

# MORRIS TYLER MOOT COURT OF APPEALS ATTYALELAW SCHOOL



## Harlan Fiske Stone Prize Finals

Monday, December 7, 2009 / 4:30 PM  
Levinson Auditorium

### Skilling v. United States (No. 08-1394)

#### QUESTIONS PRESENTED & DECISION BELOW

In late 2001, Enron Corporation crashed into sudden bankruptcy. Enron's failure dramatically affected the economy of the Houston area and produced a national media sensation. In May 2006, a Houston jury convicted former Enron CEO Jeffrey K. Skilling of conspiracy, securities fraud, making false representations to auditors, and insider trading. Prosecutors supported their conspiracy charge during trial by arguing that Skilling had conspired to commit a number of illegal acts, including wire fraud designed to deprive Enron and its shareholders of "honest services."

**1** Whether the federal "honest services" fraud statute, 18 U.S.C. § 1346, requires the government to prove that the defendant's conduct was intended to achieve "private gain" rather than to advance the employer's interests, and, if not, whether § 1346 is unconstitutionally vague.

**2** When a presumption of jury prejudice arises because of the widespread community impact of the defendant's alleged conduct and massive, inflammatory pretrial publicity, whether the government may rebut the presumption of prejudice, and, if so, whether the government must prove beyond a reasonable doubt that no juror was actually prejudiced.

The decision below is reported at 554 F.3d 529 (5th Cir. 2009).

#### FOR PETITIONER

BEN JOHNSON '10  
ALEXANDER SCHWAB '11

#### FOR RESPONDENT

JOSHUA BRAVER '11  
DAVID ZHOU '10

#### PANELISTS

HON. THOMAS L. AMBRO  
(U.S. Court of Appeals for  
the Third Circuit)

HON. BARRINGTON D. PARKER JR.  
(U.S. Court of Appeals for  
the Second Circuit)

HON. DIANE S. SYKES  
(U.S. Court of Appeals for  
the Seventh Circuit)

This event is open only to the Yale Law School community and invited guests