

Firms make billions as middlemen in government cover-up of Wall Street crimes

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7 February 2013

In the network of corrupt and incestuous relations between government financial regulatory agencies and the banks they nominally police, a growing role is played by private, for-profit “consulting” firms that serve as middlemen in the government cover-up of corporate crime.

The *New York Times* in a front-page article last week called attention to this lesser-known mechanism used by the government to protect Wall Street from being held to account for the fraudulent and illegal practices in which it engages on a daily basis.

The *Times* wrote: “Federal authorities are scrutinizing private consultants hired to clean up financial misdeeds like money laundering and foreclosure abuses, taking aim at an industry that is paid billions of dollars by the same banks it is expected to police.”

The firms in question operate in essentially the same way as the credit rating agencies that facilitated the subprime meltdown. Just as Standard & Poor’s Rating Services and Moody’s Investors Service are paid by the banks whose securities they rate, the consulting firms tasked with investigating banks are chosen and paid by the very institutions they are investigating. This arrangement is based on a howling conflict of interest. Consulting firms that want to keep old clients and add new ones, and increase their profits, are obviously under pressure to cover up the misdeeds of their banking paymasters.

Moreover, the same revolving door by which individuals move seamlessly between Wall Street and the regulatory agencies exists between the consulting firms and the banks and regulatory bodies.

Last month’s \$8.5 billion foreclosure fraud settlement with major US lenders lifted the lid on bank regulators’ increasing use of these “independent investigators.” Tasked with finding the extent of fraud and illegality in the processing of home foreclosures, these companies

helped the banks cover up their fraudulent activities and ensure that the extent of their wrongdoing was not brought to light.

The settlement between ten major mortgage lenders and the Office of the Comptroller of the Currency (OCC), a branch of the Treasury Department, related to widespread fraud committed by the banks in their rush to foreclose on as many homes as possible in 2009 and 2010. To expedite the foreclosure process, the banks had employees or contractors sign off on thousands of mortgage documents every month, swearing that they had intimate knowledge of their contents when, in reality, they had not even read them.

This resulted in the improper expulsion of an unknown number of families—probably in the hundreds of thousands—from their homes.

In April of 2011, the OCC, the Office of Thrift Supervision (OTS), and the Board of Governors of the Federal Reserve System ordered individual reviews of foreclosures carried out between 2009 and 2010 by fourteen mortgage lenders, including Bank of America, Citibank, JPMorgan Chase and Wells Fargo.

The investigation was intended to individually review all cases in which homeowners claimed that they were improperly foreclosed on, so that each victimized household could receive a cash payout. The findings of such an investigation would have undoubtedly shown that foreclosure fraud was far more prevalent than had been previously known, and laid the basis for further lawsuits against the lenders.

Instead of reviewing the foreclosures themselves, regulators had the banks hire so-called independent investigators, who, while receiving \$2 billion in fees from the lenders, dragged their feet in reviewing the foreclosure cases.

Last month, government regulators closed down the review on the grounds that it was too time-consuming and

too expensive for the banks and came up with a sweetheart settlement that cost the banks a relative pittance.

Instead of payouts to individuals who were harmed by the banks' wrongdoing, the lenders agreed to split a \$3.3 billion cash payout among 4.2 million foreclosed homeowners, without "determination of harm." As a result, homeowners will receive a check of under \$1,000 even if they were illegally thrown out of their homes.

The government, like the banks, had a vested interest in shutting down the investigation, as the results of any genuine inquiry would have exposed negligence and collusion on the part of the regulators as well as gross violations of law by the banks that would have made it more difficult for the Obama administration to avoid criminal prosecutions.

When setting up the "Independent Foreclosure Review" in April 2011, regulators claimed that they had to rely on independent contractors such as Promontory Financial and PricewaterhouseCoopers because regulators themselves had neither the money nor the manpower to review the claims.

"The Office of the Comptroller of the Currency employs just 3,800 people, only about 2,000 of whom are bank examiners," said Bryan Hubbard, director for public affairs operations at the OCC in a telephone interview Monday. "It would simply not have been practical to hire the staff necessary for the review."

He added that "independent consultants are used often by many regulators, not just the OCC, in support of enforcement actions. It was not unusual." He added that the decision to end the review "will provide more money to more borrowers than maintaining the original course."

The argument that closing down the investigation resulted in greater compensation for victimized borrowers is absurd.

The growing scandal over the role of "independent consultants" in the foreclosure abuse settlement prompted Senator Elizabeth Warren and Representative Elijah Cummings to send a letter to the US Federal Reserve and office of the Comptroller of the Currency last week, asking them to publish documents related to the role of the consultants hired by the banks to review foreclosures.

The role of such "independent investigators" in covering up the banks' crimes goes beyond the foreclosure settlement. Since the 2008 financial meltdown, it has become increasingly common for financial regulators to rely on such companies in regulatory actions. The *New York Times* reported that the OCC required the hiring of

such consultants in more than 130 regulatory actions since 2008.

The *Times* also reported that such "independent investigators" played a key role in the HSBC money laundering scandal, helping cover up the extent of the British-based bank's money laundering operation for Mexican drug cartels. The newspaper reported that HSBC was cited for its loose money laundering protections in 2003 and turned to the consulting firm Deloitte & Touche to review its compliance with regulations.

In 2010, the bank was again investigated in connection to its money laundering activities, ultimately leading to a \$1.9 billion settlement with regulators late last year. To help determine the fine to be levied, HSBC was ordered to hire an independent consultant to assess the extent of its legal transgressions.

The bank hired its reliable ally of previous years, Deloitte & Touche, which, according to the *Times*, "generously bundled hundreds of missed transfers into a single report," which "may have helped save the bank from some government fines."

"Independent investigators" like Deloitte and Promontory are staffed largely by former regulators, who, having gained experience in government, have turned to using their knowledge to help banks skirt regulations, for sizable fees. Promontory Financial, which examined loans for Bank of America and Wells Fargo, is a case in point. The company was founded in 2000 by Eugene Ludwig two years after he left his position as Comptroller of the Currency.

Last month, Promontory announced that Julie Williams, the former chief council at the OCC, would join the group to become the firm's director of advisory practice. "I thought I could do more good helping firms understand and comply with government expectations—which are not always just what's in rules and regulations—at Promontory," she said upon taking the job.

PricewaterhouseCoopers, which carried out the foreclosure fraud investigation for Citigroup, brags to potential clients that its "teams consist of experienced regulatory risk specialists, including ex-regulators, who not only know the rules, but have also implemented and assessed compliance against them."



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