



BUSINESS

COMING SUNDAY

■ New walking-friendly neighborhoods featuring homes with porches and small front yards are popping up around Houston.

SATURDAY
SEPTEMBER 6, 2008
HOUSTON  CHRONICLE
chron.com

ASSETS & VALUES | STOCKS | REAL ESTATE | ENERGY | RETAIL | OIL | TECHNOLOGY

HOUSTON CHRONICLE D3

Enron trial is put on hold

By KRISTEN HAYS
HOUSTON CHRONICLE

Three former Enron broadband division executives are still trying to avoid a second round before a jury.

More than three years have passed since their first trial in the summer of 2005 that ended in a handful of acquittals for Joseph Hirko, Rex Shelby and Scott Yeager while jurors were hung on dozens of other counts.

In March of this year they lost their bid to get a 5th U.S. Circuit Court of Appeals panel to throw out most remaining charges against them in pared-down indictments.

Now they're seeking an appeal before the U.S. Supreme Court, and a Houston federal judge on Friday postponed their November and January retrials to allow time for an answer to that request.

Federal prosecutors told U.S. District Judge Vanessa Gilmore that they have until mid-October to file a response to the defendants' request for a Supreme Court review. The earliest the high court could say whether it will hear the case would be mid-November.



HIRKO



SHELBY



YEAGER

Gilmore rescheduled the Hirko/Shelby retrial for Dec. 1 and pushed Yeager's trial to March 24.

The defendants are accused of overstating capabilities of Enron's broadband network to generate Wall Street buzz and enrich themselves from selling company stock inflated by the hype.

After a three-month trial, jurors acquitted Hirko of several money laundering counts, Shelby of some insider trading counts and Yeager of conspiracy and fraud counts.

More than a year ago the trio's lawyers argued before a three-judge 5th Circuit panel that the acquittals show jurors rejected at least some of the government's allegations. They argued that all or most remaining charges should be axed because the acquitted counts are related to the others on which jurors deadlocked.

For example, Yeager's lawyers said jurors determined Yeager didn't participate in fraud or conspiracy, so prosecutors can't say he sold stock on inside information or moved ill-gotten money among different accounts. Lawyers for Hirko and Shelby made the same argument from the opposite direction: because they were acquitted of money laundering and insider trading counts, there could be no fraud.

A government prosecutor countered that jurors acted "irrationally and inconsistently," and the panel ruled that the acquittals don't mean the men couldn't be found guilty of other charges against them.

kristen.hays@chron.com