

Supreme Court's Jeffrey Skilling ruling helps former Alaska official, too

The Supreme Court on Thursday ruled in three cases involving fraud under the federal honest services law. Ex-Enron CEO Jeffrey Skilling, newspaper magnate Conrad Black, and former Alaska state Rep. Bruce Weyhrauch are all likely to benefit.

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posted June 24, 2010 at 6:49 pm EDT

Washington —

The US Supreme Court on Thursday ruled in favor of a former Alaska state representative who was accused of committing a federal fraud because he did not disclose that he was seeking employment from a company with an interest in a tax law bill pending before the state legislature.

US prosecutors charged that Rep. Bruce Weyhrauch violated the federal honest services fraud statute by voting on the tax law while concealing his ongoing efforts to receive a job at the company.

Weyhrauch's lawyers argued that there is no law in Alaska requiring job applicants to disclose prospective employment discussions. While he may not have been forthright and transparent about his attempt to get a job once his legislative term ended, they say, he had no duty to disclose what prosecutors called a conflict of interest.

Prosecutors said it didn't matter that no state law was violated. Public officials have an inherent fiduciary responsibility to act in the public interest and to disclose any conflict of interest, they said.

The decision stems from a corruption investigation into the activities of VECO, an oil field services company with links to several lawmakers. Serving in the state legislature is a part-time job in Alaska. Weyhrauch was also a lawyer.

In 2006, after deciding he would not seek reelection, Weyhrauch sent a letter and his résumé to VECO officials, inquiring about the possibility of doing legal work for the company after he left public office. The letter was sent five days before the end of the legislative session.

At the time Weyhrauch sent the letter, a proposal was pending to rewrite the Alaska oil production tax scheme. It appeared the proposal would die at the end of the session.

Instead, the governor twice called the legislature into special session to hammer out the new tax proposal.

VECO favored a proposal that set the tax at 20 percent.

Federal prosecutors charged that in exchange for a secret promise of future employment, Weyhrauch agreed to vote for the version of the bill favored by VECO and to lobby on behalf of the VECO-favored bill. They charged that he also agreed to monitor efforts to change the bill and to report back to VECO executives.

The prosecutors said that Weyhrauch, as a public official, violated the public's right to his honest services by favoring his own interest in future employment and VECO's interest in the new tax law over the public's interest in honest government.

Weyhrauch argued that no state law or regulation required him to disclose future employment discussions. In the end, Weyhrauch voted for a version of the bill that increased the oil tax to 22.5 percent.

A federal judge agreed with Weyhrauch. But the Ninth US Circuit Court of Appeals reversed, ruling that federal prosecutors had the authority under the honest services fraud statute to prosecute Weyhrauch for failing to disclose his alleged conflict of interest.

On Thursday, the US Supreme Court vacated the Ninth Circuit's ruling and remanded the case to apply the court's holding in *Skilling v. US*, which was also handed down on Thursday.

In the Skilling case, the high court overturned a portion of former Enron CEO Jeffrey Skilling's conviction for conspiring to violate the honest services fraud statute.

The high court substantially narrowed the scope of the statute by finding that violations must include some form of bribery or kickbacks. Mere deceptive conduct is no longer enough to sustain a prosecution for honest services fraud, under the court's holding.

The decision in the Skilling case, and its application in two other cases, drew swift reactions in Washington.

Melanie Sloan of the watchdog group Citizens for Responsibility and Ethics in Washington said the decision would deprive prosecutors of an important tool in the fight against corruption. "Previous convictions may be vacated and corrupt officials will have an easier time escaping accountability for their misdeeds," she said.

Cory Andrews of the **Washington Legal Foundation** praised the high court action on Thursday as a necessary reining in of a statute that prosecutors were using as a catch-all in hard-to-prove cases.

"Those who fear that today's decision will usher in a new era of lawlessness should rest easy," he said. "The honest services statute ... is only one of the 4,500 criminal statutes in the United States Code."