

THE WRONGFUL CONVICTION OF ARTHUR ANDERSEN LLC

By Michael E. Marotta¹

Abstract

The demise of the legal person Arthur Andersen LLC models the many miscarriages of justice, wrongful convictions and subsequent exonerations of real persons. The case shines a bright light into corners of the criminal justice system often ignored both by the mass media as well as by many criminal justice professionals. This dissertation provides a cross-section of the case.

¹ Submitted as part fulfillment of Criminology 681: Miscarriages of Justice, Eastern Michigan University, USA

Table of Contents

Executive Summary	Page 3
Investigation, Trial and Appeal	Page 6
Sources	Page 12
Appendix A: Academic Journal Articles	
Appendix B: Mass Media Materials	
Appendix C: Court Documents	
Appendix D: Documents Relating to the History of Arthur Andersen	

Executive Summary

The demise of the legal person Arthur Andersen LLC models the many miscarriages of justice, wrongful convictions and subsequent exonerations of real persons. The case shines a bright light into corners of the criminal justice system often ignored both by the mass media as well as by many criminal justice professionals. The exuberance of enforcement authorities, ambitions of prosecutors, prejudices of the judge, witnesses who recant, limitations of the jury and crusades by outsiders were capped by an overturned conviction and an order for a new trial that did the defendant little good. Like a man in prison who has suffered a stroke, and who cannot therefore participate in his court-ordered new trial, Arthur Andersen LLC exists today only as a shell. Entities spun off from it are orphans who distanced themselves from their disgraced parent by changing their names.

This portfolio provides a cross-section of the case, revealing its elements, though without the depth they deserve. A book might not be enough. Two have been written specifically about the Arthur Andersen case.² Many more – 50 to 100 – have been written about Arthur Andersen’s infamous client, Enron.³ Specifically because the two are so tightly bound in popular perception, it is important to separate them. They had different origins, histories, and cultures. Both had tens of thousands of employees.⁴ That their employees (as well as partners and officers) shared vices and virtues is not meaningful. Broad condemnations of “corporate greed” are as prejudiced as the equally easy and fallacious claim that African Americans have a “culture of violence”⁵ as evidenced by the many news stories about violence in the African American community and the disproportionate incarceration rate. Examining the facts in the case of *The United States versus Arthur Andersen LLC* reveals that this was a miscarriage of justice. Nothing else matters.

Finally, a tension exists between “street crime” and “suite crime.” Our common assumptions about crime begin with interpersonal assaults. This is historic; and it crosses cultures. Specificity of cultural context notwithstanding, harms come when one person trespasses against another – and you know it when you see it. Much about white collar crime has analogs to other kinds. A victim and a perpetrator must exist. A law must be broken. Arrest and trial are the expected outcome – and plea-bargaining is common. That said, the highly abstracted nature of the modern administrative regulation of businesses is different than common law. First of all, few regulations begin as

² *Inside Arthur Andersen: Shifting Values, Unexpected Consequences* by Susan E. Squires, Cynthia J. Smith, Lorna McDougall, and William R. Yeack (Financial Times, 2003) and *Final Accounting: Ambition, Greed and the Fall of Arthur Andersen* by Barbara Ley Toffler and Jennifer Reingold (Broadway Books, 2003).

³ The most recent search on Amazon reveals six new titles for 2009. Indicative of the marketability of the Enron name, Herman Melville’s classic *Bartleby the Scrivener: A Tale of Wall-street* (1853) has been resissued for Kindle.

⁴ Enron peaked at 19,000 in early 2001 (or 20,000 according to Beth MacLean and Peter Elkind, *Smartest Guys in the Room: The Amazing Rise and Scandalous Fall of Enron*, 2003), but started lay-offs reported first as 4,000 then as 5,000 with no differentiation for those released “temporarily” for a downturn in revenues and those fired in the wake of the sacking of CEO Jeff Skilling. Arthur Andersen’s rosters likewise tallied 29,000 in the USA and 80,000 globally, by various accounts.

⁵ Debunked by Cao, Liqun., Adams, A., and Jensen, V. J. in “A test of the Black Subculture of Violence Thesis: A Research Note,” *Criminology*, 35 (2), (1997), pp. 367-379.

legislation. Most are made by administrative bodies, in this case, the Securities and Exchange Commission – which is empowered by Congress to make such rules and to have them enforced as laws. These strictures are often arcane, difficult to understand, cumbersome to obey and challenging to enforce. The first consideration is that “a corporation can be both the perpetrator and the victim of a single course of criminal conduct. In such cases, the criminal law may describe the corporation as either the culpable defendant or the innocent victim. Both characterizations can be correct as a matter of law (Michaels).” This specific point troubled the jury in the Arthur Anderson case. In the middle of their deliberations, they queried the judge on this point – and the judge excused herself to consider it. This was abstruse law.

Therefore, we must put aside the mass-mediated hyper-reality of white collar crime, admit that we do not know the body of administrative law created by the Securities and Exchange Commission, then favor the defendant with a presumption of innocence, and examine the facts.

The Supreme Court of the United States overturned the conviction of Arthur Andersen unanimously. Long before a new trial could be held, the company had imploded. The key witness in the government case was David Duncan, an auditor for Arthur Andersen working at Enron. Duncan was charged with obstruction of justice. He pled guilty and agreed to testify for the prosecution. When the Supreme Court of the United States overturned the conviction of Arthur Andersen, Duncan changed his plea to not guilty. The government chose not to prosecute. With Arthur Andersen all but dead, the government chose not to retry the case. For all of the disparities between street crime and suite crime, those facts and others fit the pattern of a miscarriage of justice.

Finally, a word about sources and citations. This case garnered worldwide attention for five years. There is no shortage of materials from the mass media. Many of the stories were reprints from wire services. The Houston *Chronicle* had its own reporter in the courtroom. The trial and convictions all played out in the wake of the 9/11 Terrorist Attacks and the subsequent invasions of Iraq and Afghanistan. Thus, while there are numerically many news stories, none is more than cursory. The facts in the case come from the court records.

Academic journals were disappointingly thin in their treatment of the case, though as many as 100 alluded to it.⁶ Efficacious peer reviewed academic journal articles appear in Appendix A only as reference pointers, the title page and abstract along with the thesis and conclusions if helpful. Much of the research was carried out electronically, as has been the norm for over a decade. Therein is planted a mine field of ignorance. The difference between presentations is stunning. The medium is the message. Online resources do not provide ancillary graphics, such as editorial cartoons, around which the stories flow. Lost also are related – and seemingly unrelated – features which nuance the discursive space.

Most disturbing is the fluidity of online citations. One story, from the Houston *Chronicle*, clearly reports events from on or about May 13-17, 2002, during the testimony of prosecution witness David Duncan. When accessed online via the Factiva database provided by our University librarian especially for this research project, the story appeared with a dateline of Dec. 16, 2005 3:12 PM. Clearly, it had been updated, with

⁶ The list was culled to 94. The first and last page of those are in Appendix A along with references to more cogent works.

the original dateline replaced, though the 2002 copyright remained. Others have the same problem.

Investigation, Trial, and Appeal

From its founding on December 11, 1913, until its fall from grace, the Arthur Anderson company had a hard-won reputation for impeccable honesty (Squires, et al, Toffler; Previtts & Merino).⁷ Arthur Andersen himself (1885-1947) came from an immigrant Norwegian family. He began as an assistant to the comptroller of Fraser & Chalmers (later Allis Chalmers) in Chicago. Educating himself at night, he was hired by Price Waterhouse and, at 23, became the youngest certified public accountant in the state of Illinois.

At that time, accountancy was just attempting to establish itself as a profession. Practitioners were clustered in New York City. Oddly, perhaps, most could not be certified or licensed in their state because they were not American citizens. Scots and English, men of trans-Atlantic business, they were loathe to give up their British standing. On the other hand, in Chicago, the rough and tumble of laissez faire created a cultural matrix that would be fertile ground for the sociology professors at the University of Chicago. Meanwhile, Northwestern University established one of the first degreed programs in business administration. In Illinois, the CPAs fought to keep the legislature from lowering standards for admission to the profession. Failure rates of 90% were common on the examinations. Charges of monopoly and discrimination appeared in the newspapers both in New York City and Chicago. Integral to the mythology of Arthur Anderson is the encounter between the founder and a client who wanted different numbers on his books. Declaring that there was not enough money in Chicago to buy his honesty, Andersen left his client, a bold move for a fledgling.

“Think straight. Talk straight.” That was the firm’s motto. Iconically, the motto is said to have originated with Arthur Andersen’s mother. However, it remained the corporate banner even after the founder died and a new generation took the helm in the wake of World War II.

In retrospect, it is easy and misleading to telescope half a century of hindsight. In the post war era of the 1950s and through the go-go ‘sixties to the Me Decade of the mid-80s, Arthur Andersen changed slowly but inexorably. Basically, it grew up, leaving behind its embryonic 19th century ethos, ethics, and morality of patient hard work, and entering the space age world of quick profits through high technology. If there was a moment to point to, it was the work for General Electric in 1952 which resulted in the created of Andersen Consulting (Squires 53-54; Toffler 70-71). Under the new leadership of Leonard Spacek and Joseph S. Glickauf, Arthur Andersen created a division that eventually surpassed the parent corporation. In 1997, Anderson Consulting and Arthur Andersen sued each other. They chose the International Chamber of Commerce for their arbitrator. The parent firm lost, paying out \$1.2 billion to its former division, now rebranded as Accenture. The damage to the legal person Arthur Andersen may be seen as similar to the emotional strain experienced by a real person of a divorce, separation or abandonment.

At the same time, it is important to underscore the decades of corporate life devoted to the strictest standards of ethics. Just as the founder myth tells of young Arthur

⁷ The historical background of the company comes from these three narratives, two of them plainly exposés that nonetheless acknowledge the firm’s better days.

Andersen walking away from an untrustworthy client, so, too, did the mature corporation detach itself from clients. Leonard Spacek believed that railroads were overvalued under archaic government regulations of the Interstate Commerce Commission dating to 1887. By the strict standards of the company, savings and loans of the 1980s were considered over valued. Honest accounting warned the firm about the risks in sub-prime mortgages. In each example, Arthur Andersen discontinued its relationships with untenable businesses (Toffler 19).

That said, before the year 2000, it was clear that the corporate culture had changed, mostly because America had changed. As an Arthur Andersen executive, Barbara Toffler was tasked with some of the orientation of new hires. In 1998, she participated in a training session on the topic of independence. The audience was 120 hand-picked new managers in their late 20s and early 30s. When asked to whom they hold their highest loyalty, answers were not forthcoming. No one wanted to venture an opinion. Finally, someone said that they would obey their partner (*i.e.*, the corporate partner to whom they reported). Some agreed. No one offered another opinion. Toffler was shocked and considered it the defining moment for her decision to leave the company a year later. The company had no moral compass, no ethical bearings. People would still do the right thing, but not necessarily for the right reasons, going along rather than standing up.

This was the company that accepted Enron as a client. Enron was the opposite of Arthur Andersen in many ways. It was founded only in 1985 from the merger of Houston Natural Gas and Northern Natural Gas of Omaha, Nebraska. Its CEO was Kenneth Lay.

Previously, Lay was president of Continental Resources Company (formerly Florida Gas Company) and executive vice president of The Continental Group, the parent company of Continental Resources Company, before joining Transco Energy Company in May 1981, as president, chief operating officer and a director. He joined Houston Natural Gas in June 1984 as chairman and chief executive officer. A native of Missouri, Lay was a Phi Beta Kappa graduate in economics from the University of Missouri, where he also received a master's degree in economics. Upon graduation, he began his career in 1965 as a corporate economist with Exxon Company, U.S.A. Subsequently, he earned a Ph.D. in economics from the University of Houston.

Lay served as an officer in the U.S. Navy, and held the positions of Technical Assistant to a Commissioner of the Federal Energy Regulatory Commission and Deputy Under Secretary for Energy of the U.S. Department of Interior [1972-1974]. Additionally, while in Washington, Lay was an assistant professor at George Washington University, teaching graduate courses in micro- and macro-economic theory and Government-business relations.⁸

⁸ From a 1997 biography on a webpage of the Federal Energy Technology Laboratory, http://www.netl.doe.gov/publications/proceedings/97/97ng/ng97_pdf/lay.pdf

It is hard to imagine a more stellar resume. As a result of Lay's leadership, *Fortune* magazine named Enron the most innovative company in America six times from 1996 to 2001. Then, it all fell apart.

Enron passed an audit from Arthur Andersen for FY 2000. Closing FY 2001, on October 16, 2001, Enron took a "restatement" that removed \$1.2 billion in assets on the balance sheet, though it showed no change to its income statement.⁹ As its auditor, Arthur Andersen's consultants onsite at Enron re-examined the accounting and found that billions of dollars of debts were missing from the balance sheet. "Andersen immediately (1) notified the Securities and Exchange Commission (SEC) and the Justice Department, (2) withdrew its audit opinions, and (3) required Enron to restate its financial statements for the years 1997-2001. The restatements caused Enron to suffer a cash crunch and one month later on December 2, 2001, Enron declared bankruptcy (Morrison 2005:2)."

This got the attention of the Securities and Exchange Commission which convened a grand jury in Houston for the Southern District of Texas, the jurisdiction for Enron's corporate headquarters. On March 7, 2002, the grand jury returned its indictment.

Andersen, through its partners and others, did knowingly, intentionally and corruptly persuade and attempt to persuade other persons, to wit: Andersen employees, with intent to cause and induce such persons to (a) withhold records, documents and other objects from official proceedings, namely regulatory and criminal proceedings and investigations, and (b) alter, destroy, mutilate, and conceal objects with intent to impair the objects' integrity and availability for use in such official proceedings (Buell and Weissmann, 7-8).

The indictment was announced March 14. On April 9, a grand jury returned an indictment against David Duncan, the onsite account manager of Arthur Anderson assigned to Enron. The trial began May 6. On Monday, May 13, David Duncan testified for the prosecution and would be back on the stand for four more days. The case went to the jury on June 5. It took them ten days to find Andersen guilty. Andersen appealed, of course. On June 24, 2004, the Fifth District Court of Appeals found for the United States. The case went to the Supreme Court. SCOTUS overturned the conviction on May 31, 2005.

Much about the case begs attention. First of all, speculation about the indictments began almost as soon as Enron's true position became public. Contrast this, for instance, with the current bankruptcy of General Motors or the two bankruptcies of K-Mart. Neither was a surprise. Enron's fall was a surprise. Therefore, consequential repercussions were to be expected. Again, in comparison to street crime, high visibility cases put pressure on the police and prosecutors to find the perpetrator. Here, too, a story from *The Wall Street Journal* for January 22, 2002, speculated on the indictments far ahead of their being handed down. The speculators missed the fact that David Duncan had been fired on January 15. Arthur Andersen partners released Duncan specifically because he ordered the destruction, by shredding, of documents related to Enron as early as October 23 of the previous year (Toffler 214). Whether this was entirely on his own

⁹ A balance sheet is a "snapshot" of assets, liabilities and owner's equity. A statement summarizes incomes and expenses for a period, typically year-to-date.

initiative or with the complicity or advice of his senior partner, Michael Odom, is not clear (Squires, et al. 126). Two opposing but equally true facts operate. First, the destruction of relevant documents – even potentially relevant materials – was contrary to the guidelines of Arthur Andersen’s Professional Standards Group (Squires, et al. 125). But, also, many of the documents destroyed were obviously trivial: duplicates, solicitations from charities, magazines, and the like (Morrison 2004:359; Morrison 2005, 32). Moreover, reconstructions of emails show David Duncan consulting with Nancy Temple, an attorney of the firm, on October 12, October 23, and at other times, concerning the policies on document retention. In every instance, it is clear that Temple counseled for complete honesty and that Duncan complied – or at worst thought mistakenly that he had complied (Morrison 2005, 30). Nonetheless, Duncan was fired. He was then indicted and turned state’s witness, contradicting for the prosecution the facts he had established for Arthur Andersen. Therefore, it is hardly surprising that Duncan changed his plea when the Andersen conviction was overturned.

Throughout the trial, U.S. District Judge Melinda Harmon showed prejudice, siding with the prosecution in 96 percent of her rulings (Morrison 2005: 39). At one point, defense counselor Rusty Hardin attempted to introduce new evidence. Judge Harmon called that “the most underhanded thing I have ever seen” which touched off a heated debate with the defense (Fowler).

Acrimonious debate surrounded the jury instructions. Among the issues:

- whether previous administrative settlements with the SEC by Arthur Andersen could be considered by the jury
- whether Fifth Amendment pleadings by government witness could be considered by the jury
- the definition of the word “corrupt”
- whether knowledge by one or more persons constitutes knowledge “by the firm”
- whether previous SEC investigations in to Enron’s financial statements could be considered relevant (Flood).

Ultimately, Judge Harmon’s instructions to the jury proved to be faulty and the cause of the reversal.

The original jury needed ten days to review the evidence and find the facts. They sent repeated queries to the judge. In one, June 13, after eight days of deliberation, they asked if the firm could be convicted if they disagree about who at the firm is guilty. Unable to answer that seemingly basic question from corporate law, U.S. District Judge Melinda Harmon left the bench to find out (Girion). Finally, Judge Harmon ruled that the jury did not need to find Andersen guilty beyond a reasonable doubt in order to convict (Morrison 2005: 39).

The appeal went against the defendant.

Andersen asks this court to reverse its conviction, urging errors in four evidentiary rulings, misconduct by the prosecutor in his rebuttal jury summation, and two legal contentions regarding the required proof under § 1512(b)(2). The evidentiary rulings include admitting extensive evidence regarding two unrelated SEC enforcement actions against

Andersen, excluding evidence of the volume of documents Andersen did not destroy, and excluding impeachment evidence. Regarding the proof required by § 1512(b)(2), Andersen urges that given its element of “corruption,” the government had to prove more than that it acted with an intent to impede the SEC. Finally, Andersen asserts that the government had to prove that Andersen intended to interfere with a “particular” proceeding.

We are not persuaded that this conviction is flawed by reversible error and we affirm the judgment of conviction. (Higginbotham: 2-3)

The case went to the Supreme Court of the United States. SCOTUS found many problems with the jury instructions, reversed the ruling and remanded the case. The entire document is in Appendix C. Among the many points made:

The outer limits of this element need not be explored here because the jury instructions at issue simply failed to convey the requisite consciousness of wrongdoing. Indeed, it is striking how little culpability the instructions required. For example, the jury was told that, "even if [petitioner] honestly and sincerely believed that its conduct was lawful, you may find [petitioner] guilty." App. JA-213. The instructions also diluted the meaning of "corruptly" so that it covered innocent conduct. *Id.*, at JA-212.

Justice delayed is justice denied and it was too late for Arthur Andersen. In fact, as soon as the initial indictments were filed, clients began leaving the firm. So did partners and employees.

Fogged in the social reality of post-modernism, the mass media and entertainment industries promote a view of capitalism alien to the culture known to Benjamin Franklin and Adam Smith. By the assumptions of Marxism and post-Marxism, Arthur Andersen’s indictment and conviction should have been a beacon to all the cheats, crooks, cop-outs, misers, gougers and exploiters. By the theories of social justice, the firm should have raked in the loot. In fact, the merest hint of wrong-doing was the death-knell for the legal person of Arthur Andersen. Our cultural inventory of voices speaking of business ethics from a business viewpoint is thin. Dierdre McCloskey’s many essays and two books on “Bourgeois Virtues” has become a staple. Writing in an anthology edited by Ayn Rand, former Federal Reserve chairman Alan Greenspan said this about integrity:

It requires years of consistently excellent performance to acquire a reputation and to establish it as a financial asset. Thereafter, a still greater effort is required to maintain it: a company cannot afford to risk its years of investment by letting down its standards of quality for one moment or for one inferior product; nor would it be tempted by any potential ‘quick killing’...(Greenspan: 113)

Though more detail is beyond the scope of this paper, it is important to state for the record that the persecution of Arthur Andersen is consistent with the Racketeer Influenced and Corrupt Organizations Act (RICO), as well as the full body of anti-trust legislation, in a context of anti-market, anti-business posturing by government officials.

The mass media has created a hyper-reality in which Republicans are “pro-business” while Democrats are “pro-social.” In point of fact, the Andersen case, as the persecution of Martha Stewart (and in the 1980s Michael Milken) were carried out under Republican administrations. Meanwhile, the Democratic Party continues to enjoy all the same large corporate contributions as does its loyal opponents because those firms – among them Enron – profit from rent-seeking, not market-seeking. The moral conflict of our age is not “government versus business” but good government and honest business standing against corrupt practices.

Professional criminologists know well the inherent failures of the so-called “war on drugs.” The analogy from street crime to suite crime holds in the case of Arthur Andersen which was singled out for a wrongful conviction.

Sources

- Buell, Samuel W. and Andrew Weissmann. 2002. *United States of America versus Arthur Andersen LLP, Defendant*. U.S. District Court, Southern District of Texas, Indictment CR 02-121.
- Clikeman, Paul M. 2009. *Called to Account: Fourteen Financial Frauds that Shaped the American Accounting Profession*. New York and London: Routledge.
- Flood, Mary. 2002. "Instructions for Andersen Jury Debated." *The Chronicle*, [datelined Dec. 16, 2005 3:02 PM] ©copyright 2002.
<http://www.chron.com/disp/story.mpl/special/andersen/1426594.html> Accessed May 7, 2009.
- Fowler, Tom. 2002. "Attorney for Andersen, Judge Have Verbal Brawl." *The Chronicle*, [datelined Dec. 16, 2005 3:12 PM] ©copyright 2002.
<http://www.chron.com/disp/story.mpl/special/andersen/1415115.html> Accessed May 7, 2009.
- Girion, Lisa. 2002. "Jury Query Reveals a Gray Area of the Law," *Los Angeles Times*, June 14, 2002. <http://articles.latimes.com/2002/jun/14/business/fi-intent14?pg=1>, Accessed June 7, 2009: 21:45
- Greenspan, Alan. 1962. "The Assault on Integrity." *Capitalism: the Unknown Ideal*. Rand, Ayn, et al., New York: New American Library, 1966.
- Higginbotham, Judge Patrick E., for the Court (Reavley, Higginbotham and Benavides), United States Court Of Appeals, for the Fifth Circuit, *United States of America versus Arthur Andersen, LLP*. No. 02-21200. Revised June 24, 2004. Accessed June 7, 2009. 21:24.
- Khadernian, Anne M. 2002 "The Securities and Exchange Commission: A Small Regulatory Agency with a Gargantuan Challenge." *Public Administration Review*, Vol. 62, No. 5 (Sep. - Oct., 2002), pp. 515-526. Stable URL:
<http://www.jstor.org/stable/3110013> Accessed: 07/06/2009 18:51
- Michaels, Alan C., 2004. "Fastow and Arthur Andersen: Some Reflections on Corporate Criminality, Victim Status, and Retribution," 1 *Ohio State Journal of Criminal Law* 551.
- Morrison, Mary Ashby. 2004. "Rush to judgment: the lynching of Arthur Andersen & Co.," *Critical Perspectives on Accounting* 15 (2004) 335-375
[doi:10.1016/j.cpa.2004.01.001](https://doi.org/10.1016/j.cpa.2004.01.001) Accessed June 7, 2009: 22:17
- Morrison, Mary Ashby. 2005. "Arthur Andersen & Co. -- The Rest of the Story." © copyright 2005 by Mary Ashby Morrison. <http://blog.kir.com/archives/MaryMorrisonArthurAndersen1.pdf>. Accessed June 7, 2009: 21:59
- Previtts, Gary John and Barbara Dubis Merino. 1998. *A History of Accountancy in the United States: The Cultural Significance of Accounting*. Columbus: Ohio State University Press.
- Rehnquist, Chief Justice Robert for the Unanimous Court. *Arthur Andersen LLP v. United States; Certiorari to the United States Court of Appeals for the Fifth Circuit*. No. 04-368. Argued April 27, 2005--Decided May 31, 2005.
<http://supreme.justia.com/us/544/04-368/case.html> Accessed June 7, 2009: 15:48.

- Squires, Susan E., Cynthia J. Smith, Lorna McDougall, and William R. Yeack. 2003. *Inside Arthur Andersen: Shifting Values, Unexpected Consequences*. Upper Saddle River, New Jersey: Financial Times Prentice Hall.
- Toffler, Barbara Ley. 2003. *Final Accounting: Ambition, Greed, and the Fall of Arthur Andersen*. New York: Broadway Books.

Appendix A: Academic Journal Articles

This high-profile case became a cultural icon. Repeated searches were necessary to reframe and narrow the results. Following that, the articles had to be read (or at least scanned) for content.

Typical of the hundred or so irrelevant citations is this exchange between two scholars arguing the history of the reigns of father and son Shah Reza Pahlavi of Iran. Reviewing the book, *Great Britain & Reza Shah: The Plunder of Iran, 1921-1941*, by Mohammad Gholi Majd, Michael P. Zirinsky (professor of history at Boise State University) wrote:

“He has built an accurate chronology of Reza's reign of terror. With regard to Pahlavi peculation, Majd is less persuasive. His use of the re-ports of the American Treasury Administration appears well done, but this reviewer is no accountant. At this moment of revelations about the Enron-Arthur Andersen “axis of evil” in public life, the necessity for accurate accounting looms large.” *Middle East Journal*, Vol. 56, No. 2 (Spring, 2002), pp. 339-340.

The author took exception, of course and replied: “Disclaiming competence in ‘accounting,’ Zirinsky calls my analyses of Reza's plunder to be :unconvincing” and implies they are similar to the crooked computations at Enron and Arthur Andersen. *Middle East Journal*, Vol. 57, No. 1 (Winter, 2003), pp. 180-183.

Moving closer to the target, but not hitting the bull’s eye, some sociologists drew lessons in morality from the demise of Arthur Andersen. However, as cogent as some of the observations were, none actually identified the salient facts in the case. All accepted the government’s assertions *prima facie*.

1. Detailed citations of five reflective articles from peer reviewed academic journals
2. The first and last of 22 pages of about 80 more general citations from which the least useful dozen or so were deleted.
3. From that list title page, thesis and conclusions from these better reflections:
 - Auditor's Reputation and Equity Offerings: The Case of Arthur Andersen Author(s): Stephanie Yates Rauterkus and Kyojik "Roy" Song Source: *Financial Management*, Vol. 34, No. 4 (Winter, 2005), pp. 121-135 Published by: Blackwell Publishing on behalf of the Financial Management Association International Stable URL: <http://www.jstor.org/stable/3666401> Accessed: 07/05/2009 16:30
 - What Enron Means for the Management and Control of the Modern Business Corporation: Some Initial Reflections Author(s): Jeffrey N. Gordon Source: *The University of Chicago Law Review*, Vol. 69, No. 3 (Summer, 2002), pp. 1233-1250 Published by: The University of Chicago Law Review Stable URL: <http://www.jstor.org/stable/1600646> Accessed: 07/06/2009 18:48

- Whither Securities Regulation? Some Behavioral Observations regarding Proposals for Its Future Author(s): Robert Prentice Source: Duke Law Journal, Vol. 51, No. 5 (Mar., 2002), pp. 1397-1511 Published by: Duke University School of Law Stable URL: <http://www.jstor.org/stable/1373156> Accessed: 07/06/2009 18:25
 - Berle and Means Revisited: The Governance and Power of Large U.S. Corporations Author(s): Mark S. Mizruchi Source: Theory and Society, Vol. 33, No. 5 (Oct., 2004), pp. 579-617 Published by: Springer Stable URL: <http://www.jstor.org/stable/4144886> Accessed: 07/06/2009 19:52
 - The entirety of “The Good Auditor – Skeptic of Wealth Accumulator? Ethical Lessons Learned from the Arthur Andersen Debacle” by Ronald Dudka, Journal of Business Ethics: 57 17-29. 2005.
4. Three caveat articles. Citations, first and closing pages from peer reviewed academic journal articles specifically defending Arthur Andersen against the media onslaught.
- “The Power of an Indictment and the Demise of Arthur Andersen,” by James Kelly, University of Illinois College of Law, July 2006
Abstract: This article examines the impact an indictment can have against a limited liability partnership of professionals, in particular the Justice Department's prosecution of accounting firm Arthur Andersen. Following a brief chronological description of the factual background of the case, the article then examines the weight an indictment is supposed to have, followed by the standards for issuing an indictment against an entire partnership rather than just the individuals who allegedly performed wrongful acts. The notion of prosecutorial discretion is heavily emphasized, and the factors that contributed to the prosecution of Andersen are discussed. Finally, the implications of this situation are discussed in detail, as they extend beyond Enron and Andersen and are not limited by the passage of the Sarbanes-Oxley Act in 2002. In short, the United States government has the power to destroy a partnership, such as an accounting or law firm, without the burden of trial or having to provide evidence of crime beyond a reasonable doubt.
 - “Rush to judgment: the lynching of Arthur Andersen & Co.” by Mary Ashby Morrison (Cited in the Sources.)
 - “The Rest of the Story 2005,” by Mary Ashby Morrison (Cited in the Sources.)

Appendix B: Mass Media Materials.

Organized chronologically to show the development of the news reporting. Particular focus is called to the photocopies from microform storage of *The Wall Street Journal*. These stories appear alongside others about Martha Stewart's indictment, as well as the 9/11 Terror Attacks, the invasions of Iraq and Afghanistan, and other incidents that inevitably color the perception of the reader.

Appendix C: Legal Documents

1. The Grand Jury indictment against Arthur Andersen.
2. Government memorandum asking the court to keep that indictment secret.
3. The Grand Jury indictment against David Ducan
4. Decision of the Appeals Court to Deny the Appeal
5. Writ of Certiorari to the Appeals Court from the Supreme Court of the United States
6. The Decision of the Supreme Court of the United States to reverse the judgment, and to remand the trial to the lower court.
7. Securities and Exchange Commission finding against David Duncan
8. “Defining and Defending Obstruction Charges in the Wake of Arthur Andersen and Quattrone,” by Kathryn Keneally and Kenneth M. Breen
9. Andersen v. Carlyle and Federal Insurance v. Arthur Anderson. Though the firm is moribund, actions against it continue.

Appendix D: Documents Relating to the History of Arthur Andersen

1. The homepage of the company website. All that remains. One presentation.
2. From the NNDB database of famous people, a roster of executives and notable employees of Arthur Andersen, something of a role of honor.
3. From the Carnegie-Mellon Tepper School of Business website, a page from the Arthur Andersen Case Studies in Business Ethics. For over 75 years, the firm set the standard and the great bulk of its efforts continues to serve as an important resource.
4. Andersen Alumni website for those who prefer to remember the best about their time of association
5. Accenture homepage and link. Accenture is the branding label for the Andersen Consulting division.
6. Q Center Chicago, one of the few assets remaining with any association to Arthur Andersen.
7. “Arthur Andersen to pay Enron creditors \$16 million” draining blood from a zombie.
8. Two timelines of the scandal, one from Wikipedia, the other from the *Houston Chronicle*.