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Star witness in Enron trial could testify Tuesday

By MARY FLOOD Copyright 2004 Houston Chronicle
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The government's star incarcerated witness, ex-Enron treasurer Ben Glisan Jr. could take the stand as early as Tuesday in the first Enron criminal trial.

Glisan, who is serving a five-year prison term, has told prosecutors he will invoke his Fifth Amendment right against self incrimination unless he is granted immunity by U.S. District Judge Ewing Werlein.

Enron Task Force prosecutor Kathryn Ruemmler asked the judge this afternoon to grant Glisan the immunity and he is expected to do so today. When the Clear Lake native pleaded guilty to one count of conspiracy to commit wire and security fraud in September 2003 he but did not agree to cooperate with prosecutors so he has no immunity deal.

In this case against six former executives from Enron and Merrill Lynch, the government alleges the defendants conspired to commit fraud by arranging a sham sale of Nigerian barges to Merrill Lynch

to puff up Enron's earnings.

Prosecutors argue there was a secret oral side deal guaranteeing the bankers would be out of the deal in six months and with a 15 percent profit.

The defense attorneys argue the deal was real, Merrill Lynch risked its \$7 million investment and many of the government witnesses are just saying what prosecutors want to hear to avoid being charged themselves.

Glisan is likely to testify that he tried to get Merrill Lynch to give Enron more than six months to find a buyer for their interest in the barges, but the bankers refused.

An email from Glisan, already in evidence, states "To be clear, (Enron) is obligated to get Merrill out of the deal on or before June 30."

Most of today the jury heard cross examination of former Enron accountant Eric Boyt. Defense attorneys hammered Boyt on his admission that he planned to lie about the oral side deal and did so initially when confronted by the FBI and prosecutors.

Timothy Henseler, a former U.S. Senate committee staffer who investigated the barge deal in 2002, testified that in a phone conversation with defendant Dan Boyle in July 2002 Boyle said he was not aware of an oral side deal for Enron to get Merrill Lynch out of the barge deal or to guarantee a profit.

The government has charged Boyle with lying to Congress in that phone conversation with Henseler.

The case had both the usual finance theme and an unusual sports theme Monday.

Judge Werlein told Henseler to speak up "like you're really shouting for the Astros or something."

The judge also granted an early midday break so Astros fans among the 16 Houston-area jurors could root for their team just blocks away from the federal courthouse at Minute Maid Park.

Charged with conspiracy to commit wire fraud and falsify books and records are Boyle and Sheila Kahanek from Enron, and Daniel Bayly, James A. Brown, Robert Furst and William Fuhs from Merrill Lynch.

Before Glisan will testify, the jury will hear more cross examination of Henseler and from FBI agent Raju Bhatia.

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Prosecutors hope to use Bhatia to show the jury several emails, including one written by Brown in which he boasted about how in the Nigerian barge deal they got ex-Enron Chief Financial Officer Andrew Fastow "on the phone" with Merrill Lynch executives to "promise to pay us back no matter what."

Defense lawyers for the Merrill Lynch defendants asked the judge to keep the email from the jurors' eyes, arguing it is too prejudicial, can be taken out of context and should not be used against Brown's codefendants when they may not be able to question Brown about it.

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