

Financial crisis panel urged Obama administration to prosecute top bankers

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Newly released documents show that the Financial Crisis Inquiry Commission (FCIC), a government panel set up in 2009 to investigate the 2008 Wall Street meltdown, referred top bankers, CEOs and ex-government officials to the Department of Justice for possible criminal prosecution. Not a single one of those named by the panel, however, has been criminally prosecuted by the Obama administration.

These referrals were not included in the report released to the public by the commission.

The FCIC was formed as part of the 2009 Fraud Enforcement and Recovery Act to investigate the causes of the 2008 financial crash. The act tasked a bi-partisan group of senators and congressmen with creating a 10-member commission composed of members outside of Congress. The FCIC reported its findings to the Senate Banking Committee and House Financial Services Committee.

In the course of its investigation, the commission interviewed hundreds of key players in the financial and regulatory system, held public hearings, and investigated reams of documents from major banks and regulatory institutions. In January 2011, the FCIC issued its final 633-page report.

The *World Socialist Web Site* wrote at the time that the report “implicates corporate executives, regulators, and politicians in the conversion of the US economy into a Wall Street casino. It ties the unethical, irresponsible, and often blatantly illegal practices of the financiers to the impoverishment and suffering of millions.”

The National Archives of the United States released the internal FCIC documents last month. The archive contains roughly 500,000 pages of interviews, emails, correspondence and internal FCIC minutes, only a portion of which is screened and digitally accessible. These documents underscore the role of the Obama administration in shielding the banks and their leading

officials from any accountability for reckless forms of speculation, fraud and lawlessness that led to the deepest economic crisis since the Great Depression of the 1930s.

Despite voluminous evidence assembled by the panel implicating in criminal behavior leading figures, including the then-CEO of Citigroup Charles Prince and former top Citigroup executive and US treasury secretary Robert Rubin, the Department of Justice refused to prosecute.

In its report, the FCIC blamed not only bankers but also regulators who “abysmally failed.” It highlighted the political dimensions of the crisis, noting, “From 1999 to 2008, the financial sector expended \$2.7 billion in reported federal lobbying expenses; individuals and political action committees in the sector made more than \$1 billion in campaign contributions.” This inflow of bank cash to campaign coffers deprived regulators of “the necessary strength and independence of oversight necessary to safeguard financial stability.”

The FCIC proceedings paralleled an investigation by the Senate Permanent Subcommittee on Investigations into the financial crisis. The Senate committee’s chairman, Senator Carl Levin, declared after releasing the committee’s 650-page report in April of 2011 that its investigation had found “a financial snake pit rife with greed, conflicts of interests and wrongdoing.” He told the *New York Times*: “The overwhelming evidence is that those institutions deceived their clients and deceived the public, and they were aided and abetted by deferential regulators and credit ratings agencies who had conflicts of interest.”

One significant part of the FCIC archive released last month that has come to light is minutes from a commission telephone conference on October 12, 2010, in which the commission voted to send 8 different referrals to the Department of Justice for criminal investigation. In the minutes, details are provided for each referral, showing that the FCIC singled out top-level executives

from American International Group (AIG), Goldman Sachs, Citigroup and UBS.

In one referral, entitled “Potential Fraud and False Certifications: Citigroup,” former Citigroup chairman and treasury secretary in the Clinton administration, Robert Rubin, is cited for potential criminal prosecution. The FCIC urges that Rubin and then-Citigroup CEO Prince be investigated for knowingly defrauding the bank’s investors by lying to them about the extent of Citigroup’s exposure to the subprime mortgage crisis in 2007. The minutes also implicate other members of the board of directors, all of whom allegedly knew that the bank understated its exposure by \$42 billion.

This case had been taken up by the Security and Exchange Commission in July 2010, which let the bank and its top officials off the hook, imposing only a minimal civil penalty of \$75 million. The FCIC takes issue with the SEC settlement in its October 2010 referral to the Justice Department, noting, “The SEC’s civil settlement ignores the executives running the company and Board members responsible for overseeing it... By naming only the CFO and the head of investor relations, the SEC appears to pin blame on those who speak a company’s line, rather than those responsible for writing it.”

In another matter, entitled “Potential Fraud by Goldman Sachs in Connection with Collateral Calls on AIG,” several Goldman Sachs employees are referred to the Justice Department for criminal prosecution for selling securities to investors while simultaneously betting that these same securities would fail. The FCIC’s minutes document the fact that the company’s top executives were deliberately and knowingly shorting Collateralized Debt Obligations (CDOs) exposed to the subprime mortgage bust while selling them to investors. This is a criminal offense.

Specifically, it names Goldman Sachs Vice-Chairman Michael Sherwood, Chief Risk Officer Craig Broderick, and Daniel Sparks, who was head of Goldman Sachs’ mortgage department.

In another item involving Goldman Sachs, “Potential Fraud by Goldman Sachs in Connection with Abacus 2007-18 CDO,” the panel names David Lehman, a managing director at Goldman, and Jonathan Egol, the then-head of the bank’s CDO operations. Both of these figures are implicated in deliberately misleading rating agencies as part of a larger scheme to sell securities to investors against which Goldman itself was betting.

In a fourth item, “Potential Fraud in AIG Investor Calls,” the FCIC minutes condemn the president and chief

executive of AIG, the world’s largest insurance firm at the time, Martin Sullivan. Additionally, it targets the firm’s chief financial officer, Steven Bensinger, and the chief executive of AIG financial products, Joe Cassano, for lying to investors about losses in the company’s portfolios.

In regard to UBS, the minutes include an item, “Potential Fraud: False and Misleading Representations about Loan Underwriting Standards by UBS and Other Issuers,” which blames UBS for misleading investors about its mortgage underwriting standards.

In an item blaming the rating agency Moody’s for selectively revealing downgrades in its ratings to top Wall Street Banks, the FCIC singles out Danya Corlito, the global business manager for mortgage-backed and asset-backed securities at UBS, as well as David Oman, who was in charge of UBS’s European risk division.

Rather than criminally prosecuting the leading financial players who engineered and profited from the subprime mortgage meltdown, Obama’s Justice Department has protected them by signing sweetheart settlements with JPMorgan Chase, Bank of America, Citigroup, Deutsche Bank and other major banks, protecting their executives.

In March of 2013, Attorney General Eric Holder responded to questioning from Republican Senator Chuck Grassley, who noted that there had been no criminal prosecutions of financial institutions or leading executives by the Obama administration. In response, Holder stated, “I am concerned that the size of some of these institutions becomes so large that it does become difficult for us to prosecute them, when we are hit with indications that if we do prosecute—if we do bring a criminal charge—it will have a negative impact on the national economy, perhaps even the world economy...”

Holder’s testimony before Congress amounted to an admission that the US government considers big US banks and their top executives to be above the law and deliberately avoids prosecuting them for illegal activities. These new documents, which have only begun to be analyzed, further substantiate this fact.



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