

US suit vs. Bank of America: No criminal charges despite “spectacularly brazen” fraud

Barry Grey
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In the latest token civil suit by the Obama administration against a major Wall Street bank, the Department of Justice on Wednesday charged Bank of America with wholesale mortgage fraud.

The complaint filed by the US attorney for Manhattan, Preet Bharara, alleges that from 2007 through 2009, Bank of America, the second biggest US bank by assets, or its Countrywide Financial subsidiary knowingly and systematically sold toxic home loans to the government-sponsored mortgage finance giants Fannie Mae and Freddie Mac.

The mortgage finance firms package home loans into securities and sell the securities to global investors, guaranteeing the loans they purchase. As a result of Bank of America's fraud, the Justice Department claims, Fannie Mae and Freddie Mac lost over \$1 billion, contributing to their near-collapse and government bailout in September 2008, which has thus far cost US taxpayers \$183 billion.

The suit alleges that after the subprime mortgage market began to implode in 2007, Countrywide, then an independent company and the biggest US mortgage originator, launched a new program to generate the greatest possible volume of new mortgages by scrapping quality controls. It then sold defective loans to Fannie Mae and Freddie Mac, passing them off as good investments.

Bank of America bought Countrywide in July of 2008 and, according to the federal complaint, continued the fraudulent loan program through 2009, i.e., after Bank of America had been bailed out with \$45 billion in taxpayer funds under the Troubled Asset Relief Program (TARP).

In a statement released Wednesday, US Attorney Bharara summed up in fairly scathing language the criminal activity alleged in his suit:

“The fraudulent conduct alleged in today’s complaint was spectacularly brazen in scope. As alleged, through a program aptly named ‘the Hustle,’ Countrywide and Bank of America made disastrously bad loans and stuck taxpayers with the bill. As described, Countrywide and Bank of America systematically removed every check in favor of its own balance—they cast aside underwriters, eliminated quality controls, incentivized unqualified personnel to cut corners, and concealed the resulting defects. These toxic products were then sold to the government sponsored enterprises as good loans.”

The statement went on to say that Countrywide’s so-called “Hustle” process (shorthand for High-Speed Swim Lane) “generated thousands of fraudulent or otherwise defective residential mortgage loans sold to Fannie Mae and Freddie Mac that later defaulted, causing ... countless foreclosures.” The program also involved “widespread falsification” of mortgage data.

According to the federal complaint, Countrywide executives were aware of the fraud. A quality review in January 2008 showed that 57 percent of Hustle loans went into default, but top management buried the review.

The federal complaint also charged that Bank of America is refusing to buy back mortgages “even where the loans admittedly contained material defects or even fraudulent misrepresentations.”

Bank of America denied all charges. It struck a defiant tone, declaring, “At some point Bank of America can’t be expected to compensate every entity that claims losses that actually were caused by the economic downturn.”

The bank has good reason to be confident it will suffer no major consequences as a result of the Justice Department suit. Bharara said he would seek restitution

and damages of “over \$1 billion,” an amount that can be handled with relative ease by an institution with more than \$2 trillion in assets and over \$115 billion in revenues.

More importantly, the Obama administration in this latest suit has continued its practice of refusing to lodge criminal charges against those whose illegal actions helped trigger the 2008 financial meltdown and global economic crisis. As with previous suits filed against Wall Street banks by various government agencies, the Justice Department complaint against Bank of America does not name a single official of either Countrywide or the bank itself.

The White House may very well have pushed for this suit to be filed two weeks before the November 6 election to boost its absurd pretensions to be taking Wall Street to task. It is the third federal action against a major bank announced this month, following civil suits against JPMorgan Chase and Wells Fargo.

But the record speaks for itself. Not a single high-level banker has been prosecuted, let alone jailed, since the Wall Street crash of September 2008. Not one major civil case has actually been brought to trial. Instead, the government has allowed the culprit banks to work out settlements in which they paid token fines and admitted no wrongdoing.

The former head of Countrywide, Anthony Mozilo, was let off by the Securities and Exchange Commission with a fine of \$67.5 million and no admission of guilt in October of 2010. The following year, the Justice Department quietly dropped its criminal probe of Mozilo.

Last month, Bank of America agreed to pay \$2.48 billion to settle claims it misled investors about its acquisition of Merrill Lynch at the height of the financial crisis in late 2008. In February of this year, the government allowed the bank to settle fraud allegations involving Federal Housing Administration loans for \$1 billion, also without admitting wrongdoing.

In the statement he issued Wednesday, Bharara boasted that over the past 18 months his office has settled lawsuits concerning mortgage fraud on a similar basis with CitiMortgage, Flagstar Bank and Deutsche Bank. Noting that he has pending lawsuits against Wells Fargo and Allied Home Mortgage, Bharara made a point of associating his actions with the Financial

Fraud Enforcement Task Force announced by Obama last January.

Obama’s task force is a fraud, intended to obscure his administration’s systematic shielding of financial criminals whose avarice and criminality have produced incalculable levels of suffering and social distress not only in the US, but around the world. Meanwhile, as is well known on Wall Street and in Washington, the same types of fraud and swindling that triggered the crisis more than four years ago continue unabated today.



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