

NEWS RELEASES

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Husch Blackwell Secures Dismissal of Corporate Fraud Charges Against Client

After seven years of litigation and one month before a scheduled third trial in what was called by several media outlets "the largest federal criminal case in the history of Kansas," the U.S. Department of Justice on August 20, 2010, dismissed all charges against Husch Blackwell client Douglas T. Lake, a former executive vice president of Westar Energy.

The case, originally announced by the Corporate Fraud Task Force in 2003 as the "Enron of Kansas," charged Lake and ex-CEO David Wittig with a scheme to loot the company and enrich themselves. Husch Blackwell has represented Lake since mid-2007, following the Tenth Circuit's reversal and remand for a new trial.

Husch Blackwell Partners Patrick A. McInerney, James Griffin and Maxwell Carr-Howard represented Lake and sought dismissal of the Indictment, arguing that the charges were legally defective and violated the Double Jeopardy Clause of the United States Constitution. In 2009, after arguments by Carr-Howard, the Tenth Circuit questioned the merits of the case and warned that it may dismiss the case at a future date. In January 2010, the Husch Blackwell team requested a meeting with Justice Department officials to discuss whether the case should proceed.

Shortly after Husch Blackwell lawyers again moved for dismissal of the case in the wake of the Supreme Court's decision in *Skilling v. United States*, an Enron-related prosecution, the leadership of DOJ's Criminal Division in Washington, D.C., asked to meet with the defense team. The discussion focused on the years-old legal flaws in the prosecution's case and the impact of the *Skilling* decision.

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The day after the judge scheduled a hearing on the motions to dismiss, the government filed its own motion to dismiss the case, ending a nearly eight-year-long effort to convict the two men for conduct approved by the board of directors. As reported in the *New York Times*, the decision to dismiss the case was closely watched as an indicator of the Justice Department's attitude toward honest services fraud prosecutions. The U.S. Supreme Court's opinion in *Skilling vs. United States* severely restricted the breadth of honest services fraud cases to those involving bribery or kickbacks - allegations never made in this case.

The Husch Blackwell team was led by McInerney and included partners Griffin and Carr-Howard, associates Angela Harse and Lyndsey Conrad, and Senior Paralegal Deborah Ries. Husch Blackwell's Government Investigations, Compliance and Litigation Department represents clients across the country in high-stakes enforcement and regulatory matters.