugherty is posed stepping out of a silver Corvette convertible on the top floor of a parking garage opposite Enron's headquarter buildings in downtown Houston. The top of the car is down, door wide open. She is framed in the background by Enron's two round, sleek towers. She emerges from the car, one leg still inside and the other on the pavement, looking straight into the camera. Her short blond hair is blowing in the wind partially covering her face. Her lips are slightly parted and she expresses, according to the Playboy writers, "a certain

boldness” with her stare into the camera. She stands straight supporting herself on the body of the car. She wears a small silver chain around her hips, a thin silver neck choker and an open pink sweater that extends to mid-thigh. The text next to her images claims, “I’m afraid to go to sleep because I don’t want to wake up and find out my dream is over” (Playboy 2002, 126).

The text that accompanied each of the images provides the women’s names, ages, and the divisions within Enron where they were employed. There is also usually a brief statement made by the woman, often utilizing plays on words between discourses of sex and finance. For example, Parker says the lesson she learned from Enron is that, “with men, size matters—but with companies, it doesn’t. Now I’m looking for a firm that is stable, not large” (Playboy 2002, 122). Howard says of Enron’s fall, “it’s like a huge empire deflated” (ibid, 120). Even the text provided at the introduction to the shoot, written by Playboy staff, makes use of these puns. On the cover to magazine, the spread is advertised with the wording, “Women of Enron uncover their hidden assets”, insinuating that if Enron has problems exposing its international assets, hidden in the LJM partnerships, then at least former Enron employees have no problem revealing other Enron assets, their bodies. Again referring to this play with financial terms, the staff writes that the women, unlike other Enron execs (mostly male), find “that full disclosure is the way to go” (ibid, 120).

Representations of these women are not mere snapshots, disembodied and innocuous. They come loaded with discourses about their content, and how they will or should be received. All of these women are engaged in activities that would characterize upper/upper-middle class lifestyle. The images play upon particular knowledges about beauty, wealth, leisure and success, all of which are brought in through discourses of hetero-normative masculine desires. For example, beauty becomes configured through a thin, white (only one woman pictured is Black), well-groomed female body.⁶³ The women all wear soft make-up, nothing bright or harsh, and they all have curves, but not too many. In other words, it is a particular kind of femininity that is expressed. It is also a particular kind of heterosexuality. The women appear all as docile, clean cut, fun-loving women. There are no suggestions of sexual fetishes like bondage.

Similarly, the notions of success and wealth are brought into the images through the background materials like glittering jewelry and attire, the marble flooring, the plush bedding (all of subdued colors mostly shades of brown and cream)⁶⁴, the silver Corvette, the large corporate desks, etc. Each of these moments conveys status. But this wealth and

⁶³ I find it fascinating that the one black women of the 10 women shown is not pictured in a home, office or engaged in some kind of hobby. Instead she is outside in a lush wet garden with greenery and shrubs surrounding her. She is also the only woman to not wear any clothes, save for a thin scarf wrapped around her leg. She also appears as though she has been whitened, her skin looking lighter in her nude picture than on the opening page to the spread where the women stand together, clothed, at the bottom of the Enron tower, in front of the 'E'.

⁶⁴ Just as the women's make-up is done in soft colors, their surroundings are also in subdued shades. Beverly Skeggs (1997) explains that loud colors are associated with lower, working class lifestyles. She presents evidence that women who work in the lower ranks of corporations often try to jump classes (i.e. from working to middle class). Women will change speech styles, hairstyles, and shift to wearing softer colors, or more neutral shades (Skeggs 1997, 110). In this way, neutral shades convey a sort of corporate belonging and/or success.

status is only expressed within the context of a naked female body. Here there is an implied fusing of achievements of success and wealth with heterosexuality.

Important to note is that the bodies represented in these photographs are without a doubt digitally altered making the women appear smoother and thinner than they actually are. These digital “alterations” mirror Enron’s “altered” accounting, also accumulated digitally. Both the bodies of the women and the corporation are illusions made to appear both more attractive and more real (to the readers in Playboy and to investors in Enron) than they really are.⁶⁵ Additionally, there are those technologies, which contribute to the woman’s appearance outside the photograph. These include hair removal, false nails, hairstyling, and make-up. In other words, being beautiful in the Enron corporate context not only requires the knowledge of what is beautiful, but it also takes time and money.

There is now a vast literature that documents the ways that women’s bodies exist in a regime of representation that produces them as objects for the male gaze and a projection of male desire (for example Berger 1977; Jones 2003; Pollock 1988). Part of the situating of these women’s bodies by the Playboy editors involves an understanding of the gendered notions of spectatorship. John Berger argues through interpretations of Western visual art that “men act and women appear. Men look at women. Women watch themselves being looked at” (Berger 1977, 47). In this way, he emphasizes that women’s bodies are arranged in images to display her sexuality to the man who is looking. The

⁶⁵ Thanks to Josh Lepawsky for pointing this out to me.

picture is made to appeal to his desires. In the Playboy spread, the Enron women featured all make direct eye contact with the camera, often pursing their lips or smiling. With such expressions, they communicate an aggressive sexuality. Through their expressions, they offer up their femininity and make it sexually available.

Like the narratives around McLean and Watkins, the male body is again conspicuous by its absence in the photos. While no men are present in the images, masculine displays of success are. Such successes are represented through the silver sleek Corvette, the tall skyscrapers, the beautiful women, the airplane, and the large corporate offices. Thus, the photographic images in Playboy follow Berger's argument; that the power relations inscribed in spectatorship position the gaze in relation to the priorities and pleasures of men. The absence of male bodies in the images only reinforces the availability of such priorities and pleasures to the male viewer.

The displays in Playboy carve out a wide terrain of desire crossing over boundaries and blurring lines between categories of sex and capital, where the desire for capital and the desire for sex are conflated into a single image. When the viewer gazes onto the female body in the Enron Playboy spread, they also gaze into the fruits of capital, namely the display of luxury commodities. Capital here is represented by the material wealth of the homes where the women sit/lay/stand. It also appears in the corporate contexts in the large offices where other women are photographed. And, in some cases, these symbols of capital are pulled open to reveal underlying sexual tones, as

the magazine's cover image relays. The photograph shows a woman dressed in the emblematic corporate suit, complete with tie, pinstripe shirt and jacket. This masculine icon of the corporate body is placed on a heterosexualized female body. The cover woman expresses her sexuality through her smile, her blond hair, but most importantly through her breasts—the erect nipples seen through a thin white undershirt. When she pulls open her suit jacket, she simultaneously exposes both herself and the sexual undertones within Enron's own culture of capital.

In the same way that the spread brings together sex and capital in a single moment, the desire for the women's body comes to stand in for the desire for capital. These images encapsulate the desire for a particular hetero-sexed portrayal of women's bodies through their bodily positions and through their opulent surroundings and costumes such as the jewels, the marble floors, and the corporate success of leather chairs and large desks. For Enron, this is a wealth that was accumulated through fraudulent accounting practices that destroyed the secure financial future of thousands of people. However, these images neglect to speak to Enron's fraud and its employees' misfortune. Instead, Playboy discloses the successes of Enron's capital imagined through heterosexual pleasure. Understanding why these links pervade in capital culture is part of a larger project around capitalism and gender, something I try to touch on in my conclusions.

5.4 Conclusion: women's bodies as sites of exposure

The above media generated narratives of Enron's "good" girls and its "bad" girls in part demonstrate what a female body can express and what a female body can expose in a corporate context. Each group of women, the corporate housekeepers and the corporate "seductresses" expose different sides of Enron. McLean and Watkins drew attention to Enron's business practices and the financial illusions around which the company and its stock value were built. They were positioned as housekeepers in part because of their actions, but also because of the hetero-normative understandings of women in the corporate context. The 'Women of Enron' in Playboy show another, yet related side of Enron. The spread exposes the company's opulent side, its greed, its pornographic displays of wealth, class, and success measured by money. The spread also underlines the desirability on the part of capital for a female body put on display, one which opens itself to sexual availability. These links however are not ephemeral.

At the same time, these women, their bodies and their scripts within capital also become sites of exposure or points of public interest. They are themselves exposed and their sexualities positioned accordingly. In the case of Watkins and McLean, their profiles in the media never took on Kenneth Lay as a CEO, and never addressed the thousands of people now affected by Enron's fall. Rather, media focused on Watkins' past, how she came to unfold the fraud, her role as a caring wife and mother.⁶⁶ The stories on McLean highlighted her voice and body, nearly always including a picture. Like the

⁶⁶ There was even an article that positioned her as a former sorority girl from University of Texas (Time.com 2002).

position of corporate housekeepers, the bodies of the corporate “seductresses” also acted as sites of exposure, exposing a fleshy body scripted through heterosexuality rather than exposing the men involved in the fraud. The Playboy spread trivializes the issue of corporate fraud and deception, and diverts readers’ attention from the misfortune of many to the naked female body.

CHAPTER 6

BECOMING A BODY: THE CORPORATION IN COURT

“Corporations have neither bodies to be punished, nor souls to be condemned; they therefore do as they like”.
Baron Thurlow as quoted in Poynder (1884) p. 2

The image is striking. A white man in his sixties, silver headed and balding, wears a navy suit jacket with gold buttons. His hands are bound behind him, brought together by a pair of handcuffs. He is being lead into the federal courthouse in downtown Houston by a female FBI agent. Her hand on his arm guides the direction he walks. His face is without expression. He is Ken Lay, former CEO and president of Enron, on July 12, 2004. The previous evening, the government issued an indictment of charges against him, including conspiracy to commit fraud at the former energy company, and issued a warrant for his arrest. Early morning on the 12th, Lay turned himself in at Houston’s FBI office. He was subsequently driven to the federal courthouse, handcuffed in public view once he exited the vehicle, and then escorted into the building to hear the charges read against him.⁶⁷

Lay’s very public arrest marked the end of a long string of corporate fraud indictments and prosecutions by the government between 2002 and 2006 (including

⁶⁷ The primary charge listed in the indictments of both Skilling and Lay was a conspiracy to commit fraud at Enron. More specifically, the defendants were accused of acts such as lying to or misleading employees and investors on several occasions, and filing false financial statements (US v. Skilling and Lay, Redacted Indictment 2006).

Skilling's own arrest and indictment four months previously).⁶⁸ During this period, the handcuffed bodies of impeccably dressed aging white men (and one woman) were paraded across television and computer screens and shown on the front pages of major newspapers.⁶⁹ The widespread public reaction for this government crackdown on white-collar crime was satisfaction. For Americans who lost significant portions of their investments and retirement savings, or worse, their jobs, the handcuffed bodies of these corporate heads signified accountability and redemption. The misdeeds of the corporate body were finally punished.

I use the term corporate body in the previous sentence to make a point. At least under the law, human bodies and corporate bodies merge in interesting ways. For example, determining where the human body of CEO Ken Lay ends and the corporate body of Enron begins is difficult to specify. That was certainly true in the legal testimonies and strategies of both the prosecution and defense evident in the trial of former Enron CEOs Ken Lay and Jeff Skilling. In the courtroom, I kept track of the proliferating use of body metaphors. This proliferation elicited the question, how and why does the corporation, as a non-bodied entity, become a body in the courtroom? Who becomes that body, and what are the implications to this body? By analyzing and deconstructing legal testimony, I suggest bodily groundings of the corporate body occurred in two distinct ways. First, Enron, the larger corporate body, was often represented as an organic body, whose ill health, wrought on by Fastow, forced the firm

⁶⁸ The more well known of the white collar indictments and prosecutions during this period include Tyco's Denis Kozlowski, WorldCom's Bernie Ebbers, and Martha Stewart.

⁶⁹ Some such as Markham (2006) have suggested that this crackdown was an attempt for the Bush White House, connected to Enron via campaign contributions and other links, to remove itself from the fraud.

in bankruptcy, failing Skilling, Lay and the thousands of employees of the company. And second, Ken Lay and Jeff Skilling invoked body metaphors that positioned them as Enron. In other words, they invoked metonymy to suggest that their bodies stood in for the larger corporate body. These distinct uses of body metaphors were part of legal strategies pursued in court that shifted blame and responsibility for what happened at Enron, and highlight once more the embodied nature of the corporation.

To situate my ideas, I briefly discuss the history surrounding the legal attribution of personhood to the corporation, that is the formation of the corporation as a legal body. Next, I ground my discussion of these metaphors in feminist post-structuralist literature, particularly in the works of scholars who note the significance of the body as a metaphor for the economy and for the nation. This scholarship offers important entry points in understanding the larger implications for attributing the body metaphor to the firm. Following this discussion, I draw on substantive experiences of my ethnography to provide background to the trial, setting the scene in which the corporation, and its bodies (both metaphorical and literal) come into the courtroom. Finally, I analyze the trial's testimony emphasizing the two significant uses of body metaphors outlined above and their implications. How was Enron represented as an organic body during the trial (particularly by the defense teams)? Second, why did Skilling and Lay try to embody Enron? Invariably, some of my ethnographic moments seep into the analysis section, meaning that I draw on both transcripts of legal testimonies and my own lived experiences and recollections as an ethnographer at the trial. The conclusion points to the

importance of questioning embodiments in studies of corporations, particularly when considering legal structures and accountability.

6.1 On becoming a (legal) body

Until the mid-19th century, the corporation was understood abstractly by the law as a fictitious person. British legal scholar Stewart Kyd captures this in his *Treatise on the Law of Corporations* (1793). He says that the corporation within English law is “a collection of many individuals united into one body...under an artificial form, and vested...with the capacity of acting in several respects as an individual” (Kyd, 1793, 13). Kyd’s reference to the corporate form as a body pointed to the fact that corporations largely acted in the economy as unified entities all the while being composed of individual bodies. Such bodies included those of the shareholders or investors and those of the management. In Kyd’s time, corporations were fictitious persons because they acted as unified bodies, but had no distinct legal body. This changed in the second half of the century when the corporation was granted legal personhood, and was thereby afforded a new set of rights and privileges, as a distinct legal personality. In what follows, I briefly chart this transition to personhood emphasizing how shifts in the legal bodily status of corporations coincided with changes in its legal liability.

The legal structure during Kyd’s lifetime was organized so that both investors and managers were liable for actions taken by the corporation. For example, if a poorly managed firm took on debt beyond what it was able to pay, creditors would seek financial retribution from the corporation’s investors. Hence, investors could be held personally

liable for such debts risking their homes and fortunes. The risk of investing in a company outweighed the potential benefit. But this changed in 1855 when the notion of limited liability was introduced in Britain with the Limited Liability Act of Parliament (Bakan 2004). Limited liability restricts the scope of liability for members of the corporate body. Rather than making investors liable for the whole corporation's debts, they are only liable for the amount of money invested. If a shareholder invested \$100, that sum would be their maximum loss. Creditors could no longer sue investors for their personal financial assets. Such limited liability was intended to encourage investors into the market by lessening their financial risk.

This change to the corporate legal form, however, left no literal body to assume the legal rights and responsibilities of the corporation (Bakan 2004; Laufer 2006). Baron Thurlow's quote opening this chapter points to this, the corporation has no body to be punished. This is a burden only fleshy bodies bear. In the absence of a fleshy body, the courts created a legal body to take on these responsibilities, that of the corporation itself. In the United States, the corporation's legal body was articulated in an 1886 court decision in Santa Clara County, California. Santa Clara County had levied a property tax against the Southern Pacific Railroad amounting to more than the property taxes individuals paid for similar parcels of land. Fighting the increased taxes, the railroad argued under the equal protection clause of the 14th Amendment that the railroad as a property owner was being held to a different tax standard than human property owners. This amendment states, "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens in the United States; nor shall any State deprive any

person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the law” (U.S. Const. am. 14). The court sided with the railroad company interpreting the corporation as a legal person (and citizen) and in doing so setting a monumental precedent. The corporate body went from a fictitious body (as described by Kyd) to a person with a legal identity separate from the fleshy bodies composing it.

With this legal personhood firmly established in the Santa Clara decision, the rights of corporations expanded significantly. Under the 14th amendment, corporations could now freely own property, make donations to political campaigns, and sue or be sued, just as any human body could. Their rights are protected under this amendment, the origins of which granted newly freed slaves political rights equal to those of their former white owners following the civil war (Bakan 2004). Now, the amendment was protecting the corporate body from unfair and discriminating treatment from other bodies and has since been used as legal precedent by the Supreme Court for protecting corporation’s rights (Horwitz 1994).

Legal personhood not only expanded the rights of the corporation, it also made it subject to criminal liability, a form of law whose object is to punish a person with the hope of preventing a repeat of the crime (Laufer 2006). This person ends up not being a human person, but the larger corporate person. If a corporation is found guilty of criminal conduct, such as knowingly manufacturing and selling a faulty commodity like an automobile, it could suffer a large fine, or at worst a revocation of the corporate charter

that permits it to do business (what Bakan (2004) refers to as a corporate death). This is precisely what happened in the Arthur Andersen case, Enron's outside auditor, in *U.S. v. Arthur Andersen LLP* 2002. Once Enron officials told David Duncan, lead partner on the Enron account at Andersen, that the SEC was conducting an investigation into the firm's accounting practices, Duncan reportedly began shredding documents related to Enron. Some estimate truckloads of documents were shredded from Oct. 20 to Nov. 9 2001, when finally a court order was issued for Andersen to stop shredding. This one charge, obstruction of justice, was levied at the entire firm of Andersen and not at Duncan or those working closely with him (Laufer 2006). In a trial during the summer of 2002, Andersen was found guilty and forced to pay a \$500,000 fine (Fowler 2002). However, shortly after the indictment earlier that year, many of the firm's major clients left for other more "reputable" accounting firms. As a result of loss of clients, Andersen closed offices worldwide and let over 85,000 employees go (Laufer 2006). Obviously an indictment and prosecution has immense implications for the larger company. In this case, Andersen effectively died. The company no longer existed as an accounting firm, and its thousands of members suffered job loss.

Whether the entire firm is targeted, rather than individuals depends on "the seriousness of the offence, the firm's history, and the pervasiveness of the wrongdoing" (Laufer 2006, 45). In the case of Arthur Andersen, the company had previously been embroiled in legal issues for its practices as the outside auditor for other firms (Laufer 2006). This fact might have weighed heavily on the decision to prosecute the company rather than David Duncan who led the charge to shred documents. Further, targeting the

larger corporate body is also considered to be easier (Bakan 2004). In order to prosecute individual humans acting as members of the corporate body, the government must provide evidence of intended misconduct on the part of employees or managers (conduct which goes against the corporate charter), an intent to harm those who have been harmed. However, “such proof is difficult if not impossible to produce, because decisions normally result from numerous and diffuse individuals, and because courts tend to attribute conduct to the corporate person rather than to the actual people who run the corporation” (Bakan, 2004, 79).

Prosecution of individual executives, as happened with Enron and other companies during this period, is a rarity. The decision to focus on individuals over the firm is left up to the prosecution team and/or attorney general and is known as prosecutorial discretion (Laufer 2006). No formal documentation exists explaining why the government decided to make a case against Lay and Skilling, and not Enron. However, some scholars speculated about the motivations (see Laufer 2006 and Markham 2006). In Enron’s case, the firm had never before been charged with serious wrongdoing under the law. It had no history of criminal misconduct. Further, since the company was already bankrupt and employees already jobless, a guilty verdict involving a fine or the revocation of the corporate charter would be inconsequential. The firm, for all practical purposes, was already dead. Targeting Lay and Skilling on the other hand, would send a juridical message of intolerance to corporate fraud and excess. The images of shackled and imprisoned bodies of former executives certainly communicate this.

Again, as emphasized before, unlike corporate persons, who cannot be imprisoned, human persons can.⁷⁰

It is this shift between human persons, corporate persons, fraudulent behavior, and accountability within the law, which concerns the remainder of this chapter. I explore how the non-bodied entity of Enron became a distinctive body in the courtroom through imaginative and scripted metaphors invoked in testimony. Prior to this discussion, I ground my analysis of these trial metaphors in the scholarship of feminist writers who explore similar themes with other non-bodied entities like the nation and the economy. These scholars emphasize the importance of dis-entangling body metaphors in order to reveal the implications of their use.

6.2 The economy and nation as a body

Feminist scholars note how the body has historically been used as a metaphor for larger concepts or entities like the economy or the nation (Domosh and Seager 2001, Gibson-Graham 1996, Nast 1998, Rasmussen and Brown 2006, Rose 1993). This metaphorical association has significant repercussions for how we conceptualize these entities and the particular bodies associated with them. For example, with respect to the economy, feminist economic geographers Julie Kathy Gibson-Graham investigate the use of bodily metaphors of capitalism. How is the economy represented as a body? Gibson-Graham find it is often referred to as an unnamed organic body. Establishing this, they

⁷⁰ Laufer is critical of this approach towards corporate wrongdoing. Rather than think about liability through a legally diffuse corporation, he suggests that courts need to “successfully marry the attributes and features of organizations with theories of liability and culpability” (Laufer 2006, 56-57).

then examine how metaphors of health, sickness and death are mapped onto the capitalism. One of the metaphors they explore is that of circulation. Gibson-Graham write that flows of investment capital are like flows of blood in the arteries of a human body. And, like the human body these flows are subject to blockages or obstacles. In medical science, circulation in the human body is improved by removing these blockages by surgery or medication. The medical intervention targets the obstacle. Gibson-Graham argue that this way of thinking about the human body is transferred to the body economic. If investment flows are blocked, how might we (as economists) unblock those flows? Some economists believe that wage increases are an obstacle to the flow of capital. The remedy in this context is wage cuts. This will free up capital and improve circulation.

Through this metaphor of circulation, the economy is made in the image of a human body. The spaces and experiences of the human body are mapped onto the economy likening flows of capital to human blood circulating through arteries and veins. Like an ailing body subject to intervention by medical science, economic and policy “strategists need only identify the right place to start the treatment” to improve circulatory flow (Gibson-Graham 1996, 101). In this case, unblocking the flow of investment capital is where treatment begins. Gibson-Graham assert that the effect of this metaphor on economic policy is to privilege certain elements of capitalism, in this case investment capital, and disregard other elements. Metaphors for Gibson-Graham are thus exclusionary. Through the circulation metaphor, capitalism becomes defined in essentialist terms. They suggest economic terms like production and investment are

privileged at the expense of other economic or even non-economic processes (Gibson-Graham 1996).

Gibson-Graham also mention how the economy is at times represented as masculine, particularly in development theories. Capitalism penetrates and invades “virgin” territories (Gibson-Graham 1996). Other feminist scholars have more explicitly examined how certain gendered bodies come to stand in for non-bodied entities. For instance, feminist scholars have noted similar phenomenon for discourses of the nation. We conceptualize the nation, as a social and political space, through the body. Words like “national body” do not merely refer to a larger political community. It draws on particular bodies to identify itself and its citizens where some bodies are brought into the national body, and others are cast outside it. Michael Brown and Claire Rasmussen suggest that the framing of a space of politics through the body spatializes the metaphor of the national body, linking the space of the body to a space of politics (Rasmussen and Brown 2005). In this way, particular bodies are drawn into national discourses in particular ways.

Many scholars have explored this relation between the body and the nation noting the complex use of both metaphor and metonym. Feminist political geographer Sarah Radcliff writes that national bodies “are constituted through racialized and gendered insertions” of corporeality “into different national spaces” (Radcliff 1999, 213). Using interview data from a Latin American city, she found that men and women identify with the nation through gendered narratives. “Men are viewed as contiguous with the nation”

or as “metonymic with the nation-standing alongside each other and the nation” (ibid, 214). On the other hand, “women float above the nation as metaphors of what it is and is not” (ibid, 214). In this way, men’s bodies (their intelligence, masculinity, rationality and heterosexuality) are conceptualized as standing in for the national body, like the way the US president’s body is often viewed as a symbol of the larger nation. In contrast, women enter national narratives differently through a varying range of metaphors. The nation metaphorically is imagined as feminine, and women as mothers giving birth to the nation. These images structure political roles for men and women. As stand-ins for the nation, men define its values and norms. As mothers, women simply reproduce those values.

The purpose of this section has been to point to previous scholarly discussions concerning how non-bodied entities have become embodied, and to demonstrate the implications of these embodiments. Gibson-Graham’s work on capitalism as an organic body demonstrates the limited scope of intervention that results from portraying the economy as ill, fragile, but also subject to recovery. Further, referring to the nation as body conveys notions of citizenship, and the conditions to which specific bodies belong (or not belong) to a national political space. I draw on each of these discussions below in exploring how Enron came to life in the legal discourses of the Enron trial and what the implications were for the bodies that emerged. Gibson-Graham help me to understand the metaphors of Enron as an organic body. The works on the nation as a body aid my investigation into the positioning of Skilling and Lay’s bodies as that of Enron.

6.3 Corporate fraud (em)bodied

6.3.1 Bringing the body to court: courtroom ethnography

In the methods chapter to this thesis, I previously discussed my use of ethnography at the Enron trial. I intended to expand on that discussion here, and begin first by developing in greater detail a definition of ethnography. From this, I discuss how my practices at the trial conformed to it, and finally, I set the scene for the Enron trial, laying a foundation for the chapter's later analysis. Ethnography as a research methodology involves the gathering of descriptive accounts of a social event or circumstance through a number of methods, including participant-observation, interviewing, journaling, archival research, and media or textual analysis (Johnson 2000). When I say I conducted an ethnography of the trial, I refer not only to the methods mentioned above, all of which were utilized in this project, more broadly I mean the research practice of immersing oneself into a cultural context in an effort to understand how social meanings are generated in that context. More succinctly, ethnography involves "watching what happens, listening to what is said, [and] asking questions" (Hammersley and Atkinson 1995, 1 as cited in Wincup 1999, 112).

Over the course of my five months in Houston at the Enron trial, I did as Hammersley and Atkinson so simply stated. I watched, listened and asked questions of those who sat around me and of those who testified or spoke in court. I was not a participant-observer in the traditional sense of ethnography, meaning the level of my participation was perhaps more limited than had I been a lawyer, jury member or witness. Despite this, I did participate. I learned and performed the rules of courthouse behavior,

dined with (on some occasions) and dialogued with court attendees (especially the media), and endured and deciphered hours of testimony and numerous pieces of evidence. I was drawn into the drama as a participant by virtue of my being an audience member, recording and interpreting court happenings, and being subject to the theatrics of the courtroom. I documented much of what I saw, heard or experienced inside the courtroom in a series of three field journals comprising of notes about witnesses, testimony, evidence, trial attendees, and many other related topics, including my own emotional and physical experiences as a researcher. These notes were typed up (almost) daily after returning home for the evening and placed in a binder alongside print outs of news articles published by some of the key media persons covering the trial. The idea was to compare my recollections with those of the media. In addition to recording these details of life in and outside the courtroom, I also kept track of the ways in which certain knowledges about Enron, fraud, and the corporation were produced in that courtroom. This is where the initial ideas for this chapter originated. In the paragraphs that ensue, I bring forth some of my ethnographic experiences in order to provide a backdrop or stage set to the trial testimony. In some cases, excerpts from my fieldnotes are intermixed with the text to further accentuate the different points I seek to make.

Though the indictments against Skilling and Lay were issued in 2004, the trial did not take place until January 2006. With jury selection, witness testimony, a spring break and deliberation included, the trial lasted nearly five months, ending in late May 2006.⁷¹

⁷¹ Several motions filed by the defense delayed the start date, including motions to have the case moved outside Houston, on more neutral ground. All were dismissed. Then, in late December CAO Causey, listed

The trial's location was at the Bob Casey Federal Courthouse, an aging and dated structure built in the 1960's, in downtown Houston, Texas (see Figure 6.1). Situated between Rusk and Capitol Streets, the courthouse was only mere blocks from the former Enron towers on Smith Avenue. Driving to the trial each day, those towers served as a reminder of the Enron legacy in Houston and the gravity of the court proceedings. One reporter even commented to me early on how when the sun was in the right position in the sky, the shadows of the former Enron buildings loomed over the courthouse.

Figure 6.1 Bob Casey Federal Courthouse in Houston, TX



Source: Photo taken by author

as the third defendant to be tried alongside Lay and Skilling, submitted to a plea bargain with the prosecution (Houston Chronicle 2005). This again delayed the start date of the trial by a few weeks.

The scene outside the courthouse was a media circus. Waiting on the streets and sidewalks were journalists and photographers from a variety of news agencies seeking comments and pictures of defense and prosecution witnesses and attorneys. They were an aggressive group, often shouting at Lay, Skilling and others as the defendants entered into the building. My fieldnotes provide an example of their behavior:

“Yesterday on my way out to lunch, I needed to exit the courthouse and walk across the street to the tunnels. To do this requires passing a swarm of camera people poised and ready to take a shot of trial big names. As you pass, probably 50 cameras or so are angled along your pathway. It is a very uncomfortable walk I make each day to lunch. Today my entrance happened to coincide with Mark Koeing’s and his attorney. I was almost hit by the car that carried them as it approached the curb by the front door. Dozens of camera people sped in our direction and I had to quicken my pace so as to move out of their way and make room for their photographs. Of course even after I was inside, as was Koeing, and we stood in line for security, camera people continued to snap photos from behind the glass windows. It is quite obnoxious, even for someone not the focus of the pictures. Just traveling by is a pain in and of itself.”

-Fieldnotes, February 8, 2006

The media of course require equipment, and along Rusk Street, the street of the courthouse, satellite trucks hummed, lined up the length of the curb with a mess of wires connecting them to nearest electrical outlets (refer to Figure 2.1 on pg. 51). The need to carefully traverse these wires in high heel shoes was a challenge for me day-in and day-out. The satellite trucks were flanked by media tents positioned to get the best view of trial participants and conduct live broadcasts to households across the world. Inside and nearby these tents were large lamps positioned on the courthouse exit to offer what would be akin to stage lighting for the scene. This was the tone every time I entered and left the building, a sort of paparazzi feel with a rush of reporters and camera people following Lay, Skilling and/or the day’s witnesses. While this was no doubt exhilarating for some, I

often feared being pushed out on the street into moving traffic by camera people mindful only of their pictures. Some spectators described this spectacle as an ‘army of media’. The courtroom was a refuge from this outdoor circus.

Heading into the actual courthouse was an (embodied) ordeal. Participating in legal proceedings (either as audience or member of a legal team) makes you aware of your body. Upon entering the doors, it is necessary to prove yourself a citizen or member of the state to courthouse security guards, usually friendly middle-aged men. I used my Texas driver’s license. Non US citizens were permitted to pass, but endured greater scrutiny than Americans. You then wait in a line of people who slowly walk through a metal detector. Anything metal that is worn is scanned, and at times shoes must be removed to expose the well-groomed, or not so groomed bare feet of women wearing heels or boots. At this point electronic recording devices and cameras are surrendered to the guards. Laptops could proceed to the 9th floor, where the trial was held, although they too were confiscated in the hallway before entering the actual room. Only pen and paper were allowed inside.

On most days I would arrive at 7:30 a.m., an hour before court began, to ensure a courtroom pass. The courtroom had a limited number of seats, so the pass was crucial. But on key days such as Andy Fastow’s testimony, I arrived at the courthouse at 6:30 a.m. The judge mandated that seating be divided spatially in the courtroom to keep a certain degree of order between family members, media, sketch artists, and the public. Most often the room was packed and having a seat was a coveted thing. During

Skilling's testimony, I was finally passed the highly demanded, though rarely received permanent courtroom pass reserved only for family and media. The importance of the moment is captured below:

"It's ten to 8 now and the pre-trial chatter is beginning. One court marshal just came over to see if I still had my plastic pass, given to me last Monday on the first day of Skilling's cross [examination]. I got here too late for a public pass and sat talking to John Emshwiller a bit. He told me to stand around and perhaps they would find a spot for me. Taking his advice, we chatted and soon thereafter, a marshal came over and quietly and discretely passed me the coveted permanent pass. I felt like a true insider to the courtroom with the marshals looking out for my well-being."

-Fieldnotes April 24th, 2006

This pass ensured me a seat to any day of testimony. Coming early of course also meant benefiting from courtroom chatter with media and the public attending the proceedings. Chats mostly centered on the trial, which witnesses might be called next or what strategies the lawyers would use to disprove something. I learned a great deal about Enron and legal tactics during those casual morning discussions and speak more of them below. Strangely enough, I also often spoke with tourists who were visiting family in Houston and decided to spend time at the city's latest attraction, the Enron trial.

The inside of the courtroom mimicked the 60's décor of the building's exterior façade, sleek, modern and impersonal. There were no windows, and the colors in the room were dark and rich, lending a formality. I sat on the hard and often crowded wooden benches scribbling notes from 8:30 am. to about 4 p.m. Monday through Thursday, save for a morning recess (15 min.), lunch recess (1 ½ hours) and 2 afternoon recesses (10 min each). Lunches were had below ground in the shelter of downtown Houston's elaborate underground tunnel system reading and typing notes at a coffee

shop. In both the morning and after lunch, court would convene in a methodical fashion. Public courtroom attendants, lawyers and witnesses would arrive at the hour named by the judge. As the jury filed in, we in the audience would all stand. The judge would enter from his chambers to open the day's proceedings as a court marshal loudly stated a few memorized lines ending with "God save this honorable court".

Though the entire time spent in actual court proceedings amounted to only 6 hours, they were an exhausting six hours. My body needed to be trained to sit on hardwood benches, hunch over to write notes furiously on a small notebook, crane my neck to see exhibits projected on a screen, eat, drink, and go to the washroom only at certain times. Five months of this routine left my back, legs and right hand in chronic pain for weeks after the trial. Another bodily trial.

But it was worth it. The trial was a thrilling and compelling place to be. All the characters I had read and heard about came to life. Skilling and Lay were a constant presence. I often rode the elevator with Lay or Skilling and their attorneys in the morning before testimony began. Lay was as gracious as portrayed to me by my interview subjects. He always let me enter a door prior to him and maintained a steady, genuine smile. Skilling was more nervous and seemed less aware of his surroundings. He often whispered with his attorney on the way up to the courtroom. The public also became more familiar with Enron characters like Fastow, Glisan and Watkins, who took the witness stand for days at a time. In these cases, glimmers of arrogance, toughness and regret affirmed previous representations.

Journalists made famous by covering the Enron story like Bethany McLean, Peter Elkind and John Emshwiller were also in attendance. Initially I felt awkward in their presence, but as time (and the trial) wore on, I grew friendly with them and valued their advice, explanations and feedback. As trial life became more routinized, I found myself spending the bulk of my time with the media in court, analyzing and discussing the trial. Like me, they were regular attendees and we had a great deal in common. We both sat in the same section in the courtroom (on the left side upon entering the doors), we were both forced to adapt to the same rigorous court schedule, and we both furiously took handwritten notes during testimony, suffering hand cramps and leg cramps together. We also had similar jobs in the courtroom, to summarize and synthesize each witness's testimony, to distill a full day of court into a few short paragraphs. The breaks in testimony were often spent discussing the main ideas or primary points of the day with other journalists, and I was often included in that group. Though, their tasks were undoubtedly more difficult than my own. After court ended, they raced to their computers to get the evening or next day's story written and off to their editors. In contrast, I drove home and slowly typed up notes in the comfort of my home, allowing me the time to consider where this day fit into all the other days in court.

To break up some of the monotony of the court schedule, jokes were made during recesses, and I became privy to some of the nicknames the media assigned to particular jurors. There was Tex, who often wore cowboy or western inspired clothing, Drew, a young woman who bore a slight resemblance to Hollywood actress Drew Barrymore, and Puff, a woman with a quintessentially Texas poofy hairstyle. Juror nicknames became

how we referred to those who would judge the fates of Lay and Skilling. This was necessary because we would often discuss juror reactions to particular exhibits or pieces of testimony. My connections with the media also offered an opportunity to clarify things that happened in court. Mary Flood, a journalist with the Houston Chronicle, was a Harvard trained lawyer (having gone to school with one of the prosecution attorneys) and had covered other important corporate and criminal trials. Not only could she explain certain nuances of court procedure to me, she also helped me to understand some of the behaviors of various actors. For example, when during the government's case, a defense attorney approached several media and scolded them, she explained to me that often bold defense attorneys do that when they do not like the press coverage the trial is receiving. In this case, this attorney felt as though the media was "falling in love" with witnesses on direct examination and neglecting to tell the other side of the story. I found this interaction shocking, but as I was told, "in a trial that will last four months, it is highly likely that the jury will be exposed to some media" (Fieldnotes, February 27, 2006). I viewed Mary as a sort of mentor for me in the courtroom and often picked her brain first for explanations.

New characters to the Enron drama also emerged, those of the trial lawyers. The legal teams involved on each side of the trial were accomplished names with rather large and defined personalities. On the defense side, Daniel Petrocelli served as lead counsel to Jeff Skilling. Though not originally a criminal lawyer, Petrocelli made the transition from civil law to represent Skilling specifically for this case. An east coast native, with an accent as proof, Petrocelli made a significant name for himself representing Ron

Goldman's family (partner to Nicole Brown Simpson) in the successful civil case against O.J. Simpson in 1997 (Roper 2006). Petrocelli had a smooth way with words. His rapport with the court (audience, jury and judge) was such that when he rose to question a witness, he commanded the court's attention. Sitting on those stiff benches scribbling notes day in and day out, Petrocelli's performances made me forget my physical discomfort. Each word or phrase was well thought out and well articulated. Lay's lead lawyer was Houston native Mike Ramsey. Ramsey was older than Petrocelli with a full head of white hair. Trading in black pinstripes for softer, gentler shades, Ramsey often stood out in court for his attire, light colored suits reminiscent of famous TV defense attorney Ben Matlock. But unlike the latter, certain words caused Ramsey simultaneously to whistle as he spoke. And it was not only this that made Ramsey different from Petrocelli. Rather than build trust with the jury, Ramsey was rough and argumentative. I sometimes cringed listening to his loud coarse voice in combat with the judge, government attorneys and prosecution witnesses.

Throughout the trial, the Lay and Skilling teams maintained a simple strategy; they blamed the collapse of Enron not on poor management, but on a conspiracy of short-sellers bent on making a quick profit, the actions of a few rogue employees (namely Fastow and Glisan), and the news media (see Chapter 3). Skilling's team went further explaining Enron's collapse as a classic run on the bank (set off by the above mentioned factors). According to that logic, with people pulling their money out of Enron because of bad press and short sellers, Enron faced a large liquidity problem. This strategy was joined with another, demonstrating the good character and great accomplishments of both

men. Skilling's team emphasized his intellect and how he revolutionized the energy industry with his ideas. Lay's team focused on his wide-ranging philanthropy work both in the city of Houston and beyond, and his relationships with world leaders across the globe. Combined, these strategies paved the way for the metaphors both teams invoked in court.

The lead attorney for the government was Sean Berkowitz, a Harvard law graduate with a deep monotone voice and an almost nonchalant way with witnesses. I was always surprised to pass him in the hall and note that his stature and height was the same as my own. His presence and manner in court with witnesses made him appear far larger. Berkowitz was charged with the task of cross-examining Skilling. Here he successfully exposed Skilling's conflict of interest (a parallel to Fastow's conflicts) in past investments not previously made public. On either side of Berkowitz were two additional government attorneys, Kathryn Ruemmler and John Hueston. Hueston had a very quick and determined engagement with witnesses. He was very meticulous and detail oriented. Mounds of evidence always supported his lines of questioning. Hueston's most impressive moment at the trial was the cross-examination of Ken Lay. He drew out an angry and combative Lay, a side hitherto not seen by both the jury and audience. Hueston also delivered the government's opening arguments. Ruemmler's demeanor was sharp and decisive. She often took care to shift her position between the jury, the witness stand and the prosecution table during her delivery. This had a comforting and relaxed effect to her presentation, and I believe allowed her to better connect with prosecution witnesses and the jury. Ruemmler was the first to lay out the government's case spending

nearly two weeks questioning the first witness, Mark Koenig, head of investor relations. She also closed the case delivering the government's closing arguments to a predominately female jury.

The strategy of the prosecution was widely anticipated by many before the start of the trial. This is probably because the burden of proof was large, there was no smoking gun document, and the evidence was complicated, a highly sophisticated set of financial and accounting practices. Concerns over being bogged down in both the specifics of each financial disclosure, and the technicalities of accounting documents forced the prosecution to seek a strategy that was larger than accounting practices. As Hueston said, "prosecutors searched for the human element that would lift this burden [to prove legal technicalities] and elevate the trial to something more than a battle over public disclosures and accounting practices. We eventually found our answer in the victims of Enron's fraud" (Hueston, 2006, 208). The prosecution was able to do this by introducing witnesses who suffered from the company's downfall both emotionally and financially. They further underscored this point at various opportune moments during cross-examination of defense witnesses.

This constant focus on the human element, on the one hand, the lives of Skilling and Lay emphasized by the defense, and on the other hand, the victims of Enron's fraud emphasized by the prosecution, made for testimony and images rich with bodily metaphors. The defense, in their opening statement, worked tirelessly to explain to the jury that a guilty verdict would result in a loss of life for the defendants. They argued that

thirty years without parole was tantamount to a death sentence (there is no parole for convictions in Federal court). In contrast, the prosecution highlighted the shattered lives of former investors of Enron. The shifts between these two arguments, the prosecution and defense, raise important questions about who the corporate body is, who embodies it. Is the corporate body in the context of the Enron trial the shackled body of CEOs or the bodies of shareholders whose lives were shattered as a result of the company's fall? In the next section I explore the shifts in these arguments highlighting how bodily metaphors were invoked in testimony.

6.3.2 The corporation as an organic body

Many people argue that language is inherently metaphorical. Both legal teams had no choice but to rely on metaphors in their courtroom discourses. In fact, a variety of metaphors were used to characterize or conceptualize Enron for the jury. For example, Lay's lead defense lawyer Ramsey referred to the organization scheme of Enron as that of the federal government. He said, "we, the people of the US, created the federal government, so we are the shareholders" (US v. Skilling and Lay, Defense's opening statement, 487, Jan. 31 2006). The people, as shareholders, own and elect the government, or the board of directors. All members of government, including the board and other executives, owe their allegiance to the people, or the stockholders. The prosecution generally shied away from metaphors, but on a few occasions likened Enron to a sinking ship, with Lay and Skilling as captains at the wheel, who had the choice to steer it in the right direction, but chose not to do so (US v. Skilling and Lay, Prosecution's closing arguments May 15 2006). Overwhelmingly the metaphor most

used to characterize Enron throughout the trial was the metaphor of health or illness and death. In what follows, I chart the use of these bodily metaphors at the Enron trial. Then, I return to Gibson-Graham's discussion of health and wellness metaphors concerning the economy to help me make sense of why the corporate body, with its disparate geographies spread across time and space, would be merged with an organic body in the courtroom.

Enron first emerged as a body through an image of a healthy organism on the first day of trial during Ramsey's, opening statements. Lay's attorney began his arguments by saying of Enron, "were there problems? Of course...but overall was it a healthy company? Absolutely. There's no fraud at Enron but for some minor thievery by Andy Fastow and his crowd" (US v. Skilling and Lay, Defense's opening statement, 558, Jan. 31 2006). This notion that Enron was otherwise healthy aside from the actions of Fastow set up the defense's story of what happened. Only normal day-to-day business practices occurred at Enron. Fraud did not. The only fraud was that which was committed by employees around Fastow, many of who had already pled guilty to their crimes. A power point image utilized by Ramsey in his opening statement further emphasizes this story. The image is of a healthy red apple sliced open to reveal a partially rotten area. The caption above the pictures says, "Fastow was the worm inside the apple" (US v. Skilling and Lay, Defense's opening presentation, slide 51, Jan. 31 2006). Enron is the spotless apple on the outside, Fastow the undetected maggot in the middle.

All subsequent problems related to Enron were blamed on Fastow and his group. In many of these cases, these problems were represented as failures in Enron's health. In other words, Fastow caused the otherwise healthy apple that was Enron to become diseased, to turn rotten and die. Ramsey was the first to expand on this notion in his explanation of Enron's liquidity crisis in late October 2001. This crisis, presented as the consequence of the financial failings and public exposure of Fastow's partnerships, was a period when Enron's stock price spiraled downward and investors pulled their money out of the firm. Further, banks were also losing confidence in Enron and ceased making loans to the company. In effect, Enron had no cash, not even enough to "pay the janitor" one executive noted (McLean and Elkind 2003, 378). Ramsey focused specifically on October 25th, the day that Enron had to draw down its last resort lines of credit to ensure continued operation. On this point he says,

"Enron did have in place lines of credit with its major banks—it had never drawn on those lines of credit—to ensure its liquidity and its ability to stay in business in case it lost its commercial paper, and that is the life blood of a large company [referring to commercial paper]. They had to pull those [lines of credit] down for the first time. \$3.3 billion, they sucked from banks in New York, their two lead banks...and bled all of it onto the street. They could not stop the hemorrhaging even with that amount of money". (US v. Skilling and Lay, Defense's opening statement, 546, Jan. 31 2006).

Here Ramsey utilizes the metaphor of blood to refer to Enron's cash in two ways. First, Enron's commercial paper is noted as the lifeblood of the company, insinuating Enron was an organic life form requiring blood in the form of cash. Commercial paper is essentially an alternative line of credit a company has. It is a "portfolio of unsecured short-term loans that all big companies use to fund their day to day needs" (McLean and Elkind 2003, 378). It involves the issuing of promissory notes or checks to large-scale

investors like a bank (hence the reference to paper). Not being able to meet their commercial paper obligations, Enron was forced, on October 25th, to draw down its ultimate last resort lines of credit with its major banks. According to Ramsey, it drew down \$3.3 billion. Ramsey describes this infusion of cash as an infusion of blood to the company's finances. But, because Enron's debt obligations were by now so large, the cash left the company as quickly as it arrived, 'hemorrhaging' all over the street.

Ramsey's use of the organic body metaphor for Enron on the trial's first day did not end there. Referencing again Enron's liquidity problem and the cost of insuring Enron bonds, he points to a graph and says:

This is an obscure indicator, but sophisticates will tell you that this spike over here on the 24th [of October] is a reaction that is a very sensitive reaction, which is the cost of credit on Enron's bonds. You can insure bonds and it's a very sensitive indicator. Look at the spike that happened there. This is the death of a company that you are seeing here. Just like an EKG at the hospital where somebody's heart rate is starting to fibrillate [before death] (US v. Skilling and Lay, Defense's opening statement, 544, Jan. 31 2006).

Comparing the increasing cost of insuring Enron's bonds to the spike on an EKG read out just prior to death, Ramsey relates certain financial indicators to indications that Enron was dying.

Relying on the EKG metaphor to describe spikes or trends in graphs was commonplace at the trial. In fact, Lay did it himself when he was on the stand. His lawyer, Max Secrest (another of Lay's attorneys) was discussing Enron's stock price and its downward trend. Referencing the graph displayed for the jury, Lay said, "it looks somewhat like an EKG or something" (US v. Skilling and Lay, Ken Lay testimony,

15248, April 26 2006). Though in this case less scripted than Ramsey's opening statement, the effect of Lay's momentary slip was powerful. Likening the visual diagram tracking Enron's stock price to an EKG printout positions Enron as a body whose health requires monitoring.⁷² Of course, the overarching reasons for this monitoring were always represented as the result of Fastow.

The remaining two representations I want to highlight are centered on the death and burial of the corporation. Again during Lay's testimony, he was asked about various financial restatements Enron was forced to make as a result of Fastow's structured finance operations. Recall that many of the entities created did not actually count for off-balance-sheet treatment. When this was determined, Arthur Andersen required that past financial statements be recalibrated to reflect the true character of those entities. Lay described these restatements (occurring primarily in October 2001) as "further, I mean, many would say driving the nail in the coffin of Enron's demise" (US v. Skilling and Lay, Ken Lay testimony, 137, April 25 2006). Here, Lay frames the downfall and ultimate bankruptcy of Enron through death and burial. He elicits an image of Arthur Andersen accountants working as the undertakers nailing down the box in which Enron's body would be interred.

Finally, by far the most vivid and powerful of all body metaphors at the trial was used by Petrocelli during his closing statements to the judge and jury. He structured his

⁷² Interestingly, at this point in the trial, Lay's lead lawyer Mike Ramsey had stopped attending the proceedings. As it was explained to the jury, Ramsey was having heart problems and underwent a procedure for heart surgery. Ramsey's circumstance reminded us all of the fragility of the body.

more than three-hour speech around the idea that Enron Corporation underwent a virtual autopsy by the prosecution in preparation for the trial:

“and what [the prosecution has] done is they have –forgive the metaphor—conducted a virtual autopsy on Enron after its demise...looking at this corpse and trying to find something...to build a case [against Skilling and Lay]” (US v. Skilling and Lay, Defense closing statement, 13, May 16 2006).

“The way this autopsy works is they go back in, they look at something that’s controversial, and they criminalize it” (ibid, 27).

“The government played a trick on you. They played a trick. They tried to make you think that this document is something called a Global Galactic document because, when they did their reverse engineering, when they did their autopsy, they saw that there were calendar entries called Global Galactic in Andy and Rick’s calendar...but nobody ever saw a document with the name Global Galactic on it. The document doesn’t have the name Global Galactic on it...the government decided to call it Global Galactic...They want you to think the whole thing is some kind of secret side deal agreement” (ibid, 31).

“There’s no such evidence in this trial [where Jeff Skilling told someone directly to do something illegal]. This is part of the autopsy. They [the government] went back. They found a couple of situations where numbers were changed after the end of a quarter. Bang, let’s do something about this. Let’s criminalize it.”(ibid, 33).

Petrocelli made mention of the autopsy of Enron some 9 or 10 times over the course of his arguments. He would use the concept each time he wanted to suggest that prosecution evidence was highly selective, that the government went back to the evidence time and again finding facts to create a misleading impression. The repetition of the word “autopsy” in court was further emphasized by Petrocelli’s commanding voice and flamboyant performance. He provided jurors and the audience with an image of Enron lying prostrate on a steel table while people in white lab coats poke and prod the body. Of course, rather than blood, puncture marks or diseased organs that one might encounter in

the autopsy of an organism, there were emails, calendar entries, graphs and other documents.

These metaphors livened up the proceedings that were often bogged down in technical accounting terms. Their purpose though served more than ‘comic’ relief. They were also strategic. Gibson-Graham note in their study of the metaphors of capitalism, that the body economic is subject to disease and death if not given the proper medical (or policy) treatment. Enron was represented by the defense as a diseased body, diseased by Fastow and his cronies. By painting an image of Enron as a spotless apple, aside from the blemish of Fastow, the defense isolates Enron’s disease onto a single agent. They privilege the idea that the illness or agent need only be removed (or in this case blamed). By the time of the trial, Fastow had already pled guilty leaving no other guilt to be assigned. Petrocelli emphasizes this in his closing arguments. “I challenge anybody to tell me when any of these people [referring to prosecution witnesses, Lay and Skilling], good people, decent people [acted guilty]---Mr. Fastow was a bad apple and nobody knew. He admitted it. He hid it from everyone. Put him aside...nobody else got any money, nobody else’s bank account got wire transfers or checks” (US v. Skilling and Lay, Defense closing statement, 6, May 16 2006). The defense’s strategy of representing Enron as otherwise healthy, aside from Fastow, was made more effective by invoking metonymy where Skilling and Lay each placed themselves as Enron. In the next section, I recount testimony in which the former CEOs spoke of an Enron embodied with their own fleshy bodies.

6.3.3 Embodying Enron

The bodily metaphors used as legal rhetoric at the trial were not limited to representing the corporation as an organic body in ill health and death. There were moments when the bodies of the defendants were infused with the corporation, such that Skilling and Lay portrayed themselves as embodiments of Enron. They were still the good apple, knowing nothing about the Fastow worm that was increasingly spreading rottenness from the core. These moments took place during the direct examination of the defendants by their lawyers. I understood these embodiments as moments to portray each of the defendant's love and passion for the company, but also a strategic positioning by the defense that aligned Skilling and Lay with Enron's otherwise healthy body. Erica Schoenberger writes about how the heads of companies often identify themselves with the firm (Schoenberger 1997). She argues that this connection produces problems such as a resistance on the part of CEOs or managers to change business strategy in accordance to market shifts. CEOs become blinded by their own personal values and desires. The result is often reduced market competitiveness for the company or even worse, firms are forced out of business. The alignment of Enron with Skilling and Lay in a court of law posed different issues. For the defense, it was an opportunity to escape a guilty conviction for their clients. The prosecution saw this alignment as a means to articulate exactly who the corporate body was. I discuss both approaches below.

The testimony of a defendant under direct examination offers a time to respond openly to the allegations in the indictment, and those allegations made by previous witnesses against the defendants. In this case, Skilling and Lay needed to respond to

accounts of their behavior and state of mind on a number of circumstances: the selling of personal stock shares from August to November 2001, allegations of lying to investors regarding the state of Enron's finances, and Skilling's departure from the company in August 2001. In making these responses, defendants crafted their own explanations of events.

Skilling's testimony on direct examination by his lawyer Petrocelli took place prior to Lay's, and lasted nearly four full days. The overarching theme was his demonstration of loyalty for Enron. To make this representation compelling, he worked hard to show that he embodied the company, that is, he represented Enron as himself. One vivid example occurred on the morning of his last day on the stand. Petrocelli was questioning Skilling about the earnings of EES in 2001. Mid-way through this line of questioning Petrocelli paused and asked Skilling, "Did you believe in your company?" Skilling's response, "Yes I did...I believed in Enron Corporation- we had a –used to have a saying of 'bleeding Enron blue'. I bled Enron blue" (US v. Skilling and Lay, Jeff Skilling testimony, 12810, April 13 2006). Just as I furiously scribbled notes to capture the exchange, I noticed the jurors did the same. Media headlines summarizing the day's testimony read, "Skilling bled Enron blue" (Lattman 2006). It was a powerful metaphor, noted not only by the media, but also jurors deciding Skilling's fate. The moment was compelling.

The notion that if we scratched Skilling's arm, and out came the blue blood of Enron seems bizarre. However, from a strategy standpoint, it makes sense. Bleeding blue

for something is a North American phrase primarily used in reference to the loyalty fans hold for their sports teams. One bleeds blue for a hockey team or a football team (blue being the prototypical team color). A fan's loyalty and passion towards their team is so intense, that their own blood is metaphorically transformed into that of the team's blood. The fan embodies the team. They bleed when the team bleeds. S/he is upset when they lose, and elated when they win. In the Enron context, Skilling uses the metaphor to suggest that the blood circulating through his body was that of Enron's. When Skilling bled, it was the blood of Enron (or when Enron bled, it was the blood of Skilling). His loyalty and passion for the company was such that he was infused with Enron. He and his lawyer, along with the prosecution, asserted throughout the proceedings that Enron was the victim in this scenario, that the company, and the vast majority of its employees were innocent (the defense and prosecution had differing interpretations of who specifically was guilty or innocent). When asked by his lawyer why he was taking a stand now and testifying, Skilling said, "we are innocent. And by 'we' I mean Enron Corporation" (US v. Skilling and Lay, Jeff Skilling testimony, 12989, April 13 2006). Skilling includes himself in this "we". His blood, as Enron's blood proves this. In this moment, Skilling seeks to embody Enron's healthy body, made ill only by Fastow. Not a member of Fastow's team, both Enron *and* Skilling were victims of fraud.

Lay's testimony was far less overt than Skilling's in terms of demonstrating himself as an embodiment of Enron. Rather than suggesting Lay embodied Enron, he seemed to do the reverse, to suggest that Enron embodied him, that Enron was a reflection of his life's work (successes and failures) and his values. He does this on a

number of occasions, most notably by portraying the company as made in own image through the transfer of his values onto Enron's culture or behavior. At the start of Lay's direct questioning with his lawyer, Lay and Secrest emphasized Lay's Christian upbringing and his devotion to hard work, both intellectual and manual. On this Lay says, "I have principles in my life, I have convictions" (US v. Skilling and Lay, Ken Lay testimony, 13, April 24 2006). He adds, "I have always tried to live by all the rules and all the laws" (ibid, 13).

Further into his testimony, Secrest opened a space to discuss how those values were transferred to Enron. He drew from past examples, speeches, etc which demonstrate this transfer. Quoting from a speech Lay delivered to all Enron's employees to ease fears and concerns regarding Skilling's departure in August 2001, Secrest read in court:

"Values are incredibly important to the fiber of this company...intellectual capital is the most important competitive advantage we have and—of course...respect—respect for others and just treating them in the same way you want to be treated...Integrity, incredibly important. And I think this one has slipped a bit, but integrity not just in our business dealings, but also in our personal life" (US v. Skilling and Lay, Ken Lay testimony, 161, April 24 2006).

This speech was widely touted by Lay's lawyers as a moment when Lay served as Enron's guiding force trying to right the wrongs perpetrated by Fastow, namely instilling greediness and deploying dubious means to meet financial targets. As Lay said, "I've been told by a few people...that our values were being eroded somewhat" by suspect accounting and dubious financing (US v. Skilling and Lay, Ken Lay testimony, 162, April 24 2006). Lay vowed that his return to Enron as CEO would return credibility to

the company on Wall Street. He would do this by implementing the medicine of an open financial disclosure policy to remedy the illness wrought on by a pathological CFO.

This discussion of Lay's values and how he sought to instill them into Enron made up a significant portion of his first day on the stand. Portraying Enron as having been instilled with Lay's own moral convictions and a life "lived by the rules" suggests that Lay's moral health, guided by Christian principles, accounted for Enron's health.⁷³ Positioning Lay's body with that of Enron made a stronger case for Lay's innocence than simply suggesting it was Lay alone who lived by those values. If Enron was healthy (and by healthy I mean innocent), and if Enron was Lay, then Lay must be innocent too.

As I've said, the defense repeatedly claimed that no fraud in fact took place, except for Fastow's. They argued that the government manufactured the widespread fraud presented to the jury in order to blame someone. The notion that the fraud must be assigned to a person, to some *body* provided an opportunity for the defense. To suggest that it was not their clients' bodies (as they were metaphorically Enron's body), relieved Lay and Skilling of that burden of guilt. Instead, the burden of guilt fell upon Fastow, Glisan and others working with them. Enron's body had been manipulated and cheated by Fastow. This strategy only works, however, if the bodies of Skilling and Lay were entwined with Enron's. The prosecution had different ideas on this matter.

⁷³ When I say Christian principles here, I am referring to Lay's own notion, treating others as you would want to be treated (respect) and living by the rules and laws (US v. Skilling and Lay, Ken Lay testimony, April 24 2006).

Imagining the corporation as the single body of Lay or Skilling connotes a sense of wholeness or completeness. It becomes a bounded entity conceptualized through one body, that of a white, upper class male. As feminist scholarship has exposed, conceptions of the body as a bounded entity have significant implications. Most notably, a bounded body forgoes a politics of inclusion. And, as Brown, Rasmussen, and Radcliff have emphasized with regard to the national body, if you do not meet the criteria of that body, then you are effectively excluded. Skilling's proclamation of his blood as that of Enron's, allows him to transpose the health and innocence of Enron's corporate body onto himself. It allows him to take ownership of that body.

The prosecution, however, had a different conception of who or what Enron was. They approached this strategy of an embodied corporate body by disentangling Skilling and Lay from Enron. The cross-examination of Skilling by the prosecution offers the most lucid example of how this was achieved. Berkowitz was the prosecution attorney examining Skilling. He begins his questioning of the former executive:

B: "At the end of the day on Thursday, you testified or had some testimony about Enron being innocent, testified that a lot of people that worked at Enron did a really good job and worked really hard, and they believed in what they were doing, and you were taking the stand on their behalf. Do you remember that testimony?

S: Yes

B: Okay, I want to put some perspective on that if we can. Mr. Skilling, you know that you are a defendant in this case right?...and you know that Mr. Lay is a defendant in this case, correct?

S: Yes

B: Enron Corporation is not listed as a defendant in this case are they?

S: No

B: Although you said that you bled Enron blue, you weren't Enron, were you? It was a corporation correct?...And it consisted of its shareholders, right?

S: Shareholders, employees, yea, a lot of things.

B: All right, and you saw some shareholders come here and testify...They were all employees and shareholders of Enron, and you worked for them didn't you Mr. Skilling?...They are alleged to be victims in this case. This case is about you and Mr. Lay, and about whether, as captains of this ship [Enron] you breached your duties and obligations to those shareholders and employees. You understand that is what we are here to decide" (US v. Skilling and Lay, Jeff Skilling testimony, 13067, April 17 2006)

While Skilling's "bled Enron blue" comment attracted a great deal of attention by jurors and the media, this particular moment went largely unnoticed by all in the courtroom. This of course did not stop my own heart from racing and pen from fluttering as I rushed to capture the words in my notebook. I took Berkowitz's line of questioning as a deliberate act to remove Skilling's body from the larger corporate body of Enron. Who belongs to that corporate body? That body, for Berkowitz, and for the government, comes into being through those who own it, the shareholders. No single human body, at least in this courtroom, was permitted to be the larger corporate body. Contrary to what Skilling might want us to believe, no one body embodies Enron. Berkowitz did not wait for Skilling to respond to his final comment about how the corporate body is. Instead, he moved quickly to another line of questioning.

This distancing of Skilling and Lay from the larger corporate body was a prosecution strategy throughout the trial. The prosecution made certain the jury had an understanding of the legally diffuse nature and ownership of the corporate structure. In working to further distance both Skilling and Lay from the larger corporate body of Enron, the prosecution invited former employees to testify about their financial loss and emotional turmoil resulting from the bankruptcy of the firm. The presence of these

shareholders in the courtroom reaffirmed that the corporate body was made of many human bodies each with differing experiences and differing backgrounds. The kinds of people invited to testify affirmed this notion. Employees were selectively chosen to counter-pose the circumstances, experiences, and bodies of Skilling and Lay. In all there were three former employees who spoke including Johnnie Nelson, a crusty blue collar pipeline worker from a small town in New Mexico, John Sides, a 22 year Houston Enron employee who lost nearly all his retirement savings, and Patty Klein, a female employee from Enron's Portland, OR office. These three employees were not upper class white men or women impeccably dressed and well spoken, but rather struggling middle class Americans. The prosecution asserted that the corporate body at the Enron trial was not a white upper class masculine body, but was diffuse, constituted by or composed of a variety of bodies. As Ruemmler emphasized in the prosecution's closing arguments, "those people, the common investors and employees of Enron, they were the owners of Enron...the owners of Enron were cheated. They were stolen from. They were profoundly harmed by what these men did" (US v. Skilling and Lay, Prosecutor's closing arguments, 2, May 15 2006).

6.4 Conclusion: merging the corporate body and the human body

This chapter examined some of the ways in which the corporate body metaphor was deployed during the Enron trial. I did this using a combination of fieldnotes or personal recollections as an ethnographer at the event and transcripts from the trial. The defense's case rested on portraying Enron as an organic body. Lay and Skilling were its embodiment, and ignorant of the rottenness that was eating at its insides caused by

Fastow. However, the prosecution had a vastly different bodily interpretation of Enron. To the government, Enron was a corporate body owned and composed by multiple shareholders. It was not synonymous with the bodies of Lay and Skilling. Feminist geographer Geraldine Pratt writes that the “body is a key site for the continual disruption of abstract space” (Pratt 2000, 49). To the jury, the corporate space of Enron was abstract. It was comprised of aggressive finance and accounting practices, mounds of paperwork, emails, policies, numerical figures, etc. But, Enron was also human. It was made human in court through the testimony of former employees. But it was also made real through the rhetorical embodiments discussed above. These metaphors disrupted the abstract spaces of the corporation. In doing so, the disruption revealed who ultimately was able to embody the corporation in the courtroom, and who was not.

In the end, the jury sided with the prosecution’s portrayal of events at Enron. After just over a week of deliberation, they returned a guilty verdict. Unfortunately I was not in court for the reading of the verdict. I had made my way back to Canada the day prior in preparation to start teaching a summer course. However, through media coverage, I experienced the event. I capture the moment with an entry from my fieldnotes written on May 28th, 2006, a few days after the verdict was announced:

The verdict was finally announced, the reporter on TV relayed the information from another reporter in the courtroom. It was abrupt and quick. Watchers of CNN were in one moment hearing from a former Enron prosecutor and in the next moment, ‘this just in, Lay has been found guilty on all counts, I repeat, Kenneth Lay has been found guilty on all counts’. When the reporter uttered these words, I was standing in the kitchen preparing my second cup of tea. I gasped aloud and found my eyes tearing up and felt a lump grow in my throat. This emotional response surprised me. My tears were not those of happiness for the shareholders, nor tears of sadness for Lay. Why were they here? I

couldn't identify their source. Then Skilling's guilt was announced, he not guilty on some counts, but the most important ones, guilty. By this time, I was more prepared.

For the rest of the day, I was transfixed by trial coverage. I watched and read everything I could. Finally those of us in attendance of the trial, as well as the general public, were introduced to jurors, interviewed as a group by the media. During this interview, I learned that another juror had a similar emotional release as the verdict was read. As I understand, she began to quietly cry.

With a few days behind me now, I've thought about that emotional response. I think in the end I needed to experience a release. I had spent the past two years of my life researching Enron, and the past 4 months attending the trial. The intensity of all these connections to Enron, from my encounters with and knowledge of the people involved, to every time I would meet Lay at the elevator and he graciously let me pass before him, all these things needed to be released. Gasping and crying was my body's way of doing this I suppose.

The emotions that overcame me, my physical reaction to the reading of the verdict work against a disembodied account of corporate fraud. Just as this chapter has demonstrated in a variety of ways, the legal aspects of corporate fraud are embodied. The ways in which the corporation and its fraud become embodied vary from the metaphorical to the physical, from the expected to the unexpected, from the emotions of a researcher even as she sums up this chapter (written two years after the verdict), to the outburst of anguish displayed by Lay's family in the courtroom on that May 2006 day. The body is never absent. We can never and should never dislodge the merging of the corporate body from the human body. I draw this point out further at the close of the next and final chapter.

CHAPTER 7

CONCLUSION

“Our totality is what we discursively make it. Perhaps we can make it a site for the envisioning and enactment of new...futures”Gibson-Graham 1996, 119.

Orthodox schools of thought writing about the firm have in the past represented the entity as an all-encompassing, self-reproducing totality, moved only by the pursuit of profit. As stated in the introductory chapter, famed neo-classical economist Milton Friedman referred to the corporation in 1970 as having “only one social responsibility...—to use its resources and engage in activities designed to increase its profits” (Friedman 1970). In contrast, scholars ascribing to a more heterodox tradition, including J.K. Galbraith, viewed the firm as more open, subject to external influences like politics or culture. Over time, economic geographers incorporated both traditions in their studies of the firm, though not simultaneously (see Krumme 1969 and Coase 1937). This trend has changed more recently with the rise of the “cultural turn” in the sub-discipline. Now we are experiencing a joining of orthodox and heterodox traditions in research studies on the corporation (see especially Gibson-Graham 1996; Schoenberger 1997; O’Neill and Gibson-Graham 1999; O’Neill 2001). This trend is a recognition that while corporations are certainly embedded in a host of cultural, social and/or political networks internally and externally, in order to survive, they must also turn a profit. Thus, the ideas behind both heterodoxy and orthodoxy are significant for how we study and understand the corporation. Combined, they allow the entity to emerge as a site of conflict and complexity.

Representing the corporation, and more broadly the capitalist system, as fragile, conflicted and complex is precisely the goal of Julie-Kathy Gibson-Graham. In their first book, The End of Capitalism (1996), they achieve this representation by making spaces for non-capitalist exchanges in economic discourses. In other words, they open up the totality of capitalism by bringing legitimacy to other (non) economic forms like alternative currencies or unpaid labor in capitalist discussions. By doing this, Gibson-Graham provide a vision for rewriting or re-enacting how we discuss, understand, and research the economy. In their next book, A Post-capitalist Politics (2006), they chart a means of moving their project of reimagining capitalism into action by offering three strategies. The strategies aimed at discursively rewriting capital and opening it to new possibilities include: first, ontological reframing, or “conceptualizing contingent relations where invariant logics once reigned” (Gibson-Graham 2006, xxx); second, rereading, meaning “uncovering what is possible, but obscured from view...Rather than attending to the regularities of discourse” (ibid, xxxii); and finally, techniques in creativity, “seen to involve bringing things together from different domains to spawn something new” (ibid, xxxii). For the conclusion of this thesis, I use Gibson-Graham’s three strategies to remake economic diversity and possibility as a template for organizing the discussion in this chapter. While their work goes after the economy more broadly, I aim to re-envision the corporation. My work repositioned the corporation as a fragile, contingent and embodied entity. Like them, I want to move towards enacting new economic or corporate futures.

Gibson-Graham's first strategy, to discursively rewrite the economy, concerns reframing the presumed ontological foundations of capitalism. To do this is an audacious task, and one that must be understood as always in the making rather than necessarily complete.⁷⁴ I hesitate to claim that what I have accomplished here is an ontological reframing of the corporation, but I do want to suggest that my work offers a beginning to this project. I introduced this thesis by laying the groundwork for a new conceptualization of the corporation, viewing it as a body conceived through feminist theory. The human body, feminists argue, is contingent on embodied discourses constituted through race, class sexuality and gender (Butler 1990). These discourses are never wholly stable on the body and break down at various points. Breakages, fractures or ruptures to discursive bodily performances reveal new possibilities for alternative sexualities or gender positions to emerge. This means that the body, by way of its performances, is open to change. It is able to become something new and escape the restrictive identities associated with traditional subject-positions around for example masculinity and femininity.

Like feminist notions of the body, I argued that the corporation has no invariant inside, that it too is open, unstable, and contingent upon the varying bodies that constitute or act within it. In this way, I offered the corporate body as a metaphor to frame the corporation. This corporate body, like the human body, is wholly embedded in social and

⁷⁴ Though Gibson-Graham do not explicitly cite the work of Timothy Mitchell in their discussion of reframing the economy, I believe their ideas are intended to build on his work, specifically Mitchell (2002). Elsewhere throughout their introduction, they acknowledge the influence of his work on their own thinking (Gibson-Graham 2006).

cultural discourses (heterodoxy) as well as the more common legal and economic theories around firm behavior (orthodoxy). These discourses I argued were grounded in two ways, first through embodied performances on the part of people who brought their physical bodies (including emotions, passions, values and experiences) to work. Chapter three, 'Telling the story', better emphasizes this first point. In this chapter rather than write a single and cohesive account of Enron's downfall, I chose to represent what happened through six individuals and their experiences with Enron. The result was an explicit demonstration of the varying and competing ways in which the corporate body emerges. At times the goals of individuals aligned, and at other times, those goals diverged, subjecting the corporate body to ruptures or fractures in its unified, coherent performance.

The second means by which I located the varied discourses surrounding the firm was to emphasize the importance of nonhuman objects and calculative techniques in the materializations of corporate space. Objects like spreadsheets, financial statements, media articles and photographs had profound impacts on the shape and direction of Enron's story and the ways in which fraud was both made possible and ultimately revealed. Chapter four, 'Public and private performances' best illustrates this idea. I demonstrated that through interactions involving financial statements and specialized accounting techniques, Enron performed a robust and growing corporate identity. As these performances were spoiled by the media and by Enron's decreasing stock price, Enron's identity shifted and the dubious practices that underlay those public performances emerged. In effect, I argued that the spatial contexts of corporate performances matter,

and that in this case, they involved heterogeneous, and often unstable associations between humans and nonhumans.

Bringing these two ideas together under the metaphor of the corporate body is intended to challenge us to think more broadly about who and what is brought into corporate space. Further, in demonstrating how this body materializes, through precarious and contingent (spatial) relations, I work to dismiss the notion of a corporate essence. There is no essential underlying *homo economicus* or rational identity to the firm as often noted by mainstream Chicago school discourses. Rather, the corporate body is performed time and again, and like the human body, and is subject to changes in these performances. The analysis from chapter six, ‘Becoming a body’, makes this point more evident. The defense teams of Skilling and Lay used metaphors in the courtroom that implied Enron was a healthy body, aside from the shenanigans of Fastow and Glisan. They also implied, through original testimony on the part of the defendants, that Skilling and Lay’s bodies stood in for the larger body of Enron. And, that like Enron, the CEOs too were healthy (or moral) before having been infected—or brought down—by Fastow. The prosecution seized these moments to assert that the corporate body was not solely composed of either CEO, but rather consisted of a diverse group of employees whose circumstances vastly differed from those of Skilling and Lay. These courtroom exchanges demonstrated the constant shifts in performances and meanings of the corporate body. As a geographer, I want to point out that the spatial context of these shifts is important. In the courtroom, a presumed site of justice and equity, Ken Lay and Jeff Skilling were not permitted to take Enron’s body as their own. Instead, the corporate body the prosecution drew out was

diffused and occupied by many. The deliberate re-articulation in the meaning of the corporation by the prosecution offers hope that other deliberate changes or meanings of the corporation might be drawn out. Where might these changes happen? What new political and economic rights might they offer? There are important questions for geographers to pursue.

Gibson-Graham advocate for researchers to build their own metaphors in order to create new meanings for economic space (Gibson-Graham 1996). My utilization of the metaphor of the body for the corporation, the source of which derives from Bakan's body metaphor (2004), is intended to work against narrow conceptions of the entity, and escape the power associated with representing the firm as a universal subject. The corporation's armor is not impenetrable and unchanging. Instead, it is contingent, making it subject to changes in its make-up and meaning. The building and experimenting with new metaphors offers an important avenue for future research in economic geography on both the larger economy, but also for the corporation more specifically. This is also a scholarly area which can be extended and explored.

The second strategy Gibson-Graham emphasize in undoing totalizing representations of the economy is to reread discourses, to uncover what is hidden rather than reproduce what is normal. This strategy entails deconstructing dominant narratives and reframing them so that counter knowledges or representations emerge. I employed this tactic throughout the thesis working to resituate entrenched accounts around Enron

and seek alternate or hidden meanings behind them. For example, in the methodology chapter, I spoke about the silences experienced in my fieldwork, namely the silences and reluctances to speak on the part of interviewees. I situated these silences as an attempt to subvert dominant representations around the company's fall, particularly those perpetuated by the media. Further, in chapter 4, 'Public and private performances', with the aid of post-bankruptcy reports and court testimony, I pulled apart the public narratives of Enron as achieved through its financial statements to demonstrate a performance contingent on illegal financial practices. Finally, chapter 5, 'Hetero-sexualizing fraud', examined how popular media accounts gendered the exposure of Enron's deception in particular ways. I deconstructed these accounts to point to how women were positioned in dual roles of either "good" or "bad" girls. In other words, I demonstrated the hidden meaning behind the narratives surrounding Enron's exposure; that women continue to emerge in the corporation according to historical accounts of what it means to be feminine. The corporation remains a site of embodied gendered relations.

The final tactic Gibson-Graham discuss in their introduction is techniques of creativity, or bringing different ideas together to create something new. In this project, I have combined two different streams of theoretical thinking, feminist theory and STS scholarship. In fact, I have freely combined feminist notions of performativity and STS notions of performance, without critically considering the implications of this alliance. As mentioned in the introductory chapter, each approach offers unique interventions into understanding space and performance. STS broadens notions of spatial and social relations by taking into account how performance is achieved through both humans and

nonhumans and their participation in complicated and diverse networks. On the other hand, performativity in feminist theory considers how discourses surrounding subject positions are enacted on the body time and again across socio-spatial circumstances. Performance is embodied, as in the bodies of workers at Enron mattered for how it was performed.

Brought together, I want to suggest that these two notions of performativity create something new, something that is more than the sum of their separate parts.⁷⁵ Coupling both notions expands our theories and tools for analyzing not only the social connectivities involved in constructing corporations (how they come together through social bodies and discourse, grandiose theories, physical objects and calculative techniques), but also in seeking out alternate or new performances of the corporation. This is a point these two schools of thought share, a point at which they can find common ground. Conceptualizing corporate performances through both STS and feminist notions of performativity might yield new theoretical insights into a politics of possibility, a politics of enacting new political, economic and social futures around corporate space.

Ordinarily I might want to end my story on this point, about the possibilities of performing new social, economic and political worlds. But, there is one final, crucial

⁷⁵ I borrow this idea from Gibson-Graham. They join theories of political economy, queer theory and feminist post-structuralism (Gibson-Graham 1996). On this practice they write, “from this cross-fertilization some of our most important insights emerged” about economic difference and the politics of possibility (Gibson-Graham 2006, xxxii).

component to the narrative that remains. In Petrocelli's talk of performing autopsies on Enron in his closing statement at the Enron trial, he had no way of knowing the level of preoccupation one particular Enron related autopsy would have for the public in the upcoming months. Shortly after the guilty conviction of Ken Lay and Jeff Skilling, the Lay family was staying in their second home in a town near Aspen, Colorado. It was there that Ken Lay died on July 5th, 2006 at 3:11am. His wife Linda phoned 911 for help after hearing a thump in the bathroom and discovering Lay's body on the floor near the toilet, having vomited (Johnson 2006c). According to the coroner's report, Lay suffered a heart attack, the result of severe coronary artery disease (Kurtzman and Havlik 2006). There was considerable Internet chatter about the circumstances of his death and the actual location of his body. In true conspiratorial fashion, some suggested that Lay faked his death so that he could live his life south of the border enjoying the money he made (or rather stole) (Wastler 2006). In this scenario, some furthered the myth adding that the CIA, under the direction of President Bush (long friends of the Lay family) had secretly arranged for this. As one person quoted in an article on the topic said, "there must be proof beyond any doubt that Ken Lay is dead and there is not a double being used so that Ken Lay can hide somewhere" (Wastler 2006). This chatter escalated until finally Lay's autopsy performed by the Colorado coroner was posted on various media websites (I accessed it through the [Houston Chronicle's](#) website). With that the world learned private details of Lay's death (heart disease) and his life (scars on the body, the night's previous meal, etc.). The autopsy served as a final statement on his death.

The day Lay died, I was shook up. Like with the announcement of his guilty verdict, I found myself overwhelmed with emotion. But more than this, I was also struck by the pre-occupation surrounding the whereabouts of his body and the circumstances of his death. Part of this concern had legal motivations. With no physical body to be sentenced or punished, the government was forced to vacate Lay's conviction. Further, his death cast doubt on the possibility of recovering money from the Lay estate on the part of the government or investors. Justice through imprisonment had been denied.

The curiosity surrounding Lay's death registers two important points. First, Lay's death is a reflection not only of the failure of his own body, but it also points to failures in our legal system. Because there is no body, the legal process of attributing blame and accountability in this case could not occur. My second point, which connects to the main arguments of this thesis, is that this circumstance demonstrates the persistence of the body metaphor that I sought to explore here. Because the corporation is an embodied entity, in the death of its members, legally we are left with no recourse. In Lay's death, no one can get at him.

BIBLIOGRAPHY

- Ackman, D. (2002) 'Congress to Watkins: will you be our Valentine?', *Forbes.com*. 15 February, Available at <http://www.forbes.com/2002/02/15/0215topnews.html>. (last accessed on 9 August, 2005).
- Austin J. L. (1962) *How to do things with words*. Oxford University Press: Oxford.
- Bakan, J. (2004) *The corporation: the pathological pursuit of profit and power*. Free Press: New York
- Barnes, T.J. (1996) *Logics of dislocation: models, metaphors, and meanings of economic space*. Guilford Press: New York.
- Barnes, T.J. (2001a) "Lives lived, and lives told: biographies of geography's quantitative revolution." *Society and Space: Environment and Planning D* 19. 409-29.
- Barnes, T.J. (2001b) "Retheorizing economic geography: From the quantitative revolution to the 'cultural turn'" in *Annals, Association of American Geographers* 91. 546-65.
- Barnes T.J. (2002) "Performing economic geography: two men, two books and a cast of thousands." *Environment and Planning A* 34. 487-512.
- Barnes, T.J. (unpublished manuscript) 'Making space for the economy: live performances, dead objects and economic geography'.
- Barnes, T., J. Peck, E. Sheppard, A. Tickell (2007) "Methods matter: transformations in economic geography" in *Politics and Practices in Economic Geography* (eds.) A. Tickell, E. Sheppard, J. Peck and T. Barnes. Sage: London.
- Barringer, F. (2002a) 'Enron's many strands: early scrutiny; 10 months ago questions on Enron came and went with little notice' in *New York Times*. 28 January, A11.
- Barrionuevo, A. (2006a) 'Prosecutor zeros in on ex-Enron chief's finances' in *New York Times*. 2 May.
- Barrionuevo, A. (2006b) 'Ex-Enron chief lied often about web unit witness says', *New York Times*. 15 February.
- Bearle, A. and G. Means (1932) *The Modern Corporation and Private Property*. Macmillan: New York.
- Berger, J. (1973) *Ways of seeing*. Viking Press: New York.

- Bijker, W.E. and Law, J. (eds.) (1992) *Shaping technology/building society: studies in soci-technical change*. MIT Press: Cambridge, MA.
- Brealey, R., S. Myers and A. Marcus (2004) *Fundamentals of corporate finance*. McGraw-Hill: New York.
- Brubaker-Calkins, L. (2007) 'Causey heads to prison for role in Enron' in *Washington Post*. 3 January. D 1.
- Bryce, R. (2002) *Pipe dreams: greed, ego, and the death of Enron*. Public Affairs: New York.
- Buck-Morss, S. (1995) 'Envisioning Capital' in *Critical Inquiry* 21. 435-67.
- Business Week* (2002) 'An Enron hero—with a smoking-gun letter'. 28 January, p. 34.
- Butler, J. (1990) *Gender trouble: feminism and the subversion of identity*. Routledge: New York.
- Callon, M. (ed.) 1998 *The Laws of Markets*. Blackwell: Oxford.
- Campbell, M (1998) 'Institutional ethnography and experience as data' in *Qualitative Sociology* 21(1). 55-73.
- Coase, Ronald H. (1937) 'The nature of the firm' in *Economica* 4. 386-405.
- Collinson, D. & Hearn, J. (1994) 'Naming men as men: implications for work, organization and management' in *Gender Work and Organization* 1. 2-22.
- Colloff, P. (2003) 'The Whistle-blower' in *Texas Monthly*. April. p. 118.
- Committee on Energy and Commerce, US House of Representatives (2002) 'Hearing on the lessons learned from Enron's collapse: Auditing the accounting industry' 107th Cong., 2d sess., February 6.
- Committee on Governmental Affairs, US Senate (2002) 'Hearing on Enron Corporation's collapse.' 107th Cong., 2d sess., January 29.
- CNNMoney.com* (2004) 'Fastow and his wife plead guilty: ex-Enron CFO agrees to serve 10 years, cooperate with authorities; will Skilling and Lay be next', 15 January. Available at http://money.cnn.com/2004/01/14/news/companies/enron_fastows/ (last accessed on August 5, 2008).
- CNNMoney.com* (2007) Leonardo di Caprio to star in new Enron flick: character portrayed by Oscar-nominated actor will uncover accounting scandal at fallen energy giant. 13 February. Available at

- http://money.cnn.com/2007/02/13/news/newsmakers/dicaprio_enron/ (last accessed on August 5, 2008).
- Crang, P. 1994 "'It's showtime!' On the workplace geographies of display in a restaurant in South East England" in *Environment and Planning D: Society and Space* 12: 675-704.
- Cruver, B. (2002) *The anatomy of greed: the un-shredded truth from an Enron insider*. Carroll and Graf Publishers: New York.
- Domosh, Mona and Joni Seager (2001) *Putting women in place: feminist geographers make sense of the world*. Guilford Press: NY.
- Dowd, M. (2002) 'Barbie loves math' in *New York Times*. 6 February, p. 21.
- Dunn, E (2004) *Privatizing Poland: baby food, big business, and the re-making of labor*. Cornell University Press: Ithaca, New York.
- Eichenwald, K. (2005) *Conspiracy of Fools. A true story*. Broadway Publishers: NY
- Economist* (2000) The energetic messiah. 3 June. US print edition.
- England, K. (1994) 'Getting personal: reflexivity, positionality, and feminist research' in *Professional Geographer* 46 (1). 80–89.
- England, K. (2002) "Interviewing Elites: Cautionary Tales about Researching Women Managers in Canada's Banking Industry," in Pamela Moss (ed) *Feminist Geography in Practice: Research and Methods* Blackwell: Oxford, pp. 200-213.
- Enron Corporation (1999) 10K Annual Report.
- Enron Corporation (2000a) 10Q First Quarter Report.
- Enron Corporation (2000b) 10Q Second Quarter Report.
- Enron Corporation (2000c) 10Q Third Quarter Report.
- Enron Corporation (2000d) 10K Annual Report.
- Enron Corporation (2001) 10Q First Quarter Report.
- Farhi, P. (2002) 'A whistle that can pierce the glass ceiling: are women more likely than men to warn of problems?' *The Washington Post*. 6 July, C1.
- Financial Times* (2002) 'Pop quiz: are women more ethical?', 21 October, p. 16.

- Flood, M. (2002) 'She wondered why somebody else didn't snap to it; Enron executive Sherron Watkins says the now famous memo she wrote to Chairman Ken Lay was only a response to his offer to answer employees' questions' in *Houston Chronicle*. 19 January, A1.
- Flood, M. (2004a) 'Enron jury told the proof is in the email' in *Houston Chronicle*. 21 September. Available at <http://www.chron.com/disp/story.mpl/special/enron/barge/2807174.html> (Last accessed on August 5 2008).
- Flood, M. (2004b) Enron trial gets started: criminal case alleges secret deal in sale of barges' in *Houston Chronicle*. 22 September. Available at <http://www.chron.com/disp/story.mpl/special/enron/barge/2808478.html> (Last accessed on August 5 2008).
- Flood, M. (2005a) 'Three from Enron barge trial have clues on sentencing' in *Houston Chronicle*. 11 May. Available at <http://www.chron.com/disp/story.mpl/special/enron/barge/3177608.html> (last accessed on August 5, 2008).
- Flood, M. (2005b) 'Ken Lay rails at prosecutorial 'wave of terror'' in *Houston Chronicle*. 13 December. Available at <http://www.chron.com/disp/story.mpl/special/enron/3521631.html> (last accessed on August 5, 2008).
- Flood, M. (2006a) Personal Interview. 3 May.
- Flood, M. (2006b) 'Only two defendants, but many accused' in *Houston Chronicle*. 27 January.
- Forbes, Inc. (2003) "Forbes touts number one position in new ad campaign", Press release, 23 January.
- Fowler, T. (2002) 'Andersen guilty: verdict seen as a fatal blow to the firm' in *Houston Chronicle*. 19 June. Available at <http://www.chron.com/disp/story.mpl/special/andersen/1456537.html> (last accessed on August 6, 2008).
- Fowler, T. and J. Roper (2005) 'Causey pleads guilty, leaving just Skilling and Lay' in *Houston Chronicle*. 28 December. Available at <http://www.chron.com/disp/story.mpl/business/3551214.html> (last accessed on August 5, 2008).
- Frey, J. (2002) 'The woman who saw red, Enron whistle-blower Sherron Watkins warned of the trouble to come' in *The Washington Post*. 25 January, C1.

- Friedman, M. (1962) *Capitalism and Freedom*. University of Chicago Press: Chicago.
- Friedman, M (1970) The social responsibility of business is to increase its profits in *New York Magazine*. 13 September.
- Galbraith, J.K. (1952) *American Capitalism: the concept of countervailing power*. Penguin: Harmondsworth.
- Galbraith, J.K. (1967) *The New Industrial State*. Princeton University Press: Princeton, NJ.
- Gatens, M. (1996) *Imaginary Bodies: Ethics, Power and Corporeality*. Routledge: London and New York.
- Gherardi, S. (1995) *Gender, symbolism and organizational cultures*. Sage: London.
- Gibney, A. (Director) (2005) *The smartest guys in the room*. HDNet Productions.
- Gibson-Graham, J. K. (1996) *The end of capitalism (as we knew it): a feminist critique of political economy*. Blackwell: Cambridge.
- Gibson-Graham, J.K. (2000) 'Poststructural interventions' in Sheppard, E. and T. J. Barnes (eds.) *Companion to Economic Geography*. Oxford: Blackwell. p.195-210.
- Gibson-Graham, J. K. (2006) *A Postcapitalist Politics*. University of Minnesota Press: Minneapolis, MN.
- Gilbert, M. (1994) 'The politics of location: Doing feminist research at 'home' in *Professional Geographer* 46 (1). 90-96
- Goffman, E. (1959) *The presentation of self in everyday life*. Doubleday: New York.
- Gordon, M. (2002) 'Enron Chairman Gave List of Favored Names to White House; Bush Named Two as Energy Regulators' in *Associated Press*. 1 February. Available at <http://www.commondreams.org/headlines02/0201-04.htm> (last accessed on December 8, 2008).
- Gregson, N. and G. Rose (2000) 'Taking Butler elsewhere: performativities, spatialities and subjectivities' in *Environment and Planning D: Society and Space* 18. 433-452.
- Grosz, E. (1994) *Volatile bodies: toward a corporeal feminism*. Indiana University Press: Bloomington, IN.

- Hammersley, M. and P. Atkinson (1995) *Ethnography: principles and practice*. Routledge: London.
- Hanson, S. and Pratt, G. (1995) *Gender, Work and Space*. London: Routledge.
- Haraway, D. (1991) *Simian, Cyborgs, and Women: The reinvention of nature*. Routledge: New York.
- Haraway, D. (1997) *Modest_Witness@Second_Millennium.Female.Man__Meets_OncoMouse_*. Routledge: London.
- Harvey, D. (2005) *A Brief History of Neoliberalism*. Oxford University Press: Oxford.
- Hays, K. (2006) '2 former Enron executives receive prison sentences' in *Houston Chronicle*. 17 November. Available at <http://www.chron.com/disp/story.mpl/front/4342767.html> (last accessed on August 5, 2008).
- Hayter, R. (1997) *The Dynamics of Industrial Location: the factory, the firm and the production system*. John Wiley: Chichester.
- Hopwood, A (1987) 'The archaeology of accounting systems' in *Accounting, Organizations and Society* 12. 207-234.
- Horowitz, M. (1994) *Transformation of American Law 1870-1960: the crisis of legal orthodoxy*. Oxford Univ. Press: Oxford.
- Hoschchild, A. (1983) *The managed heart: commercialization of human feeling*. University of California Press: Berkeley, CA.
- Houston Business Journal* (2001) 'Enron CEO Skilling resigns,' 14 August.
- Houston Business Journal* (2002) 'Playboy photo shoot aimed at female Enron workers,' 25 March.
- Houston Chronicle* (2005) 'Ex Enron execs trial won't start until 2006,' 25 February, A1.
- Houston Chronicle* (2006) 'Ex-Enron chief reveals he considered suicide in an interview: Jeff Skilling says 2004 indictment helped him to shed his 2 year malaise. 18 June. Available at <http://www.chron.com/disp/story.mpl/special/enron/3979465.html> (last accessed on August 5, 2008).
- Houston Chronicle* (2008) 'Prosecution scorecard,' Available at <http://www.chron.com/news/specials/enron/>, last accessed on August 3 2008.

- Hoy, S. (1980) 'Municipal Housekeeping: The role of women in improving urban sanitation practices' in Melosi, V. M. (Ed) *Pollution and reform in American cities 1870-1930*. University of Texas Press: Austin, TX. pp. 173-198.
- Hueston, J. (2007) 'Behind the scenes of the Enron trial: creating decisive moments' in *American Criminal Law Review* 44(2). 197-239.
- Johnson, A. (2000) *The Blackwell Dictionary of Sociology, Second ed.* Blackwell: Oxford, UK.
- Johnson, C. (2006a) 'Enron leaders found guilty: massive fraud pinned to Lay and Skilling' in *The Washington Post*. 26 May. A 1.
- Johnson, Carrie (2006b) Personal Interview. 7 May.
- Johnson, C. (2006c) 'Enron's Lay dies of a heart attack: convicted founder faced life' in *The Washington Post*. 6 July. A 1.
- Johnson, P. (2002) 'Fortune writer saw mess coming' in *USA Today*. 28 January. 3D.
- Jones, A. (Ed) (2003) *The feminism and visual culture reader*. Routledge: London.
- Kanter, R.M. (1977) *Men and women of the corporation*. Basic Books: New York.
- Kaplan, D. and L.M. Sixel (2001) 'Enron lays off 4000: many ex-employees feel betrayed and angry' in *Houston Chronicle*. 4 December.
- Katz, C. (1994) 'Playing the field: questions of fieldwork in geography' in *Professional Geographer* 46(1). 67-72.
- Kirtley, J. (1996) 'Reluctant witnesses for the prosecution' in *American Journalism Review* 18(11).
- Klien, N (2007) *Shock Doctrine: the rise of disaster capitalism*. Picador: New York, NY.
- Krum, S. (2002) 'The gang of four: they were bullied, threatened and dismissed as 'silly girls', but they helped bring down America's seventh largest company' in *The Guardian*. 19 February. pp. 8.
- Krumme, G. (1969) 'Toward a geography of enterprise' in *Economic Geography* 45(1). 30-40.
- Kurtz, H. (2002) 'The Enron story that waited to be told' in *The Washington Post*. 18 January. C1.

- Kurtzman, R and M. Havlik (2006) *Postmortem examination report*. Pitkin County Coroner's office, Grand Junction, CO.
- Kyd, S. (1793) *A Treatise on the Law of Corporations*, vol. 1.
- Lacayo, R and A. Ripley (2002) 'Year of the Whistleblower' in *Time Magazine*. 30 December. p. 8.
- Lan, P. (2003) 'Working in a neon cage: bodily labour of cosmetics saleswomen in Taiwan' in *Feminist Studies* 29. 21-45.
- Latour, B. (1987) *Science in Action: How to Follow Scientists and Engineers Through Society*. Harvard University Press: Cambridge, MA.
- Latour, B. (1988) *The Pasteurization of France*. Harvard University Press: Cambridge MA.
- Latour, B. (1996) *Aramis, or the love of technology*. Harvard University Press: Cambridge, MA.
- Latour B, 1999 Pandora's Hope: Essays on the Reality of Science Studies (Harvard University Press, Cambridge, MA)
- Lattman, P. (2006) 'Skilling: I bled Enron blue' in *Wall Street Journal Law Blog*. 13 April. Available at <http://blogs.wsj.com/law/2006/04/13/skilling-i-bled-enron-blue/> (last accessed on August 7, 2008).
- Lattman, P. (2007) 'Enron's Ben Glisan: first in, first out' in *Wall Street Journal Law Blog*. 19 January. Available at <http://blogs.wsj.com/law/2007/01/19/enrons-ben-glisan-first-in-first-out/> (last accessed on August 5, 2008).
- Laufer, W. (2006) *Corporate bodies and guilty minds: the failure of corporate criminal liability*. University of Chicago Press: Chicago.
- Law, J. (1999) 'After ANT: complexity, naming and topology' in Law, J. and J. Hassard (Eds) *Actor network theory and after*. Blackwell: Oxford. pp. 1-14.
- Law, J. and V. Singleton (2000) 'This is not an object', published by the Centre for Science Studies. Available at <http://www.comp.lancaster.ac.uk/sociology/soc032jl.html> (last accessed August 5, 2008).
- Lay, K. (1970) *The measurement of the timing of the economic impact of defense procurement activity: an analysis of the Vietnam build-up*. Ph.D. Thesis. University of Houston.
- Lay, K. (1998) 'Megatrends of energy' in *World Energy Magazine* 1(1). 28-33.

- Lublin, J. (2002) 'Saving your career after earning a name as a whistle-blower, *The Wall Street Journal*. 15 January, A3.
- MacKenzie, D. (2003) A philosophical investigation into Enron' in *London Review of Books* 25(10). 22 May.
- MacKenzie, D. (2006) *An engine, not a camera: how financial models shape markets*. MIT Press: Cambridge MA.
- Markham, J. (2006) *A Financial History of Modern Corporate US Scandals: from Enron to reform*. ME Sharpe: New York.
- Marston, S. (2000) 'The social construction of scale' in *Progress in Human Geography*, 24. 219-242.
- Marx, K (1867) *Das Kapital, Vol. 1*. Verlag Von Otto Meissner: Hamburg.
- Massey, D. (1984) *Spatial Divisions of Labour: Social Structures and the Geography of Production*. London: MacMillan.
- McCoy, K. (2002) 'Other Enron officials spoke up' in *USA Today*. 17 January, 3B.
- McDowell, L. (1992) 'Valid games? A response to Erica Schoenberger' in *Professional Geographer* 44. 212-15.
- McDowell, L. (1997) *Capital Culture: Gender at Work in the City*. Blackwell: Oxford.
- McDowell, L. (1998) 'Linking scales or how research about gender and organizations raises new issues for economic geographers' in *Journal of Economic Geography* 1. 227-250.
- McLean, B. (2001) 'Is Enron Overpriced?' in *Fortune*. 5 March. p. 122-126.
- McLean, B. (2006) Personal Interview. 22 March.
- McLean, B & P. Elkind (2003) *The Smartest Guys in the Room: the amazing rise and scandalous fall of Enron*. New York: Penguin.
- McNee, R. (1958) 'Functional Geography of the Firm, with an Illustrative Case in the Petroleum Industry' in *Economic Geography* 34(4). 321-337.
- McNulty, S. and P. Spiegel (2002) 'A prophet of loss: woman in the news Sherron Watkins: the Enron executive who warned about the accounting practices that led to the company's bankruptcy is not the classic corporate whistle-blower' in *The Financial Times*. 19 January. p. 11.

- Meyer, Z. (2003) 'Panel discusses whether women are more ethical' in *Detroit Free Press*. 17 April. D1.
- Mill, J.S. (1836) 'On the Definition of Political Economy, and on the Method of Investigation Proper to it' in *London and Westminster Review*, October.
- Miller, P. (2001) 'Governing by Numbers: why calculative practices matter' in *Social Research* 68. 379-397.
- Mitchell, T. (2002) *Rule of experts: Egypt, techno-politics, modernity*. University of California Press: Los Angeles and Berkeley
- Mountz, A. (2007) 'Smoke and mirrors: An ethnography of the state' in A. Tickell, E. Sheppard, J. Peck and T. Barnes (eds.) *Politics and Practices in Economic Geography*. Sage: London.
- MSNBC.com (2006) 'Ex-Enron CEO Skilling reports to prison: sentenced to 24 years for fraud and other crimes to low security facility'. 13 December. Available at <http://www.msnbc.msn.com/id/16189124/> (last accessed 28 April 2008).
- Mnookin, S. (2002) 'Enronathon: young *Fortune* reporter Bethany McLean broke the Enron story first right? Not so fast, says the *Wall Street Journal*' in *New York Magazine*. March 11. Available at http://www.nymag.com/page.cfm?page_id=5756. (last accessed on 9 August 2005).
- Nast, Heidi (1998) 'Unsexy geographies' in *Gender, Place, and Culture* 5. 191-206.
- National Public Radio (2003) 'A visit with *Playboy* founder Hugh Hefner', interviewed by Scott Simon. 3 September.
- Nichols, J. (2002) 'Enron: what Dick Cheney Knew' in *The Nation*. 28 March.
- Norris, F. and K. Eichenwald (2002) 'Enron's many strands: the accounting; fuzzy rules of accounting and Enron', *The New York Times*. 30 January. Available at <http://query.nytimes.com/gst/fullpage.html?res=9C01E3D7103AF933A05752C0A9649C8B63&sec=&spon=&pagewanted=3> (last accessed on 6 August 2008).
- The Observer* (2002) 'The Enron scandal: the woman who took on a giant: Sherron Watkins' memo blew the lid on Enron and led to sackings and a suicide.' 27 January. p. 20.
- O'Neill, P. (2001) 'Financial narratives of the modern corporation' in *Journal of Economic Geography* 1. 111-129.

- O'Neill, P. and J.K Gibson-Graham (1999) 'Enterprise discourse and executive talk: stories that destabilize the company' in *Transactions* 24. 11-22.
- O'Rourke, P.J. (2002) 'How to stuff a wild Enron' in *Atlantic Monthly*. April.
- Partnoy, F. (2003) *Infectious Greed: How deceit and risk corrupted the financial markets*. Times Books: New York.
- Pasha, S. (2006a) 'Enron prosecutor tells of "lies and choices"' in *CNNMoney.com* 31 January. Available at http://money.cnn.com/2006/01/31/news/newsmakers/enron_trial/index.htm (last accessed on August 6, 2008).
- Pasha, S. (2006b) 'Skilling: Enron was 'as good as it gets'' in *CNNMoney.com*. 13 April. Available at http://money.cnn.com/2006/04/13/news/newsmakers/enron_trial/index.htm (last accessed on December 3, 2008).
- Pithouse, A (1999) 'The social construction of fraud, trust, abuse and the private victim' in Brookman, F., L. Noaks, and E. Wincup (eds.) *Qualitative Research in Criminology*. London: Ashgate.
- Playboy Magazine* (2002) 'The Women of Enron.' August.
- Pollock, G. (1988) *Vision and difference: femininity, feminism, and histories of art*. Routledge: London.
- Powers, W., R. Troubh, and H. Winokur (2002) Report of the Investigation by the Special Investigative Committee of the Board of Directors of Enron Corporation. 1 February. (aka Powers Report)
- Poynder, J. (1844) *Literary extracts from English and other languages*. John Hatchard and Son.
- Pratt, G. (2000) 'Body, geography of', *Dictionary of Human Geography*. Johnston, R.J., D. Gregory, G. Pratt, and M. Watts (eds.). Blackwell: Oxford.
- Radcliff, S. (1999) 'Embodying national identities: mestizo men and white women in Ecuadorian racial—national imaginaries' in *Transactions of the Institute of British Geographers* 24(2). 213-225.
- Rasmussen, C. and M. Brown (2005) 'The body politic as spatial metaphor' in *Citizenship Studies* 9(5). 469-484.
- Roper, J. (2006) 'Criminal case is something new for Skilling lawyer' in *Houston Chronicle*. 28 January. Available at

- <http://www.chron.com/disp/story.mpl/special/enron/3619920.html> (last accessed on August 6, 2008).
- Rose, G. (1993) *Feminism and Geography: the limits of geographical knowledge*. University of Minnesota Press: Minneapolis.
- Rose, G (1997) 'Situating knowledges: positionality, reflexivity and other tactics' in *Progress in human geography* 21(3). 305-320.
- Salzinger, L. (2000) 'Manufacturing sexual subjects: 'harassment', desire, and discipline on a maquiladora shop floor' in *Ethnography* 1. 67-93.
- Salzinger, L. (2003) *Genders in production: making workers in Mexico's global factories*. University of California Press: Berkeley, CA.
- Schoenberger, E. (1991) 'The corporate interview as research method in economic geography' in *Professional Geographer* 43. 183-9.
- Schoenberger, E. (1992) 'Self-criticism and self-awareness in research: a reply to Linda McDowell' in *Professional Geographer* 44. 215-18.
- Schoenberger, E. (1997) *The cultural crisis of the firm*. Blackwell: Cambridge.
- Schoenberger, E. (2001) 'Corporate autobiographies: the narrative strategies of corporate strategists' in *Journal of Economic Geography* 1. 277-98.
- Sheppard, E. and T. J. Barnes (eds.) (2000) *Companion to Economic Geography*. Blackwell: Oxford.
- Simon, D. (2005) *Elite Deviance* (8th Ed.). Pearson Publishing: Delaware.
- Skeggs, B. (1997) *Formations of class and gender: becoming respectable*. Sage: London.
- Smith, A. (1776) *An Inquiry into the Nature and Causes of the Wealth of Nations*. W. Strahan and T. Cadell: London.
- Smith, D.E. (2001) 'Texts and the ontology of organizations and institutions' in *Studies in Cultures, Organizations, and Societies* 7. 159-198.
- Smith, R. and J. Emshwiller (2001) 'Enron CFO's partnerships had millions in profits' in *Wall Street Journal*. 19 October.
- Smith, R. and J. Emshwiller (2003) *24 days: how two Wall Street Journal reporters uncovered the lies that destroyed faith in corporate America*. Harper Collins: NY.

- Solomon, D. (2004) 'Life after whistle-blowing' in *New York Times Magazine* 6 June. p. 25.
- Spheeris, P. (Director) (2003) *The crooked E: the unshredded truth about Enron*. Robert Greenwald Productions.
- Spivak, G (1988) 'Can the sub-altern speak?' in Nelson, C. and L. Grossberg (eds.) *Marxism and the interpretation of culture*. University of Illinois Press: Chicago. 271-313.
- Staeheli, L. A., V.A. Lawson (1995) 'Feminism, praxis and human geography' in *Geographical Analysis* 27. 321 – 338.
- Stiglitz, J. (2003) *The roaring nineties: a new history of the world's most prosperous decade*. Norton Press: New York.
- Sundberg, J (2003) 'Masculinist epistemologies and the politics of fieldwork in Latin America' in *Professional Geographer* 52(2). 180-190.
- Swartz, M. and S. Watkins (2003) *Power failure: the inside story of the collapse of Enron*. Doubleday: New York.
- Taub, S. (2004) 'Former Enron Executive pleads guilty, faces prison' in *CFO.com*. 11 September. Available at <http://www.cfo.com/article.cfm/3010387?f=search> (last accessed on August 5, 2008).
- Taub, S. (2006) 'Fastow sentenced to six years in prison' in *CFO.com*. 26 September. Available at http://www.cfo.com/article.cfm/7961830/c_8435337 (last accessed on August 5, 2008).
- Thrift, N. and K. Olds (1996) 'Refiguring the economic in economic geography' in *Progress in Human Geography* 20. 311 – 338.
- Tickell, A., E. Sheppard, J. Peck, and T. Barnes (eds.) (2007) *Politics and Practices in Economic Geography*. Sage: London.
- Tickell, A. (1996) 'Making a melodrama out of a crisis: reinterpreting the collapse of Barings Bank' in *Environment and Planning D: Society and Space* 14. 5-34.
- Time.com* (2002) 'Person of the Week', January 18. Available at <http://www.time.com/time/POW/article/0,8599,194927,00.html>. (last accessed on 9 August 2005).
- Tolson, M (2006) 'A life of climbing before ultimate fall: Ken Lay rose from poverty to riches, and then fell from glory to disgrace' in *Houston Chronicle*. 6 July.

- Available at <http://www.chron.com/dispatch/story.mpl/special/enron/4027260.html> (last accessed on August 5, 2008).
- United States Constitution*. am. 14.
- United States General Accounting Office (GAO) (2003) Energy Task Force: process used to develop the national energy policy. Report prepared for Congressional Requestors. Available at <http://oversight.house.gov/documents/20040625102432-06243.pdf> (last accessed on December 8).
- United States v. Andrew Fastow, Indictment*. Cr. No. H-02-0665 (S.D. Tex., October 31 2004)
- United States v. Arthur Andersen LLP* 2002. Cr. No. H-02-0121 (S.D. Tex. 2002)
- United States v. Jeffery K. Skilling and Kenneth L. Lay* Cr. No. H-04-CR-025SS (S.D. Tex. 2006) (Copies of transcripts on file with author).
- United States v. Jeffery K. Skilling and Kenneth L. Lay, (Redacted) Superseding Indictment* 2006 <http://images.chron.com/content/news/photos/06/05/18/final-redactedindictmentforjury.pdf> (accessed on August 7, 2008).
- Veblen, T. (1889) *Theory of the Leisure Class: an economic study in the evolution of institutions*. Macmillan: New York.
- Veblen, T. (1904) *The Theory of Business Enterprise*. Scribner's: New York.
- Visweswaran, K. (1994) *Fictions of Feminist Ethnography*. University of Minnesota Press: Minneapolis, MN.
- Wajcman, J. (1998) *Managing like a man: women and men in corporate management*. Polity Press: Cambridge.
- Walenta, J. (2006) 'Corporate bodies of desire: an investigation into the 'Women of Enron'' in *Gender, Place and Culture* 13(4). 437-453.
- Wastler, A. (2006) 'The Ken Lay conspiracy: many theories are swirling around the Enron chief's death...all wrong' in *CNNMoney.com*. 6 July 2006. Available at <http://money.cnn.com/2006/07/06/commentary/wastler/index.htm> (last accessed on 6 August 2008).
- Watkins, S. (2001) Internal Enron Memo, August 15th as cited in US Senate (2002) Committee on Commerce Hearing Testimony into the Collapse of Enron, February 14.
- Watkins, S. (2006) Personal Interview. 22 May.

- Weber, A. (1909) *Theory of the Location of Industries*. Translated by C. J. Friedrich. University of Chicago Press: Chicago.
- Williams-Walsh, M. (2002) 'Preparing a corp of women for corporate responsibility' in *The New York Times*. 13 August. C1.
- Wincup, E. (1999) 'Researching women awaiting trial: dilemmas of feminist ethnography' in Brookman, F., L. Noaks, and E. Wincup (eds.) *Qualitative Research in Criminology*. Ashgate: London.
- Woolgar, S. and B. Latour (1986) *Laboratory life: the construction of scientific facts*. Princeton Univ. Press: Princeton, NJ.