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Feature

The Robert Bradley Interview:

Enron and Political Entrepreneurship

Robert Bradley worked at Enron for 16 years. As director of public policy analysis, he wrote speeches for the late Ken Lay, Enron's CEO, who was convicted in 2005 of fraud and conspiracy. Dr. Bradley is also founder and CEO of the Institute for Energy Research of Houston, Texas, and Washington, D.C. He frequently writes and lectures on energy, political economy, and corporate governance. He is currently completing his seventh book, Edison to Enron: Energy Markets and Political Strategies, *the second volume of a trilogy on political capitalism inspired by the rise and fall of Enron. We met with Dr. Bradley in Houston to explore his thoughts on Enron, political capitalism, and the future of energy.*

INSIDE:

***Kaizen*:** Why does the Enron case matter?

Bradley: Enron's fall was front-page news in the United States and around the world. It was such a surprise that the company everyone thought was the best—the most innovative, most socially progressive, and so on—was revealed to be the very worst. Virtually everyone got fooled by the reversal, so it had tremendous mystery and appeal.

The fooled were not only a lot of investors and the great majority of Enron employees, including me, but also the financial press; intellectuals who were interested in energy, environmental, and corporate-governance issues; a lot of business professionals; and many Houstonians and those at other Enron locations.

It was also a bit of a populist morality play in that four thousand Enron employees got laid off three weeks before Christmas 2001. You know, the masses get hurt thanks to a few Enron executives at the top, some of whom cashed out before the collapse.

Enron was very political, so that intrigued the Left in particular. The Left really pounced on it, while the Right was kind of embarrassed and bewildered by it all. The Left confidently announced Enron as the failure of capitalism. Paul Krugman in the *New York Times* and Robert Kuttner in *Business Week* basically said that Enron refuted the notion of the invisible hand.

***Kaizen*:** So it was a huge financial disaster, but it also caught people off guard. It then became a test case for the big debate of our age between free markets and government regulation.

Bradley: Right. During Enron's heyday you had academics from the University of Virginia and other places who were using Enron as a case study of a progressive, successful, entrepreneurial company. Other academics were looking at Enron as a sort of example of what capitalism should be: Enron is "green" investing in wind power, solar power, energy efficiency, and air-emissions trading. The company overtly emphasized corporate social responsibility too.

I always try to remind folks that Enron was the Left's favorite company. Enron then collapses. Some in the know on the Left were embarrassed by Enron and went

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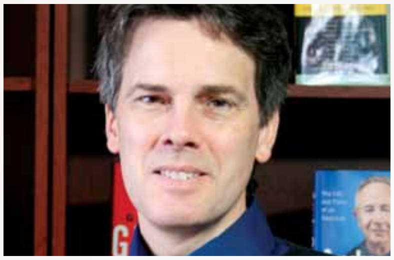
ROCKFORD COLLEGE

From the Executive Director



Are we out of the slump?

Entrepreneurship statistics from the Kauffman Foundation suggest that “rather than making history for its deep recession and record unemployment, 2009 might instead be remembered as the year business startups reached their highest level in 14 years—even exceeding the number of startups during the peak 1999-2000 technology boom.”

Let’s hope that a significant number of those entrepreneurial start-ups continue to create wealth and jobs.

In this issue, we report on attorney Jeffrey Orduno’s guest lecture, the always-fun High School Entrepreneurship Day, and the good work of two students in the Business and Economic Ethics course—Brandon McNames and Matthew Weber.

Our feature interview is with Robert Bradley, a former Enron employee who worked directly with CEO Ken Lay. We spoke with Dr. Bradley in Houston, Texas to explore his inside knowledge of the rise and fall of Enron.

As always, please feel welcome to visit us on the second floor of Burpee—or online at www.EthicsandEntrepreneurship.org.

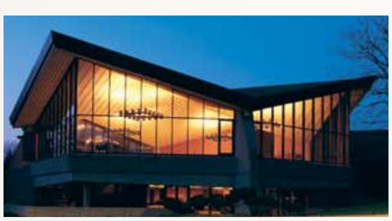
Stephen Hicks, Ph.D.

Guest Speaker

Jeffrey Orduno

Jeffrey Orduno is an associate in the law firm of McGreevy Williams. He is a Rockford College alum and received his JD from John Marshall Law School. His practice includes business litigation and transactions, and land use and construction. Mr. Orduno gave a talk on property rights and the law, focusing on eminent domain, in the Business and Economic Ethics class. A brief video interview with Mr. Orduno is available at our website.

More information about CEE and Rockford College



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BRADLEY, CONTINUED

silent. But the pundits had a field day despite the irony and the true lessons for the Left and anti-capitalist environmentalism.

***Kaizen*:** At the same time people on the Right are also embarrassed by Enron?

Bradley: They were embarrassed because Ken Lay spoke a lot about the virtue of free markets. He poised himself in the debate as a real free marketer. So a lot of people’s worldviews got shaken by his misdirection. Enron’s PR machine also branded Enron as revolutionary, an agent of creative destruction. That had sex appeal to pro-market types.

***Kaizen*:** The economic disaster was billed as the largest bankruptcy at the time. Approximately how much money was lost as a result of the bankruptcy?

Bradley: If you value Enron at the peak versus where it ended up, maybe there was a value loss of $60 billion. But keep in mind that the beginning point was a bubble. There weren’t real assets behind it.

Enron was the biggest bankruptcy in history, and then several months later WorldCom goes bankrupt and becomes the largest. And Lehman Brothers is now the biggest.

***Kaizen*:** What was your position at Enron toward the end?

Bradley: During the last seven years, my title was Corporate Director of Public Policy Analysis. This was a new position that they created around my skill set. It was a rather unusual position for corporate America, but the needs of Ken Lay and Enron, in retrospect, were rather unique.

***Kaizen*:** What was your main task?

Bradley: Speechwriting for Ken Lay was a big part of my job. So I tried to keep up with the literature, with business, economics, and energy, in order to fill up his speeches with the right statistics and interpretations—and new stuff. What could Ken Lay say that audiences hadn’t heard before so he would be perceived as the visionary, the Great Man?

***Kaizen*:** So it was a great job for someone with a scholarly bent who wants to work in the real world of business?

Bradley: Yes, it was a dream position for me. Ken Lay was a brilliant man with an economics Ph.D. and access to the very top, but he was not well read. He was so busy with his social functions and promoting Enron that he never really read books or studied things in depth.

***Kaizen*:** About your background. You got a BA and an MA in economics and a Ph.D. in political economy—all at different schools.

Bradley: I returned home from four years at Rollins College in central Florida and got my master's in economics at the University of Houston.

***Kaizen*:** You ended up getting your doctorate, but before the Ph.D. you first worked in banking?

Bradley: I was actually in a bank training program when I took a leave of absence to write a history of oil and gas regulation for the Cato Institute in the early 1980s. The bank asked me to figure out why it was making so much money from letter-of-credit business from oil resellers. This was a new industry segment that grew up in the 1970s under federal price and allocation controls on crude oil and oil products. That study, which turned out to be my big break, got me very interested in energy regulation and led to my book proposal to Cato.

***Kaizen*:** And that was the beginning of a new career, as it turned out.

Bradley: Yes, I was out of banking for good, although I would get to return to business by joining Enron in 1985. I was there until late 2001 when the bankruptcy and mass layoff occurred.

***Kaizen*:** Enron operated in a highly mixed political and economic environment. In the decades that Enron was operating—the 1980s through the early 2000s—to what extent was the U.S. energy market a free market, and to what extent was it a regulated economy?

Bradley: The energy industries—oil, natural gas, and electricity—have all been politicized. And Ken Lay, the big-picture economics Ph.D., had a skill set that was attracted to the mixed economy and thus to energy, particularly to natural gas.

***Kaizen*:** When was Enron created?

Bradley: Lay joined Houston Natural Gas Corporation as CEO in May 1984. The next year, HNG became HNG/InterNorth after a merger with InterNorth, a major Midwest supplier. A year later, in 1986, the company was renamed Enron.

***Kaizen*:** Did it begin as a regulated company?

Bradley: Not really, interestingly. What Lay did in his first six months was to take a company that was selling gas in the largely unregulated Texas market through a vast intrastate pipeline and transform it into a company of interstate gas-transmission companies regulated by the Federal Energy Regulatory Commission (FERC) out of Washington, D.C.

Kenneth Lay (right) meeting with Vice President Dick Cheney

So in addition to its unregulated core, Enron obtained three major interstate pipelines that are public-utility regulated. And Lay starts staffing up with some very innovative folks who understood the ins and outs of public-utility regulation. One was James E. "Jim" Rogers, who had a background with FERC. He was a master at figuring out ways for the regulated pipeline to "beat" its rate case, or how to exceed your authorized regulated rate of return.

The Enron model was new for the energy industry. Really, Enron was the first energy company whose comparative advantage was playing the government side in the mixed economy, the political side of political capitalism.

Enron was the first to play the government side in the mixed economy, the political side of political capitalism.

***Kaizen*:** The concept of "political capitalism" involves a distinction between market entrepreneurs and political entrepreneurs. What in general terms is the distinction?

Bradley: Market entrepreneurship occurs where government is neutral, passive, and consumers drive outcomes. There's no special government favors with the tax system, with regulations, or with financial grants. All firms are treated alike—no government picking winners or losers.

So here you have Ken Lay—who is not an engineer like most successful energy-company heads. He is a Ph.D. economist. He's interested in the big picture. And Lay's background, before entering the private sector for good in 1974, was heavy with Washington experience. Lay was a natural-gas regulator with the predecessor agency to FERC, the Federal Power Commission. Then Lay joined the Department of the Interior to regulate oil after Nixon imposed wage and price controls that caused oil shortages and led to a lot of allocation controls.

With his interest in the big picture and his Washington regulatory experience, Lay joined Florida Gas Transmission, whose major asset was an interstate, federally regulated pipeline. Then Lay goes to Transco Energy Company, whose major asset is a federally regulated interstate pipeline. And then he's hired away for Houston Natural Gas, which is largely unregulated, but within a year Lay has his company primarily in the regulated interstate gas-transmission business. That was the beginning of his political business model.

***Kaizen*:** If there is neutral government in a free-market economy, as you mentioned, the way one makes money is by developing new products, increasing quantity, increasing quality, and increasing customer service.

But in the political model—to the extent that the government is regulating the business sector—one's route to success is through political ins and outs. In political entrepreneurship, you use your economic power to get a seat at the table, so to speak, to influence legislation, to get targeted subsidies, to put obstacles in the way of competitors.

So your thesis is that Ken Lay's conscious strategy was for Enron to be a political company, one where business success would come through playing the political system well.

Bradley: Right, this is a new and fairly unique area of emphasis. But you still have the engineering, the accounting, all the traditional business functions that you need to do well. This extra layer of government involvement is Ken Lay's comparative advantage.

***Kaizen*:** So-called "crony capitalism" then becomes essential, knowing the politicians, knowing the regulators, and having good relationships with them so as to be in a better position to get favorable regulations and largesse?

Bradley: Correct.

***Kaizen*:** Rent seeking and lobbying

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Student Essay Contest Winners

First Prize

Brandon McNames

Honorable Mention

Matthew Weber

Using their reading of James Bowman's *Honor: A History* as a starting point, students in the Business and Economic Ethics course reflected on the theme of "Honor in Business." Cash prizes were awarded for first place and one honorable mention. The essays were judged on their accuracy and depth of interpretation as well as their independence of thought. Congratulations to our winners!

CEE Event: High School Entrepreneur Day

Professors Steve Kadamian and Fred Rezazadeh work with students

On May 6, Rockford College held its fourth annual High School Entrepreneur Day, co-sponsored by the EBA department and CEE. About 70 students from various local high schools attended. Professor Fahrenwald explored the personality traits of an entrepreneur, Professor Rezazadeh discussed the economics of entrepreneurship, Professors Lewis and Kadamian led a session on business planning, and Professor Hicks talked about the ethics of entrepreneurship. Students also received advice from a panel of local entrepreneurs.

BRADLEY, CONTINUED

government can involve lots of sub-strategies, from just having a seat at the table, to lobbying to push a certain interpretation or a change of regulations, to having inside knowledge about what is likely to come along. All those things can still be within the purview of the political entrepreneurship system—they are fair game, so to speak.

Was Enron involved in anything beyond the ethical or legal limits here? Is there undue influence on regulators or politicians or outright bribery?

Bradley: The general answer to the best of my knowledge is no. Enron was certainly a master at stretching the interpretation of the law. But Enron's smartest people, and the high-priced legal and accounting talent behind the company, were all about doing things legally, while helping the company.

I remember very distinctly Ken Lay's concern about violating the Foreign Corrupt Practices Act. A violation might have occurred if an Enron official took a bribe from a foreign government, in a country where bribes were okay. Remember: We were dealing with governments that were unstable or shady. I remember at a management conference he warned that if anybody violated this they were gone; there would be zero tolerance.

Kaizen**:** How about with your presentations? Did you have to resort to fudging?

Bradley: Ken Lay never asked me to use a bad number in a presentation to my knowledge. And I never knew about a bad number that I got from accounting and the different divisions. If I had known about it, I would have remembered it and, in the spirit of things, asked questions.

I am sure that I would have gone to Ken Lay about it, given that I, like many others (including Sherron Watkins, the famous whistleblower at the company), believed that Lay was honest. Some of this faith was naïve, in retrospect, as she found out, and I would later find out researching Enron from the outside well after my layoff in December 2001.

Kaizen**:** Your case studies of government intervention have put you on the front lines of the theory of political capitalism. Is this what your Enron-inspired book *Capitalism at Work* is about?

Bradley: Yes. It actually began with *Oil, Gas, and Government*. I got to the end of that treatise, which summarized oil and gas intervention at all government levels from the nineteenth century until the 1980s, and I had to make sense of it all. What commonalities are there between the thousands of interventionist acts and hundreds of regulatory episodes? How do they fit with one another?

So I ended up creating a typology of intervention with categories and terms that I revised and published in an essay, "A Typology of Interventionist Dynamics."

Kaizen**:** Which classification in the typology applies to Enron?

Bradley: A particularly useful one is that the political companies can practice either defensive or offensive rent seeking.

An example of "offensive intervention" is where you're really picking a fight and trying to create a whole new government opportunity in a new line of business. Trying to get open access for electricity is one example: Enron hires a small army of lobbyists to get rule changes state-by-state. Enron did not have an electricity-trading profit center, but it wanted to create one for new competitive space and profit-making.

"Defensive intervention" is where you're in an existing market, changes occur, and you're in a bind and need government help. An example would be clamoring for oil tariffs to raise the price of imported oil to help natural gas fend off residual fuel oil in dual-fuel power plants. That is exactly what Enron wanted, in 1986 and forward, to help gas compete against oil in Florida, for example, to aid Florida Gas Transmission, one of our interstate pipelines.

Kaizen**:** Is defensive rent seeking any better?

Bradley: It is more common and more understandable. Imagine if you or I had a business that was threatened by imports of some kind. We have our equity and salaries in our business. We know the workers and even some of their families. The amoral decision would be to get legislative help—"temporary" of course.

The right answer would be to not be in that type of business, or to sell or liquidate it ahead of its crisis. Don't put yourself in a position to be a government welfare case.

Kaizen**:** You mentioned that Enron was also involved in alternative energy sources—wind power, solar power, "green" energy, and that it was one of the first at the political table. Did Enron think that the right kind of farsighted investment the new energies could be profitable?

Or was this again part of a political strategy? Alternative energy was a political favorite, certainly during the Clinton administration, when Al Gore was vice president. So if Enron gets a seat at the table, then whether alternative energy actually succeeds or not it's a good business strategy at least in the short term?

Bradley: Believe me, the fact that the intellectual class is pushing these things and you have Al Gore as vice president and the "greens" in political ascendency in the U.S. and in the EU is huge to Ken Lay's and Enron's thinking. If global warming were not an issue, Enron would not have been on that bandwagon. So NASA's James Hansen and Al Gore were Enron enablers, in retrospect.

***Kaizen*:** So Enron had a "green" category within its political business model?

Bradley: Absolutely. This is all part of the business model of rent seeking, political capitalism—and offensive rent seeking at that. Enron ended up with seven, count 'em seven, profit centers tied to the global warming issue, or more specifically, to government policy setting a price on carbon dioxide.

***Kaizen*:** We all have heard that solar and wind are the fuels of the future—that we are running out of fossil fuels and have unlimited energy from the sun and wind. So is Enron's over-optimism defensible?

Bradley: There is a lot of fallacy in believing that we are about to run short of oil or gas or coal in our lifetimes or even our children's lifetimes. At the same time, there are inherent reasons why wind and solar are so energy-poor and energy-deficient for the needs of a modern society. Blog posts at MasterResource on energy density and renewable integration explain why. In short, wind and solar are dependent on fossil fuels to be usable, and the hydrocarbon age is still young. What we will see in future centuries will not be the technologies we now have with wind and solar.

People at Enron never understood, much less cared about, energy history. If you understand the history of energy technology, and the concept of energy density, you see that renewables are caveman energy—the dilute stuff we had to use pre-industrial.

***Kaizen*:** Did Enron pay for its lack of understanding of energy history and technology?

The "green" kick also got the company off of a consumer-driven track onto a government-driven track.

Bradley: Enron's green investments lost money year-by-year despite the taxpayer subsidies, so yes. The "green" kick also got management off track—got the company off of a consumer-driven track onto a government-driven track.

***Kaizen*:** 1997 is an important transition year for Enron, as Enron enters its death spiral over the next few years. Until 1997, Richard Kinder was Ken Lay's number-two man. From your writings, you think of him as an important stabilizing, reality-orienting influence?

Bradley: Absolutely. Kinder was a lawyer by training. But he had more than a legal mind. He was one of those rarities who comprehended engineering and understood accounting and finance. He was just a great COO whose strengths negated Lay's weaknesses.

***Kaizen*:** Why was there a parting of the ways between Kinder and Lay?

Bradley: The genesis is that Kinder was doing a good job and Lay promised Kinder that when Lay's multi-year contract expired, Kinder would be promoted from president to chief executive officer (CEO), and Lay would become chairman. In other words, Lay would cede the CEO title to Kinder, which really made Rich the number one but left Lay as a close number two with a lot of power with the board as the real founder of the company.

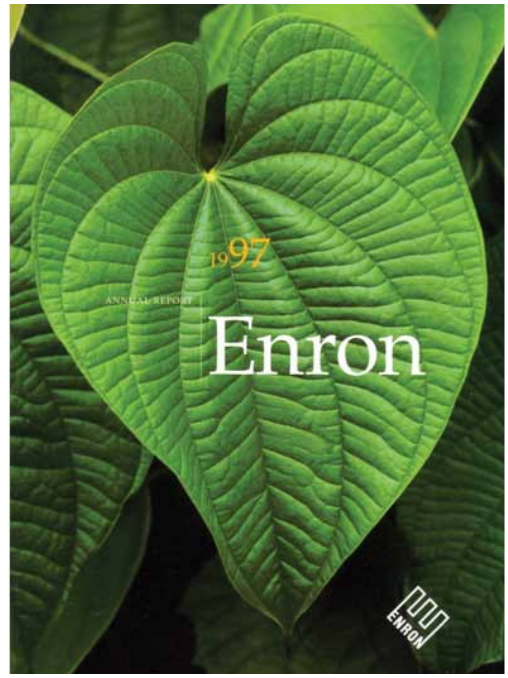
***Kaizen*:** So Lay changed his mind in late 1996, Kinder left in early 1997, and Jeff Skilling became COO a short time later?

Bradley: Skilling becomes number two and later becomes CEO with Lay remaining as chairman. That was a huge mistake. Skilling was no Kinder, as it turned out. The new blend at the top was toxic.

***Kaizen*:** What had been Jeff Skilling's role at Enron up until 1997?

Bradley: Skilling was definitely the smartest guy in the room—a brilliant person in natural-gas trading in the mandatory-open-access environment. He devised new products and figured out new ways to package gas that made a lot of money for the company—while giving gas users more options and flexibility than ever before. Skilling did much to revolutionize natural gas as a commodity and as a financial product using derivatives. And he went on to do the same with electricity—at least until Enron began to hit the skids.

But to be a CEO of a major company—where you have pipelines, international infrastructure, and other things—Skilling had



Enron the self-styled "green" company

the wrong skill set for that.

***Kaizen*:** Is Lay still actively involved, or is he taking a back seat and letting Skilling run the show after 1997?

Bradley: Ken Lay is still a company workaholic but in many wrong ways. Some of his key company time is with business development: running around the country closing deals where the marketers are real close. A lot of this was for Enron Energy Services, which was signing deals that were really liabilities parading as assets. That is another story.

Ken Lay is in Washington, D.C., a lot. He is giving speeches all over the place—rather than being inside the walls of the company tackling minutiae. Mr. Outside is putting form over substance by always talking about how great Enron is, and how people need to buy Enron stock, how Enron is the future.

That's why I was spending so much time as a speechwriter for the man. How many nearly full-time speechwriters are there in corporate America? Even in the mixed economy, there aren't many. So there is really something wrong with this aspect of my job, in retrospect.

And now Skilling is destroying the company on the inside through just bad decision making—nothing on purpose. Problems are being papered over. The rules are being bent and even snapping. So the company is really getting out of control.

***Kaizen*:** Is anything going right? Surely there are also good things to mask the bad.

Bradley: Some profit centers are doing well,

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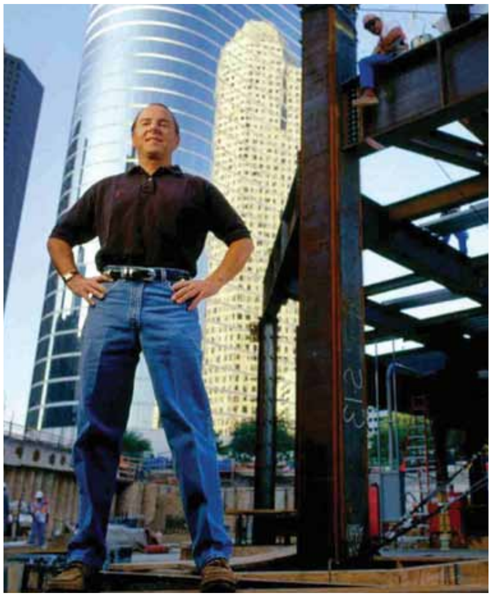

Jeff Skilling in front of the Enron complex

BRADLEY, CONTINUED

and none more than the regulated pipelines that are the cash cows for the company.

But energy trading, while profitable, is becoming a more mature sector, so its high profit margins are becoming smaller, and that's not good for Enron, which is losing a lot of money in other divisions like Broadband and Enron Energy Services. Regarding Enron's bread and butter: competitors like Dynegy just down the street are hiring Enron's traders and offering similar products. That works to equalize margins.

Then there are profit centers that just are not doing well at all, as I mentioned above. International asset development is barely profitable. The water business is making huge losses. But rather than having a Richard Kinder make midcourse corrections, shutting down businesses and making tough-love decisions to position Enron for the future—and with Ken Lay's ego wanting Enron to become the world's greatest company—and with Jeff Skilling's being petrified about being a failure—Enron is papering over all the problems. And here is where Andy Fastow comes in.

***Kaizen*:** So now we head into the collapse. Accounting becomes very important, which brings up Fastow as CFO. Tell us about him.

Bradley: Fastow is finding investors to buy bad assets from Enron with a guarantee that ultimately rests on Enron's own stock price. He makes big money and so do the investors under the guarantee. This allows Enron to show in its financials that it's making profits or just not taking losses where normally there would be write-offs for bad investments.

So assaults on reality are going on, and there's no one to blow the whistle and say "Stop." Once you get going on that path, it really becomes a problem where some in the know are saying: "If we true up with the world, we've got a scandal on our hands and, by God, guess what can happen. The world will begin to lose confidence in Enron and therefore our trading operations, which are the cash cow of the company, will cease to operate because Enron's credit is not good."

At some point the people at the top—certainly Skilling and Fastow—know they're at a point of no return. When and to what extent Ken Lay knew of this, we still don't know well.

***Kaizen*:** An interesting part of your analysis is that you agree with Roger Donway's thesis that Enron developed a "postmodern corporate culture." What do you and Donway mean by that?

Bradley: Donway, whom I had never heard of, had read a write-up in the *New York Times* about how weird things were at Enron. The article described a meeting where the CFO Andy Fastow met with the rating agencies to try to get a higher credit rating for the company.

At the end of the meeting, the rating agencies said, "You just don't have a case given your financials." Fastow comes back and says, "Hold on, if you just give Enron a higher rating, our borrowing costs will fall and the increased confidence by the general investor community will help us become the company you want us to become."

Roger read this and realized that Enron is really at war with reality. They're a postmodern company where they think they can create the reality that they want just by wanting and thinking it—and getting others to share the narrative.

They think they can create the reality that they want just by wanting and thinking it — and getting others to share the narrative.

***Kaizen*:** The postmodern idea is that social reality creates its own reality, that there is no hard and fast reality that everything has to take its direction from—but rather you can game reality as long as you have the right PR strategy, the right political connections, people having the right opinion about you. You believe you can "paper over" apparently messy underlying reality issues.

Bradley: This is how Enron was doing it. I have already talked about the political entrepreneurship, the rent seeking, of Enron. Enron's smartest were masters at gaming complex regulatory structures, and one of these was the accounting system. Enron figured out how to create accounting profits, sort of an alternate reality, by manipulating the fine-print requirements of the multi-thousand-page code of generally accepted accounting principles, or GAAP.

Was that illegal? Not necessarily. But it was philosophical fraud that set the stage for the grand financial implosion.

What is clear is that in the end, Ken Lay has lost his moorings. I remember the last employee meeting where a thousand of us in this ballroom are sitting there thinking: "We don't think that we believe you, Ken Lay." The trust is all but gone, but folks are listening.

***Kaizen*:** When was this?

Bradley: This would have been mid-fall of 2001. The company went bankrupt in December 2001. There are just a couple of months to go. We are getting into the death spiral.

Everyone had loved Ken Lay. Here's a man who was sweet, had great attributes, was a philanthropist, he just went the extra mile for so many, including me. Enron's perks in retrospect were higher than merited by the marketplace. You have employees who are listening to the man they had revered and want to believe him but really cannot. At the beginning of the question-and-answer period, the question to Lay is: Are you on crack cocaine? We all laughed at the time, not realizing how good a question it really was. Lay was rationally gone and didn't know it—and we really did not know it.

So what is Lay's final pitch to employees? I didn't write this speech for him, and this is the speech of his life to try to stem the tide to get confidence back in Enron, beginning with the employees who own a lot of stock. How does Ken Lay begin? This is about a month after 9/11. He says, "Terrorists are attacking Enron." In other words, the short sellers and others who know the problems or do not have confidence in the company are acting like terrorists because they are destroying the great company Enron, and they're destroying our wealth.

For Lay to liken the agents of reality—the short sellers who are seeing the real problems in the company, the media who are getting the inside scoop, some of which even Lay did not know—to the terrorists of 9/11—this is where Ken Lay is philosophically unhinged.

Kaizen: So Enron is now into its death spiral. How does the world learn that Enron is a failure? Was it the ratings agencies that sent a signal? Were there analysts who said the numbers aren't adding up? Was it regulators not happy with something or other? Accountants or auditors or the IRS saying the books aren't right here? Who pulled the plug?

Bradley: Well, everything starts collapsing about the same time. *The Wall Street Journal* is getting the inside scoop and reporting Enron's problems when most of the company, including Mark Palmer, the head of public relations, did not even know what was going on. Two of the *Journal*'s reporters wrote a book called *24 Days*, the period in which the truth prevails and Enron fails.

The SEC is putting pressure on Enron to come clean on some things. Enron internally is starting to find errors when they realize that under law they have to restate financial statements. It becomes obvious that Ken Lay doesn't know what is going on.

Skilling has left the company and is holed up in a mansion two miles from the company watching the news reports, terrified. He becomes so desperate that he allegedly makes phone calls to Lay wanting to rejoin the company to try to save things.

But reality sets in, and the reality is begun by short sellers who were raising questions so that the financial press, including Bethany McLean of *Fortune*, starts writing critical articles about Enron. She really started the process in the Spring of 2001 with a piece, "Is Enron Overpriced?" Then there are some folks who have left Enron and know some of the dirty secrets who are anonymously giving some of this information out. In all it's a pretty quick unraveling.

Kaizen: Enron is then forced into bankruptcy—the approximately $60 billion loss. Financially, who are the main victims of Enron's collapse?

Bradley: A lot of companies had receivables. I saw a bounced check at a cookie company a block from Enron for pocket money. They proudly displayed it. Then there were major creditors Enron owed money to for gas and electricity trading. The banks that had loans out to Enron—they're under water. And the

Dr. Bradley packing up on December 3, 2001, the day after Enron's bankruptcy

stock price collapsed, which meant that people have securities that are virtually worthless.

Kaizen: Let's turn to the lessons to be learned from Enron. One that gets much attention is the issue of deceptive accounting practices. But the way you're explaining things here, the deceptive accounting practices were a late-in-the-game cover-up. The real problems were earlier.

Bradley: Yes.

Kaizen: Nonetheless, one of the main political responses to the collapse of Enron was Sarbanes-Oxley, a major change in accounting requirements that was passed quickly by Congress. Was this new financial overhaul a good response?

Bradley: Capitalism took the blame after the collapse. And regulators—do they want to say that existing regulations caused the problem? That the politicized accounting system and the GAAP profits was candy for Enron's smartest? No, the regulators want to say, "Oh, gosh, we didn't have the right regulations, or we left in loopholes that we now can plug." Sarbanes-Oxley was the unfortunate result, where you raise accounting requirements and costs on everyone—the good actors in particular—to try to prevent the bad apples from doing their damage.

The accounting code should be something quite different: what Richard Epstein calls "simple rules for a complex world," where you keep the guidelines basic and let companies present their own positions. But if their financial statements are misleading, consider it fraud; tell it to a judge and jury. Instead we have thousands of pages of accounting regulations, so it's legal to comply with the regulation even though your intent and end result might be something that's very different from reality.

Kaizen: So in your judgment the new accounting regulations are a bad solution because they are not focusing on the right problem?

Bradley: Right. The increased accounting regulations create their own set of problems. What I'm saying is that in the politicized mixed economy, the worst get on top. So you want to take away those incentives for the bad guys to get on top, rather than allow them to get on top and then put in new regulations to try to somehow defang them.

We need business leaders and their investors to be attuned to reality and wary of not only legal fraud but also the philosophical fraud that precedes and abets it.

Kaizen: Should we be optimistic or pessimistic about what we have learned about Enron? Will we be making the right kind of changes? Or will it be politicized business as usual with more Enrons in our future?

Bradley: On the one hand Enron has sort of been overtaken by events—the Great Recession, the Bush and Obama bailouts, healthcare legislation, and all the rest of it.

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Quotations on Character

"Nothing can stop the man with the right mental attitude from achieving his goal; Nothing on earth can help the man with the wrong mental attitude."

—Thomas Jefferson

"Businessmen are as honest as any given segment of society, and perhaps more honest than most. It's like motorcyclists. They're not all Hell's Angels. But there is a percent in business, and it varies from two percent to ten percent, depending on your definition of dishonesty."

—Malcolm Forbes

"There are, basically, three kinds of people: the unsuccessful, the temporarily successful, and those who become and remain successful. The difference, I am convinced, is character."

—Jon M. Huntsman, Chairman & Founder, Huntsman Corporation

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BRADLEY, CONTINUED

But Enron lives when it comes to energy policy because Enron's energy policy is virtually the same as Obama's. Obama is stressing wind, solar, energy efficiency, and a cap-and-trade system with carbon dioxide. We have scarcely talked about Enron's most fraudulent division: Enron Energy Services, which was peddling energy efficiency.

And on global warming, Enron was the first major U.S. corporation to sound the climate alarm and to push for pricing CO_2.

Kaizen: You're now working on a trilogy. The first volume, *Capitalism at Work*, is out. All of this is in the context of your work at the Institute for Energy Research, of which you are CEO. What is IER's scope and mission?

Bradley: I founded an organization that has grown from basically a "think bucket" (as one journalist put it) to a bona fide Washington, D.C.-based think-and-do tank. The Institute for Energy Research, a 501(c)3 educational nonprofit, used to be just me working out of my house. IER has gotten big in the last couple of years and now has an advocacy affiliate, the American Energy Alliance. We are very involved in educating about the problems with expanded government intervention such as cap-and-trade energy rationing, new motor-fuel taxes, renewable-energy mandates, that sort of thing.

Kaizen: Of your several books on energy history and policy, which is the best as a primer to the field?

Bradley: The primer that I coauthored with Richard Fulmer, *Energy: The Master Resource* (2004), is currently used at the University of Texas law school and at Texas Tech for undergraduates.

Kaizen: I've heard, and maybe you can verify it, that 13 of the top 14 energy companies in the world are state-owned or state-run foreign companies, and that large U.S. companies like ExxonMobil are actually quite small in comparison?

Dr. Bradley in Houston, Texas, 2010

Bradley: Your statistic is probably close. State energy companies are much larger than private companies. And that is the gist of our international energy problem.

So the problem is statism. T. Boone Pickens and others take the statist problem around the world and say: "Okay, there is no free market. Therefore, the government needs to intervene and do this and that." Boone wants mandates and tax incentives for vehicles, heavy trucks in particular, to use natural gas and avoid oil from the Middle East.

For those who think that U.S.-side intervention solves or undoes the problems created by foreign governments, I differ. More intervention adds to problems.

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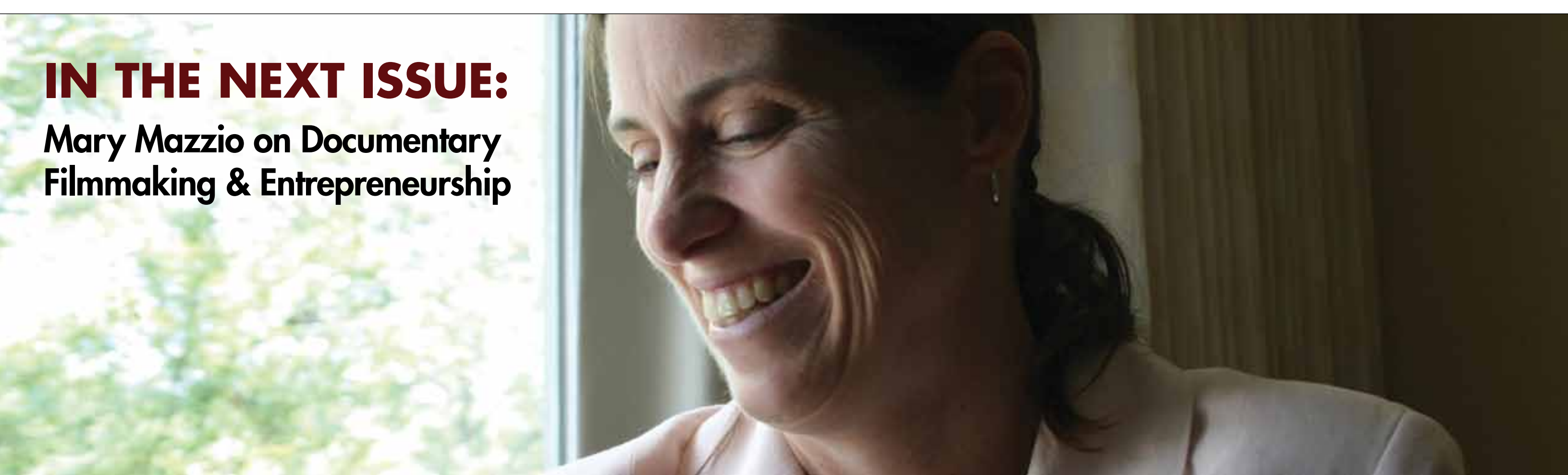

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Mary Mazzio on Documentary Filmmaking & Entrepreneurship