

Obama names ex-federal prosecutor with Wall Street ties to head SEC

Barry Grey
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President Barack Obama on Thursday named former US Attorney Mary Jo White to head the Securities and Exchange Commission (SEC), one of the main federal bank regulatory agencies. Obama also nominated Richard Cordray, the interim director of the Consumer Financial Protection Bureau (CFPB), to become permanent director of that agency, an arm of the Federal Reserve Board established under the 2010 Dodd-Frank financial regulation act.

Earlier this month, Cordray announced new rules for mortgage lenders and bankers that, in the guise of protecting consumers, will deprive most borrowers of the ability to sue in court against predatory lenders. (See: “US consumer financial board issues pro-bank mortgage rules”)

The appointments of White and Cordray are subject to Senate confirmation. The naming of White, in particular, was generally presented in the media as a signal to Wall Street that the administration will take a tougher stand on financial fraud and hold top bank executives accountable for their actions. The *New York Times* reported Friday: “The White House delivered a strong message to Wall Street on Thursday, taking the unusual step of choosing two former prosecutors as top financial regulators.”

In Obama’s first term, not a single bank or high-ranking bank official was criminally prosecuted for wholesale violations of federal security laws and anti-fraud statutes carried out both before and after the collapse of the speculative housing and credit bubble in September 2008. The SEC, under Obama appointee Mary Schapiro, allowed Wall Street giants such as Goldman Sachs, JPMorgan Chase and Bank of America to settle civil investigations with cash payments, while avoiding any admission of guilt.

Anthony Mozilo, the former CEO of the sub-prime

mortgage mill Countrywide Financial, escaped with a fine far less than the tens of millions of dollars he made selling predatory loans.

The SEC refused to bring a single bank probe to trial, for fear of exposing details to the public of both bankers’ crimes and the collusion of government regulators and credit rating firms. Meanwhile, the Obama Justice Department refused to lay criminal charges against Wall Street CEOs or other high officials.

The appointment of White to replace Schapiro, who stepped down in December, far from signaling a crackdown on the banks, points to a continuation of the de facto amnesty for the financial elite. Kenneth E. Bentsen Jr., a leading official with the Securities Industry and Financial Markets Association, Wall Street’s main trade group, praised the appointment, calling White a “solid choice” to lead the agency.

White made a name for herself as US attorney for the southern district of New York between 1993 and 2002. She successfully prosecuted the mobster John Gotti and obtained convictions in major terrorism cases. These include the case of four people charged with being followers of Osama bin Laden and playing a role in the 1998 bombing of two US embassies in Africa. She was also involved in the conviction and jailing of Ramzi Ahmed Yousef for the 1993 World Trade Center bombing and the conviction of Omar Abdel-Rahman, the “blind sheik,” for scheming to blow up US landmarks.

In 1997, aides to Manhattan District Attorney Robert M. Morgenthau accused White of acting to thwart a state insider trading investigation by allowing a defendant charged by Morgenthau’s office to plead guilty to federal charges, effectively ending the DA’s case.

As chief federal prosecutor in New York City, White established close ties with Wall Street as well as the bank regulatory bodies. She exemplifies the politically incestuous relations that prevail between the banks and the agencies that are supposed to police them. Even the *New York Times*, in the same article that suggested she would be a tough overseer of the banks, acknowledged, “Mrs. White could face additional questions about her career, a revolving door in and out of government.” She served for a time on the board of directors of the Nasdaq Stock Market. Her husband, John W. White, is co-head of Cravath Swaine & Moore LLP, a law firm that advises corporations and banks on their public reporting obligations to the SEC and other regulators. He is also an example of the revolving door between Wall Street and the SEC, having served as head of the SEC’s division of corporation finance from 2006 through 2008.

After leaving her post as US attorney, White became a partner and head of litigation at the prestigious Manhattan law firm Debevoise & Plimpton, where she quickly developed a lucrative practice defending Wall Street banks and executives, often against SEC investigations. Her clients have included former Bank of America CEO Kenneth Lewis, JPMorgan Chase and Morgan Stanley. She was also hired by Rupert Murdoch’s News Corp. in connection with the 2011 British phone-hacking scandal that enveloped the media giant.

In 2005, White, acting as the attorney for the Morgan Stanley board of directors, called the head of enforcement for the SEC to find out if insider-trading charges were likely to be laid against John Mack, whom Morgan Stanley wanted to hire as its new CEO. Four days after the phone call, Morgan Stanley hired Mack and soon after the SEC dropped its probe.

An SEC attorney, Gary Aguirre, charged that the investigation had been killed for political reasons, and a Senate Finance Committee report in 2007 criticized the SEC for its handling of the case, without accusing either White or the SEC enforcement head of wrongdoing. The *Huffington Post* said it interviewed Aguirre on Wednesday, who told the publication: “There’s no question in my mind that that phone call from Mary Jo White stopped the whole investigation. The case was like a railroad heading for a criminal investigation. And it got zapped with a call.”

In a February 2012 speech at the New York University School of Law, White had reassuring words for the Wall Street elite. She told the audience it was important to “distinguish between what is actually criminal and what is just mistaken behavior, what is even reckless risk-taking.” We should “not bow to the frenzy” demanding the jailing of Wall Street executives.

Two of White’s assistants at the US attorney’s office in New York, Robert Khuzami and George Canellos, became high-level SEC officials. Khuzami, who is about to resign as head of enforcement at the SEC, was obliged to recuse himself last year from an SEC investigation into an alleged multi-billion-dollar accounting fraud at Deutsche Bank.

The reason is that Khuzami, before being appointed by Mary Schapiro as chief Wall Street cop at the SEC, had held high positions at Deutsche Bank, including serving as counsel for the Americas from 2005 to 2009. This was the very period when the bank allegedly concealed some \$12 billion in losses.

The man who first hired Khuzami at Deutsche Bank and recommended his appointment as SEC director of enforcement in 2009, Richard H. Walker, is currently general counsel of corporate and investment banking at Deutsche Bank. Walker himself was head of enforcement at the SEC from 1998 to 2001.



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