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## EXECUTIVES ON TRIAL

# Merrill Manager Offers Testimony About Tyco Deal

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DOW JONES NEWSWIRES

NEW YORK -- A senior vice president at **Merrill Lynch & Co.** testified that the firm received a lead role in a \$2.1 billion bond offering for **Tyco International Ltd.** shortly after hiring Phua Young, a stock analyst favored by Tyco executives for his bullish coverage.

The suggestion of a "quid pro quo" was raised as jurors in the trial of Tyco's former top executives were shown an August 1999 e-mail message from Sam Chapin, the senior vice president, to Merrill's then-chairman David Komansky.

In the e-mail, Mr. Chapin wrote that then-Tyco Chief Executive L. Dennis Kozlowski "wanted to recognize the commitment that you and I had made to him to address our equity-research coverage of Tyco."

Mr. Chapin also said in the e-mail, "To demonstrate the impact this hire has on our relationship, Dennis Kozlowski called me on Phua's first day of work to award us the lead management of a \$2.1 billion bond offering."

Mr. Kozlowski and Mark H. Swartz, Tyco's former chief financial officer, are on trial in New York State Supreme Court on charges they improperly used Tyco funds to enrich themselves and others.

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See the [indictment](#)<sup>2</sup> of Dennis Kozlowski and Mark Swartz, plus Mr. Kozlowski's [retention agreement](#)<sup>3</sup> with Tyco, by arrangement with FindLaw ([www.findlaw.com](http://www.findlaw.com)<sup>4</sup>).

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Prosecutors seemed to use Mr. Chapin's testimony to bolster charges that the former executives committed securities fraud by misleading investors, in part by getting Merrill to hire Tyco's favored analyst. Testimony last month showed that Mr. Kozlowski curried favor with the analyst by hiring a private detective agency to perform a background check on Mr. Young's fiancée, at the cost of \$20,000 in Tyco funds.

The behind-the-scenes story of Mr. Young's hiring also appears to be another example of the cozy relationship during the Bubble Era between corporate executives and the supposedly-independent analysts at investment banks.

Mr. Chapin, a 20-year Merrill investment banker, testified that he spoke to Messrs. Kozlowski and Swartz about stock research when he became Merrill's "relationship manager" for Tyco in 1999.

The executives complained about coverage from Jeanne Terrile, the Merrill analyst then covering Tyco. "They did not believe that she fully understood their strategy for growth and development," he said.

In contrast, Mr. Young, then at Lehman Brothers, had a high stock rating on Tyco. When Mr. Chapin spoke to Mr. Kozlowski about hiring Mr. Young for Merrill, the Tyco chief described Mr. Young as a "hard-working analyst [who] did a very good job of covering Tyco," Mr. Chapin testified.

After that conversation, Mr. Chapin said he interviewed Mr. Young even though Merrill's equity-research group was leading the effort to recruit stock analysts. Mr. Chapin said it wasn't unusual for the research group to ask investment bankers to provide feedback on prospective hires.

Shortly afterward, Merrill hired Mr. Young to cover Tyco, and moved Ms. Terrile into a different job. Mr. Chapin testified that he then received a phone call from Mr. Kozlowski with the news about the \$2.1 billion bond offering.

At Merrill, Mr. Young continued to be a Tyco cheerleader even as the conglomerate's stock came under siege. The analyst, who once referred to himself in an e-mail as a "loyal Tyco employee," was eventually fined by regulators for issuing exaggerated claims and dismissed by Merrill in 2002. He has denied the accusations and has filed an arbitration claim against Merrill.

Kozlowski attorney Stephen Kaufman sought to play down any improprieties, pointing out that Mr. Young had won a top rating from Institutional Investor at the time Merrill hired him. He asked Mr. Chapin if that designation was the equivalent of winning an Oscar, but Judge Michael Obus wouldn't allow the question.

The prosecution is expected to rest this week after nearly four months of testimony.

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