

Impact of Sarbanes-Oxley and White-Collar Crime Penalty Enhancement Acts of 2002 on Corporate Fraud Sentencing

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ABSTRACT

In the years leading up to the Sarbanes-Oxley Act of 2002 (SOX), a number of alleged fraudulent financial reporting cases listed the chief executive officers and/or chief financial officers as accomplices. Spurred on by rising pressure to address these failures, Congress and the House of Representatives voted nearly unanimously to support enactment of SOX. Section 302 of SOX requires chief executive officers and chief financial officers to attest to the fairness of the financial statements they oversee – effectively piercing the corporate shield and holding executives criminally responsible for corporate misdeeds. Companion legislation enacted at the same time, The White-Collar Crime Penalty Enhancement Act, extended the maximum jail-sentences for executives tried for these frauds in the federal courts. This research describes the sentencing outcomes of executives associated with these frauds in the pre-SOX and post-SOX eras, and examines whether the legislation resulted in stiffer penalties. Findings indicate that most frauds end in plea bargains, with fines paid and no admission of guilt. In cases where trials are held, most executives are sentenced to a small portion of the maximum jail-time allowed. Surprisingly, the fraction of actual jail time awarded compared to the maximum sentence permitted under the law decreased post-SOX. Executives committing fraud post-SOX are walking away with smaller portions of the maximum jail time permitted. This finding carries the unintended consequence of failing to hold executives accountable as prescribed by the SOX legislation. In addition, most defendants pay no restitution if they are sent to jail. This paper concludes that the threat of investigation and prosecution under SOX may not deter corporate fraud and unlawful earnings management due to the leniency shown by the courts.

Keywords: Sarbanes-Oxley; average sentences; maximum sentences; suggested maximum sentences.

INTRODUCTION

Companies are increasingly incorporating clawback provisions in their executive compensation packages as a disincentive to manage earnings. On January 20, 2015 *Journal of Accountancy.Com* reported that the Securities and Exchange Commission (SEC) is preparing to unveil the final clawback rules. The regulation will require corporate executives to repay bonuses or salaries calculated on financial outcomes that are later reversed. However, Chan et al (2015) reports that clawback provisions appear to have the unintended consequence of creating an incentive to manage earnings through alternative means such as transaction management (examples include altering research and development or optional travel). Similarly, while the Sarbanes Oxley Act of 2002 (henceforth SOX) was enacted to prevent illegal financial reporting and incidences of errors and omissions in financial reports, Brite (2013) and Leech and Leech (2011) suggest otherwise. Brite points to the Financial Crisis of 2008 as evidence of SOX failure. Leech and Leech report that thirteen percent of the 3861 companies studied (with market capitalization value greater than \$75 million) were required to issue restatements in 2006 due to errors.

Before SOX was implemented, the Committee of Sponsoring Organizations of the Treadway Commission (COSO, 1999) reported that nearly 300 financial statement related frauds were listed in nearly 700 Accounting and Auditing Enforcement Releases of the SEC during the 11 year span of 1987 to 1997. A repeat study by COSO (2010) reported a smaller frequency of fraud involving 347 instances in 1,335 SEC Releases, but the magnitude of the median fraud had increased from \$4.1 million to \$12.3 million.

Leading up to SOX, a significant number (83%) of the alleged fraudulent financial reporting cases reported by the SEC identified the chief executive officers and/or chief financial officers as accomplices (COSO, 1999). During this time in history, the alleged criminal misconduct of executives associated with financial statement fraud was difficult to prove in a court of law. Officers commonly used lack of knowledge or ignorance as a defense. Rector (2007) writes “(D)uring his closing argument in the criminal trial against Bernard Ebbers, the former CEO of WorldCom, Assistant United States Attorney William F. Johnson characterized Ebbers’ defense of ignorance as an “Aw Shucks” defense. Ebbers, who was charged with one count of conspiracy, one count of securities fraud, and seven counts of false filing with the SEC, was ultimately convicted on all counts and sentenced to 25 years in prison. Similarly, a jury found Kenneth Lay, Enron’s founder, guilty on one count of conspiracy, two counts of wire fraud,

and three counts of securities fraud. During the same trial, Jeffrey Skilling, Enron's former CEO, was found guilty of one count of conspiracy, twelve counts of securities fraud, five counts of making false statements, and one count of insider trading. During their jury trials, both Lay and Skilling asserted an "I didn't know" defense."

Spurred on by pressure to address these failures – including highly publicized frauds involving Enron and Worldcom that at the time brought about the two largest bankruptcies in the history of the United States – Congress and the House of Representatives nearly unanimously supported the enactment of SOX. Section 302 of SOX requires chief executive officers and chief financial officers to attest to the fairness of the financial statements they oversee – holding executives personally and criminally responsible for corporate misdeeds. Although securities fraud had been punishable for decades, the SOX provisions aim to drastically increase penalties and make prosecution the most likely deterrent. For example, SOX refers to the knowledge of misrepresenting the financial position of the company as compared to the willfulness that had to be proven under pre-SOX laws.

At the same time, companion legislation, The White-Collar Crime Penalty Enhancement Act of 2002 (US Congress, 2003), extended the maximum jail-sentences for executives tried for these frauds in the federal courts. The penalties when an executive has knowledge of misrepresentation of the financial condition of the company are up to twenty years in jail and/or a maximum of \$5 million in fines. Also, if a person recklessly violates the duty to certify the company's financial statements there is a potential fine of up to \$1 million and/or up to ten years in jail. There are additional criminal penalties up to ten years if officers knowingly sign an unfairly represented financial statement and it is important to note that ignorance will never qualify as a defense. Therefore, the burden falls on management to ascertain that the information is reliable. This research describes the sentencing outcomes of executives facing fraud charges pre-SOX and post-SOX, and examines whether these legislative efforts resulted in stiffer penalties. Results are presented below along with implications for future research.

POST-SOX RELATED LITERATURE

A study by Brickey (2006) concerning prosecution and sentencing trends during the post-SOX era detailed the trials, verdicts, and mistrials on corporate fraud cases ranging from March 2002 through January 2006. The study compared the length of convictions obtained in corporate fraud trials under SOX with those from the pre-SOX era. While the results were mixed based on type of fraud, the government achieved a higher conviction rate. The study concluded that the prosecutors gained guilty plea convictions to avoid trials and the possibility of a mistrial. Typically, the plea bargains included large fines, but the defendants did not accept or deny guilt.

Studies regarding corporate risk-taking in the post-SOX period find that corporations had sidestepped some of the SOX provisions by adjusting the composition of officer compensation (Akers, 2007; McKee, 2005). One study found that corporations purchased insurance policies for top management to avoid the SOX provisions that require officers to reimburse the corporations for the incentive-based compensation and stock profits they received in the event that financial reports are restated (Cohen et al, 2008). The study also concluded that corporations have responded to the SOX provisions by shifting officer compensation towards a more fixed salary and away from incentive-based compensation, which was prevalent in the pre-SOX period.

Other studies of the post-SOX period indicate that corporate risk-taking decreased during the period immediately following the passage of SOX. One study found that corporations reduced risk-taking behavior by reducing investments in fixed assets and in research and development (Barger, 2009). Instead, companies held greater amounts of cash and cash investments, which represent non-operating, low risk investments. Finally, as stated earlier, in a recent study of clawback provisions, Chan et al (2015) report that executives are utilizing real transaction management in place of earnings management to stay under the radar of SOX criminal penalties and clawback risks.

DATA AND METHODOLOGY

Criminal arrests rocked the corporate scene in the early 2000s with potential maximum sentences in the hundreds of years. However, many convicted officers managed to avoid jail time by settling for comparatively minor plea bargains and fines (Hunter, 1999). While SOX threatened severe penalties, the follow-through was far less intimidating than what was initially anticipated by both corporations and investors. The records show that SOX penalties for jail time and fines increased significantly compared to the pre-SOX era in the years shortly following

the passage of SOX and may have acted as a deterrent to fraud. However, the data gathered by this study shows that fraud sentences as a percentage of the maximum allowable jail-time eventually decreased to levels lower than the pre-SOX era suggesting that penalties brought about by legislation may not reflect reality.

This study identifies eighty-six of the largest known prosecutions of upper management involving white-collar crime during the period 1994-2007 (see Appendix A). The identity of the defendant, name of the company, the charges brought, and the potential maximum sentence compared to the final outcome of the jury trial or plea bargain are documented. The sample period consists of nine years pre-SOX and five years post-SOX. All cases were obtained from the SEC litigation website and from all state websites that were publically available.

In addition, it is worthy to note that since the length of prison stays are usually determined by the maximum terms prescribed by the applicable law/regulation, the focus on maximum sentences is warranted (U.S. Congress, 2003). Previous research into the US Sentencing Commission sentencing guidelines by Racine (2002) concluded that the threat of lengthy prison sentences does not deter the crime because the law allows the judges to impose sentences reflective of the crime. Henning (2008) indicates that the guidelines are purely advisory and the judges' have considerable discretion in sentencing.

Figure 1 classifies the data based on the year and the month the case was concluded. Probations are specified by year only. When maximum sentences are specified as a range, stating a minimum and a maximum, the minimum was utilized in the analysis. In addition, a comparison between the maximum prison terms set forth in the laws pre- and post-SOX and the actual sentence is presented in Figure 1. The summary reveals the number of defendants who negotiated a plea agreement compared to those who chose a trial. Out of the 86 cases studied, 19 results could not be used for analysis because either the plea agreement was sealed or the case was still in process with no sentence available.

ANALYSIS OF RESULTS

A review of the 89 fraud cases indicates that only 9.1% of the pre-SOX defendants entered into a plea agreement with the courts, and a lopsided 78.1% of the post-SOX defendants chose a plea agreement. The fear of possible lengthy imprisonment terms may explain why most of the post-SOX sample plead-out. In addition, most plea bargains resulted in fines but in no admission of guilt. However, this trend reversed in recent years, with 63.6% of individuals choosing to go to court since 2006.

Over the entire span of study (see Table One), 1994-2007, defendants were sentenced an average prison term of 53 months represented approximately 12.6% of the maximum proposed prison term (424 months), with a standard deviation of 64 months. Thus, on average, a defendant who was prosecuted during the 1994-2007 period received a maximum sentence of around 117 months, which was significantly lower than the 424 month maximum sentence suggested for such cases $[(.126 \times 424) + (64) = 117]$. It is clear that, more likely than not, a defendant will receive lesser sentences than those suggested by the guidelines.

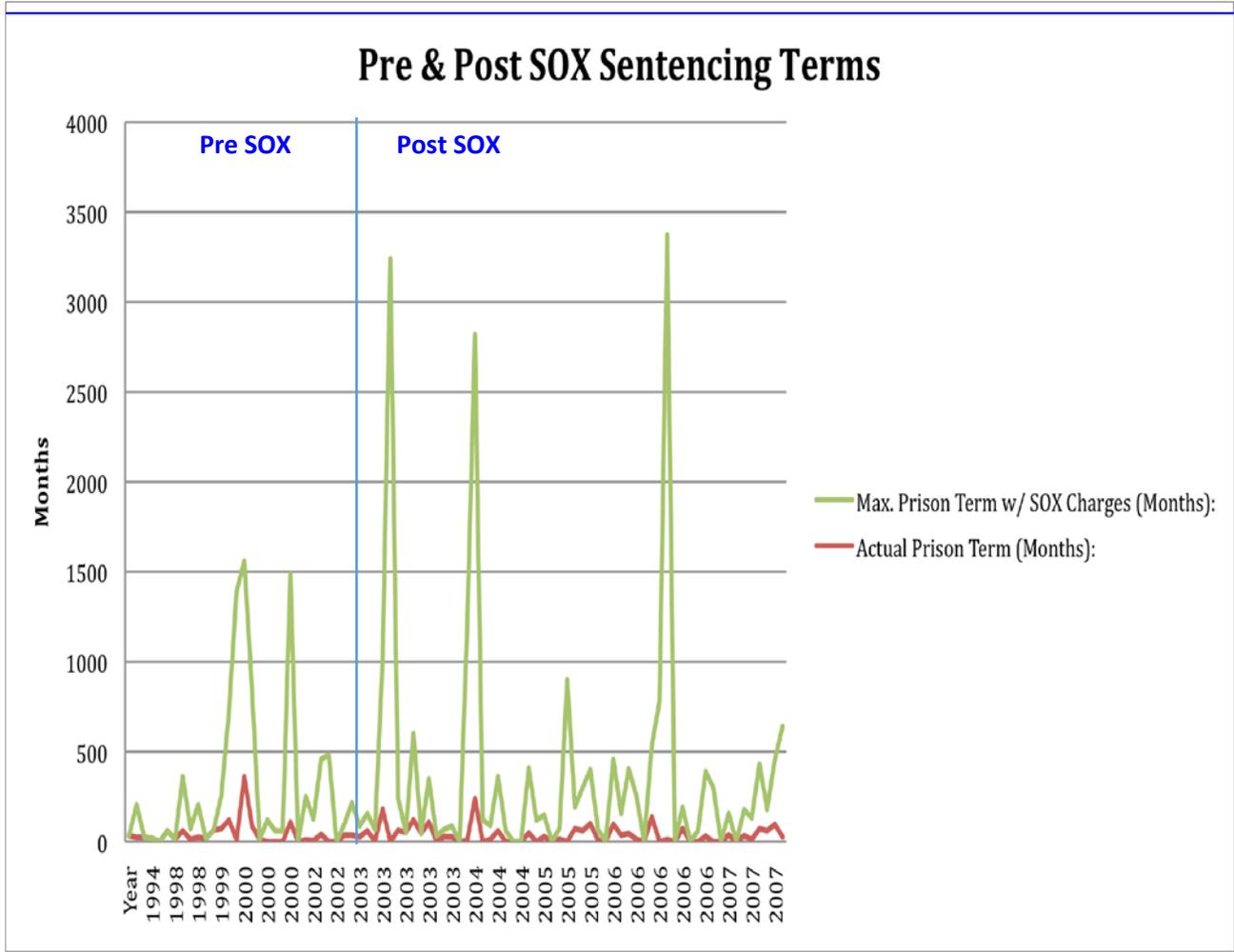
Pre-SOX (1994-2002) data shows that defendants were sentenced to an average prison term of 37 months which is 10.5% of the maximum (353 months) recommended in the law, with a standard deviation of 51 months. Thus, on average, an individual who was prosecuted during this period received a maximum sentence of 88 months, which is significantly lower than the 353-month maximum suggested in the guidelines in effect during the 1994-2002 period.

Early post-SOX (2002-2004) results show convictions of an average of 65 months which is approximately 13.9% of the maximum (462 months) recommended, with a standard deviation of 132 months. Thus, a defendant who was convicted during this period received, on average, a maximum sentence of 196 months. While the average length of sentences increased 76% over the pre-SOX period, the maximum increased only by 32% and was still substantially lower than the 462-month maximum proposed by the guidelines.

Several years post-SOX, the evidence from the late SOX period (2004-2007) reports that defendants were sentenced to prison terms of an average 48 months, representing an increase of 30% over the pre-SOX period average sentences, and were only 9.9% of the maximum (480 months) recommended terms, with a standard deviation of 52 months. Thus, the average maximum sentences during this period were 99 months (a mere 11%

increase over pre-SOX maximums), which was again significantly lower than the 480 months suggested in the final guidelines. In addition, the later post-SOX sentences decreased below their pre-SOX counterparts as a percent of maximum sentences recommended (9.9% versus 10.5%).

Figure 1



	Average Prison Term Compared to Suggested Maximum (average actual sentences)	Actual Maximum Terms (mos.)	Suggested Maximum Terms (mos.)	Standard Deviation (months):
All Sampled Years (N = 86; 19 not used)	12.6% (4 yrs and 5 mths -- 53 mths.)	117	424	64
Pre-SOX (N=27; 9 not used)	10.5% (3 yrs and 1 mth. -- 37 mths.)	88	353	51
Post-SOX (since 2002) (N = 24; 5 not used)	13.9% (5 years and 5 mths. -- 65 mths.)	196	462	132
Post SOX (since 2004) (N = 35; 5 not used)	9.9% (4 years -- 48 mos.)	99	480	52

Clearly, individuals prosecuted under the strict guidelines established by SOX receive significantly reduced sentences compared to maximum jail-time in the regulation. Once more, the data illustrates in Table 1 that the portion of jail time served compared to the maximum time allowed initially increased post-SOX, and eventually decreased to a level lower than pre-SOX. The prison terms averaged 10.5% compared to the maximum pre-SOX, and fell to an average level of 9.9% of the maximum post-SOX. Despite this trend, criminals are serving an average of one additional year of jail time in the post-SOX era with approximately 3 years served pre-SOX and 4 years served post-SOX. In sum, the results show that the SOX sentencing guidelines may not be serving as a strong deterrent against financial reporting fraud with plea bargains avoiding jail, prison lengths that are a small fraction of the maximum terms, and a decrease in prison time post-SOX when expressed as a percentage of the maximum.

CONCLUSION

This study examined the sentences of white-collar criminals received during the pre-SOX period of 1994-2002 and post-SOX period of 2003-2007. The analysis reports that the length of actual sentences initially increased (65 months compared to pre-SOX average of 37 months) after SOX was enacted. However, the increases were short lived, with the average sentence decreasing to 48 months after two years, which is still 30% higher than the sentences handed down during the pre-SOX period.

However, the average prison sentence compared to the maximum time permitted under the law actually decreased post-SOX (from 10.5% to 9.9%). Executives are serving less of their allowable sentences post-SOX, providing little comfort to those who believe in the deterrent quality of SOX criminal penalties. With stiffer regulations regulating executives, but weaker jail-times imposed through the courts, SOX may carry with it the unintended consequence of failing to hold executives personally accountable for their crimes. In addition, most defendants pay no restitution if they are sent to jail. Thus, threat of investigations and prosecutions under SOX may not deter corporate fraud or unlawful earnings management because of the leniency shown by judges. We conclude that the risk of facing jail time is a weak deterrent for those planning to commit white collar crimes. Future research should explore whether the leniency shown by the courts to executives may warrant further adaptation of SOX regulations and/or the assurances provided by those executives.

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APPENDIX A: WHITE COLLAR-CRIME1994-2007

Date:	Individual, Company	Plea or Jury Trial	Charges and Outcome	Max. Prison Term (Mths)
1993	Patrick Finn, Phar-Mor	Jury Trial	Charges: 129 counts of fraud and conspiracy. Outcome: Sentenced to 33 months in prison.	N/A
1994	Patrick J. Schleibaum, Miniscribe	Jury Trial	Charges: Three criminal counts of fraud Outcome: 2 years	180
	Barry Rosenfield, Star Clippers	Plea	Charges: 21 felony counts and 2 misdemeanors count involving the theft and misappropriation of funds that he took from the company at various times, ending in January 1993. Outcome: Two years in state prison, followed by six m	N/A
1997	C. Steven Bolen, Financial News Network	Jury Trial	Charge: Accused of supplying the company's auditors with false and misleading documents and otherwise misleading the auditors to perpetuate the financial fraud Outcome: Sentenced to 1 year, 6 months (plus 2 years supervised release).	N/A
1998	Stefan Solvell, Astra USA	Jury Trial	Charge: 35 counts including fraud and tax evasion. Outcome: Sentenced to 2 years probation, the first 3 months under house arrest wearing electronic monitoring device	N/A
	Jeffrey Klop, National Grocers Association	Jury Trial	Charge: NA Outcome: Sentenced to 5 years, suspended, and 15 years probation	N/A
	Harry R. Carboni, Cableco	Jury Trial	Charge: Three counts of knowingly making false statements to secure advances on a line of credit in violation of 18 U.S.C. 1014, and an order to pay restitution in the amount of \$ 195,840. Outcome: Sentenced to 1 year, 3 months.	N/A
	John McAndris, A.R. Baron	Jury Trial	Charge: CPA license revoked based upon a conviction for crimes of enterprise corruption, scheme to defraud, falsifying business records, offering a false instrument for filing and perjury. Outcome: Sentenced to 5 to 15 years.	300
	Jerry Weissman, Empire Blue Cross Blue Shield	Jury Trial	Charge: Obstruction of justice and perjury. Outcome: Sentenced to 1 year, 6 months.	60
	Steven Henke, California Micro Devices	Jury Trial	Charge: Conspiracy to make false statements to the Securities Exchange Commission, and insider trading (15 U.S.C. SS 78j(b), 78ff(a)). Outcome: Sentenced to 2 years, 8 months.	180
1999	Keith E. Gottschalk, BroMenn Healthcare	N/A	Charge: N/A Outcome: Sentenced to 1 year, 6 months.	N/A
	Jan R. Kirk, Ferrofluidics	Jury Trial	Charge: The judgment enjoins him from violating the antifraud provisions and certain reporting, internal controls, and record-keeping provisions of the federal securities laws. Outcome: Sentenced to 5 years, 3 months.	N/A
2000	George Brodzki, Bernard Food Industries	Plea	Charge: Embezzled 1 million Dollars and could receive a 15 year sentence Outcome: 6 years	180
	William P. Sullivan, Lumivision	N/A	Charge: Five counts of felony theft for stealing 1m. Sentenced to 6 years and to repay the 1m Outcome: 10 years	600

Date:	Individual, Company	Plea or Jury Trial	Charges and Outcome	Max. Prison Term (Mths)
2000	James M.Murphy, Centennial Technologies	Jury Trial	Charge: N/A Outcome: Sentenced to 1 year, 3 months of community confinement and 3 years of supervised release.	1380
	Patrick R. Bennett, Bennett Funding Group	Jury Trial	Charge: Defrauded investors out of over \$570 million, Outcome: 30 years	1200
	Jack Randall Foster, SSM Healthcare's managed-care unit	Jury Trial	Charge: Pleaded guilty to health care fraud and money laundering Outcome: 7 years, 3 months	756
	Donald Bender, Bennett New Car Alternative	Jury Trial	Charge: Grand theft in connection with helping defraud a finance company out of more than \$341,000. Outcome: Sentenced in May 2001 to 12 months and a day in prison and 36 months of supervised release.	N/A
	Cosmo Corigliano, CUC International (Cendant)	Jury Trial	Charge: Overstate its operating income by \$116 million in the two years before the merger, and Cendant to overstate its operating income by \$170 million for 1997 Outcome: Sentenced to three years of probation, including six months of home confinement with electronic monitoring and 300 hours of community service.	120
	Maria Messina, Livent	Jury Trial	Charge: Erased expenses in one quarter and entered them in the next one. Rather than protest, Messina signed the falsified statements crucial to Livent's \$125 million debt offering in 1997. Enable them to raise more than \$179 million in public equity and debt markets. Outcome: Messina, who pleaded guilty to three charges of professional misconduct, was fined \$7,500 and suspended from practicing as a chartered accountant for two years.	60
	Edward Creevy, Donnkenny	Jury Trial	Charge: Improperly recognize revenue by: holding open quarters to book out-of-period shipments; recording revenue on orders without shipping the goods to customers; recording fictitious sales from non-existent contract work and through false journal entries; and recording revenue on inventory hidden at an idle Donnkenny facility and a third-party warehouse. Outcome: N/A	60
	Paul F. Polishan, Leslie Fay	Jury Trial	Charge: One count of conspiracy to defraud the United States, in violation of 18 U.S.C. § 371; seven (7) counts of making material false statements and representation to the SEC. Outcome: Sentenced in January to a nine-year prison term with three subsequent years of probation	1380
July 2002 to Dec 2002 (POST-SOX)	Peter Bromberg, Motorcar Parts and Accessories	Plea	Charge: Knowingly made false and misleading statements about Motorcar's financial condition and performance in its 1997 and 1998 Forms 10-K filed with the SEC. Outcome: Sentenced to 10 months, including five months of incarceration and five months of home detention, for his role in a financial fraud	240
	Joseph Shew, Homestore	Plea	Charge: Conspiracy to commit securities fraud Outcome: 6 months	120

Date:	Individual, Company	Plea or Jury Trial	Charges and Outcome	Max. Prison Term (Mths)
	Steven Allan, Media Vision Inc.	Jury Trial	Charge: Allan was found guilty of three counts of fraud by wire communication and aiding and abetting such fraud, under 18 U.S.C. §§ 1343 and 2, and two counts of falsifying books and records of a public company and lying to the company's auditors. Outcome: Sentenced to 40 months imprisonment in a federal penitentiary and was ordered to pay restitution.	420
	Gary Duane Schultz, Lund Boats	Plea	Charge: Mail fraud, money laundering Outcome: N/A	480
2003	Thomas Lambach, Quaker Alloy Inc. (Atchison Casting Corp.)	Plea	Charge: Stole more than \$900,000 of Atchison corporate funds. Lambach also made numerous and pervasive false accounting entries in the subsidiary unit's books and records, which had the effect of concealing his theft and making the Pennsylvania Foundry Group appear more profitable than it was. Outcome: N/A	N/A
2003	Aaron Beam, HealthSouth	Plea	Charge: Bank fraud Outcome: 3 years & forfeit \$275,000 under a deal worked out with prosecutors. The judge added a \$10,000 fine, plus one year of probation.	60
	Michael Martin, HealthSouth	Plea	Charge: Conspiracy, filing false financial statements Outcome: 36 months	180
	Weston Smith, HealthSouth	Plea	Charge: Conspiracy to commit wire fraud and securities fraud, filing false statements, violating the certification provision of Sarbanes-Oxley Outcome: Smith was ordered to pay disgorgement of \$4,897,124 and prejudgment interest of \$2,021,211, provided that \$1.5 million of the sum is deemed satisfied by forfeiture and restitution ordered against him in a related criminal proceeding. 27 months in prison, among other things.	60
	William Owens, HealthSouth	Plea	Charge: Conspiracy to commit wire and securities fraud, violating the certification provision of Sarbanes-Oxley Outcome: 5 years. 2 years probation	96
	Malcolm McVay*, HealthSouth	Plea	Charge: Conspiracy to commit wire and securities fraud, filing false financial reports Outcome: 90 days	65
	Jay Gilbertson.. McKesson Corp. (HBO and Co.)	Plea	Charge: Securities fraud Outcome: Mr. Gilbertson agreed to give up McKesson shares that were worth \$5.3 million as of today. He also will pay a \$1 million fine to the Securities and Exchange Commission and still faces a possible prison sentence of up to 15 years.	840
	Donna Richardson, Craig Consumer Electronics	Plea	Charge: Bank fraud Outcome: N/A	3240
	Matthew Gless, Peregrine	Plea	Charge: Conspiracy, securities fraud Outcome: Sentenced to 5 years 3 months	180
	Steven Lash, FPA Medical Management	Jury Trial	Charge: Wire and mail fraud Outcome: 51 months & 36 million	N/A

Date:	Individual, Company	Plea or Jury Trial	Charges and Outcome	Max. Prison Term (Mths)
	Gary Atnip, Franklin American Corp	Plea	Charge: Money laundering, racketeering Outcome: Sentenced to 121 months imprisonment in a federal penitentiary and ordered to pay restitution in the amount of \$208,000,000.	480
	Lawrence Simon, Media-Hut	Plea	Charge: Lying to investigators, conspiracy to inflate earnings and revenues Outcome: Sentenced to 46 months in prison and a \$5,000 fine	N/A
	Edward Stein, American Tissue	Plea	Charge: Securities and bank fraud. Stein faces as much as 19 years and seven months in prison, prosecutors said in court today. Outcome: 9 years	240
	Stephen Lowber, Cutter & Buck Inc.	Plea	Charge: Accessory after the fact to wire fraud Outcome: 3 months	30
	Frank Bergonzi, Rite Aid	Plea	Charge: Making false statements to the SEC, obstructing justice, witness tampering Outcome: 28 months	40
2004	Thomas Sebastian, L90	Plea	Charge: Conspiracy to commit securities fraud Outcome: 27 month prison term	60
	Kirk Dischino, Measurement Specialties Inc.	Plea	Charge: Insider trading Outcome: N/A	N/A
	Ira Zar, Computer Associates	Plea	Charge: Conspiracy, securities fraud, obstruction. Two counts of conspiracy Outcome: Seven months in prison and seven months of home detention.	1200
	Timothy Rigas, Adelphia Communications	Jury Trial	Charge: Conspiracy, bank fraud, securities fraud (2.3 billion) Outcome: Sentenced to 20 years	2580
	Jon Clark, Vari-L Company Inc.	Plea	Charge: Fraudulently inflating earnings Outcome: Clark has also agreed to be prohibited from acting as an officer or director of a public company, to pay disgorgement, including prejudgment interest, in the amount of \$166,631.87, and to pay a \$50,000 civil penalty.	120
	James Cutler, Tollman-Hundley Hotels	Jury Trial	Charge: Conspiracy to commit bank fraud, bank fraud, making false statements to banks Outcome: 1 year in prison and serve five years on probation.	78
	Scott Sullivan*, WorldCom	Plea	Charge: Conspiracy, fraud, and making false statements Outcome: 5 years	300
	John Howard Daws*, Cylink Corp.	Plea	Charge: Conspiracy to falsify accounting records, securities fraud Outcome: Sentenced to six months of home detention and three years of probation	60
	Thomas Bray*, Network Technologies Group	Plea	Charge: Wire fraud Outcome: N/A	N/A
2005	Lawrence Teodoro, Timeless Toys Inc.	Plea	Charge: Wire fraud Outcome: Was ordered to pay \$1 million in restitution to Timeless Toys.	N/A

Date:	Individual, Company	Plea or Jury Trial	Charges and Outcome	Max. Prison Term (Mths)
	John Garitta, PinnFund, USA	Plea	Charge: Conspiracy to commit wire fraud and money laundering, tax evasion, filing false statements Outcome: 4 years	360
	Robin Szeliga, Qwest	Plea	Charge: Insider trading Outcome: Two (2) years probation, with the first six (6) months to be served in home detention.	120
	John Jacobs, Hamilton Bank	Plea	Charge: Securities and wire fraud, false filings with the SEC. faces up to 10 to 12 Outcome: 28 months	120
	Steven Davis, Berkeley Risk Administrators Co., LLC	Plea	Charge: Mail fraud Outcome: N/A	N/A
	Kent Kalkwarf, Charter Communications	Plea	Charge: Wire fraud Outcome: 14 months in federal prison and two years of probation	60
	David Cammarata, Impath	Plea	Charge: Conspiracy, securities fraud, bank fraud, making false statements to the SEC, soliciting proxies with false proxy statements Outcome: 1 month	900
	Wakon Redcorn, Heritage National Insurance Co.	Jury Trial	Charge: Embezzlement, wire fraud, money laundering Outcome: 6 years & pay more than \$1.7 million in restitution.	120
	Rondal Cavender, Safescript Pharmacies	Plea	Charge: Conspiracy to commit securities fraud, money laundering Outcome: 5 years	240
	Mark Swartz***, Tyco International	Jury Trial	Charge: Grand larceny and conspiracy, securities fraud, falsifying business records, violating business law Outcome: 8 1/3 years	300
2006	Rudolph Terry, Terry Manufacturing	Plea	Charge: Conspiracy Outcome: 8 months	60
	Joseph Zumwalt, Weida	Plea	Charge: Mail fraud Outcome: N/A	N/A
	William Scott DeLoach, PBSJ Corp	Plea	Charge: Conspiracy to commit wire fraud, the unlawful reimbursement of federal campaign contributions Outcome: 97 months	360
	Donald Welchko, Anicom Inc	Plea	Charge: Falsely inflating sales and profits Outcome: 36 months	120
	William Rauwerdink, Lason	Plea	Charge: Conspiracy to commit mail, wire, and bank fraud; making false statements to the SEC Outcome: 45 months	360

Date:	Individual, Company	Plea or Jury Trial	Charges and Outcome	Max. Prison Term (Mths)
	Greg Gadel, Buca Inc.	Plea	Charge: Mail and wire fraud Outcome: 13 months in prison and three years of supervised time for the misappropriation of funds from the company	240
	Marion Markle, National School Fitness Foundation	Plea	Charge: Failure to report a scheme to defraud. Five counts of mail fraud, nine counts of wire fraud, one count of bank fraud, one count of conspiracy to launder funds, and 13 counts of money laundering Outcome: N/A	N/A
	Robert Gagalis, Enterasys	Jury Trial	Charge: Conspiracy, wire, and securities fraud Outcome: Sentenced to 11 1/2 year	396
	Michael Resnick, U.S. Foodservice Inc.	Plea	Charge: Conspiracy Outcome: Sentenced yesterday to three years' probation	780
	Patrick Buttery, Computer Personalities Systems Inc.	Plea	Charge: Wire and mail fraud, money laundering Outcome: One year and one day in prison.	3360
	John Monteclavo, Hillside Health Center	Plea	Charge: Embezzlement, money laundering, Medicare fraud Outcome: N/A	N/A
	Andrew Fastow*, Enron	Plea	Charge: Conspiracy to commit wire fraud, conspiracy to commit securities fraud Outcome: 6 years	120
	Keith Howard*, Enron Broadband	Plea	Charge: Fraud, conspiracy, falsifying records Outcome: N/A	N/A
	David Kreinberg*, Comverse Technology	Plea	Charge: Conspiracy to commit securities, mail, and wire fraud; securities fraud Outcome: Kleinberg must pay almost \$2.4 million, which includes about \$1.8 million in disgorged profit and \$600,000 in interest on that profit.	60
2007	Steven Garfinkel, DVI	Plea	Charge: Mail fraud, violating the certification provision of Sarbanes-Oxley Outcome: Sentenced 30 months	360
	Robert Gordon, TeleServices Internet Group	Jury Trial	Charge: Securities fraud, money laundering Outcome: 6 months & 3 years probation	300
	Victor Suglia, Friedman Jewelers	Plea	Charge: Fraud Outcome: N/A	
	Michael Suhadolnik, HealthCare Financing Administration	Plea	Charge: Wire fraud. 1 count Outcome: Sentenced to 37 months in prison	120

Date:	Individual, Company	Plea or Jury Trial	Charges and Outcome	Max. Prison Term (Mths)
	Joseph Connors, Kleinert's Corp	Jury Trial	Charge: Fraud, making false statements. One count of bank fraud and 65 counts of giving false statements to a bank in connection with a loan. Faces 1,980 years Outcome: N/A	
	Samuel Sacco, Spectra Systems Inc	Plea	Charge: Mail and wire fraud Outcome: 33 months in federal prison for stealing more than \$700,000 from his employer	144
	Prahbat Goyal, McAfee (Network Associates)	Jury Trial	Charge: Securities fraud, filing false reports with the SEC, making false statements to auditors 5 counts of committing securities fraud, filing false reports with the Securities and Exchange Commission, and making false statements to auditors. 15 counts of security fraud Outcome: 1 year and 1 day	120
	Jack Grace, BestBank	Jury Trial	Charge: Conspiracy; bank and wire fraud; falsifying bank reports. Face 30 years Outcome: Sentenced to six years in federal prison -- 60 months for conspiracy and 72 months on all other counts, to be served concurrently.	360
	Eric McCracken, Aerosonic Corp	Plea	Charge: Conspiracy to commit wire fraud, wire fraud. One count of conspiracy to commit wire fraud and one substantive count of wire fraud Outcome: 5 years	120
	Steve Venechanos, Supreme Specialties Inc.	Jury Trial	Charge: Conspiracy; mail, bank, and wire fraud; making false statements to the SEC. serve 15 Outcome: 8 years in jail and restitution	360
	John Boulton*, Hollinger	Jury Trial	Charge: Mail fraud. Three counts of mail fraud Outcome: Sentenced to 27 months in jail, \$152,500 restitution and a \$500 fine.	612