

Deutsche Bank whistleblower rejects reward, cites collusion between bank and regulators

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A Deutsche Bank whistleblower turned down his share of a \$16.5 million Security and Exchange Commission (SEC) award last Thursday in protest of the SEC's refusal to target Deutsche Bank executives for fraudulent accounting practices.

Writing in the *Financial Times*, Eric Ben-Artzi, a former vice-president in Deutsche Bank's market-risk department, charges the SEC with colluding with top executives of Deutsche Bank who were themselves former leading members of the SEC.

"This goes beyond the typical revolving door story," Ben-Artzi writes. "In this case, top SEC lawyers had held senior posts at the bank, moving in and out of top positions at the regulator even as the investigations into malfeasance at Deutsche were ongoing."

Ben-Artzi states that "the bank's shareholders and its rank-and-file employees who are now losing their jobs in droves are the primary victims."

He continues, "Meanwhile, top executives retired with multimillion-dollar bonuses based on the misrepresentation of the bank's balance sheet. It is therefore especially disappointing that in 2015, after a lengthy investigation helped by multiple whistleblowers, the SEC imposed a fine on Deutsche's shareholders instead of the managers responsible."

Ben-Artzi was one of three whistleblowers at Deutsche Bank who alerted the SEC to the bank's attempt to hide the real value of its toxic \$120 billion credit derivative portfolio. In late 2008 and early 2009, the bank did not update the market value of many of its credit default swaps, allegedly to hide growing losses that the SEC later estimated to be in the billions.

Ben-Artzi first brought the issue to the attention of Robert Rice, chief lawyer of Deutsche Bank's 2011 internal investigation into its derivative practices. Ben-Artzi was then fired after he refused Rice's directive

that any discussion they have be subject to "client-attorney" confidentiality. Rice would move on from Deutsche Bank to become the SEC's chief counsel in 2013.

Following an investigation, the SEC fined Deutsche Bank \$55 million in 2015 to settle the allegation that the bank had defrauded investors by cooking its books. The settlement, however, did not require the bank to admit to fraud and did not bring charges or raise any suspicions of wrongdoing, civil or criminal, against its senior executives.

In his open letter, Ben-Artzi notes that at a much smaller firm, Trinity Capital, the SEC charged five executives over similar but smaller-scale violations. (The SEC allowed the CEO to settle and pay a fine.)

Ben-Artzi writes, "So why did the SEC not go after Deutsche's executives? The most obvious concern is that Deutsche's top lawyers 'revolved' in and out of the SEC before, during and after the illegal activity at the bank."

Ben-Artzi calls attention to several prominent members of Deutsche Bank who had a revolving-door relationship with the SEC.

As stated previously, Rice, who oversaw Deutsche Bank's internal investigation in 2011 as head lawyer, was hired in 2013 by the SEC as chief counsel. Ben-Artzi calls attention to two other members in his letter: Robert Khuzami and Richard Walker. Khuzami was Deutsche Bank's highest-ranking lawyer in the United States from 2004 to 2009. He was then appointed in 2009 to chair the SEC. Meanwhile, Richard Walker, Deutsche Bank's top lawyer from 2001 to 2016, was at different times the boss of both Rice and Khuzami. Walker, too, served at the SEC and recommended Khuzami for his job there.

Ben-Artzi lays the final blame with Mary Jo White,

the current chair of the SEC. He says that this revolving-door relationship between Deutsche Bank and the SEC “took place on the watch of Mary Jo White...whose relationship with Mr. Khuzami and Mr. Rice dates back 20 years. She bears ultimate responsibility for the Deutsche fine.”

This case underscores the criminal relationship between Wall Street and the US government. The massive fraud committed by the major banks during and after the 2008 financial crisis has gone virtually unpunished by the SEC and Department of Justice. These agencies’ refusal to prosecute the criminals in charge of the world’s major banks is not an oversight, it is a policy. As the case with Deutsche Bank makes clear, these regulatory arms of the government are nothing of the sort. They are not separate from the banks, but rather are co-conspirators in the pursuit of criminal and, increasingly, reckless profits.



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