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Wall Street Financial Crimes

Will Anyone Ever Go To Jail?

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How The Prosecutors Blew The First Big Case

PARIS: I had come from a heated financial journalism conference in a far more orderly Brussels where I had been thundering against Wall Street crime. The first news I saw from "the homeland" was that the only two big shots busted for crimes against their investors when they ran Hedge Funds, now imploded, at Bear Stears were acquitted in a New York courtroom dramatizing the difficulties prosecutors face in achieving the "jail-out" I have been calling for.

Here's how the NY Times covered it:

> "It was, prosecutors claimed, a clear case of Wall Street crime — and a chance to bring to account two culprits of the subprime age.
>
> But jurors disagreed, and on Tuesday, two former Bear Stearns hedge fund managers were found not guilty of securities fraud in federal court in Brooklyn, in what legal experts called a setback for prosecutors hoping for easy victories in this era of bailouts and foreclosures.
>
> The verdict, the first in a major criminal case stemming from the current financial crisis, brought to an end a two-year ordeal for the managers, Ralph R. Cioffi and Matthew M. Tannin. They had been led away in handcuffs in June 2008 and accused of lying to their investors about the precarious state of the funds they oversaw.
>
> Investors lost $1.6 billion when the funds, heavily invested in mortgage securities, collapsed in the summer of 2007. The fiasco presaged the financial turmoil that would later upend Wall Street and the broader economy."

The jury deliberated for six hours. The key evidence were emails that said that they considered their own products bogus while encouraging their customers to buy them. A juror said the case had not proven, and that a bad investment was not a crime. The SEC will also be taking civil action.

At issue was what their emails said. Bear Stearns was a big promoter of Sub-crime subprime securities which were NOT an issue in the trial. Explained the report:

> "One of the main documents in the case was an e-mail message that Mr. Tannin sent from his private Gmail account to the e-mail account of Mr. Cioffi's

> wife. He wrote that the subprime market — the market to which the funds were tied — “looked pretty damn ugly,” and that if a recent report was correct, “then the entire subprime market is toast.” Days later, during a conference call, Mr. Tannin told investors that “we’re very comfortable with exactly where we are.”

They may have been “comfortable” but the families who subsequently faced foreclosure were victimized. Securities laws protect investors, not homeowners or people were talked into buying mortgages that were part of what the FBI later called an “epidemic of mortgage fraud.” So once again, as the late Lenny Bruce once quipped, “in the halls of justice, the only justice is in the halls.”

This case was also said to be poorly brought by prosecutors. Reported Bloomberg: “Prosecutors missed the mark so widely in the fraud trial of Bear Stearns Cos. hedge fund managers Ralph Cooffi and Matthew Tanin that a juror said after their acquittal she would invest with them if she had the money.” Reuters had reported that the defense lawyers had focused on weakness in the prosecutor’s case.

One legal challenghe was the need to prove criminal intent, hard to show when defendants, as is usually the case, deny they had bad motives. In this case, as throughout the subprime industry, it was all about making money, homeowners be dammed.
Reuters described the defense:

> NEW YORK, Nov 6 (Reuters) – The government’s allegations of fraud against two former Bear Stearns hedge fund managers were built on “hindsight bias,” including emails selected out of context, a defense lawyer told a jury in closing arguments on Friday at their trial in New York.” “hindsight bias” suggest that the Bear Stearns duo did not know the consequences of their actions, something many in the business admit now they did realize.

“Hindsight Bias?”

The FBI has been denouncing an “epidemic” of subprime fraud as far back as 2004. On July 22, President Obama said Wall Street was “pedaling loans they knew could never be paid back.” But this issue was not raised in the trial.

CBC earlier reported that the Government blew its own case. ‘CNBC’s Charlie Gasparino reports that numerous signs, including the court’s refusal to admit some key evidence and the “blow up” of a witness, indicate that the government’s case against Bear Stearns hedge fund managers Cioffi and Tannin may be slipping away

So here you have the biggest crime of our time, massive predatory lending, widespread fraud and abuse. In the first instance the government did not regulate it, and now they can’t get it together to prosecute it.

Widely perceived criminals of all kinds will now walk while the Chairman of the Senate Finance Committee proposes new avenues for civil law suits but not cracking down

WASHINGTON -(Dow Jones)- Senate Banking Committee Chairman Christopher Dodd's (D., Conn.) broad financial overhaul bill, unveiled Tuesday, includes several investor protection devices, including investors' ability to sue people who help commit securities fraud.

The provision would permit private civil actions for any person who "knowingly or recklessly provides substantial assistance" to securities fraudsters.

The "aiding and abetting provisions" in Dodd's bill could be seen as something of a change for the veteran senator, who also sponsored the controversial 1995 Securities Litigation Reform Act, which limited individual investors' ability to sue securities and accounting firms in class-action stock fraud cases.

Again, the focus mostly is on protecting investors, not other victims like the American people who consume these flawed products. The New American reports though that the real purpose is to protect cobsumers.

Senator Christopher Dodd and fellow Senate Democrats are proposing to scale back the regulatory authority of the Federal Reserve and eliminate the Office of the Comptroller of the Currency, among many other provisions in a new 1,136-page bill made public on Tuesday. Dodd, the chairman of the Senate Banking Committee, blamed the Fed for alleged failures in consumer protection and regulatory oversight that contributed to last year's financial implosion.

Senator Dodd's bill would create a new Consumer Financial Protection Agency to protect consumers against so-called "predatory lending practices." It would also create a Financial Institutions Regulatory Administration that would impose tighter regulatory oversight on banks. A new Agency for Financial Stability would have the power not only to enforce new financial regulations but also to break up large financial firms whose activities are deemed a threat to the economy as a whole.

Predictably Republicans and business interests are opposing new rules. As for reform, look at how health care reform has been gutted and you can see what awaits financial reform.

Meanwhile, at least the big banks are being criticized.

"Many senior banking executives failed to accept responsibility for the financial crisis and neglected the need to change their behavior, Hector Sants, the chief executive at Britain's financial industry regulatory body, said Monday."

Ooops, sorry, that's in Britain.

Danny Schechter, Mediachannel's News Dissector, has made a film (Plunder) and written a book, "The Crime of Our Time," on the financial crisis as a crime story. Comments to dissector@mediachannel.org

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