

principles, prepayments must be recorded as debt and cash flow from financing. However, in the case of Enron, with an attempt to improve its credit ratings and boost its share price, prepayments were booked as a trading liability and cash flow from operations (Roth 2002). Because the value of these transactions is extremely high in comparison with Enron's cash flow from operations¹¹, prepaid transactions had an enormous influence on the picture of Enron's performance. Further, Enron's energy trading was considered as its crown jewel (Gordon 2002). In this sense, when such manipulated transactions were discovered and the financial statements were adjusted, Enron's share values declined dramatically as an inevitable consequence. Consequently, Enron could not carry out contracts to buy and sell energy, and accordingly no partners would continue to trade with the corporation (Gordon 2002).

In terms of the issue of being 'over light' or 'overloading' the assets, Enron transferred several billion worth of its assets to its 'unconsolidated affiliates'. As a result, such assets that slowly generate cash flow were symmetrical throughout its numerous SPEs, and a vast amount of earnings were recorded (United States Senate's Permanent Subcommittee on Investigations 2002). Therefore, the corporation could not avoid accounting difficulties when the reality of these structured transactions unfolded.

Forming and making use of SPEs also put Enron into difficulty. Hundreds of SPEs were established in order to hedge Enron's investments (Minton 2003). Through Enron-SPE transactions, Enron's revenue, earnings, and cash flow were generated, which helped Enron to improve its credit rating and maintain creditability in the energy trading business, while a burden of debt to debt investors was imposed on unconsolidated SPEs (Powers, Toubsh and Winkler 2002; Schwarcz 2002). The reality, however, is that the treatment of Enron's SPEs as unconsolidated affiliates was unlawful¹²; its consequences were extremely serious. Ultimately, a massive deduction in its reported net income and a massive increase in its debt occurred when Enron retrospectively consolidated its SPEs (Powers, Toubsh and Winkler 2002).

Briefly, instead of making profits by buying and selling energy services as usual, Enron manipulated its profits, which ultimately led to its collapse by

structuring numerous questionable entries through proper and merchant investment hedge transactions. As a consequence of Enron's collapse, both the regulators and the accounting profession took disciplinary action as a response to the accusation of insufficient requirements for corporate disclosure and lack of guidance on the treatment of SPE transactions. In particular, the U.S. government passed the Sarbanes-Oxley Act 2002 that aimed to address the corporate disclosure of accurate financial information (Dees 2005); and the American Institute of Certified Public Accountants had to publish a booklet for accounting and auditing for related parties and related parties' transactions¹³ (The American Institute of Certified Public Accountants 2001).

The remainder of the paper is organized as follows. Section 2 explores and evaluates the weaknesses of Enron's corporate governance. Enron's corporate governance system and culture as a whole is analysed and then the contribution of individual participants in Enron's corporate governance, including the Board of Directors, the top executive officers, the internal auditors, the external auditors, and the whistleblowers, is examined. Section 3 concludes by identifying practical implications for corporate governance concerns.

2. Discussion

2.1. Enron's governance system and culture

Although corporate governance may be viewed in different ways by various disciplines (Turnbull 1997), this term commonly refers to a set of relationships among the firm's management, Board of Directors, and stakeholders (Organisation for Economic Co-operation and Development 2004). In other words, corporate governance describes all the influences that have effects on the institutional processes of a firm (Turnbull 1997). Corporate governance is a system designed to direct and manage a firm that affects three main aspects used for judging a firm's success: objectives, risks, and performance (AIC Corporate Governance Council 2003). More clearly, corporate governance is about the responsibilities of a firm's board in managing the firm and the board's relationship with stakeholders (Poon 2004).

Given these definitions, it is easy to agree with the point that good corporate governance influences not only accountability but also the creation of wealth.

¹¹ The value of prepaid transaction at a rate of one or two per year from 1992 to 2000 was \$4.5 billion, while cash flow from operations in 1999 was only \$1.224 billion (Enron Corp 2000; Roth 2002).

¹² Concerning this issue, the U.S. Senate's Permanent Subcommittee on Investigations (2002) reveals that the Enron collapse resulted from a billion's worth of off-the-books transactions that were conducted in Enron through its unconsolidated affiliates, ultimately leading to material off-the-books liabilities which are deliberately underbooked.

¹³ According to the American Institute of Certified Public Accountants (2001), the booklet provides an outline of entering related authoritative accounting and auditing literature, the Securities and Exchange Commission's requirements, and non-authoritative best practice guidance involving related parties and related party transactions. This implies that the treatment of Enron/SPEs transactions is unlawful.

Securities Law The Internet 2002 Disclosure Practices In Light Of Enron

RJ Shavelson



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