The SAC insider trading case and the US financial aristocracy

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SAC Capital Advisors, one of the most profitable hedge funds in history, pleaded guilty to security and wire fraud charges Friday as part of a $1.2 billion settlement with US prosecutors. No criminal charges have been filed against Steven A. Cohen, who wholly owns and manages the hedge fund group.

Prosecutors said SAC carried out insider trading “on a scale without known precedent.” The firm built its entire business model on carrying out massive bets on corporate securities, many of which were based on illegally obtained secrets.

This system made SAC massively profitable, generating returns that averaged thirty percent per year over the past two decades. To put this figure in perspective, the average hedge fund had returns of eight percent last year, while the Ponzi scheme operated by Bernard L. Madoff had returns of around ten percent—one third of those regularly obtained by SAC.

Just one of SAC’s transactions, conducted by a single portfolio manager on the basis of insider knowledge of clinical pharmaceutical trials, netted SAC $276 million, in what prosecutors called “the most lucrative insider trading scheme ever charged.”

The firm used illegally obtained information to place bets on Research in Motion, Dell, NVIDIA, Marvell, Avnet, Fairchild, Atheros, Broadcom, Elan and Wyeth, and other companies according to prosecutors. Company policies were designed around the cover-up of illegal activities, with instant message records wiped every 36 hours and emails deleted after one month.

This vast empire of fraud made Steven A. Cohen rich almost beyond description. With a 2012 net worth of $9.4 billion, Cohen’s hobbies include collecting palatial estates and mansions and hoarding over $700 million worth of art.

One of Cohen’s properties, in Greenwich, Connecticut, according to Forbes, occupies over 18 acres and “includes Cohen’s 35,000-square-foot main home plus a neighboring home purchased for $5 million in 2006, a full-size indoor basketball court, a glass-enclosed pool, a 6,700-square-foot ice skating rink, [and] a two-hole golf course.”

Cohen also occupies the only duplex in New York City’s Bloomberg Tower, a property worth $115 million, and two beach houses in the Hamptons, one of which is worth $62.5 million. Last year Cohen paid over $155 million for Picasso’s “La Rêve,” in one of the most expensive art purchases in history.

The $1.2 billion settlement is less than the $1.3 billion SAC earned last year, and the company is likely to turn a profit this year even after paying the settlement.

Since Cohen is the sole owner of the company, the settlement will diminish his personal fortune to just over $7 billion, which will remain under management by SAC. The *Wall Street Journal* reported that, “according to people familiar with the probe... Prosecutors, despite having long had Mr. Cohen in their sights, won’t charge him personally with any crime unless new evidence surfaces.”

The net result is that, after obtaining billions of dollars through fraudulent means, Cohen remains not only free from criminal charges, but also retains four-fifths of his fortune intact.

This is in a country where, according to one survey by the American Bar Association, there were 360 people serving life sentences for shoplifting small amounts of merchandise in California alone, as a result of the state’s draconian three strikes law.

The only reason that SAC was investigated and charged in the first place was that its flagrant, daily insider trading activities became too egregious to simply sweep under the rug. The very size of the settlement—the largest insider trading penalty in history—is a testament to the extent of the crimes.

However, the reality is that the types of crimes carried out by SAC, while perhaps more extensive and aggressive, are not fundamentally different than the day-to-day activities of the major Wall Street banks and hedge funds, whose vast profits are based on the types of fraudulent and speculative activity that led to the 2008 crash.

This is why, despite the enormous evidence of illegal activity by SAC, Cohen has remained, at least for now, immune from prosecution. The US ruling class and its political representatives recognize in him one of their own, perhaps requiring a dressing down of sorts, but nothing more.

This social layer has vastly expanded its wealth, power and influence since the financial crash precipitated by their activities. Even as incomes have fallen for the bottom 95 percent of American society, the collective wealth of the world's billionaires has doubled since 2009, according to a new report by Wealth-X. The combined fortunes of these 2,170 individuals now stand at $6.5 trillion, which is nearly equivalent to the gross domestic product of China.

The vast enrichment of this social layer has been facilitated by state policy, including that of the Obama administration and the Federal Reserve, which continues to pump $85 billion into the financial system every month. At the same time, both parties of big business are waging an unrelenting attack on the social programs that benefit the working class.

Five years into the worst financial crisis since the Great Depression, not a single major financial executive has been criminally prosecuted, despite overwhelming evidence of their complicity in fraud. To the extent that the government takes any action against the criminality that pervades Wall Street, it is to charge a few low-level traders and agree to settlements amounting to a fraction of companies' yearly profits, while shielding executives from criminal prosecution.

The *de facto* legal immunity granted to Wall Street kingpins like Cohen and JPMorgan's Jamie Dimon is an expression of the dominance of a financial aristocracy over society. In the end, the actions of SAC simply express the basic functioning of American capitalism.