

Finance: Bank abuses in the real estate sector and illegal foreclosures in the United States

Series: The banks and the “too big to jail” doctrine (part 2)

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From 2010 to 2013, US authorities made agreements with banks, not to prosecute them in the home mortgage and illegal foreclosures scandal. [1] Instead, they merely had to pay a small fine. Since the outbreak of the crisis in 2006-2007, more than 14 million families have been evicted from their homes — at least 500,000 illegally. With help from social movements such as *Strike Debt* [2], many victims have become organized to resist the sheriffs and refuse these evictions. In addition, thousands of lawsuits have been filed against the banks.

One of the allegations made against the banks is based on their incapacity to provide documents justifying the eviction of homeowners who are behind on their mortgage payments. The lack of regulations, and the high volume of subprime loans given just before the crisis, led the banks to employ people just to “robot sign” dozens, or even hundreds of documents per day, approving foreclosures, but without following the correct legal procedure [3]. The banks repossessed 500,000 homes with no economic or legal justification. Our figure can only take account of finalized investigations and pending lawsuits, so it may become significantly higher. Despite the massive damage caused by fraudulent bank practices, in many cases, their fine amounted to only \$300 per household concerned, [4] although there were cases in which it reached \$1,500 to \$2,000. Other allegations made against the banks concern the sale of structured products or *mortgage backed securities*, which were sold by banks to home loan mortgage companies such as Freddie Mac and Fannie Mae.

Policies that lead to the subprime crisis

The George W. Bush administration had made the “ownership society” a central theme in his re-election campaign: *“We’re creating...an ownership society in this country, where more Americans than ever will be able to open up their door where they live and say, welcome to my house, welcome to my piece of property [5]”*

In his memoirs written just after the outbreak of the crisis in 2007, Alan Greenspan confirms that there had been a policy strategy underlying the attitude adopted by the Federal Reserve, which supported Bush’s politics: *“I was aware that the loosening of mortgage credit terms for subprime borrowers increased financial risk, and that subsidized home ownership initiatives distort market outcomes. But I believed then, as now, that the benefits of broadened home ownership are worth the risk. Protection of property rights, so critical to a market economy, requires a critical mass of owners to sustain political support.” [6]*

We must also mention that the Bush and Clinton administrations systematically supported the big banks in their will to rid themselves once and for all of the banking discipline restrictions left over from the Roosevelt administration of the 1930s. [7]

The crisis was triggered by a speculative real estate bubble resulting in over-priced property values [8] leading to over-heated construction sector activity beyond the solvent demand. The number of new homes put on the market grew from 1.5 million in 2000 to 2.3 million in January 2006. A growing proportion of them could not find buyers even though the banks, encouraged by the authorities, offered easy lending condition to potential buyers.

This over production finally caused a sharp drop in real estate prices. The expectations of the households that had taken on subprime [9] mortgage loans were shattered by this radical change of circumstances. When property prices rise in the US, households normally renegotiate their mortgages after two or three years to obtain more favourable conditions and better rates that take account of the increased value of their property. The first years of subprime mortgages had very favourable interest rates, around 3%. Starting in the third or fourth year, the interest rates could not only increase to around 8% to 10%, they could become variable and attain 14% or 15%.

As Paul Jorion said in *La crise du capitalisme américain (The Crisis of American Capitalism)*, the subprime mechanism was really aimed at *"grabbing the savings of the unfortunate, who aspired to the 'dream' but did not really have the financial means to achieve it, the first targets were the Black and Latino populations. There were many clever tricks, including, making out the written agreements differently to the verbal agreements and offers that drove the beneficiaries to bankruptcy in order to grab their home, and renegotiation agreements presented as favourable whereas they were in reality, catastrophic"*. [10]

Household mortgage arrears started to accumulate in 2007. Between January and August, 84 US home loan societies were facing bankruptcy. The companies and rich households that had speculated on the rise in property prices brutally abandoned the market, further accentuating the price crash. The banks that had speculated on structured loans (particularly the big European banks) were at the centre of the crisis.

The gigantic façade of private debt started to crumble with the bursting of the North American real estate bubble and was followed by property crises in Cyprus, Ireland, Spain, the UK, and several countries in Central and Eastern Europe, and since 2011-2012 in the Netherlands.

In France, Nicolas Sarkozy [11] following George Bush suggested to the French people to get deeper into debt. In the April 2007 issue of *Revue Banque*, he wrote: *"Today, French families are the least indebted in Europe. But an economy that is insufficiently indebted is an economy that lacks confidence in the future, that has doubts about its advantages. That is why I would like to open more opportunities for home loans, with State guarantees for the ill. (...) If home loans were easier to get, the banks would be less concerned by the credit quality of the borrower and would pay attention to the value of the property mortgaged"*.

Imagine the situation France would be in if the 2007-2008 crisis had happened just a few years later after Nicolas Sarkozy had encouraged the French people to follow this example.

Between 2010 and 2013, the big US banks settled \$86 billion out of court to avoid judgements

Between 2010 and the end of 2013, and taking only mortgages into consideration, 26 agreements were made between different US authorities and the principal banks. [12]

All the big banks are concerned. Since 2008, they have accepted to pay \$86 billion to avoid unfavourable judgements in lawsuits concerning home loans. [13] Bank of America accepted to pay \$44 billion, JP Morgan, \$26.4 billion, Wells Fargo, \$9.5 billion, Citigroup, \$4.7 billion, Goldman

Sachs, almost \$1 billion, and Morgan Stanley, \$330 million, to which, legal and other expenses must be added. In comparison, in 2012 the net profits of these six banks totalled \$59.9 billion, after paying the fines imposed that year, and 2013 was even better. After having allocated \$18 billion for the fines in the year to come, their net profits increased by 21%, to \$74 billion. [14] If these six banks had not had to pay these fines, their profits would have topped their record year of 2006, which was during the real estate bubble! It is clear that these, supposedly, heavy fines did not stop the bankers from popping corks to celebrate the profits they made by abusing millions of families.

Despite the proofs of the fraudulent and deceptive bank practices, and the millions of ordinary people who became victims, they have not had to face any criminal charges and neither have any arrests been made. The negotiations and agreements between the banks and the authorities have also relieved the banks of their legal and financial responsibilities in previous affairs [15]. Adding insult to injury, the CEO of JP Morgan, Jamie Dimon was awarded a 74% pay increase in 2013, to bring his annual remuneration up to \$20 million [16].

Eric Toussaint

Part 1 [Banks and the New “Too Big to Jail” Doctrine – Part 1](#)

Part 3 [Finance: Drug and Bank Lords](#)

P.S.

* <http://cadtm.org/Bank-abuses-in-the-real-estate>

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<http://cadtm.org/Banks-Fudged-health-report>

Footnotes

[1] See part 1 of this series: ‘The banks and the new *Too Big to Jail* doctrine’, 9 March 2014, <http://cadtm.org/Banks-and-the-New-Too-Big-to-Jail>

[2] Strike Debt, ‘United States : The Debt Resisters’ Operations Manual’, 25 March 2014, <http://cadtm.org/The-Debt-Resisters-Operations>

[3] Democracy Now, ‘As Wells Fargo is Accused of Fabricating Foreclosure Papers, Will Banks Keep Escaping Prosecution ?’, 22 March 2014, <http://cadtm.org/As-Wells-Fargo-is-Accused-of>

- [4] Tyler Durden, "The Banks penalty to put robo-signing behind them: 300 dollars per person", 9 April 2013, <http://www.zerohedge.com/news/2013-04-09/banks-penalty-put-robo-signing-behind-them-300-per-person>
- [5] George W. Bush, 2 October 2004, "Remarks at the National Association of Home Builders," Columbus, Ohio. Cited by Naomi Klein *The Nation* February 2008. <http://www.thenation.com/article/disowned-ownership-society>
- [6] Alan Greenspan, *The Age of Turbulence*, Penguin Press, New York, 2007 p. 258.
- [7] Eric Toussaint, « Comment les banques et les gouvernants détruisent les garde-fous », 13 January 2014, <http://cadtm.org/Comment-les-banques-et-les> (in French only)
- [8] Between 2001 and 2007, property prices doubled in the US.
- [9] *Subprime* designates mortgages that are high risk for the lender but produce a better return than the *prime* risk loans
- [10] Paul Jorion: *Inédit: les 3 premières pages de « la crise du capitalisme américain »* (2007), published 23 February 2012, <http://www.pauljorion.com/blog/?p=34264> (in French only)
- [11] Nicolas Sarkozy, right wing politician, President of France from 2007 to 2012.
- [12] SNL, "Timeline Credit crisis and mortgage-related settlements" http://www.abaj.com/images/Dev_SNL/120913_MortgageTimeline.pdf consulted 22 February 2014
- [13] SNL, "Credit crisis and mortgage-related settlements for select bank holding companies" http://www.abaj.com/images/Dev_SNL/CreditCrisis.pdf consulted 22 February 2014
- [14] Bloomberg, 'Big Six U.S. Banks' 2013 Profit Thwarted by Legal Costs', 9 January 2014, <http://www.bloomberg.com/news/2014-01-09/big-six-u-s-banks-2013-profit-thwarted-by-legal-costs.html> See also *Thinkprogress*, 'Profits At The Biggest Banks Bounce Back To Post-Crisis Record High', 21 January 2014, <http://thinkprogress.org/economy/2014/01/21/3184401/banks-profits-2013-record/#>
- [15] Among the critiques *Huffington Post*, "The Top 12 Reasons Why You Should Hate the Mortgage Settlement", 2 September 2012, http://www.huffingtonpost.com/yves-smith/mortgage-settlement_b_1264806.html
- [16] *Financial Times*, "Dimon's pay soars 74% to \$20m", 25-26 January 2014.