

Professor Gershowitz was quoted in an article posted to the UPI.com website. Professor Gershowitz remarks on the quality of Jeffrey Skilling's legal team.

The following article was posted to the UPI.com website on Thursday, October 15, 2009:

Why did high court take on Skilling case?

HOUSTON, Oct. 15 (UPI) -- Legal observers are split over why the U.S. Supreme Court agreed to hear former Enron Corp. Chief Executive Jeffrey Skilling's fraud conviction challenge.

Some say prosecutors were too aggressive and creative with the law. Others suggest the most skilled defense lawyers money can buy can raise enough post-trial legal issues to provoke the high court's review.

Skilling, 54 -- convicted on 19 federal felony counts May 25, 2006, and serving a 24-year prison term -- raised two issues in convincing the court to review his convictions, legal observers told the Houston Chronicle.

Pretrial publicity and the effect of Enron's collapse on the Houston community tainted the jury pool, he contends. And some of his convictions were based on the theory he failed to provide "honest services" to his employer, which is not clearly defined in the law, he argues.

Prosecutors theorized at trial that Enron employees were bound to serve honestly and not put their interests ahead of the company's. If they failed to do so, they deprived the company of honest services and committed a crime.

The 5th U.S. Circuit Court of Appeals already overturned several Enron-related convictions based on the honest services theory, ruling executives did only what Enron wanted and did not profit at its expense.

"When you are too aggressive and creative and take novel approaches, it can backfire," Barry Pollack, a Washington lawyer who tried two Enron cases, told the Chronicle.

But **University of Houston law Professor Adam Gershowitz** said "a better explanation is that lots of money buys good lawyers," the newspaper reported Wednesday.

"Jeff Skilling's case likely would never have made it to the Supreme Court if he didn't have an exceptional legal team with the smarts and manpower to spot, tee up and preserve a huge number of legal issues," Gershowitz said.