

A law unto themselves

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On August 9, the US Justice Department announced it was ending a criminal investigation into allegations that Goldman Sachs committed securities fraud in its underwriting and marketing of mortgage-backed securities in the months leading up to the Wall Street crash of September 2008. The department said it would not file charges against the bank or any of its employees.

As a special favor to Goldman, the Obama administration's Justice Department took the unusual step of making a public announcement that it had cleared the bank of wrongdoing.

The allegations stemmed from a detailed, 640-page report on the financial crisis issued in April of 2011 by the Senate Permanent Subcommittee on Investigations. The report, based on a two-year investigation and 56 million pages of evidence, documented rampant fraud and criminality by major banks and the complicity of credit rating firms and federal bank regulators. In releasing the report, the chairman of the committee, Senator Carl Levin, said the panel's two-year probe had uncovered "a snake pit rife with greed, conflicts of interest and wrongdoing."

The largest section of the report by far, comprising 240 pages, was devoted to a scrupulously documented account—citing internal emails, memoranda, prospectuses and interviews—of how Goldman Sachs, beginning in December 2006, offloaded billions in toxic sub-prime mortgage holdings to investors by packaging them into complex mortgage-backed securities and collateralized debt obligations (CDOs). Goldman sold the investments while concealing the source of the mortgages, the fact that they were losing value, and Goldman's belief that they would decline further.

As the report substantiated, Goldman further defrauded its clients by betting for its own profit that the securities it was recommending would collapse,

without telling its customers that it was doing so.

The committee referred its findings to the Justice Department, making clear it believed criminal prosecutions were warranted. It also suggested that Goldman CEO Lloyd Blankfein, who testified before the panel in April 2010 and flatly denied taking a net "short" position on mortgage-backed securities or amassing profits by defrauding clients, be prosecuted for perjury.

Last Thursday, the same day that the Justice Department gave Goldman a free pass, the bank reported that the Securities and Exchange Commission (SEC) had concluded its own civil investigation into a \$1.3 billion sub-prime mortgage deal dating from 2006 and decided to take no action.

These actions exemplify the operation of the aristocratic principle in what passes for American "justice". Bankers can lie, steal, cheat and defraud the public without limit, causing human suffering and social ruin on a global scale, with no fear of being held accountable. They are not subject to the laws that apply to mere mortals. They operate with impunity, a law unto themselves.

Of course, to secure this status, the financial lords must devote a portion of their fortunes to bribing politicians, parties, regulators and courts, from the president on down. But this hardly has to be concealed any longer since it has been essentially sanctioned by the Supreme Court's ruling on corporate campaign donations.

The current crisis has revealed how completely the bankers rule behind the trappings of democracy. Instead of being led away in chains and having their ill-gotten wealth seized for treating the world economy as their personal gambling casino—a crooked one at that—the financial oligarchs were rewarded with trillions stolen from the public purse. Now the state, bankrupted by the bailout of Wall Street, is clawing back a portion of the

cost by destroying social programs and public services and impoverishing the working class.

In its August 9 statement on Goldman Sachs, the Justice Department said it had conducted “an exhaustive review of the [Senate] report,” but concluded that “based on the law and evidence as they exist at this time, there is not a viable basis to bring criminal prosecution...”

This is a contemptible lie, as a reading of the Senate Permanent Subcommittee on Investigations report makes clear.

On page 329, for example, the report states: “The Goldman Sachs case history shows how one investment bank was able to profit from the collapse of the mortgage market, and ignored substantial conflicts of interest to profit at the expense of its clients in the sale of RMBS [residential mortgage-backed securities] and CDO securities.”

On page 376, we find: “... Goldman engaged in securitization practices that magnified risk in the market by selling high-risk, poor quality mortgage products to investors around the world.”

On page 602, under the heading “Analysis of Goldman’s Conflicts of Interest” the following subheadings are listed:

- Shorting Its Own Securities.
- Failing to Disclose Key Information to Investors.
- Misrepresenting Source of Assets.
- Failing to Disclose Client Involvement.
- Minimizing Premiums.
- Selling Securities Designed to Fail.
- Delaying Liquidation.
- Misrepresenting Assets.
- Taking Immediate Post-Sale Markdowns.
- Evading Put Obligation.
- Using Poor Quality Loans in Securitizations.
- Concealing Its Net Short Position.

The report concludes with a survey of federal securities laws that apply to Goldman’s activities. On page 606, for example, the following appears: “With respect to a broker-dealer, the SEC has held: ‘When a securities dealer recommends a stock to a customer, it is not only obligated to avoid affirmative misstatements, but also must disclose material adverse facts to which it is aware. That includes disclosure of “adverse interests” such as “economic self interest” that could have influenced its recommendation.’”

No one with a straight face can claim that Goldman did not violate federal laws in its money-mad drive to profit from the collapse of the housing market. The Senate report is a devastating indictment of criminal practices that pervade not only the actions of Goldman Sachs, but all of the major banks, hedge funds and financial institutions.

The role of the government in shielding the financial mafia—not a single leading US banker has been prosecuted since the crash of 2008—shatters all claims that the financial system can be reformed. The grip of the financial aristocracy over society can be broken only through the independent, revolutionary mobilization of the working class on the basis of a socialist program. At the center of that program is the expropriation of the major banks and their transformation into public utilities under the democratic control of the working people.

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