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EXCLUSIVE REPORTS

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Auditor's actions shed light on Westar plane use

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Staff Writer

John Lathrop took dozens of business flights aboard airplanes owned by Western Resources Inc., including once flying to a football game with CEO David Wittig.

He never imagined that company executives one day would face criminal charges for personal use of the planes.

"Did I ever think about that? No," the former Arthur Andersen LLP accountant said.

On Dec. 30, former CEO Wittig and former Executive Vice President Douglas Lake are scheduled to make an initial court appearance to hear 40 criminal charges handed down by a grand jury.

At least 10 counts involve allegations that the two executives falsely denied personal use of corporate aircraft at Western, now known as Westar Energy Inc.

Topeka-based Westar blames Lathrop's Kansas City-based audit team for failing to alert the company's board about improper airplane use, which created a "tax exposure" for Westar.

"Year after year nothing was done to eliminate that exposure," said a 360-page investigative report by New York law firm Debevoise & Plimpton released in May. "At no time did Arthur Andersen bring the issue to the attention of the audit committee or the board."

Asked whether he should have warned the company's audit committee of the tax consequences of personal aircraft use by executives and board members, Lathrop said, "I don't really know that that's my assessment to make."

Personal use of corporate assets "clearly should be reported to the audit committee" when discovered by an auditing firm, said Steve Erickson, a New Mexico-based consultant to auditing firms and retired managing partner of an accounting firm.

That duty existed before recent reforms, including the federal Sarbanes-Oxley Act and new rules of conduct for the accounting profession, said Chuck Landes, director of audit and attest standards with the American Institute of Certified Public Accountants.

"Even going back to the old standard, it required that whenever there was evidence that a fraud exists that the auditor was required to report that to the appropriate levels," Landes said.

Defrauding Westar was Wittig's and Lake's intent, prosecutors said in their Dec. 3 indictment of the men.

"I think Arthur Andersen reported all significant matters it was aware of to the Western audit committee," Lathrop said. "We met with the audit committee several times each year, and I do not recall the airplanes being one of the items we talked about."

Although the May report singled out Lathrop's Oct. 14, 2000, flight with Wittig and other company executives to a Kansas-Missouri football game, Lathrop said, "I would characterize any time that I was on the plane it was for business reasons."

Lathrop said he didn't talk to the Westar investigators because Arthur Andersen forbade him. He declined to comment on whether other investigators have contacted him.

The internal report blamed Lathrop and Arthur Andersen, and it also criticized Westar board members.

"Some directors, for example, were aware that the company's airplanes were being used for personal travel but said nothing," the report said.

Even so, an auditing team has the duty of reporting irregularities to higher levels and eventually to the Securities and Exchange Commission, Landes said.

Lathrop now works for KPMG LLP's Kansas City office. Arthur Andersen's office closed in mid-2002 as the national accounting firm collapsed under the weight of its handling of Enron Corp.'s accounting practices.

KPMG spokesman Alec Houston in New Jersey referred all questions to Lathrop, who answered several questions but granted no follow-up interviews.

Western Resources flight logs hint at the complexity of Arthur Andersen's, and Lathrop's, relationship with the company. Aside from overseeing audits, Lathrop apparently traveled as he advised company management on unnamed "business opportunities," on its expansion into the burglar alarm industry and on its failed takeover of Kansas City Power & Light Co.

Accounting reforms now discourage such intimate and complicated relationships between auditors and public companies, consultant Erickson said.

"Sometimes, I think judgment maybe gets skewed when the relationship gets too strong," he said. "This is the purpose of Sarbanes-Oxley. It's to say to auditors, 'Look, we don't want you to have close personal relationships with management.'"

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