

Moneymakers

FIVE QUESTIONS WITH PHILIP HILDER

Lawyer works as guide through uncertain times

Corporate employees who know trouble's brewing, think they are innocent and don't trust the company lawyer often hire their own criminal attorneys, and in Houston it's often Philip Hilder.

A longtime Houston defense attorney and a former federal prosecutor, Hilder has represented about a dozen former Enron employees in the nearly three-year criminal and civil investigations into the fallen energy trading company. His first was Sherron Watkins, the former Enron vice president whose memo about company accounting scandals has become legendary. After Hilder sat beside her while she testified to Congress, he was hired by one Enron witness after another.

Criminal defense lawyers like Hilder have been doing this work for years, but in this age of the corporate scandal and increased scrutiny of businesses, this type of legal work seems to be burgeoning.

Chronicle reporter Mary Flood spoke to Hilder about this field.

1 Q: Why do innocent people need their own lawyer?

A: Lawyers are needed to navigate through treacherous waters, to advise clients of their rights, to help them under-



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stand the legal process and to protect them from other lawyers that are involved in the process that may try to discredit them unjustifiably. Many, like Sherron, worry that the company lawyers might not look out for their individual interests or might even turn against them.

2 Q: You've represented hundreds of witnesses in your career. Did you see anything new with the Enron clients?

A: It was heart-wrenching that so many people got wrapped up into something they never

imagined they would be involved in. A lot of these clients had a white-collar career they never dreamed would take them close to a federal courthouse and a criminal prosecution.

3 Q: When do employees need to think about hiring their own criminal lawyer?

A: At the first hint of trouble, like if someone is asked to do something that was improper, be it accounting, environmental irregularities, whatever. If they feel pressure from above and they don't know whether they should

report it to the authorities, whether they should resign, whether they should push back on their employer. A lawyer can help them understand the facts, tell them where they fit in the process. A lawyer can help them navigate potentially troubled waters. If they choose not to get their own counsel, they may start to feel compromised by the company's lawyers and seek help too late.

4 Q: Do these clients ever complain that they have to pay for you?

A: You hear it all the time. Clients that get wrapped up in big investigations that have to pay for their own lawyers do not like that financial obligation. But at the end of the day, after seeing the government process, I believe they feel it's well worth it.

5 Q: Don't you make more money if your clients get indicted, rather than just remain witnesses?

A: There's a financial disincentive here, but nonetheless what a lawyer does and should do is represent a client zealously.

The government sees these people in one of three categories. They can be witnesses, meaning they aren't being considered for prosecution; subjects, meaning the government doesn't know enough to be sure; or targets, people the government is looking at charging. These categories can be fluid as an investigation progresses. You try to navigate your client to the witness category and keep them there.

mary.flood@chron.com