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Enron's Chief Offers

His Case

By SIMON ROMERO

HOUSTON, Dec. 13 - The well known and the powerful often appear before the Houston Forum, one of the city's elite spots for speakers. Senator John McCain, Republican of Arizona, gave a recent talk, as did Michael Chertoff, the homeland security secretary.

But the speaker who stirred up the greatest interest was one of Houston's own: Kenneth L. Lay, the former chairman of Enron, who spoke on Tuesday.



It was a rare appearance for Mr. Lay, and particularly noteworthy because he goes on trial next month in Houston on criminal charges that could send him to prison for decades. He used the opportunity to make his case before the crowd of well-heeled Houstonians, forcefully proclaiming his innocence and contending he was the victim of a "wave of terror," in a speech invoking Scripture and the wisdom of Winston Churchill.

"We must create our own 'wave of truth,' " said Mr. Lay, 63. "I believe the return to sanity has begun."

He also said he planned to testify at his trial, even while acknowledging that the tactic was risky. "Others will be viewed more objective, more credible than I will be," he said.

Mr. Lay accepted an invitation in late November to appear before the Houston Forum. Standing between large Texas and United States flags, he assigned the blame for Enron's collapse four years ago to Andrew S. Fastow, then Enron's chief financial officer. Mr. Fastow has pleaded guilty to fraud, has agreed to cooperate with the government and faces 10 years in prison.

Mr. Lay's decision to go public runs counter to the advice of many criminal defense lawyers, who generally prefer to have clients remain silent until a trial starts. Not so in the case of Mr. Lay, who is represented by one of Houston's most aggressive lawyers, Michael W. Ramsey. Mr. Ramsey arrived at the ballroom of the Marriott Hotel in the upscale Galleria shopping district clad in a pinstripe suit and cowboy boots.

"We got an opportunity to talk in a rather dignified setting, a place with some gravitas," said Mr. Ramsey, 65. "Of course, until you put the ax to the wood you don't know what you're going to get."

Mr. Lay faces charges that he engaged in a conspiracy to deceive investors and employees about Enron's financial troubles just before it collapsed. He will stand trial with Jeffrey K. Skilling, Enron's former chief executive, and Richard A. Causey, a former chief accounting officer; both face additional counts, including lying to auditors and insider trading.

The move by Mr. Lay to criticize Mr. Fastow and the Enron Task Force of the Justice Department takes a page from the playbook of another embattled former chief executive, Richard M. Scrushy, onetime leader of the HealthSouth Corporation in Birmingham, Ala.

Mr. Scrushy rarely missed an opportunity to declare his innocence publicly before and during his trial, joining a large church in Birmingham and appearing in an evangelical Christian television program in Alabama. A jury acquitted Mr. Scrushy in June, though he has since been indicted on separate charges in a political corruption case.

Unlike Mr. Scrushy's fiery style, however, Mr. Lay's polished delivery of his speech was reminiscent of the days when he was Houston's most prominent business leader, frequently speaking before business, political and religious groups. Mr. Lay and his wife, Linda, have still made occasional appearances at charitable events in Houston.

"It's definitely in Ken Lay's interest to maintain a relationship with his community," said Charles A. Russell, the crisis communications consultant who represents Mr. Scrushy. "It is an essential step toward humanizing someone who has been demonized in the public

eye."

Mr. Lay is taking a chance with his re-entry into the public eye in Houston, given the emotions associated with his leadership of Enron. More than 4,000 employees lost their jobs as a result of the company's demise, and the city has yet to find another hometown company with similar flash and prominence.

Still, the reception for Mr. Lay, who told the audience that his 12th grandchild was born Tuesday morning, was anything but chilly. The capacity crowd of about 250 politely applauded him at the beginning and end of his speech, and a representative of the Houston Forum gave him a copy of "1776," the book by the historian David McCullough, which Mr. Lay said reminded him of the "importance of faith and God in the founding of this country."

The speech was not the first time Mr. Lay has publicly proclaimed his innocence. Hours after he was arrested and led handcuffed into a courthouse here in June 2004, Mr. Lay held a news conference in a hotel banquet room in which he blamed Mr. Fastow for hidden fraudulent activity that weakened investor confidence in Enron.

Mr. Ramsey, Mr. Lay's lawyer, said his client had written his own speech except for "a couple of small editing touches here and there." Mr. Lay told the audience that he had intended to call the speech, "Living in the Cross Hairs of the U.S. Criminal Justice System," but instead opted for "Guilty, Until Proven Innocent."

Mr. Lay used most of the speech to assail the actions of the Justice Department. Kathryn Ruemmler, deputy director of the Enron Task Force in Houston, did not respond to a request for comment.

"Let me cut to the chase," he said. "In this trial - apparently unlike most criminal defense cases - defendants are trying to get the truth in, and the prosecutors, the Enron Task Force, are trying to keep it out."

The audience submitted written questions to him afterward. One asked if it was the duty of a chief executive to be accountable for a company's activities. Mr. Lay responded that he could not be held accountable for illegal activities he was not aware of. Mr. Lay also appealed to former Enron employees to "prove that Enron was a real

company."

Also on Tuesday, a bankruptcy judge here ordered about 40 former traders at Enron to return \$20 million in bonuses they received shortly before the company went bankrupt, with the money to go to employees who lost jobs around the same time. Enron paid about \$105 million in bonuses to people in its trading operations in the days before it filed for bankruptcy protection in December 2001.

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