

# Going After Goldman: A Crackdown on Financial Crime or a Kabuki Play Maneuvre to Avoid Bringing Criminal Charges

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Global Research, April 18, 2010  
18 April 2010

Region: [USA](#)

Theme: [Global Economy](#), [Law and Justice](#)

Fox Business News was engrossed in interviewing a blonder than thou reality TV bimbo when the news that the Securities And Exchange Commission was filing fraud charges against Goldman Sachs broke on Friday afternoon.

The breaking news bulletins were already flying through cyberspace before the Fox Means Business network got around to moving from a snickering interview with a starlet confessing to commodifying and monetizing her appeal to the biggest story in months on the Street beat. Corporate fraud allegations seem to make free market boosters nervous.

At last, the mightiest of investment bank, described as a “giant squid on the face of humanity” by Matt Taibbi in a much-read diatribe, appeared to be in deep trouble. Taibbi himself was not convinced that the Government has the goods on Goldman.

He commented, “...What’s interesting is that I heard whiffs of this story going back as far as a year and you know I’m one of the harshest critics of Goldman Sachs and I actually backed off the story because I didn’t really believe it. I thought it was too outlandish. So that tells you exactly how crazy this story is coming out now.”

## The Timing

The timing of the story was suspicious, he said. “This story has been out there for awhile. The [NEW YORK] Times first broke it really in December. So why are they doing this now? Clearly it could have been because this bill is about to hit, crucial period in Washington, this financial regulatory reform bill, maybe this, you can look at this as a shot across Wall St’s bow during that period.”

Federal prosecutions of white-collar criminals has not been a growth industry, or very successful, in recent years.

AP predicts there will be a flood of lawsuits to come and that “the fraud charges against Goldman Sachs & Co. that rocked financial markets Friday are no slam dunk, as hazy evidence and strategic pitfalls could easily trip up government lawyers”. A former dot.com millionaire told me that Goldman has the best lawyers and would most likely beat the rap. Publicly Goldman denied all charges and vowed to restore their “reputation.

The Republicans who know about how to politicize everything were quick to point out that Goldman and its employees had been among President Obama’s biggest backers. At the

same time, Politico reported out that taking on Goldman gives the White House a big propaganda asset in the coming fight over financial reform.

“Charges of fraud against one of the most storied firms on Wall Street come at a time when the Obama administration is seeking to pass significant new regulation of the financial sector. A reform bill is expected to hit the Senate floor next week, and observers said Friday that the Goldman charges would likely give new momentum to the administration’s efforts to put tougher regulations on the banking sector.”

## The Legal Issue

The Volatility website, explains, “The case centers on Goldman’s 2007 ABACUS CDO, which it manufactured at the behest of hedge fund predator John Paulson. The scam was for Paulson to cobble together a toxic mess of MBS he expected would blow up, find suckers to buy this CDO, and then short it. Goldman’s role was to launder the CDO ...

(Barry Ritholz compares it to The Producers, who try to defraud their investors by putting on a crappy play they expect to quickly close while embezzling much of the loot.)

Typical of this feckless government, it’s only a civil and not a criminal indictment. Even if the SEC is serious this time (which I won’t assume until I see it), Goldman would still get off easy for capital fraud.”

It now turns out that Goldman was notified in advance about the government’s complaint. Business Week revealed. “Sources now say that Goldman Sachs was warned about a pending civil suit months ago and failed to disclose its legal problems—despite the standard practice of revealing legal issues like regulatory probes in quarterly and annual reports. Websites like MI-Implode insisted, “Other Major Banks Did Deals Similar to Goldman.”

Financial journalist Gary Weiss disagrees, suggesting that, if successful, this could bring the firm down. “This is devastating. The Wall Street Journal says “Goldman Sachs, which in a statement called the accusations ‘completely unfounded in law and fact,’ could face steep fines and be on the hook to repay nearly \$1 billion of investor losses.” MIT’s Simon Johnson calls the SEC’s action a “Pecora Moment,” invoking the memory of FDR’s long gone investigation of depression-era corporate larceny.

## Is This Complaint More Bread and Circuses?

I am not so sure. Could this all be a well-orchestrated Kabuki play intended for public consumption and political advantage. Could Goldman even be playing along here to buy time for reforms even as they have taken losses? Financial Analyst Tyler Durden thinks so, arguing, “This has many wondering if the whole SEC action against Goldman (which some have already pointed out is a rather weak case) is nothing but smoke and mirrors to distract the broader public for a few weeks until anger once again dies down.”

Beating down this high profile suit would restore the firm’s credibility, and leave enough time to pass some financial reforms before it even goes to Court where it could be thrown out. Hedge fund mastermind John Paulson was not even named in the charges which is a civil complain, not a criminal charge,

One of my angry readers, despite writing in All Caps and misspelling Tim Geithner's name, smells a rat, "

"THE CRIME IS STILL GOING ON DANNY. HUNDREDS OF TRILLIONS OF DOLLARS IN DERIVATIVE POSITIONS ARE STILL BEING CREATED BY WALL STREET GANGSTERS AND RECENTLY DURING A CONGRESSIONAL SUB COMMITTEE HEARING ENCOURAGED BY WILLIAM GITNER AND BARNIE FRANK. THE OBAMA ADMINISTRATION SUPPORTS THE USE OF DERIVATIVES SO ONE OF THE MAIN CULPRITS IN THE DESTRUCTION OF THE SUBPRIME HOUSING MARKET IS ALIVE AND WELL THANKS TO THE OBAMA ADMINISTRATION AND HIS STOOGES LIKE GITNER, BARNIE FRANK AND MANY OTHER SOCIALIST MARXIST CONGRESSMAN DEMOCRATS AND REPUBLICANS. THE OBAMA ADMINISTRATION IS A PUPPET OF THE WALL STREET GANGSTERS."

Was It A Crime-Or Should It be?

This may become the Tea Party view. A deeper question is: is this civil suit a substitute for or a maneuver to avoid bringing criminal charges? There are even progressive writers like James Kwak of Baseline Scenario.com who doesn't believe crimes have been committed.

"One of the things I say now and then that most annoys people is that the financial crisis was not caused by criminal behavior. (Note: The "Prayer for the Relief" at the end of the complaint only asks for civil penalties, but I suppose this does not preclude a criminal action — someone who's a real lawyer could answer that.) My general line is that I'm sure there was some bad behavior that rose to the level of criminal liability — like lying in disclosure documents — but that it wasn't necessary for the crisis, and we could have had the crisis without any criminal activity at all."

The problem with this thinking is that it defines financial crime very narrowly, and in terms of securities laws that exist only to protect investors. It forgets that the most harshly abused victims of the crisis occurred on the consumer side of the equation in the rip off of citizens as workers and homeowners.

In my film <a href=<http://www.plunderthecrimeofourtime.com>>Plunder The Crime Of Our Time</a> I report on a finding in Massachusetts that Goldman deliberately designed thousands of mortgages to fail. They settled, paying the state \$60 million without admitting guilt.

Those who argue these abuses were legal rarely admit that the financial institutions spent nearly a billion dollars to erode regulations and change rules. They used their ill-gotten gains to buy up 'politicians' who passed one-sided and unjust laws to allow them to get away with whatever benefited their bottom lines no matter who was hurt.

This well-documented history of political manipulation qualifies them as avaricious manipulators, not law biding companies. Their legal and moral defense is bogus. The Congress and the Courts have been "captured" by Wall Street for years.

Unjust Laws?

Why won't the financial media cop to this blatant immorality as they treat "the law" as sacrosanct? Would they have recognized lynching and racism as legal because Deep South

legislatures passed laws allowing segregation? How are the laws bought by Wall Street any different?

The housing bubble was built on bedrock of deception and fraud linking shady subprime brokers and appraisers to a whole industry that structured financial products and then resold them with misrepresented values with the complicity of unethical ratings agencies.

The FBI has been denouncing, investigating and indicting those what they call a “fraud epidemic.” The selling and reselling of worthless asset-backed securities is a centerpiece of the larger crime, as was the practice of overleveraging these schemes, insuring and even betting against them by companies like AIG with swaps, CDO’s etc. etc.

We are not talking about a handful of executives like the 25 people Time Magazine listed as responsible for the crisis. We are dealing with a criminal enterprise of tens of thousands who benefited.

Martin Wolf of the Financial Times explained that three industries came together with thousands of employees to run the FIRE economy—Finance, Insurance and Real Estate. Their infrastructure was big, ““In between the ultimate borrowers and the risk takers were loan originators, designers and packagers of securitized assts, ratings agencies, sales staff, managers of banks and SIVs (structured investment vehicles) and managers of pension and other funds”

They all worked together like a cabal to perpetuate what I call the crime of our time.

Will these people ever face justice?

*News Dissector Danny Schechter directed Plunder The Crime Of our time and wrote the companion book. For info: [plunderthecrimeofourtime.com](http://plunderthecrimeofourtime.com). Comments to [dissector@mediachannel.org](mailto:dissector@mediachannel.org)*

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