

Email: OIGHotline@frb.gov

February 18, 2016

Office of Inspector General, "OIGHotline"
c/o Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Mail Stop K- 300
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Attn: Hotline

Phone: (800) 827-3340 (toll free) / (202) 452-6400 (DC local)
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Email: OIGHotline@frb.gov
Website: http://www.federalreserve.gov/oig/oig_hotline.htm
Website: <http://oig.federalreserve.gov/>
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Dear OIGHotline:

As of today I do not show acknowledgment or response to my complaint forwarded below.

The Consumer Financial Protection Bureau (CFPB) provided evidence through the attached responses to my 2 FOIA/PA that CFPB attorney Greg Evans, and two nonlawyer CFPB employees, Andrew Fey and K. Byron, conspired with Bank of America and corrupted CFPB Complaint No. 120914-000082, with a concocted CFPB closing letter March 19, 2013.

The Bank of America employees were Jason Powell, Customer Advocate, Office of the CEO and President, and Chris Pickle, Customer Advocate, Office of the CEO and President.

Enclosed you will find two relevant articles from the Wharton Magazine,

To Fear the Fed or Not, Wharton Magazine Winter2016, by Peter Conti-Brown

<http://whartonmagazine.com/issues/winter-2016/to-fear-the-fed-or-not/>

http://whartonmagazine.com/wp-content/uploads/2016/02/WhartonMagazine_Winter2016.pdf

Saving Capitalism from a Painful Demise, Wharton Winter2015, by Anthony W. Orlando

<http://whartonmagazine.com/issues/winter-2015/alumni-essay-saving-capitalism-from-a-painful-demise/>

http://whartonmagazine.com/wp-content/uploads/2015/02/WhartonAlumni_Winter2015_download1.pdf

Thank you in advance for the courtesy of a response/acknowledgment.

Sincerely,



Neil J. Gillespie
8092 SW 115th Loop
Ocala, Florida 34481

Tel. 352-854-7807
Email: neilgillespie@mfi.net

Attachments

TO FEAR THE FED OR NOT

THE FEDERAL RESERVE'S AUTHORITY OVER THE FINANCIAL SYSTEM AND THE MONEY SUPPLY IS EXPANSIVE. THAT POWER DESERVES A BETTER PUBLIC UNDERSTANDING—EVEN ENGAGEMENT.

There is an old story, perhaps apocryphal, in which a newly appointed member of the Board of Governors of the U.S. Federal Reserve System was greeted by the Fed Chair with an apologetic explanation of the new governor's status. The chair predicted that when the man introduced himself back home to his friends and family as a "governor of the Federal Reserve," they were likely to think he was the administrator of the U.S. government's unexplored Western forests.

There was a time when that story was funny. The Fed used to be an obscure, backwater government agency. The general public didn't really know what the Fed was about—and probably didn't much care. Even for those who paid attention to the economy, until roughly the early 1960s, the prevailing view was that the president and his administration were the first and last stop for economic policy. Central banking was the hinterland; fiscal policy—the stuff of taxes and budgets and spending and deficits—the seat of power. Bankers cared about the Fed's obscure activities. The rest of the country wasn't paying attention.

That story used to work. It doesn't any more. Today, it's not just bankers who are paying attention. Over the last 30 years—and especially since the global financial crisis of 2008—the Fed has become the target of an extraordinary proliferation of scrutiny, praise and condemnation. Today, it is not an exaggeration to say that in the popular imagination and in fact, the Federal Reserve sits atop the global financial system—and, indeed, the global

economy—in a way that no institution has ever done before in our history.

"We are going through a period with no precedent in American history," Alan Greenspan said in 2014 of the Fed's brave new world. And he's not the only one who has noticed.

But where public knowledge of the Fed's existence has dramatically improved—people know the Federal Reserve deals with money, not forests—public knowledge of the Fed's structure and functions has not. The problem is not one of public ignorance. The problem is that the Fed is one of the most organizationally complex entities in the federal government, with some of the most varied missions tucked inside. How the Fed is structured, who pulls its many levers of power and to what end are cloaked in an opacity made darker through many generations of history. Even the experts who study the Fed are left confused by the set of institutions that has survived.

A central part of that opaque mystique is the central bank's curious location within government itself. Citizens do not interact with the Fed in the same way they do with other political institutions. You don't file your taxes with the Fed or receive your Social Security check from it. If you're not a banker or an academic, you are unlikely ever to speak to a central banker at all. That distance can make it difficult to put the Fed, its policies and its power into our usual frames of discussion.

We are given a reason for this vaunted difference. The Fed is "above politics,"

as President Barack Obama has said, protected by statute to remove the institution from the rough and tumble of our political process. It is, in a word, "independent," according to the president.

That word: independent. It is everywhere in discussions of the Federal Reserve. But what does it actually mean? Independent how? To what end? From whom? While we are asking questions, who or what do we even mean when we say "the Fed"? There are some stock answers to these questions. Normally, we say the Fed is represented by the Fed chair—Alan Greenspan or Ben Bernanke or, today, Janet Yellen—who enjoys legal separation from the political process so that she can make decisions to maintain the integrity of our nation's currency in a way that focuses on technical expertise rather than ideology.

In my book, *The Power and Independence of the Federal Reserve*, I argue that these usual answers are wrong.

FIRST.

The Fed is a "they," not an "it." While we fixate on the Fed chair, the Fed is organized as a series of interlocking committees that all participate in various ways to make Fed policy. Putting these many and varied internal actors in their context is crucial to understanding how this policymaking process occurs.

SECOND.

We cannot understand the Federal Reserve System's structure without a close, historically sensitive reading of the Federal Reserve Act of 1913, as it has been amended over the last 100 years. Too few people who study the central bank take on this task.

At the same time, the law is also not enough. Law in practice differs in sometimes surprising, contradictory ways from law in the books. Politics, personalities and relationships matter as much—sometimes more—than the statute.

THIRD. Near-sighted presidents anxious to inflate away their electoral problems aren't the only outsiders keen on influencing the Fed's policies, even among politicians. Members of Congress, bankers, economists and others all influence the shape of the space within which the system operates. How and to what effect they succeed are essential questions for understanding the Federal Reserve. The Fed exists in a political world, and politics is an art practiced by many others beyond politicians.

FOURTH. The Fed's policymakers have, over the last 100 years, become much more than defenders against inflation. They are also, by statute and practice, recession fighters, bankers, regulators, bank supervisors and protectors of financial stability. A theory of independence that accounts for but one function (price stability) among so many others is not a very good theory.

FIFTH. These many missions are not the bailiwick of technocrats wielding mathematical formulas. The Fed's policymakers are people. They have ideologies, like all people. And the policies they formulate and implement require the exercise of value judgments under uncertainty, informed by their technical training, but not decided by formula.

The Fed that emerges from this more comprehensive and comprehensible



MARK BENDER

picture is one that is much more modest than the Fed's public image suggests. The central bankers that toil within the Fed—those whose names and faces appear in the newspaper and those who wield power more or less anonymously—cannot cure every ill, nor are they the cause of every crisis. But their authority over the financial system and the money supply is expansive. That power deserves a better public understanding. That independence deserves a better public engagement. ■

Peter Conti-Brown, assistant professor in the Legal Studies & Business Ethics Department, studies central banking, financial regulation and public finance, with a particular focus on the law, history, politics and economics of central banking at the U.S. Federal Reserve. This essay was adapted from his book, The Power and Independence of the Federal Reserve, now available through Princeton University Press.



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SAVING CAPITALISM FROM A PAINFUL DEMISE

ECONOMIC INEQUALITY IS THE GREAT BUSINESS CHALLENGE OF OUR TIME.

American business leaders rallied around Franklin Delano Roosevelt in 1932 during his candidacy for the presidency, after which he immediately embarked on the most progressive legislative agenda in U.S. history to tackle the Great Depression. From today's vantage point, it may seem surprising that titans of industry, executives from General Electric to Standard Oil to IBM, not only contributed to Roosevelt's campaign but helped author many of his famous New Deal reforms. To the men who ran these companies, it was a simple matter of fiduciary responsibility—to current shareholders and to future ones—that they should ensure a more equitable distribution of prosperity, lest their own wealth be dashed to bits on the jagged rocks of a shrinking economy.

Today, we face a similar predicament. The great challenge of business in our time is reversing the destabilizing threat of inequality. While at first this may seem anathema to our profit-maximizing mission, distribution of income lies at the very heart of sustainable capitalism.

For this reason, today's titans of industry have stepped forward to protest the growing distance between them and the rest of the country. Warren Buffett, Lloyd Blankfein, Stanley Druckenmiller, Bill Gross—legends whose lives and words are studied and idolized at the Wharton School—have all gone public with the wise advice that we steer away from those jagged rocks.

They are not alone in their concern. According to a recent analysis by the Center for American Progress, 68 of the top 100 retailers cite the flat or falling wages of the average American household as a risk to their business—a number that has doubled in the past eight years. A recent poll of small



MIKE AUSTIN

businesses similarly found a strong majority of them in favor of raising the minimum wage.

These business leaders sense an essential truth about our capitalism: Workers are consumers. They spend what they earn—or what they borrow. While the latter may work for awhile, it has limits—and calamitous risks. The only sure way to grow the economy in the long run is to grow consumer spending—and that means growing worker incomes.

In recent decades, workers' incomes have not grown much, on average. Since the beginning of the Great Recession, the average household has lost 8 percent of its income, after adjusting for inflation. All the growth—

and then some—has gone to the richest 10 percent of Americans. And most of that growth—95 percent of total growth, to be precise—has gone to the richest 1 percent. And most of that growth has gone to the richest 0.1 percent. And so on.

Unsurprisingly, economic growth has been slower since the advent of this new trend. From 1950 to 1980, real GDP grew 3.8 percent per year, versus only 2.7 percent from 1980 to 2010. On the rare occasions when it has approached its previous faster rate, it was fueled by unsustainable borrowing. This is no coincidence. Recent work by economists Özlem Onaran and Giorgos Galanis has shown that most developed countries experience lower growth when the share of their income going to wages (as opposed to profits) declines. In the United States, for example, every 10 percent decline in the wage share causes the economy to shrink by 9.2 percent. In fact, that has been the experience of the global economy as well.

High wages are what economists refer to as a “positive externality.” They generate “spillover effects” that benefit the people who don’t pay for them. When workers receive high wages, they invest more in health and education, increasing their productivity and reducing the costs we all pay for a sicker, less-informed population. They motivate firms to invest in advanced technologies to reduce labor costs, making them more innovative and globally competitive. Workers who receive high wages are less likely to go out on strike, vote against free trade and immigration, protest in the streets, shirk on the job and commit crimes. That’s why, in an analysis of 19 developed nations from 1960 to 2004, economists Robert Vergeer and Alfred Kleinknecht found that higher wage growth consistently led to higher productivity growth.

In other words, low wages may be good for one firm, but high wages are better for all firms. Yet many businesses would like to raise wages, but they fear losing ground to their competitors.

The only solution is collective action.

Economists have a collective action for precisely this sort

It is time that we recognize inequality for the negative externality that it is, slowing our productivity growth, roiling our markets.

of “coordination failure”: taxing the negative externality and subsidizing the positive. It is time that we recognize inequality for the negative externality that it is, slowing our productivity growth, roiling our markets with volatility, gridlocking our political system, and starving our economy of willing and able consumers. Inequality is a risk to our businesses, and it ought to be treated as such.

We should therefore see taxes not as penalties but as investments in a better, more equitable, more sustainable system. We should strive to prevent a “race to the bottom” in workers’ incomes; if we don’t, the

day will come when no one will be left to pay the profits our shareholders demand. Business schools should teach courses about this issue, and business leaders should address it in their boardrooms. It is not merely a political issue. It is very clearly the business of Business.

Joseph Kennedy thought so when he went to work for President Roosevelt. As one of the nation’s most notorious stock manipulators, Kennedy might have been the last person we’d expect to join Roosevelt’s crew, but when Roosevelt named Kennedy as the first chairman of the Securities and Exchange Commission, he saw it as an opportunity to save the market from itself.

“We of the SEC do not regard ourselves as coroners sitting on the corpse of financial enterprise,” said Kennedy in a radio address to the nation. “On the contrary, we think of ourselves as the means of bringing new life into the body of the security business.”

As Wharton graduates, let us think of ourselves in the same manner, and act accordingly. ■

Anthony W. Orlando Wo9 received his bachelor’s degree from Wharton and his master’s in economic history from the London School of Economics. He is a lecturer in the College of Business and Economics at California State University, Los Angeles, and a public policy research fellow at the University of Southern California. His latest book *Letter to the One Percent* is available at www.LetterToTheOnePercent.com.



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Neil Gillespie

From: "Neil Gillespie" <neilgillespie@mfi.net>
To: "OIGHotline" <oighotline@frb.gov>
Cc: "Neil Gillespie" <neilgillespie@mfi.net>
Sent: Monday, February 15, 2016 2:02 PM
Attach: An advocate who scares Republicans - The New York Times.pdf; Regulatory capture - Wikipedia.pdf; Federal Reserve Bank of San Francisco.pdf; CFPB close-out letter to Neil Gillespie March 19, 2013.pdf; CFPB Martin Michalosky response to FOIA Request #CFPB-2014-182-F-P.pdf; CFPB Martin Michalosky response to FOIA Request #CFPB-2014-206-F.pdf
Subject: Office of Inspector General (OIG) of the Board of Governors of the Federal Reserve System (Board)
To: The Office of Inspector General (OIG) of the Board of Governors of the Federal Reserve System (Board):

This is a follow-up to my email response to your February 5, 2016 email, see below.

You wrote, "Our office investigates fraud, waste, and abuse of Board and CFPB programs and operations".

The Consumer Financial Protection Bureau (CFPB) provided evidence through the attached responses to my 2 FOIA/PA that CFPB attorney Greg Evans, and two nonlawyer CFPB employees, Andrew Fey and K. Byron, conspired with Bank of America and corrupted CFPB Complaint No. 120914-000082, with a concocted CFPB closing letter March 19, 2013, in part,

"Our records indicate that we do not have proper authorization to disclose any information to you regarding Ms. Penelope M. Gillespie's account. Bank of America values and guards our customers' privacy and financial information and, therefore, does not provide customer-specific information to unauthorized third parties."

The Bank of America employees were Jason Powell, Customer Advocate, Office of the CEO and President, and Chris Pickle, Customer Advocate, Office of the CEO and President.

Regarding claims of privacy for the decedent by CFPB attorney Greg Evans and Bank of America: Privacy laws do not protect the privacy of dead people. Dead people do not have privacy rights. Privacy rights are personal and die with the individual. *Nestor v. Posner-Gerstenhaber*, 857 So. 2d 953 (Fla. Dist. Ct. App. 3d Dist. 2003), review denied, 869 So. 2d 540 (Fla. 2004). [E]ven where a private confidentiality agreement is otherwise proper, it will not be enforced where its effect becomes obstructive of the rights of non-parties. See, e.g., *Nestor v. Posner-Gerstenhaber*, 857 So. 2d 953, 955 (Fla. 3rd DCA 2003); *Scott v. Nelson*, 697 So. 2d 1300, 1301 (Fla. 1st DCA 1997). Quoted by U.S. Judge John E. Steele in *Tardif, Trustee (Jason Yerk) v. PETA*, USDC, SD Fla. Fort Myers Div. Case No. 2:09-cv-537-FtM-29SPC, at the Pacer link, Case 2:09-cv-00537-JES-SPC Document 179 Filed 11/04/11 Page 14 of 31 PageID 6050

Regarding your statement: "Lastly, the Board does not regulate Bank of America; it is regulated by the Office of the Comptroller of the Currency (OCC),"

And my response: No. The OCC does not regulate Bank of America in any meaningful way. Bank of America regulates the government of the United States.

Bank of America regulates the government of the United States through Regulatory Capture, see attached the Wikipedia article that refers to the Office of the Comptroller of the Currency (OCC)

"The Office of the Comptroller of the Currency (OCC) has strongly opposed the efforts of the 50 state attorneys general, who have banded together to penalize banks and reform the mortgage modification process, following the subprime mortgage crisis and the financial crisis of 2008. This example was cited in *The New York Times* as evidence that the OCC is "a captive of the banks it is supposed to regulate"" Also attached the New York Times story by Joe Nocera, "An advocate who scares Republicans".

Regarding my comment about the Fed as a private concern, see attached the education piece by the Federal Reserve Bank of San Francisco.

In conclusion, CFPB attorney Greg Evans, and two nonlawyer CFPB employees, Andrew Fey and K. Byron, conspired with Bank of America and corrupted CFPB Complaint No. 120914-000082, with a concocted a CFPB closing letter March 19, 2013 that wrongly denied my rights, which is under your jurisdiction. When can I expect an investigation?

Neil J. Gillespie
8092 SW 115th Loop
Ocala, Florida 34481

----- Original Message -----

From: [Neil Gillespie](#)

To: [OIGHotline](#)

Sent: Monday, February 08, 2016 6:51 AM

Subject: Re: Letter to Stefanie Isser Goldblatt, CFPB Senior Litigation Counsel Dec-23-2015 re AMAZON.COM, Synchrony Bank, FOCUS Camera

Thank you for your email. I respectfully disagree as set forth below.

RE: "We hope this information is helpful to you."

RE: "Please note, the OIG does not dispense legal advice to private citizens, nor does it act as a legal representative for private citizens."

Without diligent, competent, and conflict-free legal counsel, I am unable to know (legally) if the information provided is helpful. I am unable to obtain counsel. On its face, the OIG simply made referrals to other government agencies.

RE: "Lastly, the Board does not regulate Bank of America; it is regulated by the Office of the Comptroller of the Currency (OCC),"

No. The OCC does not regulate Bank of America in any meaningful way. Bank of America regulates the government of the United States. In a capitalist system, the market should regulate Bank of America. In the fall of 2008 the market rejected Bank of America, and a number of other bad banks and bad financial institutions. The market worked. Unfortunately of the Board of Governors of the Federal Reserve System (Board) usurped the market, along with co-conspirators, and wrongly saved, by taxpayer bailout, Bank of America from the regulating capitalist market. The Board became a Communist politburo to pick winners (banks and financial institutions) and losers (The People) in its vision of a planned economy. The Board has doomed The People of the United States through capitulation to banks and financial institutions and resulting treasonous interference with the capitalist economic system. That is how Bank of America regulates the government of the United States, and the Board, which is a private concern. Has the Board and the Federal Reserve Bank/System agreed to an independent audit?

Neil J. Gillespie

----- Original Message -----

From: [OIGHotline](#)

To: [Neil Gillespie](#)

Sent: Friday, February 05, 2016 12:56 PM

Subject: RE: Letter to Stefanie Isser Goldblatt, CFPB Senior Litigation Counsel Dec-23-2015 re AMAZON.COM, Synchrony Bank, FOCUS Camera

Mr. Gillespie:

The Office of Inspector General (OIG) of the Board of Governors of the Federal Reserve System (Board) and the Consumer Financial Protection Bureau (CFPB) has received your December 23, and 27, 2015, e-mails regarding consumer issues with Amazon and its vendors and Bank of America . Our office investigates fraud, waste, and abuse of Board and CFPB programs and operations. Your matter does not appear to fall under the purview of our office; additionally, we are unable to investigate or intervene in individual consumer matters against financial institutions. While it does not appear the OIG can assist you with this matter, we have researched various points of contact to better assist you. Please note, the OIG does not dispense legal advice to private citizens, nor does it act as a legal representative for private citizens.

If you have not done so already, you may wish to contact the CFPB's Ombudsman's Office; an independent, impartial, and confidential resource to help resolve process issues arising from CFPB activities. They may be reached at:

Consumer Financial Protection Bureau
Ombudsman's Office
Email: CFPBOmbudsman@cfpb.gov
Phone: 855-830-7880
Fax: 202-435-7888

If you would like to report fraud, waste, or abuse related to the programs or operations of the Board or CFPB, you may contact us via mail, email, fax, or phone at the following:

Office of Inspector General
c/o Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Mail Stop K- 300
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Attn: Hotline

Phone: (800) 827-3340 (toll free) / (202) 452-6400 (DC local)

Fax: (202) 973-5044 (DC local)

Email: OIGHotline@frb.gov

Website: http://www.federalreserve.gov/oig/oig_hotline.htm

Lastly, the Board does not regulate Bank of America; it is regulated by the Office of the Comptroller of the Currency (OCC), which is a branch of the Department of the Treasury. Individuals can obtain information about, or file a formal complaint against a national bank, such as Bank of America, by contacting the OCC Customer Assistance Unit. They may be reached at the following:

Comptroller of the Currency
 Customer Assistance Unit
 1301 McKinney Street
 Suite 3450
 Houston, TX 77010
 Toll Free: 1-800-613-6743
 TDD Number: 713-658-0340
 Fax: 713-336-4301
 Website: www.HelpWithMyBank.gov
 Customer Complaint Form Online:

https://appsec.helpwithmybank.gov/olcc_form/

We hope this information is helpful to you.

OIG Hotline

From: Neil Gillespie [<mailto:neilgillespie@mfi.net>]

Sent: Wednesday, December 23, 2015 5:08 PM

To: CFPB Academic Research Council <ARC@cfpb.gov>; CFPB Consumer Advisory Board <CAB@cfpb.gov>; CFPB Accessibility <CFPB_Accessibility@cfpb.gov>; CFPB Section 504 of the Rehabilitation Act <CFPB_504Request@cfpb.gov>; CFPB Office of Civil Rights <CFPB_EEO@cfpb.gov>; David Abney <David.Abney@ups.com>; Focus Camera1 <cs@focuscamera.com>; Focus Camera2 <csfocusamazon@focuscamera.com>; Focus Camera3 <info@focuscamera.com>; Jeff Bezos <jeff@amazon.com>; Lowes Consumer Credit Card Customer Service <statements@mail.synchronybank.com>; Lowes Customer Care <CustomerCare@lowes.com>; Lowes Home Improvement <lowes@e.lowes.com>; Malki Greenfeld <MGreenfeld@focuscamera.com>; Margaret Keane <Margaret.Keane@synchronybank.com>; Robert A. Niblock <robert.a.niblock@lowes.com>; Service Survey Synchrony Bank <Service.survey@synchronybank.com>; Stefanie Goldblatt <Stefanie.Goldblatt@cfpb.gov>; SWAROVSKI OPTIK <info@swarovskioptik.us>; UPS

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<CFPBOmbudsman@cfpb.gov>; OIGHotline <oighotline@frb.gov>; Neil Gillespie
<neilgillespie@mfi.net>

Subject: Letter to Stefanie Isser Goldblatt, CFPB Senior Litigation Counsel Dec-23-2015 re
AMAZON.COM, Synchrony Bank, FOCUS Camera

Neil Gillespie

From: "Neil Gillespie" <neilgillespie@mfi.net>
To: "Neil Gillespie" <neilgillespie@mfi.net>
Sent: Monday, February 15, 2016 2:04 PM
Attach: ATT00049.txt
Subject: Read: Office of Inspector General (OIG) of the Board of Governors of the Federal Reserve System (Board)

This is a receipt for the mail you sent to
"OIGHotline" <oighotline@frb.gov> at 2/15/2016 2:02 PM

This receipt verifies that the message has been displayed on the recipient's computer at 2/15/2016 2:04 PM



RE: FOIA Request #CFPB-2014-182-F-P

May 23, 2014

Mr. Neil Gillespie
8092 SW 115th Loop
Ocala, Florida 34481

Dear Mr. Gillespie:

This letter is in final response to your Freedom of Information Act (FOIA)/Privacy Act (PA) request dated April 28, 2014 to the Consumer Financial Protection Bureau (CFPB). Your request sought a copy of contents of the file in case no. 120914-000082.

On May 9, 2013, my office received the death certificate for your mother, Penelope Gillespie and 3rd party release authorization from your brother, Mark Gillespie. Upon receiving these documents, we were able to initiate a search for records responsive to your request.

Attached to this letter, please find our response to your request, which consists of 422 pages that are granted in full. As a matter of administrative discretion, I have determined that they are appropriate for public release. No deletions or exemptions have been claimed on these records.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. In this instance, we have waived all fees related to the processing of your request. Therefore, your fee waiver is moot.

For questions concerning our response, please feel free to contact CFPB's FOIA Service Center by email at FOIA@cfpb.gov or by telephone at 1-855-444-FOIA (3642).

Sincerely,

A handwritten signature in black ink, appearing to read "M. Michalosky". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Martin Michalosky
FOIA Manager
Operations Division

Reference #	120914-000082
Status	Investigation closed
Assigned To	Not specified
Product	Mortgage
Other mortgage	
Issue	Loan servicing, payments, escrow account
Disposition	Complaint
Check Complaint Status	
SLA	Inbound Referrals 120822
Queue	Investigations - Supervisor Review
Date Created	09/14/2012 09:57 AM
Date Initial Solution Response	None
Last Updated	11/13/2013 10:45 PM
Date Closed	03/19/2013 06:44 PM
Customer SmartSense	0 (on -3 to +3 scale)
Staff SmartSense	0 (on -3 to +3 scale)
Send to company?	Yes
Copy What Happened (Flag)	Yes
Involves discrimination?	No
Discrimination age	No
Discrimination marital	No
Discrimination national origin	No
Discrimination race	No
Discrimination exercise	No
Discrimination public assist	No
Discrimination religion	No
Discrimination sex	No
Contacted CC issuer	Yes
Contacted CFPB	No
Contacted a government agency	Yes
Retained attorney	No
Filed legal action	No
Consumer Disputed Date	12/02/2012 08:50 PM
ZIP code	34481

Complaint against a HECM lender and a HECM Counselor in Texas

Discussion Thread

Note (Bryan Roberts) 06/27/2013 07:55 PM
 Consumer called about the letter they wrote to the Director Coudroy, and would like to know the status. Provide answer through KB 998, information verified.

Provide answer through KB 997, Mr./Mrs. (consumer name), a specialist in Consumer Response has completed the review of your complaint based on the federal consumer financial protection laws within the CFPB's authority. We review all information provided by consumers. However, if you do not hear from us within 60 days after you dispute, you can assume we have investigated and closed your complaint. If you have other feedback to share with the CFPB, including feedback about our complaint process, tell us your story on our website at <https://help.consumerfinance.gov/app/tellyourstory>. We welcome and review all feedback from consumers, because it helps us to learn and improve our support for consumers.

Verified with Tier 2, Mike, via phone, about the reopening of their case.

KB 1771. The CFPB Ombudsman's Office is a free, independent, impartial and confidential resource that may be able to assist you with concerns about the Consumer Response process at the CFPB. If you have attempted to use the Consumer Response process and normal resolution avenues without success, you may contact the Ombudsman.

The Ombudsman cannot address matters already in litigation, delay any statutory, regulatory, or other CFPB deadlines, make decisions or legal determinations for the CFPB, or serve as a formal office of legal notice for the CFPB.

You may reach the Ombudsman's office by phone at 1-855-830-7680 or by FAX at 202-435-7888

Consumer didn't want to call the Ombudsman's office. Consumer felt that CFPB didn't care about the complaint and about the letter, nor reopening the complaint. No further questions.

Note (Mike (Tier II) Patterson) 06/27/2013 07:53 PM

Tier II Transfer: CSR wanted to know if we were going to re-open the case following the investigation that closed on 03/19/13 because the consumer sent in some additional documentation on 06/17/13. I advised the CSR that the final close-out letter provides all of the information that consumer is seeking and that he should review the close-out letter for helpful foreclosure counseling agencies since we cannot assist as he didn't provide a authorization to the bank for them to speak on his behalf. I advised the CSR to refer to KB "1771" if the consumer has concerns about the process used to make the final conclusions but this does not serve as an appeals committee. CSR understood.

Note (Mike (Tier II) Patterson) 06/17/2013 02:25 PM

Additional information (201308141300img0614_13260001) provided by the consumer on 06/14/13. The investigation was already closed so attached in the "attachments" tab.

Note (Suzanne Falk) 04/29/2013 09:09 AM

Additional information (201304261230img0426_14060004) provided by consumer on 4-26-13.

Note (Whitney (Tier II) Entow) 04/15/2013 12:29 PM

Additional information (201304121230img0412_15430003) provided by consumer on 4/12/13.

Note (Whitney (Tier II) Entow) 03/28/2013 11:12 AM

As we cannot accept some of the documents that were sent in by the consumer, these documents have been mailed back on 3/28/13.

Note (Kenshal Burgess) 03/28/2013 10:49 AM

Additional information (201303271245img0327_14100004) provided by consumer on 3/27/2013.

Note (Avonique Tipsword) 03/28/2013 08:43 AM

Consumer sent in multimedia device(s) containing files that CFPB does not/cannot accept. Files were returned on 3/28/2013.

Note (Larry Hynes) 03/20/2013 05:53 PM

Additional information (please see below document id's) provided by consumer on [3/19/13]

201303191445img0319_16520002 1 of 7.pdf

201303191445img0319_16520002 2 of 7.pdf

201303191445img0319_16520002 3 of 7.pdf

201303191445img0319_16520002 4 of 7.pdf

201303191445img0319_16520002 5 of 7.pdf

201303191445img0319_16520002 6 of 7.pdf

201303191445img0319_16520002 7 of 7.pdf

Auto-Response 03/19/2013 06:44 PM

This is an update about your complaint regarding Bank of America we received on 09/14/2012 09:57 AM.

We forwarded your complaint to Bank of America for review, and asked them to consider the resolution you requested and respond within fifteen days. Bank of America reviewed your complaint and the resolution you requested and responded on 10/01/2012.

Although the CFPB allows for the filing of complaints on behalf of others, Bank of America has indicated that it is unable to further process the complaint without authorization from the consumer. Unfortunately,

On behalf of Myself
On behalf of myself
Yes
State
FL
ZIP code
34481
State
FL
ZIP code
34481
Complaint process
CFPB review
Sent to company
01/24/2013 01:46 PM
Respond by
02/03/2013 12:00 AM
Respond By 60 Days
11/16/2012 12:00 AM
Complaint source
Referral
I dispute this resolution?
Yes
Special handling?
No
Past Due Flag
No
No Response Flag
No
Nonstandard Handling
Not Applicable
Referred By
HUD
Script Complete?
No
Date Reviewed
09/17/2012
Potential Whistleblower?
No
Service Member?
No
Dependent of Service Member?
No
Older American?
No
Narrative Includes PII?
No
Investigation Letter Sent?
Yes
Invest Letter Ready to Send?
No
First Level Invest. Assigned
01/04/2013 07:44 AM
Investigation Created ?
Yes
Investigations high priority?
No
Date entered Investigations:
12/02/2012 08:50 PM
Date sent to Supervisor:
09/25/2012 07:23 AM
Date of last status change
03/19/2013 06:44 PM
Info Received Company
02/01/2013 11:41 AM
Applying for the loan
No
Receiving a credit offer
No

no further action will be taken on your individual complaint at this time. We encourage the consumer to file a complaint on his/her own behalf by contacting the CFPB.

Review the company's response and comments from the Consumer Response Specialist here: <https://help.consumerfinance.gov/app/account/complaints/list/>.

We take consumer complaints very seriously and are grateful for the information you have provided throughout this process. Consumer complaints inform us about business practices that may pose risks to consumers and help with the CFPB's supervisory, enforcement, and rulemaking responsibilities.

Hearing from engaged and proactive consumers like you is critical to our mission. With this correspondence, we are closing your file on this matter within Consumer Response. Please feel free to contact the CFPB if you need help with another consumer finance matter in the future.

Thank you,

Office of Consumer Response

Consumer Financial Protection Bureau

consumerfinance.gov

(855) 411-CFPB (2372)

Note (Larry Hynes) 03/19/2013 05:31 PM

Additional information (201303161330img0318_16380003) provided by consumer on [3/18/13]. Consumer requests assistance in understanding case status page.

Note (Alan Brink) 03/19/2013 03:46 PM

Additional information (201303161330img0318_16440003) provided by consumer on [3/18/13]. Consumer is requesting disability accommodations from CFPB to assist with filing complaint.

Note (Kelly Mcbee) 03/13/2013 03:37 PM

Consumer called in asking if we can tell him how many pages is his complaint that we received. advised consumer that the way our complaints are done we cannot tell how many pages his complaint is. Consumer stated he would call back later. branded the call and the consumer then released the call.

Note (Hector Ruiz) 01/22/2013 12:14 PM

The consumer is calling about the status of the complaint. I read the 997 kb to the consumer. The consumer has received a letter of foreclosure and needs to have a response by the first of February. I explained to the consumer that the CFPB cannot get involved in any legal matters. The consumer wants to change the correspondence which would be through email. The consumer wants to know how to apply for a disability assistance with his complaint. I called tier 2 and talked to Jeff and he said that we can only accommodate writing the notes in the case or he can mail or fax us the information. The consumer wants to know why the bank will not speak with him because the signer's of loan are deceased the consumer's stating that this is a reverse mortgage and not a regular mortgage. The consumer claim's that under Florida law nothing can be changed or disregarding from the original documents. The consumer was provided the web site to the FOIA request and he will send his concerns regarding the matter of his disability.

Note (Jeffery (TIER II) Kirkpatrick) 01/22/2013 11:50 AM

Consumer stated his disability prevents him from remembering information and from providing it by some of the ways we have to send it to CFPB. Advised the agent that he can send additional info via mail, fax, or by the phone. Agent will relay the info to the consumer

Auto-Response 12/02/2012 08:50 PM

Thank you for reviewing Bank of America's response to your complaint (Case number: 120914-000082).

We regret that your complaint has not been resolved. We take consumer complaints very seriously and use complaints like yours to identify practices or areas of concern. A Consumer Financial Protection Bureau specialist is reviewing your complaint and may contact you and Bank of America to collect additional information. This could be a lengthy process, so we ask for your patience.

The Consumer Financial Protection Bureau is also actively tracking the issues that consumers care about, to learn more about these issues please go to <http://www.consumerfinance.gov>.

To track the status of your complaint, go to <https://help.consumerfinance.gov/app/account/complaints/list>.

In the meantime, if you're having trouble paying your mortgage and need immediate assistance, call us at (855) 411-CFPB. We can connect you to a free, HUD-approved housing counselor who can help you explore all available options to avoid foreclosure, including modifications, short sales, repayment plans and government programs.

Special assistance may be available to military members or veterans.

You can also explore your options at <http://www.makinghomeaffordable.gov/programs/Pages/default.aspx>

Please note that filing a complaint with us will not automatically stop or delay a foreclosure.

Problems when unable to pay
No

Making payments
No

Signing the agreement
No

Concerned about foreclosure?
Yes

Missed payment or default?
No

Is date foreclosure scheduled?
No

Pay company avoid foreclosure?
No

Company Initial Response Date
10/01/2012 12:00 AM

Initial Sent to Company Date
09/17/2012 12:00 AM

first_lvl_invest_start_time
01/04/2013 07:44 AM

first_lvl_invest_complete_time
02/04/2013 03:19 PM

company_info_request_time
01/24/2013 01:46 PM

company_info_rcvd_time
02/01/2013 11:41 AM

Investigation closed time
04/29/2013 09:09 AM

IG Report
No

Copy to mailing address
No

Copy to company address
No

Copy to property address
No

Copy to on-behalf address
No

Copy to service member address
No

Success Story
No

Recommendation
No

Human Interest
No

Red Flag?
No

Emerging Issue
No

Withhold from publication?
No

Consumer State
FL

Company Response Disputable
10/01/2012 12:00 AM

Comp Substantive Response Date
10/01/2012 12:00 AM

CFPB Closed
08/13/2013 01:25 AM

Scrub State
Do not scrub

Thank you,
Office of Consumer Response
Consumer Financial Protection Bureau
consumerfinance.gov
(855) 411-CFPB (2372)

Customer (Neil Gillespie) 12/02/2012 08:50 PM
I provided Bank of America a copy of the will on October 8, 2012 naming me as the executor, as requested by Bank of America.

I received a letter dated October 15, 2012 Danielle N. Parsons, Esq., responding on behalf of Reverse Mortgage Solutions (RMS) about my August 9, 2012 complaint to HUD and RMS. The letter looks like a general denial of my accusations.

Today I have added a copy of the letter to this website.

Auto-Response 10/21/2012 04:37 PM
Bank of America reviewed your complaint (Case number: 120914-000082) and has provided a resolution.

To view the status of your complaint or to dispute the resolution within the next 10 days, go to <https://help.consumerfinance.gov/app/account/complaints/list>.

In the meantime, if you're having trouble paying your mortgage and need immediate assistance, call us at (855) 411-CFPB. We can connect you to a free, HUD-approved housing counselor who can help you explore all available options to avoid foreclosure, including modifications, short sales, repayment plans and government programs.

Special assistance may be available to military members or veterans.

You can also explore your options at <http://www.makinghomeaffordable.gov/programs/Pages/default.aspx>

Please note that filing a complaint with us will not automatically stop or delay a foreclosure.

Thank you,
Consumer Response Team

Consumer Financial Protection Bureau
consumerfinance.gov
(855) 411-CFPB (2372)

Note (Melissa Herrera) 10/18/2012 02:20 PM
Additional information (201210151345img1017_14350000) provided by consumer on 10/15/2012.
Updated consumer's contact information by adding an email address.

Auto-Response Note 10/01/2012 04:23 PM
Neil Gillespie
8092 SW 115th Loop
Ocala, FL 34481

Dear Neil Gillespie:

Bank of America responded to your complaint (Case number: 120914-000082).

You are not required to take any action. However, to view the status of your complaint or to dispute the resolution, go to <https://help.consumerfinance.gov/app/account/complaints/list> and click on your complaint number.

In the meantime, if you're having trouble paying your mortgage and need immediate assistance, call us at (855) 411-CFPB. We can connect you to a free, HUD-approved housing counselor who can help you explore all available options to avoid foreclosure, including modifications, short sales, repayment plans and government programs.

Special assistance may be available to military members or veterans.

You can also explore your options at <http://www.makinghomeaffordable.gov/programs/Pages/default.aspx>

Please note that filing a complaint with us will not automatically stop or delay a foreclosure.

The Consumer Financial Protection Bureau actively tracks issues consumers care about when it comes to Mortgage. To learn more about these issues, go to consumerfinance.gov.

Thank you,
Consumer Response Team

Consumer Financial Protection Bureau
consumerfinance.gov
(855) 411-CFPB (2372)

Auto-Response Note 09/17/2012 02:06 PM

Neil Gillespie
8092 SW 115th Loop
Ocala, FL 34481

Dear Neil Gillespie:

Thank you for contacting the Consumer Financial Protection Bureau. We received your complaint

regarding Bank of America on 09/14/2012 09:57 AM and will send it to your company as soon as possible.

The following case number has been assigned to your complaint: 120914-000082. Keep this number for future reference and contact with the Consumer Financial Protection Bureau regarding your complaint.

To review your complaint and view the status go to consumerfinance.gov. You may also call 1 (855) 411-CFPB (2372) to hear your complaint's status update.

In the meantime, if you're having trouble paying your mortgage and need immediate assistance, call us at (855) 411-CFPB. We can connect you to a free, HUD-approved housing counselor who can help you explore all available options to avoid foreclosure, including modifications, short sales, repayment plans and government programs.

Special assistance may be available to military members or veterans.

You can also explore your options at <http://www.makinghomeaffordable.gov/programs/Pages/default.aspx>

Please note that filing a complaint with us will not automatically stop or delay a foreclosure.

The Consumer Financial Protection Bureau is actively tracking the issues that consumers care about, to learn more about these issues go to consumerfinance.gov.

Thank you,
Consumer Response Team

Consumer Financial Protection Bureau
consumerfinance.gov
(855) 411-CFPB (2372)

Note (Janet Bland) 09/14/2012 03:20 PM

Recently we found a material alteration to our HECM reverse mortgage made by interlineation after execution. (Exhibits 32 and 33). Please take notice that we DO NOT ratify the change. The interlineation is a hand-written alteration, not initialed and not dated, and vitiates the mortgage.

The interlineation is an attempt to add a new party to the reverse mortgage, Penelope M. Gillespie individually. The interlineation recently came to our attention when an attorney we consulted found the altered mortgage on the Marion County Clerk's website. This mortgagee document differs from the mortgage documents we signed June 5, 2008 with no interlineation. On January 15, 2009 Bank of America provided us with copies of the mortgage documents that have no interlineation. (Exhibits 9 and 10). Therefore I conclude that the interlineation is evidence of fraud by the lender and/or lender-affiliated parties.

Customer (Neil Gillespie) 09/14/2012 03:20 PM

Recently we found a material alteration to our HECM reverse mortgage made by interlineation after execution. (Exhibits 32 and 33). Please take notice that we DO NOT ratify the change. The interlineation is a hand-written alteration, not initialed and not dated, and vitiates the mortgage.

The interlineation is an attempt to add a new party to the reverse mortgage, Penelope M. Gillespie individually. The interlineation recently came to our attention when an attorney we consulted found the altered mortgage on the Marion County Clerk's website. This mortgagee document differs from the mortgage documents we signed June 5, 2008 with no interlineation. On January 15, 2009 Bank of America provided us with copies of the mortgage documents that have no interlineation. (Exhibits 9 and 10). Therefore I conclude that the interlineation is evidence of fraud by the lender and/or lender-affiliated parties.

Customer 09/14/2012 09:57 AM

----- application File Attachment -----
DOC001.PDF, 1294980 bytes, added to case

Primary Contact

First Name: Neil
Last Name: Gillespie
Organization:
Login: neilgillespie@mfi.net
Title: Mr.
Contact Type:
Email: neilgillespie@mfi.net
Email - Alternate #1:
Email - Alternate #2:
Primary Phone: 352-854-7807
Mobile Phone:
Fax:
Assistant Phone:
Home Phone:
Street 8092 S.W. 115th Loop
City Ocala
State/Province FL
Postal Code 34481
Country United States

Additional information

Name on acct: Neil Gillespie
Company name: Bank of America, N.A.
Country: United States
Address 1: 8092 SW 115th Loop
City: Ocala
Country: United States
Address 1: 8092 SW 115th Loop
City: Ocala
Country: United States
Company status: Information provided
Consumer status: Review completed
Pre-Investigation Response: Closed with explanation
Letter: RL 2.1a Company Response (Closed Relief)
Company Status 1: Closed with explanation
Investigation Letter Template: AR7.10 Unauthorized submission.dotx
Currency type (Error Amount): USD United States Dollar
Country (Sender Agent): United States
Country (Sender): United States
Country (Receiving Agent): United States
Country (Recipient): United States

What Happened?

Recently we found a material alteration to our HECM reverse mortgage made by interlineation after execution. (Exhibits 32 and 33). Please take notice that we DO NOT ratify the change. The interlineation is a hand-written alteration, not initialed and not dated, and vitiates the mortgage.

The interlineation is an attempt to add a new party to the reverse mortgage, Penelope M. Gillespie individually. The interlineation recently came to our attention when an attorney we consulted found the altered mortgage on the Marion County Clerk's website. This mortgage document differs from the mortgage documents we signed June 5, 2008 with no interlineation. On January 15, 2009 Bank of America provided us with copies of the mortgage documents that have no interlineation. (Exhibits 9 and 10). Therefore I conclude that the interlineation is evidence of fraud by the lender and/or lender-affiliated parties.

Fair resolution?

The interlineation is an attempt to add a new party to the reverse mortgage.

Consumer Response

I provided Bank of America a copy of the will on October 8, 2012 naming me as the executor, as requested by Bank of America.

I received a letter dated October 15, 2012 Danielle N. Parsons, Esq., responding on behalf of Reverse Mortgage Solutions (RMS) about my August 9, 2012 complaint to HUD and RMS. The letter looks like a general denial of my accusations.

Today I have added a copy of the letter to this website.

Provide a response

Dear Neil Gillespie:
Bank of America's Office of the CEO and President acknowledges receipt of your inquiry. As a customer advocate, I welcome the opportunity to respond to your inquiry.

Laws that govern customer privacy prevent us from providing you with details about any relationship we may have with any customer without first obtaining the written consent of such customer. Since our records indicate that no written authorization has been received to date from the person on whose behalf you are inquiring, we are unable to discuss any information with you at this time. Please provide a copy of the will naming the third party as the executor or the letters of testamentary naming you as the authorized representative. We will respond to the concerns raised in your correspondence once the aforementioned documents are provided.

If you wish to submit the will or the letters of testamentary, you can fax them directly to me at 1.877.373.7139. Please feel free to contact me directly at 1.972.526.3604. I am available Monday through Friday, 7:30 a.m. to 4:30 p.m. Central.

Sincerely,
Christopher Pickle
Customer Advocate
Office of the CEO and President
cc: Consumer Financial Protection Bureau Case # 120914-000082

Explanation of Closure

Dear Neil Gillespie:
Bank of America's Office of the CEO and President acknowledges receipt of your inquiry. As a customer advocate, I welcome the opportunity to respond to your inquiry.

Laws that govern customer privacy prevent us from providing you with details about any relationship we may have with any customer without first obtaining the written consent of such customer. Since our records indicate that no written authorization has been received to date from the person on whose behalf you are inquiring, we are unable to discuss any information with you at this time. Please provide a copy of the will naming the third party as the executor or the letters of testamentary naming you as the authorized

representative. We will respond to the concerns raised in your correspondence once the aforementioned documents are provided.

If you wish to submit the will or the letters of testamentary, you can fax them directly to me at 1.877.373.7139. Please feel free to contact me directly at 1.972.526.3604. I am available Monday through Friday, 7:30 a.m. to 4:30 p.m. Central.

Sincerely,
Christopher Pickle
Customer Advocate
Office of the CEO and President
cc: Consumer Financial Protection Bureau Case # 120914-000082

mortgage_appended_ar_large

In the meantime, if you're having trouble paying your mortgage and need immediate assistance, call us at (855) 411-CFPB. We can connect you to a free, HUD-approved housing counselor who can help you explore all available options to avoid foreclosure, including modifications, short sales, repayment plans and government programs.

Special assistance may be available to military members or veterans.

You can also explore your options at <http://www.makinghomeaffordable.gov/programs/Pages/default.aspx>

Please note that filing a complaint with us will not automatically stop or delay a foreclosure.

File Attachments

Name	Size	Content Type
• DOC001.PDF	1.23m	application/pdf
• Proposed_Res_Privacy Letter Final SR 1-351124856.pdf	41.46k	application/pdf
• 201210151345img1017_14350000.PDF	284.57k	application/pdf
• Danielle Parsons-McCalla Raymer, response for RMS, Oct-15-2012.pdf	654.65k	octet/stream
• 201303181330img0318_16440003.pdf	757.09k	application/pdf
• 201303181330img0318_16380003.pdf	59.6k	application/pdf
• 120914-000082_Gillespie_Neil_Final.pdf	229.22k	application/pdf
• 201303191445img0319_16520002 1 of 7.pdf	14.59m	application/pdf
• 201303191445img0319_16520002 2 of 7.pdf	17.7m	application/pdf
• 201303191445img0319_16520002 3 of 7.pdf	11.4m	application/pdf
• 201303191445img0319_16520002 4 of 7.pdf	16.61m	application/pdf
• 201303191445img0319_16520002 5 of 7.pdf	14.19m	application/pdf
• 201303191445img0319_16520002 6 of 7.pdf	13.42m	application/pdf
• 201303191445img0319_16520002 7 of 7.pdf	9.6m	application/pdf
• 201303271245img0327_14100004.pdf	14.37m	application/pdf
• 201304121230img0412_15430003.pdf	391.72k	application/pdf
• 201304261230img0426_14060004.pdf	11.47m	application/pdf
• 201306141300img0614_13260001.pdf	5.48m	application/pdf
• 201306141300img0614_13260001.pdf	5.48m	application/pdf

Consumer Complaint: Consumer stated that this complaint concerns a reverse mortgage and Bank of America. Consumer stated that the reverse mortgage agreement contained interlineation, that consumer did not endorse. Consumer stated that the interlineation is evidence of fraud. Consumer also noted that the agreement is void and unenforceable as a result.

Desired Resolution: None provided.

Bank Response: On Oct 1, 2012, BoA stated, "Laws that govern customer privacy prevent us from providing you with details about any relationship we may have with any customer without first obtaining the written consent of such customer. Since our records indicate that no written authorization has been received to date from the person on whose behalf you are inquiring, we are unable to discuss any information with you at this time. Please provide a copy of the will naming the third party as the executor or the letters of testamentary naming you as the authorized representative. We will respond to the concerns raised in your correspondence once the aforementioned documents are provided. If you wish to submit the will or the letters of testamentary, you can fax them directly to me at 1.877.373.7139. Please feel free to contact me directly at 1.972.526.3604. I am available Monday through Friday, 7:30 a.m. to 4:30 p.m. Central."

On Oct 8, 2012, consumer submitted documents to Bank of America in response to BoA's Oct 1 letter.

On Jan 24, 2013, I requested that BoA respond to consumer's document submission.

Greg Evans

01/24/2013
12:55 PM

Greg Evans

01/24/2013
01:43 PM



55448

2:57227	<p>On Feb 1, 2013, BOA responded and provided a letter addressed to consumer. The letter stated, "Our records indicate that we do not have proper authorization to disclose any information to you regarding Ms. Penelope M. Gillespie's account. Bank of America values and guards our customers' privacy and financial information and, therefore, does not provide customer-specific information to unauthorized third parties.</p> <p>Further, laws that govern customer privacy prevent us from providing you with details about any relationship we may have with any customer without first obtaining the written consent of such customer. Our records confirm that we have not received any written authorization from Ms. Gillespie, therefore, we are unable to discuss any information about her account with you. In order to obtain a response to the concerns raised in your correspondence, please provide us with a copy of a proper third party authorization form naming you as Ms. Gillespie's authorized representative. You may contact Bank of America's Reverse Mortgage Department at 1.866.863.5224 for instructions on how to submit these necessary documents."</p> <p>Per discussion with K. Byrne, this case can be closed with the unauthorized submission letter.</p>	Greg Evans	02/04/2013 02:44 PM	Greg Evans	02/04/2013 03:02 PM
3:64914	<p>Agree with determination. Thank you. Also, thank you for providing additional information related to reverse mortgages in your closeout letter.</p>	Andrew Fay	03/19/2013 01:08 PM	Andrew Fay	03/19/2013 01:08 PM

March 19, 2013

Neil Gillespie
8092 SW 115th Loop
Ocala, FL 34481

Re: Complaint: 120914-000082

Dear Neil Gillespie:

The Consumer Financial Protection Bureau (CFPB) would like to take the opportunity to provide you with an update about the complaint you filed that we received regarding Bank of America, on September 14, 2012.

Our records reflect the following:

You reported:

Recently we found a material alteration to our HECM reverse mortgage made by interlineation after execution. Please take notice that we do not ratify the change. The interlineation is a hand-written alteration, not initialed and not dated, and vitiates the mortgage.

The interlineation is an attempt to add a new party to the reverse mortgage, Penelope M. Gillespie individually. The interlineation recently came to our attention when an attorney we consulted found the altered mortgage on the Marion County Clerk's website. This mortgagee document differs from the mortgage documents we signed June 5, 2008 with no interlineation. On January 15, 2009 Bank of America provided us with copies of the mortgage documents that have no interlineation. Therefore I conclude that the interlineation is evidence of fraud by the lender and/or lender-affiliated parties.

You requested that the agreement be found to be void and unenforceable.

We forwarded your complaint to Bank of America for review, requesting them to consider the resolution you requested and respond within fifteen days. Bank of America reviewed your complaint and your requested resolution and provided the following response on October 1, 2012:

Laws that govern customer privacy prevent us from providing you with details about any relationship we may have with any customer without first obtaining

the written consent of such customer. Since our records indicate that no written authorization has been received to date from the person on whose behalf you are inquiring, we are unable to discuss any information with you at this time. Please provide a copy of the will naming the third party as the executor or the letters of testamentary naming you as the authorized representative. We will respond to the concerns raised in your correspondence once the aforementioned documents are provided.

If you wish to submit the will or the letters of testamentary, you can fax them directly to me at 1.877.373.7139. Please feel free to contact me directly at 1.972.526.3604. I am available Monday through Friday, 7:30 a.m. to 4:30 p.m. Central.

The Consumer Response Team requested additional information from Bank of America, including a response to documents you submitted, concerning this matter. Bank of America responded by providing a letter addressed to you and dated February 1, 2012. The letter stated, in part:

Our records indicate that we do not have proper authorization to disclose any information to you regarding Ms. Penelope M. Gillespie's account. Bank of America values and guards our customers' privacy and financial information and, therefore, does not provide customer-specific information to unauthorized third parties.

Further, laws that govern customer privacy prevent us from providing you with details about any relationship we may have with any customer without first obtaining the written consent of such customer. Our records confirm that we have not received any written authorization from Ms. Gillespie, therefore, we are unable to discuss any information about her account with you. In order to obtain a response to the concerns raised in your correspondence, please provide us with a copy of a proper third party authorization form naming you as Ms. Gillespie's authorized representative. You may contact Bank of America's Reverse Mortgage Department at 1.866.863.5224 for instructions on how to submit these necessary documents.

Although the CFPB allows for the filing of complaints on behalf of others, Bank of America has indicated that it is unable to further process the complaint without authorization from the consumer requesting the resolution above. Unfortunately, no further action will be taken on your complaint at this time. Our review was limited to federal consumer financial protection laws within the CFPB's authority. Our disposition should not be considered to be a determination with respect to the validity of your complaint. We hope you understand that the CFPB does not represent individuals in

legal matters. If you believe this does not resolve your complaint, you are of course free to contact a private attorney about this matter or file your own case in court.

For more information on mortgages, or any other consumer financial product or service, visit “Ask CFPB” at www.consumerfinance.gov/askcfpb/.

Specifically, please see the following entries from “Ask CFPB”:

Housing counselors are permitted to charge for reverse mortgage counseling, but the agency must tell you about the fee before charging it, and the fee has to be reasonable. Fees are typically about \$125. Counseling agencies are also required to waive the counseling fee if your income is less than twice the poverty level.

- **TIP:** Make sure your reverse mortgage counselor is approved by the U.S. Department of Urban Development (HUD). You can find HUD-approved housing counselor by visiting HUD's counselor search page or calling HUD's housing counselor referral line (1-800-569-4287).
- **TIP:** If you are behind on your taxes and insurance and you are facing foreclosure, you can receive free reverse mortgage foreclosure prevention counseling. To find a specialist counselor, call one of the five national counseling agencies and ask for HECM foreclosure prevention counseling:
 - CredAbility: 1-888-395-2664
 - Money Management International: 1-866-765-3328
 - National Council on the Aging: 1-800-510-0301
 - National Foundation for Credit Counseling: 1-866-363-2227
 - NeighborWorks America: 1-888-990-4326

If you paid someone up-front for counseling and they never provided counseling to you, or if someone is offering you counseling only if you purchase an insurance or financial product along with your reverse mortgage, report the agency and counselor by filing a complaint with the CFPB, or calling 1-855-411-CFPB (2372).

<http://www.consumerfinance.gov/askcfpb/232/what-will-reverse-mortgage-housing-counseling-cost.html>



Consumer Financial
Protection Bureau

P.O. Box 4503
Iowa City, Iowa 52244

We take consumer complaints very seriously and are grateful for the information you have provided throughout this process. Consumer complaints inform us about business practices that may pose risk to consumers and assist the CFPB's supervisory, enforcement, and rulemaking responsibilities. Hearing from engaged and proactive consumers like you is critical to our mission. With this correspondence, we are closing your file on this matter within Consumer Response. Please feel free to contact the CFPB should you need help with another consumer finance matter in the future.

Thank you,
Consumer Response Team

Consumer Financial Protection Bureau
consumerfinance.gov
(855) 411-CFPB (2372)



RE: FOIA Request #CFPB-2014-206-F

June 2, 2014

Mr. Neil Gillespie
8092 SW 115th Loop
Ocala, Florida 34481

Dear Mr. Gillespie:

This letter is in final response to your Freedom of Information Act (FOIA) request dated May 28, 2014. Your request sought records identifying the employer, job titles and duties for Andrew Fey, K. Byrne, and Greg Evans and records identifying the person or entity designated to accept service of legal process for the Consumer Financial Protection Bureau (CFPB), and Director Richard Cordray.

Per a telephone conversation on May 29, 2014 with Ryan McDonald of my office, you indicated that you wish to receive the Position Descriptions for CFPB employees Andrew Fey, K. Byrne, and Gregg Evans. You also indicated that you wanted the physical mailing address for the CFPB Legal Department and the CFPB Director.

A search of our Office of the Human Capital for documents responsive to your request produced a total of 7 pages, pages 1-3 apply to Andrew Fey, pages 4-5 apply to Greg Evans, and pages 6-7 apply to K. Byrne. Attached to this letter please find our response to your request, consisting of 7 pages that are granted in full. No deletions or exemptions have been claimed on these records.

The physical mailing address for the CFPB General Counsel and CFPB Director are as follows:

Consumer Finance Protection Bureau
General Counsel
ATTN: Meredith Fuchs
1700 G Street, NW
Washington, DC 20552

Consumer Finance Protection Bureau
Office of the Director
ATTN: Richard Cordray
1700 G Street, NW
Washington, DC 20552

Provisions of the FOIA allow us to recover part of the cost of complying with your request. In this instance, we have waived all fees related to the processing of your request. Therefore, your fee waiver is moot.

For questions concerning our response, please feel free to contact CFPB's FOIA Service Center by email at FOIA@cfpb.gov or by telephone at 1-855-444-FOIA (3642).

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Michalosky', with a long horizontal flourish extending to the right.

Martin Michalosky
FOIA Manager
Operations Division

POSITION DESCRIPTION
CONSUMER RESPONSE MANAGER, CN-0301-60

SETID	CFPB1	JOB CODE	111350	DATE	07/02/2013	OPM CERT #			
PAY PLAN	CN	SERIES	0301	GRADE	60	PAY BASIS	Per Annum	FUNC CLASS	NA
WORK TITLE	Consumer Response Manager								
SPVY LEVBL	Supv/Mgr	POSITION SENSITIVITY	Mod Risk	LEO POSITION	N/A	MEDICAL CHECK REQ.	No	BUS CODE	8888
ELSA	Exempt	PATCOB	Admin	EXECUTIVE DISCLOSURE	No	EMPL IN INTEREST	No	FUND SOURCE	Approp fnd
CLASSIFIER									
CLASS STANDARD									
DATE CLASSIFIED	02/17/2012								

MAJOR DUTIES

Consumer Response Manager
 CN-0301-60
 PD # 111350

Organizational Title:

Organizational Location:

Consumer Financial Protection Bureau
 Division: Chief Operating Officer
 Office: Response Center
 Branch: N A
 Unit: N A
 Section: N A

Major Duties and Responsibilities:

1. Leads or contributes to key operational strategies for CFPB's consumer response program. Independently manages the day-to-day operations of CFPB's consumer response team.
2. Reviews policy guidelines, standard operating procedures, and significant complaints to identify systemic trends indicating the need to update CFPB policies and procedures. Recommends the adoption and application of new methods, approaches, and assessment criteria to ensure program or project requirements are aligned with strategic objectives.
3. Prepares and delivers briefings to senior executives and managers, CFPB staff representatives, the public or others on project status related to highly sensitive, complex, and controversial consumer complaint issues.
4. Participates in meetings, on committees or teams, or otherwise represents the component or CFPB in a variety of forums requiring formal presentations and in-depth technical knowledge of program requirements in order to serve as a subject-matter expert.
5. Is the final authority for forwarding consumer complaints or inquiries requiring action by examiners or litigators, or review by managers, attorneys, CFPB's enforcement team, CFPB's supervision team or others. Serves as the final decision-maker on the release of controversial consumer complaints responses.
6. Recommends new metrics in response to program initiatives approved by CFPB executive leadership to assess the efficiency and integrity of the consumer response program and its execution. Assessments may also include impact analyses of program changes. Assessments may include proposals for new approaches for monitoring, managing, or evaluating critical programs having CFPB or

CONSUMER RESPONSE MANAGER, CN-0301-60

component-wide impact.

7. Evaluates new regulations and other legislation and policies to assess their impact on CFPB programs, goals, and objectives, and formulates specific policies and procedures, including revision of consumer complaint-related CFPB policies and procedures. Makes program recommendations and provides advice on program matters that affect the administration and management of CFPB's consumer response program.

8. Performs periodic review of the consumer complaint response program to assist senior officials in ensuring that adequate resources are devoted to the program and that CFPB is effectively meeting its regulatory and statutory obligations.

9. Establishes working relationships and deal with people at all levels of the organization and the public, both in person and over the phone.

10. Responsible for unit's successful performance. Identifies operational problems and or issues and resolves such problems or issues.

11. Provides accurate technical advice and direction to staff members. Identifies training requirements for Consumer Response Team. Embraces the principles of equal employment opportunity and diversity.

12. Follows all Federal and Bureau requirements. Attends and participates in all mandatory bureau events.

13. Performs other duties as assigned.

Pay and Performance Descriptors Applicable to Band CN-60

General Profile: Manages professional employees and or supervisors. Is accountable for the performance and results of a team within own discipline. Adapts departmental plans and priorities to address resource and operational challenges. Decisions are guided by policies, procedures and agency plan; receives guidance from manager. Provides technical guidance to employees, colleagues and or customers.

Functional Knowledge: Requires in-depth understanding of concepts, theories and principles in own discipline and basic knowledge of other disciplines.

Program Expertise: Applies understanding of the industry and how own area contributes to the achievement of objectives.

Leadership: Manages a generally homogeneous team; adapts plans and priorities to meet service and or operational challenges.

Problem Solving: Identifies and resolves technical, operational and organizational problems.

Impact: Impacts the level of service and the team's ability to meet quality, volume, and timeliness objectives. Guided by policies, resource requirements, budgets and the agency plan.

Interpersonal Skills: Guides, influences and persuades others either internally in other areas or externally with customers or agencies.

Classification Analysis

References:

CONSUMER RESPONSE MANAGER, CN-0301-60

- (a) OPM Position Classification Flysheet for Miscellaneous Administration and Program Series, GS-0301 TS-34 January 1979
- (b) Introduction to the Position Classification Standards TS-134 July 1995, TS-107, The Primary Standard (Appendix 3, p. 42)
- (c) OPM Administrative Analyst Grade Evaluation Guide, TS-98, August 1990
- (d) General Schedule Supervisory Guide, HRCD-5 June 1998, April 1988

The position serves as a Consumer Response Manager with responsibility for directing a staff analyzing and responding to consumer complaints in compliance with the principles of federal consumer financial protection laws such as, Truth in Lending Act, Electronic Fund Transfer Act, and Home Owners Protection Act of 1998. The work requires professional knowledge of federal consumer financial protection laws as defined in the Dodd-Frank Act. This is a mixed position that requires analytical ability, judgment, discretion as well as knowledge of broad program principles and objectives. The Miscellaneous Administration and Program Series, GS-301 series covers two-grade interval work for which no other series is appropriate and the work requires analytical ability and knowledge of a substantial body of administrative or program principles, concepts, policies and objectives. In addition the position requires supervisory responsibilities including planning, directing, and coordinating the work of a staff, setting production goals and requirements, and defining performance standards and expectations.

Pay band descriptors are those for CN-301-60.

FLSA Determination: Duties described in this position are determined to be FLSA EXEMPT. Executive Exemption (5 CFR 551.205)

Final Classification: Consumer Response Manager, CN-301-60.

JOB COMPETENCIES (The full range of competencies for the occupational series is provided for information and development purposes; not every competency displayed is required at the individual position level.)

EVALUATION STATEMENT

POSITION DESCRIPTION**ATTORNEY-ADVISER (GENERAL), CN-0905-60**

SETID	CFPB1	JOB CODE	113570	DATE	07/02/2013	OPM CERT #			
PAY PLAN	CN	SERIES	0905	GRADE	60	PAY BASIS	Per Annum	FUNC CLASS	NA
WORK TITLE	Counsel (Regulations)								
SPVY LEVEL	Other	POSITION SENSITIVITY	Mod Risk	LEO POSITION	N/A	MEDICAL CHECK REQ.	No	BUS CODE	5899
ELSA	Exempt	PATCOB	Professnl	EXECUTIVE DISCLOSURE	No	EMPL INT INTEREST	No	FUND SOURCE	Approp fnd
CLASSIFIER									
CLASS STANDARD									
DATE CLASSIFIED	02/17/2012								

MAJOR DUTIES

Position#: 113570

Official Title Series Pay Band: Attorney-Adviser (General), CN-905-60

Organizational Title: Counsel (Regulations)

Organizational Location:

Consumer Financial Protection Bureau
 Research, Markets and Regulations
 Regulations

Major Duties and Responsibilities:

The incumbent is engaged in complex legal issues and projects related to the formulation, implementation and interpretation of laws, regulations and rules in one or more areas of federal consumer financial law. The incumbent is heavily involved in formulating policy decisions and demonstrates increasing expertise in one or more specific areas of consumer protection law and regulation and ability to coordinate more junior staff members.

Specific duties include:

1. Takes substantial and proactive responsibility for complex rulemaking projects, such as major regulatory amendments or implementing legislation in the area of consumer financial services. Issues affect the financial rights of consumers, and the activities of organizations in the financial services industry. Recommends courses of action in situations where clear-cut precedents often do not exist. Presents findings to senior management. Issues handled require expertise in one or more areas of federal consumer financial law, including, but not limited to: the Truth in Lending Act, Real Estate Settlement Procedures Act, Equal Credit Opportunity Act, Electronic Fund Transfer Act, and Fair Credit Reporting Act..
2. Provides technical interpretation of consumer credit and financial services laws, regulations and rules. Advises senior management on key issues, coordinates with other divisions, and formulates policy recommendations and recommends alternative courses of action. Recommendations often require a high level of analysis where issues have few legal or policy precedents, and significant impact on consumers and the financial services industry.
3. Participates in developing policy and presents proposed and final regulations to senior management for consideration, making oral presentations to defend positions as required.
4. Drafts legislation and rules, amendments to regulations, Congressional testimony, official CFPB interpretations, and analyses of proposed legislation, rules and policies. Responds to inquiries relating to the interpretation of federal consumer financial laws and other regulatory matters.

ATTORNEY-ADVISER (GENERAL), CN-0905-60

Provides explanations and advice on complex technical aspects of statutes and regulations.

5. Represents CFPB at various agency and other meetings and conferences.

6. Assists in training more junior attorneys, provides technical advice, and may perform project coordination and initial review of junior attorneys' work.

Follows all Federal and Bureau requirements regarding Records Management, Privacy, FOIA, Transparency, Ethics, and Procurement. Attends and participates in all mandatory training or Bureau events.

Performs other duties as assigned.

Pay and Performance Descriptors Applicable to Band CN-60

Functional Knowledge: Regarded as a technical expert in their particular occupational series. Requires in-depth and or breadth of expertise in own discipline and broad knowledge of other disciplines within the function.

Program Expertise: Proactively anticipates emerging program issues recommending policy, infrastructure, training or other tools for ensuring process or service improvements.

Leadership: Leads projects of notable risk and complexity; develops the strategy for project execution.

Problem-Solving: Solves unique and complex problems with broad impact; requires conceptual and innovative thinking to develop solutions.

Impact: Impacts the direction and resource allocation for program, project, or services; works within general functional policies and industry guidelines.

Interpersonal Skills: Communicates complex ideas; anticipates potential objections and persuades others, often at senior levels, to adopt a different point of view.

FLSA Determination: This position is Exempt under FLSA based on the Professional exemption criteria.

JOB COMPETENCIES (The full range of competencies for the occupational series is provided for information and development purposes; not every competency displayed is required at the individual position level.)

EVALUATION STATEMENT

POSITION DESCRIPTION

CONSUMER RESPONSE INVESTIGATIONS TEAM LEAD, CN-0301-53

SETID	CFPB1	JOB CODE	121950	DATE	06/29/2013	OPM CERT #			
PAY PLAN	CN	SERIES	0301	GRADE	53	PAY BASIS	Per Annum	FUNC CLASS	NA
WORK TITLE	Consumer Response Investigations Team Lead								
SPVY LEVEL	Other	POSITION SENSITIVITY	Mod Risk	LEO POSITION		MEDICAL CHECK REQ.	No	BUS CODE	5899
ELSA	Exempt	PATCOB	Admin	EXECUTIVE DISCLOSURE	No	EMPL INT INTEREST	No	FUND SOURCE	Approp Fnd
CLASSIFIER									
CLASS STANDARD									
DATE CLASSIFIED	03/14/2012								

MAJOR DUTIES

Official Title, Series, Pay Band: Consumer Response Investigations Team Lead, CN-301-53
 CFPB PD #: 121950

Organizational Location:
 Consumer Financial Protection Bureau
 Chief Operating Officer
 Response Center

Major Duties and Responsibilities:

The Response Center intakes and addresses or refers consumer complaints; addresses consumer inquiries regarding the basic aspects of consumer financial products and services; and leverages consumer complaint and inquiry data to inform other consumer protection functions, such as supervision and rulemaking. The Consumer Response Investigations Team Lead provides day-to-day oversight, coaching and quality assurance coordination for an Investigations team. The incumbent also serves as a more senior technical and program expert and is assigned the more complex and difficult consumer complaints. The incumbent is an expert in several of the consumer laws applicable to unit cases.

Typical duties include:

1. Reviews existing case workloads for each Investigations Specialist on the team. Assigns new cases to Investigations Specialists based on assessment of existing capacity. Monitors daily progress of Investigations Specialists on the team. Serves as an expert resource to Investigations Specialists, providing guidance on the enumerated consumer laws applicable to unit cases, including: Alternative Mortgage Parity Transaction Act; Consumer Leasing Act; Electronic Fund Transfer Act (but not Interchange); Equal Credit Opportunity Act; Fair Credit Billing Act; Fair Credit Reporting Act; Home Owners Protection Act; Fair Debt Collection Practices Act; FDIA; Gramm-Leach-Bliley; HMDA; HOEPA; RESPA; SAFE Mortgage Licensing Act; TILA; Truth in Savings Act; Omnibus Appropriations Act of 2009 (Section 626); and the Interstate Land Sales Full Disclosure Act.
2. Reviews consumer complaints that have been adjudicated by Investigations Specialists to ensure adequacy of response, adherence to applicable laws and regulations, and conformance to CFPB policy. Directs Investigations Specialists to perform additional case review as required.
3. Ensures that Specialists' questions and concerns are addressed or escalated to the Investigations Manager. Monitors team dynamics and ensures that Investigations Specialists follow CFPB policies. Escalates concerns to Investigations Manager for action.
4. Represents team progress and concerns in Investigations leadership meetings and organization-level performance reviews. Leads or coordinates the introduction of planned changes

CONSUMER RESPONSE INVESTIGATIONS TEAM LEAD, CN-0301-53

to team processes and standards, under guidance from the Investigations Section Chief and Manager.

5. Coordinates Quality Assurance (QA) reviews of cases and participates in discussion of QA review results feedback to Investigations Specialists.

6. Follows all Federal and Bureau requirements regarding Records Management, Privacy, FOIA, Transparency, Ethics, and Procurement. Attends and participates in all mandatory training or bureau events.

7. Performs other duties as assigned.

Pay and Performance Descriptors Applicable to Band CN-53

Functional Knowledge: Requires depth and or breadth of expertise in own specialized program, discipline or field.

Program Expertise: Interprets internal external agency challenges and recommends best practices to maximize program performance and improve processes or services.

Leadership: May lead functional teams or projects with moderate resource requirements, risk, and or complexity.

Problem-Solving: Leads others to solve complex problems; uses sophisticated analytical thought to exercise judgment and identify innovative solutions.

Impact: Impacts the achievement of customer, operational, project or service objectives; work is guided by functional policies.

Interpersonal Skills: Communicates difficult concepts and negotiates with others to adopt a different point of view.

FLSA Determination: This position is exempt under FLSA based on the Administrative exemption criteria.

JOB COMPETENCIES (The full range of competencies for the occupational series is provided for information and development purposes; not every competency displayed is required at the individual position level.)

EVALUATION STATEMENT

Career Ladder:
PD# 121950 53 (FPL)
PD# 12195A 52

[HOME](#) > [BLOG](#) > CONSUMER ADVISORY: THREE STEPS YOU SHOULD TAKE IF YOU HAVE A REVERSE MORTGAGE

FEB 9 2015



Consumer advisory: Three steps you should take if you have a reverse mortgage

BY [NORA DOWD EISENHOWER](#)

Reverse mortgages are a type of loan that allows homeowners, 62 and older, to borrow against the accrued equity in their homes. Reverse mortgages can help some older homeowners meet financial needs in retirement. Most reverse mortgages today are federally insured through the Federal Housing Authority's (FHA) Home Equity Conversion Mortgage (HECM) program.

We've heard many complaints from consumers who have experienced [problems with reverse mortgages](#). The most common reverse mortgage complaint is about difficulty with changing the loan terms and problems communicating with loan servicers. Some consumers, for example, express frustration about slow, inconsistent communication from their reverse mortgage loan servicer.

We've also heard from consumers regarding non-borrowing spouses who are facing the loss of their home after the borrowing spouse has died. Recent changes to the federal program that insures most reverse mortgages allows some non-borrowing spouses to remain in the home after the death of the borrower spouse for HECM loans originated after August 4, 2014. Since this change is not retroactive, spouses of reverse mortgage borrowers who took out their loan prior to August 4, 2014 could be more likely to face losing the home when the borrower dies.

3 THINGS YOU OR YOUR LOVED ONES SHOULD DO IF YOU HAVE A REVERSE MORTGAGE

1. Verify who is on the loan

If you took out a reverse mortgage with two borrowers, check with your reverse [mortgage servicer](#) to make sure its loan records are accurate. Call your servicer to find out what names are listed on your loan. They may be able to help you over the phone. See your reverse mortgage statement for the phone number, and ask them to send you this information in writing for your records. You can also write a letter requesting information.

2. If your reverse mortgage is in the name of only one spouse, make a plan for the non-borrowing spouse

If your reverse mortgage is in the name of only one spouse, contact your loan servicer to find out if the non-borrowing spouse may qualify for a repayment deferral. A repayment deferral allows a non-borrowing spouse to remain living in the home after the death of the

borrowing spouse. If not, make a plan in the event the borrowing spouse dies first and the loan becomes due. If you or your spouse are not on the loan but believe that you should be, [promptly seek legal advice](#).

If you have enough remaining equity in your home, you could consider taking out a new reverse mortgage with both spouses. You'll have to pay loan fees again, however, for the new loan. If the non-borrowing spouse can't pay off the reverse mortgage when the borrowing spouse passes away, he or she might consider a new traditional mortgage if they have the income and credit to qualify. Also consider other family members that would be willing to cosign on such a loan. Some surviving spouses may need to sell the home and make plans for where they will live after the home is sold. [Contact a HUD-approved housing counselor](#) counselor near you to explore your options.

3. Talk to your children and heirs - make a plan for any non-borrower family members living in the home

Make sure your adult children or any family members living in the home know what to expect when your reverse mortgage comes due. If they wish to keep the home, contact your reverse mortgage company for written information that explains their options. Discuss this information with your family and follow up with the reverse mortgage company for anything you don't understand.

HAVE A PROBLEM WITH YOUR REVERSE MORTGAGE?

If you're having a problem with your reverse mortgage or having problems getting through to your mortgage servicer, you can [submit a complaint online](#) or by calling (855) 411-2372 or TTY/TDD (855) 729- 2372. We'll forward your complaint to the company and work to get you a response within 15 days.

For more information about how reverse mortgages works and questions to ask, read our [guide to reverse mortgages for older consumers and their families](#). 📄

Check out [Ask CFPB](#) to learn more about reverse mortgages.



MORTGAGES

[1 COMMENT](#) | CATEGORIES: [CONSUMER ADVISORY](#) | [MORTGAGES](#) | [OLDER AMERICANS](#) | [REVERSE](#)

Comments for this thread are now closed.

1 Comment Consumer Financial Protection Bureau

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Recommend 8

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Neil Gillespie · 10 months ago

Avoid reverse mortgages, they are very complicated, and once you sign up, the bank dictates every thing, and you have NO RIGHTS. Yes, you can hire a lawyer, provided you can afford \$350 per hour, plus expenses, court costs, etc. Better have \$50,000 handy - to start. I made two complaints to the CFPB, Complaint No. 120914-000082, and Complaint No. 140304-000750. Bank of America quashed both of them, one by an inside job, the second by US Senator Marco Rubio.

For years Bank of America mislead me about "privacy" wrongly asserted for my deceased mother, a co-borrower. Then I learned privacy laws do not protect the privacy of dead people. Dead people do not have privacy rights. Privacy rights are personal and die with the individual. Nestor v. Posner-Gerstenhaber, 857 So. 2d 953 (Fla. Dist. Ct. App. 3d Dist. 2003), review denied, 869 So. 2d 540 (Fla. 2004).

[E]ven

where a private confidentiality agreement is otherwise proper, it will not be enforced where its effect becomes obstructive of the rights of non-parties. See, e.g., Nestor v. Posner-Gerstenhaber, 857 So. 2d 953, 955 (Fla. 3rd DCA 2003); Scott v. Nelson, 697 So. 2d 1300, 1301 (Fla. 1st DCA 1997). Quoted by U.S. Judge John E. Steele in Tardif, Trustee (Jason Yerk) v. PETA, USDC, SD Fla. Fort Myers Div. Case No. 2:09-cv-537-FtM-29SPC, at the Pacer link, Case 2:09-cv-00537-JES-SPC Document 179 Filed 11/04/11 Page 14 of 31 PageID 6050

You can read my my motion to reconsider filed in the U.S. Eleventh Circuit Court of Appeals, <http://www.scribd.com/doc/2283...>

The Court denied the motion, but said I could submit a petition under 28 USC 1651, the all writs act, but changed its mind when I started that process. I still have time to appeal, and may do so. The CFPB is well-intentioned, but it has little power against corrupt banks and judges. My name is Neil J. Gillespie, 8092 SW 115th Loop, Ocala, Florida, 34481, neilgillespie@mfi.net, 352-854-7807. If Director Richard Cordray gets this message, I am willing to provide additional information. I believe in the mission of the CFPB, but found bad banks and bad judges are too powerful for an ordinary person to get fair treatment. Thank you.

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- **CFPB Consumer advisory: Three steps you should take if you have a reverse mortgage February 9, 2015, by Nora Dowd Eisenhower**

<http://www.consumerfinance.gov/blog/consumer-advisory-three-steps-you-should-take-if-you-have-a-reverse-mortgage/>

- Comment by Neil Gillespie

Avoid reverse mortgages, they are very complicated, and once you sign up, the bank dictates every thing, and you have NO RIGHTS. Yes, you can hire a lawyer, provided you can afford \$350 per hour, plus expenses, court costs, etc. Better have \$50,000 handy - to start. I made two complaints to the CFPB, Complaint No. 120914-000082, and Complaint No. 140304-000750. Bank of America quashed both of them, one by an inside job, the second by US Senator Marco Rubio.

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[E]ven where a private confidentiality agreement is otherwise proper, it will not be enforced where its effect becomes obstructive of the rights of non-parties. See, e.g., Nestor v. Posner-Gerstenhaber, 857 So. 2d 953, 955 (Fla. 3rd DCA 2003); Scott v. Nelson, 697 So. 2d 1300, 1301 (Fla. 1st DCA 1997). Quoted by U.S. Judge John E. Steele in Tardif, Trustee (Jason Yerk) v. PETA, USDC, SD Fla. Fort Myers Div. Case No. 2:09-cv-537-FtM-29SPC, at the Pacer link, Case 2:09-cv-00537-JES-SPC Document 179 Filed 11/04/11 Page 14 of 31 PageID 6050

You can read my my motion to reconsider filed in the U.S. Eleventh Circuit Court of Appeals. <http://www.scribd.com/doc/228311060/Motion-to-Reconsider-Vacate-Modify-Order-C-a-11-No-13-11585-B>

The Court denied the motion, but said I could submit a petition under 28 USC 1651, the all writs act, but changed its mind when I started that process. I still have time to appeal, and may do so. The CFPB is well-intentioned, but it has little power against corrupt banks and judges. My name is Neil J. Gillespie, 8092 SW 115th Loop, Ocala, Florida, 34481, neilgillespie@mfi.net, 352-854-7807. If Director Richard Cordray gets this message, I am willing to provide additional information. I believe in the mission of the CFPB, but found bad banks and bad judges are too powerful for an ordinary person to get fair treatment. Thank you.

Exhibit 1 Nestor v. Posner-Gerstenhaber, 857 So. 2d 953 - 3rdDCA

Exhibit 2 Order and Opinion, U.S. Judge John E. Steele, Tardif, Trustee (Jason Yerk)

Exhibit 3 **Defamation and Privacy § 211 Generally**, Florida Jurisprudence 2nd (2007)

The right of privacy has generally been considered personal in nature¹. Generally, an action for invasion of privacy can be maintained only by a living individual whose privacy is invaded². Privacy rights are thus personal and die with the individual³.

¹ Williams v. City of Minneola 575 So. 2d 683 (Fla. Dist. Ct. App. 5th Dist. 1991); Loft v. Fuller, 408 So. 2d 619 (Fla. Dist. Ct. App. 4th Dist. 1981)

² Ibid.

³ Nestor v. Posner-Gerstenhaber, 857 So. 2d 953 (Fla. Dist. Ct. App. 3d Dist. 2003), review denied, 869 So. 2d 540 (Fla. 2004).

857 So.2d 953 (2003)

**Brenda NESTOR, as Personal Representative of the Estate of Victor Posner, and
Security Management Corporation, Petitioners,
v.
Kelly POSNER-GERSTENHABER, Jarrett Posner, Sean Posner, and Troy Posner,
Respondents.**

Nos. 3D02-3094, 3D02-3096.

District Court of Appeal of Florida, Third District.

October 22, 2003.

954 *954 Ferrell, Schultz, Carter, Zumpano & Fertel and Gregory C. Harrell, Eugene Lindsey, and Joseph Beeler, Miami; Kirkland & Ellis and Andrew B. Clubok and Stacey L. Bennett; Rumberger, Kirk & Caldwell and Joshua D. Lerner, for petitioners.

Hunton & Williams and Eduardo W. Gonzalez, Marty Steinberg, Thomas R. Julin, and Patricia Acosta, Miami, for respondents.

Before FLETCHER, RAMIREZ, and WELLS, JJ.

ON MOTION FOR CLARIFICATION AND CORRECTION

PER CURIAM.

We grant Brenda Nestor's motion for clarification and correction. The opinion issued on August 13, 2003, is hereby withdrawn, and the following opinion is substituted in its place.

In this consolidated petition, Security Management Corp. ("SMC") and Brenda Nestor, as personal representative of Victor Posner's estate, seek a writ of certiorari to quash an order of the trial court which declares a confidentiality agreement between Posner and Jeffrey Breen to be null and void. The petition is denied.

Victor Posner died in 2002. Several months prior to Posner's death, Nestor had all Posner employees sign confidentiality agreements which bar the disclosure of any information regarding Posner's "private life, plans, businesses, finances, assets, liabilities, income, expenses and expenditures, legal matters, visitors, acquaintances, meetings, activities, state of mind, health or health care ... except to the extent required by law." All applicable privileges belonged to Posner personally, even if the employee was employed by a related company and not Posner himself. The agreement also required employees to exert all applicable privileges and, if requested to divulge confidential information, employees were to immediately notify Posner or Posner's attorney.

Nestor is involved in a will contest with Posner's grandchildren, the respondents to this petition. Breen is a witness to the contested will. The grandchildren contacted Breen in order to ascertain Posner's testamentary

EXHIBIT

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capacity at the time he signed the will and to determine whether the will was the result of undue influence by Nestor. Nestor arranged for Breen to meet with the grandchildren and had the meeting secretly taped. SMC then brought suit against the grandchildren for tortious interference with Breen's confidentiality agreement.

The grandchildren moved to have the confidentiality agreements nullified so they can conduct informal discovery interviews with Breen and other Posner employees. The trial court nullified the agreement as to Breen to the extent that it bars appropriate witness interviews, but not as to any others.

955 Although the trial court allowed SMC to intervene as a third party beneficiary, the confidentiality agreement does not protect SMC, only "Posner and key persons in his related companies (including Melvin Colvin, Brenda Nestor, and Posner's medical personnel, accountants, attorneys, and private investigators)." SMC *955 is therefore not a third-party beneficiary to the agreement between Posner and Breen and lacks standing to contest its validity.

Neither can Nestor, as personal representative, enforce the agreement against Breen for disclosing information about Posner because Posner's privilege did not survive his death. Privacy rights are personal and die with the individual. See Williams v. City of Minneola, 575 So.2d 683, 689 (Fla. 5th DCA 1991), citing to Restatement (Second) of Torts § 6521 ("Except for the appropriation of one's name or likeness, an action for invasion of privacy can be maintained only by a living individual whose privacy is invaded."). Although the agreement survives the employee's employment, there is no provision that requires confidentiality after Posner's death.

Even if the petitioners have standing, Breen may still disclose information to the extent required by law, as stated in the agreement. The petitioners agree that Breen can disclose the information the grandchildren seek, but urge that Breen only be allowed to disclose information at a formal deposition or at trial. Contractual confidentiality agreements, however, cannot be used to adversely interfere with the ability of nonparties to pursue discovery in support of their case. See Smith v. TIB Bank of the Keys, 687 So.2d 895, 896 (Fla. 3d DCA 1997); Scott v. Nelson, 697 So.2d 1300, 1301 (Fla. 1st DCA 1997) ("[S]ettlement agreements which suppress evidence violate the greater public policy."). Informal ex parte interviews with former employees are allowed, see H.B.A. Mgmt., Inc. v. Estate of Schwartz, 693 So.2d 541, 544-45 (Fla.1997), and ex parte interviews with current employees may be allowed as well. See NAACP v. Florida Dept. Of Corrections, 122 F.Supp.2d 1335, 1341 (M.D.Fla.2000). We thus find no need to make the grandchildren jump through legal hoops to obtain information the petitioners agree may be disclosed.

The trial court based its ruling in part on Florida Rule of Civil Procedure 1.010 which states that "[t]hese rules shall be construed and administered to secure the just, speedy, and inexpensive determination of every action." The petitioners seek a ruling which effectively would force the grandchildren to undergo unnecessary and costly discovery procedures, contrary to the goals that underlie rule 1.010. Because the trial court has broad discretion in discovery matters, see Dickinson v. Wells, 454 So.2d 758, 759 (Fla. 1st DCA 1984), and there has been no clear departure from the essential requirements of law which results in a miscarriage of justice, we deny certiorari review.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ROBERT E. TARDIF, JR., as Trustee
for Jason Yerk,

Plaintiff,

vs.

Case No. 2:09-cv-537-FtM-29SPC

PEOPLE for the ETHICAL TREATMENT of
ANIMALS, a Virginia not-for-profit
corporation,

Defendant.

OPINION AND ORDER

This matter comes before the Court on the parties' cross motions for summary judgment. Defendant filed its Dispositive Motion for Summary Judgment (Doc. #135) on June 19, 2011 and plaintiff filed his Partial Motion for Summary Judgment (Doc. #139) on June 20, 2011. Both parties filed their respective responses (Docs. ##145, 146) on July 5, 2011. The Court heard oral argument on some of the issues at the final pretrial conference on October 24, 2011.

I. Summary Judgment Standard

Summary judgment is appropriate only when the Court is satisfied that "there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). An issue is "genuine" if there is sufficient evidence such that a reasonable jury could return a

confidential. Fla. Stat. §§ 39.201(b), 39.205(3) (reports of child abuse or neglect); Fla. Stat. § 415.107(3), (6), 415.111(2) (reports of vulnerable adult abuse); Fla. Stat. § 17.0401 (consumer complaint regarding financial investigations). None of these relate to animal abuse, and in any case, the confidentiality allowed by these statutes does not create an absolute privilege against disclosure. A court, for example, can compel disclosure of the source's identity and can order that it become public record. Fla. Stat. § 39.202(f) (reporter of child abuse). Additionally, even where a private confidentiality agreement is otherwise proper, it will not be enforced where its effect becomes obstructive of the rights of non-parties. See, e.g., Nestor v. Posner-Gerstenhaber, 857 So. 2d 953, 955 (Fla. 3rd DCA 2003); Scott v. Nelson, 697 So. 2d 1300, 1301 (Fla. 1st DCA 1997).

In this case, the confidentiality agreement allowed PETA to disclose the substance of the alleged abuse and the identity of the witnesses to it. The agreement only precluded the disclosure of the identity of PETA's source. While it seems clear that the confidentiality agreement did not and could not create an absolute privilege, and would eventually give way to lawful procedures which could compel disclosure of the source's identity, that stage had not arrived in this case. At the time of the disclosure in this case, PETA was not legally required to answer questions from the LCSO. Given the "extreme caution" the Court must use before

The entire² absence of any malice³ or wrongful motive on the part of the writer or publisher⁴ does not constitute any defense to an action for invasion of privacy⁵ but may be an element in assessing damages.⁶

B. Personal Nature of Right; Right of Relatives

Research References

West's Key Number Digest

Torts ◊331, 335

Primary Authority

§ 540.08, Fla. Stat.

A.L.R. Library

West's A.L.R. Digest, Torts ◊331, 335

A.L.R. Index, Privacy

Legal Encyclopedias

Am. Jur. 2d, Privacy §§ 13 to 22

C.J.S., Right of Privacy § 4

§ 211 Generally

Research References

West's Key Number Digest, Torts ◊331, 335

→ The right of privacy has generally been considered personal in nature.¹ Generally, an action for invasion of privacy can be maintained only by a living individual whose

²Agency for Health Care Admin. v. Associated Industries of Florida, Inc., 678 So. 2d 1239 (Fla. 1996).

³Agency for Health Care Admin. v. Associated Industries of Florida, Inc., 678 So. 2d 1239 (Fla. 1996); Armstrong v. H & C Communications, Inc., 575 So. 2d 280 (Fla. Dist. Ct. App. 5th Dist. 1991).

⁴Agency for Health Care Admin. v. Associated Industries of Florida, Inc., 678 So. 2d 1239 (Fla. 1996); Armstrong v. H & C Communications, Inc., 575 So. 2d 280

(Fla. Dist. Ct. App. 5th Dist. 1991).

⁵Agency for Health Care Admin. v. Associated Industries of Florida, Inc., 678 So. 2d 1239 (Fla. 1996); Armstrong v. H & C Communications, Inc., 575 So. 2d 280 (Fla. Dist. Ct. App. 5th Dist. 1991).

⁶§ 233.

[Section 211]

¹Williams v. City of Minneola, 575 So. 2d 683 (Fla. Dist. Ct. App. 5th Dist. 1991); Loft v. Fuller, 408 So. 2d 619 (Fla. Dist. Ct. App. 4th Dist. 1981).

A.L.R. Library: Invasion of

privacy is invaded.² Accordingly, the cause of action is not assignable, nor can it be maintained by other persons,³ such as members of the individual's family, unless their own privacy is invaded along with the individual's.⁴

In the event the required consent is not obtained, the person whose name, portrait, photograph, or other likeness is so used, or any person, firm, or corporation authorized by such person in writing to license the commercial use of his or her name or likeness, or, if the person whose likeness is used is deceased, any person, firm, or corporation having the right to give such consent may bring an action to enjoin such unauthorized publication, printing, display, or other public use and to recover damages for any loss or injury sustained by reason thereof, including any amount that would have been a reasonable royalty, and punitive or exemplary damages.⁵



Privacy rights are thus personal and die with the individual.⁶ In the absence of a statute, the action for invasion of privacy generally cannot be maintained after the death of the individual whose privacy is invaded.⁷ The rule is that relatives of a decedent may not maintain a cause of action for invasion of privacy either based on their own privacy interests or as a representative for the deceased where the alleged invasion was directed primarily at the deceased.⁸ Nevertheless, according the United States Court of Appeals, although the Florida courts have expressly

privacy by publication dealing with one other than plaintiff, 18 A.L.R.3d 873.

²Williams v. City of Minneola, 575 So. 2d 683 (Fla. Dist. Ct. App. 5th Dist. 1991); Loft v. Fuller, 408 So. 2d 619 (Fla. Dist. Ct. App. 4th Dist. 1981).

³Loft v. Fuller, 408 So. 2d 619 (Fla. Dist. Ct. App. 4th Dist. 1981).

⁴Williams v. City of Minneola, 575 So. 2d 683 (Fla. Dist. Ct. App. 5th Dist. 1991); Loft v. Fuller, 408 So. 2d 619 (Fla. Dist. Ct. App. 4th Dist. 1981).

As to derivative right to sue

in false-light case, see § 223.

As to right of authorized person, firm, or corporation to recover damages for unauthorized use of deceased person's name or likeness, see §§ 211, 226 to 228.

⁵§ 540.08(2), Fla. Stat.

⁶Nestor v. Posner-Gerstenhaber, 857 So. 2d 953 (Fla. Dist. Ct. App. 3d Dist. 2003), review denied, 869 So. 2d 540 (Fla. 2004).

⁷Williams v. City of Minneola, 575 So. 2d 683 (Fla. Dist. Ct. App. 5th Dist. 1991).

⁸Tyne v. Time Warner Entertainment Co., L.P., 336 F.3d 1286

declined to foreclose all invasion of privacy actions brought by the relatives of a decedent, such actions are heavily disfavored.⁹

There may be some instances in which relatives of a deceased may bring a common-law invasion of privacy action,¹⁰ but, in such instances, the relatives shoulder a heavy burden in establishing a cause of action.¹¹ Such an exception occurs when the plaintiffs experience an independent violation of their own personal privacy rights other than the violation alleged to have occurred indirectly by virtue of the publicity given to the deceased.¹²

§ 212 Necessity of egregious conduct

Research References

West's Key Number Digest, Torts ⇨331, 335

The relational right of privacy is not crafted to provide a derivative cause of action for minor technical inaccuracies or even major ones; rather, the defendant's treatment of the decedent must be egregious.¹ The relational right of privacy is very limited and applies only where a defendant's conduct towards a decedent is found to be sufficiently egregious to give rise to an independent cause of action in favor of members of the decedent's immediate family.² Accordingly, when there are unusual circumstances, it may be that the defendant's conduct towards the decedent will be found to be

(11th Cir. 2003), certified question answered, 901 So. 2d 802 (Fla. 2005).

⁹Tyne v. Time Warner Entertainment Co., L.P., 336 F.3d 1286 (11th Cir. 2003), certified question answered, 901 So. 2d 802 (Fla. 2005).

¹⁰Loft v. Fuller, 408 So. 2d 619 (Fla. Dist. Ct. App. 4th Dist. 1981).

¹¹Williams v. City of Minneola, 575 So. 2d 683 (Fla. Dist. Ct. App. 5th Dist. 1991); Loft v. Fuller, 408 So. 2d 619 (Fla. Dist. Ct. App. 4th Dist. 1981).

¹²Williams v. City of Minneola,

575 So. 2d 683 (Fla. Dist. Ct. App. 5th Dist. 1991).

As to descendibility of false-light privacy claims, see § 222.

[Section 212]

¹Tyne v. Time Warner Entertainment Co., L.P., 336 F.3d 1286 (11th Cir. 2003), certified question answered, 901 So. 2d 802 (Fla. 2005).

²Tyne v. Time Warner Entertainment Co., L.P., 336 F.3d 1286 (11th Cir. 2003), certified question answered, 901 So. 2d 802 (Fla. 2005).

Regulatory capture

From Wikipedia, the free encyclopedia

Regulatory capture is a form of political corruption that occurs when a regulatory agency, created to act in the public interest, instead advances the commercial or political concerns of special interest groups that dominate the industry or sector it is charged with regulating.^[1] Regulatory capture is a form of government failure; it creates an opening for firms or political groups to behave in ways injurious to the public (e.g., producing negative externalities). The agencies are called "captured agencies".

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Theory

For public choice theorists, regulatory capture occurs because groups or individuals with a high-stakes interest in the outcome of policy or regulatory decisions can be expected to focus their resources and energies in attempting to gain the policy outcomes they prefer, while members of the public, each with only a tiny individual stake in the outcome, will ignore it altogether.^[2] Regulatory capture refers to the actions by interest groups when this imbalance of focused resources devoted to a particular policy outcome is successful at "capturing" influence with the staff or commission members of the regulatory agency, so that the preferred policy outcomes of the special interest groups are implemented.

Regulatory capture theory is a core focus of the branch of public choice referred to as the economics of regulation; economists in this specialty are critical of conceptualizations of governmental regulatory intervention as being motivated to protect public good. Often cited articles include Bernstein (1955), Huntington (1952), Laffont & Tirole (1991), and Levine & Forrence (1990). The theory of regulatory capture is associated with Nobel laureate economist George Stigler,^[3] one of its main developers.^[4]

Likelihood of regulatory capture is a risk to which an agency is exposed by its very nature.^[5] This suggests that a regulatory agency should be protected from outside influence as much as possible. Alternatively, it may be better to not create a given agency at all lest the agency become victim, in which case it may serve its regulated

subjects rather than those whom the agency was designed to protect. A captured regulatory agency is often worse than no regulation, because it wields the authority of government. However, increased transparency of the agency may mitigate the effects of capture. Recent evidence suggests that, even in mature democracies with high levels of transparency and media freedom, more extensive and complex regulatory environments are associated with higher levels of corruption (including regulatory capture).^[6]

Relationship with federalism

There is substantial academic literature suggesting that smaller government units are easier for small, concentrated industries to capture than large ones. For example, a group of states or provinces with a large timber industry might have their legislature and/or their delegation to the national legislature captured by lumber companies. These states or provinces then becomes the voice of the industry, even to the point of blocking national policies that would be preferred by the majority across the whole federation. Moore and Giovinazzo (2012) call this "distortion gap".^[7]

The opposite scenario is possible with very large industries, however. Very large and powerful industries (e.g. energy, banking) can capture national governments, and then use that power to block policies at the state or provincial level that the voters may want.

Economic rationale

The idea of regulatory capture has an obvious economic basis, in that vested interests in an industry have the greatest financial stake in regulatory activity and are more likely to be motivated to influence the regulatory body than dispersed individual consumers,^[2] each of whom has little particular incentive to try to influence regulators. When regulators form expert bodies to examine policy, this invariably features current or former industry members, or at the very least, individuals with contacts in the industry.

Some economists, such as Jon Hanson and his co-authors, argue that the phenomenon extends beyond just political agencies and organizations. Businesses have an incentive to control anything that has power over them, including institutions from the media, academia and popular culture, thus they will try to capture them as well. This phenomenon is called "deep capture."^[8]

Types of regulatory capture

There are two basic types of regulatory capture:^{[9][10]}

- **Materialist capture**, also called *financial capture*, in which the captured regulator's motive is based on its material self-interest. This can result from bribery, political donations, or the regulator's desire to maintain its government funding.
- **Non-materialist capture**, also called *cognitive capture* or *cultural capture*, in which the regulator begins to think like the regulated industry. This can result from interest-group lobbying by the industry.

Examples

United States examples

Bureau of Ocean Energy Management, Regulation and Enforcement

In the aftermath of the 2010 Deepwater Horizon oil spill, the Minerals Management Service (MMS), which had regulatory responsibility for offshore oil drilling, was widely cited as an example of regulatory capture.^{[11][12]} The MMS then became the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) and on October 1, 2010, the collection of mineral leases was split off from the agency and placed under the Department of the Interior as the Office of Natural Resources Revenue (ONRR). On October 1, 2011, BOEMRE was then split into two bureaus, the Bureau of Safety and Environmental Enforcement (BSEE) and the Bureau of Ocean Energy Management (BOEM).^[13]

The three-stage reorganization, including the name change to BOEMRE, was part of a re-organization by Ken Salazar,^[13] who was sworn into office as the new Secretary of the Interior on the same day the name change was announced.^[14] Salazar's appointment was controversial because of his ties to the energy industry.^[15] As a senator, Salazar voted against an amendment to repeal tax breaks for ExxonMobil and other major petroleum companies^[16] and in 2006, he voted to end protections that limit offshore oil drilling in Florida's Gulf Coast.^[17] One of Salazar's immediate tasks was to "[end] the department's coziness with the industries it regulates"^[15] but Daniel R. Patterson, a member of the Arizona House of Representatives, said "Salazar has a disturbingly weak conservation record, particularly on energy development, global warming, endangered wildlife and protecting scientific integrity. It's no surprise oil and gas, mining, agribusiness and other polluting industries that have dominated Interior are supporting rancher Salazar — he's their friend."^[15] Indeed, a spokesman for the National Mining Association, which lobbies for the mining industry, praised Salazar, saying that he was not doctrinaire about the use of public lands.^[15]

MMS had allowed BP and dozens of other companies to drill in the Gulf of Mexico without first attaining permits to assess threats to endangered species, as required by law.^[18] BP and other companies were also given a blanket exemption from having to provide environmental impact statements.^[18] The National Oceanic and Atmospheric Administration (NOAA) issued strong warnings about the risks posed by such drilling and in a 2009 letter, accused MMS of understating the likelihood and potential consequences of a major spill in the Gulf of Mexico.^[18] The letter further accused MMS of highlighting the safety of offshore drilling while understating the risks and impact of spills and playing down the fact that spills had been increasing.^[18] Both current and former MMS staff scientists said their reports were overruled and altered if they found high risk of accident or environmental impact.^[18] Kieran Suckling, director of the Center for Biological Diversity, said, "MMS has given up any pretense of regulating the offshore oil industry. The agency seems to think its mission is to help the oil industry evade environmental laws."^[18]

After the Deepwater accident occurred, Salazar said he would delay granting any further drilling permits. Three weeks later, at least five more permits had been issued by the minerals agency.^[18] In March 2011, BOEMRE began issuing more offshore drilling permits in the Gulf of Mexico.^[19] Michael Bromwich, head of BOEMRE, said he was disturbed by the speed at which some oil and gas companies were shrugging off Deepwater Horizon as "a complete aberration, a perfect storm, one in a million," but would nonetheless soon be granting more permits to drill for oil and gas in the gulf.^[19]

Commodity Futures Trading Commission

In October 2010, George H. Painter, one of the two Commodity Futures Trading Commission (CFTC) administrative law judges, retired, and in the process requested that his cases not be assigned to the other judge, Bruce C. Levine.^[20] Painter wrote, "On Judge Levine's first week on the job, nearly twenty years ago, he came into my office and stated that he had promised Wendy Gramm, then Chairwoman of the Commission, that we would never rule in a complainant's favor," Painter wrote.^[20] "A review of his rulings will confirm that he fulfilled his vow." In further explaining his request, he wrote, "Judge Levine, in the cynical guise of enforcing

the rules, forces pro se complainants to run a hostile procedural gauntlet until they lose hope, and either withdraw their complaint or settle for a pittance, regardless of the merits of the case."^[20] Gramm, wife of former Senator Phil Gramm, was accused of helping Goldman Sachs, Enron and other large firms gain influence over the commodity markets. After leaving the CFTC, Wendy Gramm joined the board of Enron.^[20]

Environmental Protection Agency

Natural gas drilling increased in the United States after the Environmental Protection Agency (EPA) said in 2004 that hydraulic fracturing, "posed little or no threat" to drinking water.^[21] Also known as "fracking", the process was invented by Halliburton in the 1940s.^[22] Whistleblower Weston Wilson says that the EPA's conclusions were "unsupportable" and that five of the seven-member review panel that made the decision had conflicts of interest.^[21] A *New York Times* editorial said the 2004 study "whitewashed the industry and was dismissed by experts as superficial and politically motivated."^[22] The EPA is currently prohibited by law from regulating fracking, the result of the "Halliburton Loophole," a clause added to the 2005 energy bill at the request of then-vice president Dick Cheney, who was CEO of Halliburton before becoming vice president.^{[21][22]} Legislation to close the loophole and restore the EPA's authority to regulate hydraulic fracturing has been referred to committee in both the House and the Senate.^{[23][24]}

Federal Aviation Administration

The Federal Aviation Administration (FAA) has a dual-mandate both to promote aviation and to regulate its safety. A report by the Department of Transportation that found FAA managers had allowed Southwest Airlines to fly 46 airplanes in 2006 and 2007 that were overdue for safety inspections, ignoring concerns raised by inspectors. Audits of other airlines resulted in two airlines grounding hundreds of planes, causing thousands of flight cancellations.^[25] The House Transportation and Infrastructure Committee investigated the matter after two FAA whistleblowers, inspectors Charalambe "Bobby" Boutris and Douglas E. Peters, contacted them. Boutris said he attempted to ground Southwest after finding cracks in the fuselage, but was prevented by supervisors he said were friendly with the airline.^[26] The committee subsequently held hearings in April 2008. James Oberstar, former chairman of the committee said its investigation uncovered a pattern of regulatory abuse and widespread regulatory lapses, allowing 117 aircraft to be operated commercially although not in compliance with FAA safety rules.^[26] Oberstar said there was a "culture of coziness" between senior FAA officials and the airlines and "a systematic breakdown" in the FAA's culture that resulted in "malfeasance, bordering on corruption."^[26]

On July 22, 2008, a bill was unanimously approved in the House to tighten regulations concerning airplane maintenance procedures, including the establishment of a whistleblower office and a two-year "cooling off" period that FAA inspectors or supervisors of inspectors must wait before they can work for those they regulated.^{[25][27]} The bill also required rotation of principal maintenance inspectors and stipulated that the word "customer" properly applies to the flying public, not those entities regulated by the FAA.^[25] The bill died in a Senate committee that year.^[28] In 2008 the FAA proposed to fine Southwest \$10.2 million for failing to inspect older planes for cracks,^[29] and in 2009 Southwest and the FAA agreed that Southwest would pay a \$7.5 million penalty and would adapt new safety procedures, with the fine doubling if Southwest failed to follow through.^[30] In September 2009, the FAA administrator issued a directive mandating that the agency use the term "customers" only to refer to the flying public.^[31]

Prior to the deregulation of the US air industry, the Civil Aeronautics Board served to maintain an oligopoly of US airlines.^{[32][33]}

In a June 2010 article on regulatory capture, the FAA was cited as an example of "old-style" regulatory capture, "in which the airline industry openly dictates to its regulators its governing rules, arranging for not only beneficial regulation but placing key people to head these regulators."^[34]

Federal Communications Commission

Legal scholars have pointed to the possibility that federal agencies such as the Federal Communications Commission (FCC) had been captured by media conglomerates. Peter Schuck of Yale Law School has argued that the FCC is subject to capture by the media industries' leaders and therefore reinforce the operation of corporate cartels in a form of "corporate socialism" that serves to "regressively tax consumers, impoverish small firms, inhibit new entry, stifle innovation, and diminish consumer choice".^[35] The FCC selectively granted communications licenses to some radio and television stations in a process that excludes other citizens and little stations from having access to the public.^[36]

Michael K. Powell, who served on the FCC for eight years and was chairman for four, was appointed president and chief executive officer of the National Cable & Telecommunications Association, a lobby group. As of April 25, 2011, he will be the chief lobbyist and the industry's liaison with Congress, the White House, the FCC and other federal agencies.^[37]

Meredith Attwell Baker was one of the FCC commissioners who approved a controversial merger between NBC Universal and Comcast. Four months later, she announced her resignation from the FCC to join Comcast's Washington, D.C. lobbying office.^[38] Legally, she is prevented from lobbying anyone at the FCC for two years and an agreement made by Comcast with the FCC as a condition of approving the merger will ban her from lobbying any executive branch agency for life.^[38] Nonetheless, Craig Aaron, of Free Press, who opposed the merger, complained that "the complete capture of government by industry barely raises any eyebrows" and said public policy would continue to suffer from the "continuously revolving door at the FCC".^[38]

Federal Reserve Bank of New York

The Federal Reserve Bank of New York (New York Fed) is the most influential of the Federal Reserve Banking System. Part of the New York Fed's responsibilities is the regulation of Wall Street, but its president is selected by and reports to a board dominated by the chief executives of some of the banks it oversees.^[39] While the New York Fed has always had a closer relationship with Wall Street, during the years that Timothy Geithner was president, he became unusually close with the scions of Wall Street banks,^[39] a time when banks and hedge funds were pursuing investment strategies that caused the 2008 financial crisis, which the Fed failed to stop.

During the financial crisis, several major banks that were on the verge of collapse were rescued with government emergency funding.^[39] Geithner engineered the New York Fed's purchase of \$30 billion of credit default swaps from American International Group (AIG), which it had sold to Goldman Sachs, Merrill Lynch, Deutsche Bank and Société Générale. By purchasing these contracts, the banks received a "back-door bailout" of 100 cents on the dollar for the contracts.^[40] Had the New York Fed allowed AIG to fail, the contracts would have been worth much less, resulting in much lower costs for any taxpayer-funded bailout.^[40] Geithner defended his use^[40] of unprecedented amounts of taxpayer funds to save the banks from their own mistakes,^[39] saying the financial system would have been threatened. At the January 2010 congressional hearing into the AIG bailout, the New York Fed initially refused to identify the counterparties that benefited from AIG's bailout, claiming the information would harm AIG.^[40] When it became apparent this information would become public, a legal staffer at the New York Fed e-mailed colleagues to warn them, lamenting the difficulty of continuing to keep Congress in the dark.^[40] Jim Rickards calls the bailout a crime and says "the regulatory system has become

captive to the banks and the non-banks".^[41]

Food and Drug Administration

Some have accused The United States Food and Drug Administration (FDA) of acting in the interests of the agricultural, food and pharmaceutical industries at the expense of consumer health interests. One example cited by critics is the approval of recombinant Bovine somatotropin, in which were involved three FDA employees with ties to Monsanto, the company that was seeking approval, namely Margaret Miller, Michael R. Taylor, and Suzanne Sechen.^{[42][43]} However, in response to a lawsuit that was brought by Jeremy Rifkin with respect to potential conflicts of interest, the FDA released the results of an internal audit that found no conflicts^[44] and in 1992 the U.S. General Accounting Office (GAO) conducted an investigation and found 'no conflicting financial interests with respect to the drug's approval' and only 'one minor deviation from now superseded FDA regulations'. (Quotations are from the 1994 GAO report)".^{[43][45]}

Interstate Commerce Commission

Historians, political scientists, and economists have often used the Interstate Commerce Commission (ICC), a now-defunct federal regulatory body in the United States, as a classic example of regulatory capture. The creation of the ICC was the result of widespread and longstanding anti-railroad agitation. Richard Olney joined the Grover Cleveland administration as attorney general not long after the ICC was established. Olney, formerly a prominent railroad lawyer, was asked if he could do something to get rid of the ICC.^[11] He replied,

"The Commission... is, or can be made, of great use to the railroads. It satisfies the popular clamor for a government supervision of the railroads, at the same time that supervision is almost entirely nominal. Further, the older such a commission gets to be, the more inclined it will be found to take the business and railroad view of things.... The part of wisdom is not to destroy the Commission, but to utilize it."^[11]

The Commission was later accused of acting in the interests of railroads and trucking companies. The ICC, critics claimed, set rates at artificially high levels and excluded new competitors through a restrictive permitting process.^[46]

While the Interstate Commerce Act forbade "undue and unreasonable prejudice" against interstate passengers, in the sixty-six years before *Sarah Keys v. Carolina Coach Company* (1955) the ICC had ruled against every black petitioner bringing a racial segregation complaint, earning the nickname "The Supreme Court of the Confederacy".^[47] The ICC then failed to enforce *Keys vs. Carolina Coach*, attempting to justify segregation on a separate but equal basis for six years before being forced by the Department of Justice under then Attorney General Robert F. Kennedy to act in response to the Freedom Riders protests of 1961.^[48]

Nuclear Regulatory Commission

According to Frank N. von Hippel, despite the 1979 Three Mile Island accident in Pennsylvania, the Nuclear Regulatory Commission (NRC) has often been too timid in ensuring that America's 104 commercial reactors are operated safely:

Nuclear power is a textbook example of the problem of "regulatory capture"—in which an industry

gains control of an agency meant to regulate it. Regulatory capture can be countered only by vigorous public scrutiny and Congressional oversight, but in the 32 years since Three Mile Island, interest in nuclear regulation has declined precipitously.^[49]

Then-candidate Barack Obama said in 2007 that the five-member NRC had become "captive of the industries that it regulates" and Joe Biden indicated he had absolutely no confidence in the agency.^[50]

The NRC has given a license to "every single reactor requesting one", according Greenpeace USA nuclear policy analyst Jim Riccio to refer to the agency approval process as a "rubber stamp".^[51] In Vermont, ten days after the 2011 Tōhoku earthquake and tsunami that damaged Japan's Daiichi plant in Fukushima, the NRC approved a 20-year extension for the license of Vermont Yankee Nuclear Power Plant, although the Vermont state legislature had voted overwhelmingly to deny such an extension.^{[51][52]} The Vermont plant uses the same GE Mark 1 reactor design as the Fukushima Daiichi plant.^[51] The plant had been found to be leaking radioactive materials through a network of underground pipes, which Entergy, the company running the plant, had denied under oath even existed. Representative Tony Klein, who chaired the Vermont House Natural Resources and Energy Committee, said that when he asked the NRC about the pipes at a hearing in 2009, the NRC didn't know about their existence, much less that they were leaking.^[51] On March 17, 2011, the Union of Concerned Scientists (UCS) released a study critical of the NRC's 2010 performance as a regulator. The UCS said that through the years, it had found the NRC's enforcement of safety rules has not been "timely, consistent, or effective" and it cited 14 "near-misses" at U.S. plants in 2010 alone.^[53] Tyson Slocum, an energy expert at Public Citizen said the nuclear industry has "embedded itself in the political establishment" through "reliable friends from George Bush to Barack Obama", that the government "has really just become cheerleaders for the industry."^[54]

Although the exception, there have been instances of a revolving door. Jeffrey Merrifield, who was on the NRC from 1997 to 2008 and was appointed by presidents Clinton and Bush, left the NRC to take an executive position at The Shaw Group,^[51] which has a nuclear division regulated by the NRC.^[note 1] However, most former commissioners return to academia or public service in other agencies.

A year-long Associated Press (AP) investigation showed that the NRC, working with the industry, has relaxed regulations so that aging reactors can remain in operation.^[55] The AP found that wear and tear of plants, such as clogged lines, cracked parts, leaky seals, rust and other deterioration resulted in 26 alerts about emerging safety problems and may have been a factor in 113 of the 226 alerts issued by the NRC between 2005 and June 2011.^[55] The NRC repeatedly granted the industry permission to delay repairs and problems often grew worse before they were fixed.^{[55][note 2]}

However, a paper by Stanford University economics professors John B. Taylor and Frank A. Wolak compared the financial services and nuclear industries. While acknowledging both are susceptible in principle to regulatory capture, they concluded regulatory failure — including through regulatory capture — has been much more of a problem in the financial industry and even suggested the financial industry create an analog to the Institute of Nuclear Power Operations to reduce regulatory risk.^[56]

Office of the Comptroller of the Currency

The Office of the Comptroller of the Currency (OCC) has strongly opposed the efforts of the 50 state attorneys general, who have banded together to penalize banks and reform the mortgage modification process, following the subprime mortgage crisis and the financial crisis of 2008. This example was cited in *The New York Times* as evidence that the OCC is "a captive of the banks it is supposed to regulate".^[57]

Securities and Exchange Commission

The United States Securities and Exchange Commission (SEC) has also been accused of acting in the interests of Wall Street banks and hedge funds and of dragging its feet or refusing to investigate cases or bring charges for fraud and insider trading.^[58] Financial analyst Harry Markopolos, who spent ten years trying to get the SEC to investigate Bernie Madoff, called the agency "nonfunctional, captive to the industry."^[59]

Similarly in the case of the Allen Stanford Ponzi scheme, there were repeated warnings of fraud from both inside and outside the SEC for more than a decade.^[60] But the agency did not stop the fraud until 2009, after the Madoff scandal became public in 2008.

The SEC has been found by the U.S. Senate Committee on Finance, the Senate Judiciary Committee and a federal district court to have illegally dismissed an employee in September 2005 who was critical of superiors' refusal to pursue Wall Street titan John Mack. Mack was suspected of giving insider information to Arthur J. Samberg, head of Pequot Capital Management,^[61] once one of the world's largest hedge funds.^[62] After more than four years of legal battles, former SEC investigator Gary J. Aguirre filed papers in a Freedom of Information Act (FOIA) case he had against the SEC, seeking an order to force the SEC to turn over Pequot investigation records to him on the grounds that they had not charged anyone. Aguirre had already provided incriminating evidence of Pequot's insider trading involving Microsoft trades to the SEC in a letter on January 2, 2009.^[63] The morning after Aguirre's FOIA papers were filed,^[63] the SEC announced they had filed charges against Pequot and Pequot had agreed to disgorge \$18 million in illegal gains and pay \$10 million in penalties.^{[62][64]} A month later, the SEC settled Aguirre's wrongful termination lawsuit for \$755,000.^[65]

The list of officials who have left the SEC for highly lucrative jobs in the private sector and who sometimes have returned to the SEC includes Arthur Levitt, Robert Khuzami,^[66] Linda Chatman Thomsen,^[67] Richard H. Walker,^[68] Gary Lynch^[69] and Paul R. Berger.^[70] The Project on Government Oversight (POGO) released a report on May 13, 2011 which found that between 2006 and 2010, 219 former SEC employees sought to represent clients before the SEC.^{[71][72]} Former employees filed 789 statements notifying the SEC of their intent to represent outside clients before the commission, some filing within days of leaving the SEC.^{[71][72]}

Reporter Matt Taibbi calls the SEC a classic case of regulatory capture^[73] and the SEC has been described as an agency that was set up to protect the public from Wall Street, but now protects Wall Street from the public.^[74] On August 17, 2011, Taibbi reported that in July 2001, a preliminary fraud investigation against Deutsche Bank was stymied by Richard H. Walker, then SEC enforcement director, who began working as general counsel for Deutsche Bank in October 2001. Darcy Flynn, an SEC lawyer, the whistleblower who exposed this case also revealed that for 20 years, the SEC had been routinely destroying all documents related to thousands of preliminary inquiries that were closed rather than proceeding to formal investigation. The SEC is legally required to keep files for 25 years and destruction is supposed to be done by the National Archives and Records Administration. The lack of files deprives investigators of possible background when investigating cases involving those firms. Documents were destroyed for inquiries into Bernard Madoff, Goldman Sachs, Lehman Brothers, Citigroup, Bank of America and other major Wall Street firms that played key roles in the 2008 financial crisis. The SEC has since changed its policy on destroying those documents and the SEC investigator general is investigating the matter.^{[75][76]}

Federal Trade Commission

The decision known as *In re Amway Corp.*, and popularly called Amway '79, made the FTC a captive regulator of the nascent Multi-Level Marketing industry. The situation came to a head in December 2012 when hedge fund Pershing Square Capital Management announced an \$1 billion short position against the company, and

evidently expected the FTC to act, which to date it did not. From a forensic accounting standpoint, there is no difference between a Ponzi-scheme like the Madoff scandal, and a pyramid scheme, except that in the latter the money is laundered through product sales, not investment.^[77] The press has widely reported on why the FTC won't act, e.g. Forbes^[78] though legal opinion has been very supportive in some quarters, such as Prof. William K. Black, who was instrumental in bringing thousands of criminal prosecutions in the S&L scandal, which was also rife with problems of regulatory capture.^[79]—Rogier van Vlassingen 13:25, 27 July 2015 (UTC)

District of Columbia Taxicab Commission

The District of Columbia Taxicab Commission has been criticized^[80] for being beholden to taxi companies and drivers rather than ensuring that the District has access to a "safe, comfortable, efficient and affordable taxicab experience in well-equipped vehicles".^[81] In particular, the sedan service Uber has faced impediments from the commission and the city council that have prevented it from competing with taxis.^[82] Uber's plan to roll out a less expensive service called UberX was called off after the city council proposed an amendment that would force sedan services to charge at least five times the drop rate of taxis as well as higher time and distance charges, explicitly to prevent Uber from competing with taxis.^[83]

Washington State Liquor Control Board and I-502

Some commentators have acknowledged that while Washington State's Initiative I-502 "legalized" marijuana, it did so in a manner that led to a State run monopoly on legal marijuana stores with prices far above that of the existing medical dispensaries,^[84] which the State is now trying to close down in favor of the recreational stores, where prices are 2 to 5 times higher than the product can be obtained elsewhere.^[85]

Canadian examples

Canadian Radio-television and Telecommunications Commission

In August 2009, the Canadian Radio-television and Telecommunications Commission (CRTC) provisionally granted a request by Bell Canada to impose usage-based billing on Internet wholesalers, igniting protest from both the wholesalers and consumers, who claimed that the CRTC was "kow-towing to Bell".^[86]

On February 2, 2011, CRTC chair Konrad von Finckenstein testified before the House of Commons Standing Committee on Industry, Science and Technology to defend the agency's decision. Critic Steve Anderson said, "The CRTC's stubbornness in the face of a mass public outcry demonstrates the strength of the Big Telecom lobby's influence. While government officials have recognized the need to protect citizens' communications interests, the CRTC has made it clear that their priorities lie elsewhere."^[87]

Japanese examples

In Japan, the line may be blurred between the goal of solving a problem and the somewhat different goal of making it look as if the problem is being addressed.^[88]

Nuclear and Industrial Safety Agency

Despite warnings about its safety, Japanese regulators from the Nuclear and Industrial Safety Agency (NISA) approved a 10-year extension for the oldest of the six reactors at Fukushima Daiichi just one month before a 9.0 magnitude earthquake and subsequent tsunami damaged reactors^[89] and caused a meltdown. The conclusion to

the Diet of Japan's report on Fukushima attributed this directly to regulatory capture.^[90]

Nuclear opponent^[91] Eisaku Sato, governor of Fukushima Prefecture from 1988–2006, said a conflict of interest is responsible for NISA's lack of effectiveness as a watchdog.^[89] The agency is under the Ministry of Economy, Trade and Industry, which encourages the development of Japan's nuclear industry. Inadequate inspections are reviewed by expert panels drawn primarily from academia and rarely challenge the agency.^[89] Critics say the main weakness in Japan's nuclear industry is weak oversight.^[92] Seismologist Takashi Nakata said, "The regulators just rubber-stamp the utilities' reports."^[93]

Both the ministry and the agency have ties with nuclear plant operators, such as Tokyo Electric. Some former ministry officials have been offered lucrative jobs in a practice called *amakudari*, "descent from heaven".^{[89][92]} A panel responsible for re-writing Japan's nuclear safety rules was dominated by experts and advisers from utility companies, said seismology professor Katsuhiko Ishibashi who quit the panel in protest, saying it was rigged and "unscientific".^{[92][93]} The new guidelines, established in 2006, did not set stringent industry-wide earthquake standards, rather nuclear plant operators were left to do their own inspections to ensure their plants were compliant.^[92] In 2008, the NISA found all of Japan's reactors to be in compliance with the new earthquake guidelines.^[92]

Yoshihiro Kinugasa helped write Japan's nuclear safety rules, later conducted inspections and still in another position at another date, served on a licensing panel, signing off on inspections.^[93]

Ministry of Health, Labour and Welfare (MHLW)

In 1996, the Ministry of Health and Welfare (now combined with the Ministry of Labour) came under fire over the scandal of HIV-tainted blood being used to treat hemophiliacs.^[94]

Although warned about HIV contamination of blood products imported from the U.S., the ministry abruptly changed its position on heated and unheated blood products from the U.S., protecting the Green Cross and the Japanese pharmaceutical industry, keeping the Japanese market from being inundated with heat-treated blood from the United States.^[94] Because the unheated blood was not taken off the market, 400 people died and over 3,000 people were infected with HIV.^[94]

No senior officials were indicted and only one lower-level manager was indicted and convicted.^[95] Critics say the major task of the ministry is the protection of industry, rather than of the population.^[94] In addition, bureaucrats get *amakudari* jobs at related industries in their field upon retirement, a system which serves to inhibit regulators.^[94] Moriyo Kimura, a critic who works at MHLW, says the ministry does not look after the interests of the public.^[95]

International examples

World Trade Organization

The academic Thomas Alured Faunce has argued the World Trade Organisation non-violation nullification of benefits claims, particularly when inserted in bilateral trade agreements, can facilitate intense lobbying by industry which can result in effective regulatory capture of large areas of governmental policy.^[96]

See also

- Campaign finance
- Concentrated benefits and diffuse costs
- Corporate welfare
- Crony capitalism
- Iron triangle (US politics)
- Occupational licensing
- Political corruption
- Regulatory capitalism
- Rent seeking
- Revolving door (politics)

Literature

- *100,000,000 Guinea Pigs*, by Arthur Kallet and F.J. Schlink, first published in 1933

Other American groups promoting transparency

- MAPLight.org, tracks money and politics in the U.S.
- Sunlight Foundation, promotes government transparency and accountability

Notes

1. Pete Domenici, a former U.S. senator now promotes nuclear energy. Over the course of his 20 years in government, he received \$1.25 million in political contributions connected with the energy sector. From 2000 to 2010, the nuclear industry and people who work in it, contributed \$4.6 million to members of Congress, in addition to the \$54 million spent by electric utilities, trade groups and other supporters to hire lobbyists, including some former members of Congress. (See Eric Lichtblau, "Lobbyists' Long Effort to Revive Nuclear Industry Faces New Test" (<http://www.nytimes.com/2011/03/25/us/25lobby.html>) *The New York Times* (March 24, 2011))
2. According to the AP, of the United States' 104 operating nuclear power plants, 82 are over 25 years old, the NRC has re-licensed 66 for an 20 additional years and another 16 renewal applications are under review.

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ECONOMY | TALKING BUSINESS

An Advocate Who Scares Republicans

By **JOE NOCERA** MARCH 18, 2011

The piñata sat alone at the witness table, facing the members of the House subcommittee on financial institutions and consumer credit.

The Wednesday morning hearing was titled “Oversight of the Consumer Financial Protection Bureau.” The only witness was the piñata, otherwise known as Elizabeth Warren, the Harvard law professor hired last year by President Obama to get the new bureau — the only new agency created by the Dodd-Frank financial reform law — up and running. She may or may not be nominated by the president to serve as its first director when it goes live in July, but in the here and now she’s clearly running the joint.

And thus the real purpose of the hearing: to allow the Republicans who now run the House to box Ms. Warren about the ears. The big banks loathe Ms. Warren, who has made a career out of pointing out all the ways they gouge financial consumers — and whose primary goal is to make such gouging more difficult. So, naturally, the Republicans loathe her too. That she might someday run this bureau terrifies the banks. So, naturally, it terrifies the Republicans.

The banks and their Congressional allies have another, more recent gripe. Rather than waiting until July to start helping financial consumers, Ms. Warren has been trying to help them now. Can you believe the nerve of that woman?

At the request of the states’ attorneys general, all 50 of whom have banded together to investigate the mortgage servicing industry in the wake of the foreclosure crisis, she has fed them ideas that have become part of a settlement proposal they are

putting together. Recently, a 27-page outline of the settlement terms was given to banks — terms that included basic rules about how mortgage servicers must treat defaulting homeowners, as well as a requirement that banks look to modify mortgages before they begin foreclosure proceedings. The modifications would be paid for with \$20 billion or so in penalties that would be levied on the big banks.

Naturally, the banks hate these ideas, too. So the Republican members of the subcommittee had another purpose as well: to use the hearing to serve as a rear-guard action against the proposed settlement.

“Under what statutory authority are you currently acting?” demanded Representative Patrick McHenry, a Republican from North Carolina, questioning the legitimacy of her role in setting up the consumer bureau. He also questioned whether the government had the right to impose a \$20 billion penalty on the banks — and then use that money for (heaven forbid) mortgage modifications.

Spencer Bachus, Republican of Alabama, the new chairman of the Financial Services Committee, wanted to know how closely Ms. Warren had been consulting with the White House and Treasury Secretary Timothy Geithner about naming a director for the bureau — and whether she would accept a recess appointment “knowing the type of blowback from that.” (A recess appointment is a temporary appointment the president can make when the Senate is in recess, thus avoiding the need for Senate confirmation.)

Representative Steve Pearce, Republican of New Mexico, said that he fully expected the Consumer Financial Protection Bureau to be no better than “the S.E.C. and Mr. Madoff.” “Within two years,” he added, “your agency is going to be operating exactly the same, that it’s simply out there grinding wheels away.”

Representative Scott Garrett, Republican of New Jersey, zeroed in on the proposed settlement. Where in the statute did she have the authority to consort with the attorneys general? he demanded to know. “Are you making recommendations to government regulators about the dollar amount?” he badgered. “Is that part of your role, to make recommendations about dollar amounts?”

On and on it went, until the hearing sputtered to a close, two and a half hours

after the browbeating had begun.

To listen to the House Republicans, you'd think the financial crisis of 2008 was like that infamous season of the long-running soap opera "Dallas," the one that turned out to be a season-long dream. Subprime mortgages? Too-big-to-fail banks? Unregulated derivatives? No problem! With the exception of their *bête noire*, Fannie Mae and Freddie Mac, the Republicans act as if nothing needs to be done to prevent another crisis. Indeed, they act as if the crisis never happened.

The home page on the House Financial Services Committee's Web site has been turned into a screed against Dodd-Frank. Clearly, the committee is going to spend this session trying to minimize the effect of the legislation, starving agencies of the funds needed to enact the regulations mandated by the new law, for instance. In fact, that effort has already begun.

It's not just the House Republicans either. Already the Office of the Comptroller of the Currency has reverted to form, becoming once again a captive of the banks it is supposed to regulate. (It has strenuously opposed the efforts of the A.G.'s to penalize the banks and reform the mortgage modification process, for instance.) The banks themselves act as if they have a God-given right to the profit they made precrisis, and owe the country nothing for the trouble they've put us all through. The Justice Department has essentially given up trying to make anyone accountable for the crisis.

Thank goodness, then, for the attorneys general — and for Ms. Warren. On Main Street, where the attorneys general operate, it is pretty obvious that problems persist. During the subprime boom, many states tried to stop the worst lending abuses, only to be blocked by federal banking regulators. Now that the country is dealing with the aftermath of those abuses — the rising tide of defaults and foreclosures — it is the attorneys general who are, once again, put in the position of trying to stamp out abuses, this time of the foreclosure process itself.

Their leverage comes from the fact that the banks and their servicing divisions have, in the words of the University of Minnesota law professor Prentiss Cox, "routinely violated basic legal process" by, for instance, not transferring the note after

the sale of a home. But in addition to assessing a financial penalty on the banks, the A.G.'s are trying to use the threat of litigation to force the banks to finally deal with defaulting homeowners more fairly and humanely. That is the essence of the settlement proposal that has been floating around. That — and a big push to finally come up with a modification plan that works.

When I spoke to Tom Miller, the Iowa attorney general — and the leader in this 50-state effort — he said that one reason he had asked Ms. Warren for advice was that she had already hired people with genuine expertise that he wanted to take advantage of. But that's not the only reason. If the banks were to agree to settle the case on the A.G.'s terms, the Consumer Financial Protection Bureau would be the agency charged with enforcing the terms. So it makes sense to include its current leadership as they work through ideas for a settlement. Besides, the A.G.'s don't really trust anybody else in the federal government to be on the side of financial consumers. Given their previous experience, why would they? Ms. Warren is the one person in Washington they feel is on the same side they're on.

The notion that Ms. Warren lacks statutory authority to talk to the attorneys general is an objection so silly it is hard to take seriously. Consulting with the only government officials around who are actually trying to do something for financial consumers is precisely what she ought to be doing. Given that her agency could wind up enforcing the terms, it's practically a necessity.

As for the idea the Republicans have been spreading talk that the attorneys general are overstepping their bounds by trying to force reform — and a big penalty — on the mortgage servicers, that's pretty silly, too. As Adam Levitin, a Georgetown law professor, has pointed out on his blog recently, settlements are private agreements between two parties. The banks can accept what the A.G.'s are proposing. Or they negotiate different terms. Or they can reject them outright, and go to court to fight over the proper remedy. It's really not any different from the multistate tobacco settlement of some years ago, which imposed some minor reforms on the tobacco industry along with a giant financial penalty. Congress had nothing to do with it.

I wish I could say with certainty that the ideas put forth by the attorneys general will finally help ease the foreclosure crisis. I hope they do. Mr. Levitin thought there

was a decent likelihood of success; Mr. Cox, a former assistant attorney general himself, was also hopeful — though more skeptical. “So much of it rides on how well it is enforced,” he said.

Which is also why Ms. Warren is the most logical person to be the agency’s initial director: if the settlement does come to pass, no one will understand its terms better, or have a better feel for how to enforce them. Let’s face it: there isn’t anybody in Washington more fearless about standing up to the big banks. No wonder they don’t like her.

As I listened to her on Wednesday, I was struck anew at how clearly she articulates the need for the new bureau. “If there had been a cop on the beat to hold mortgage servicers accountable a half dozen years ago,” she said at one point, “the problems in mortgage servicing would have been found early and fixed while they were still small, long before they became a national scandal.”

Senate Republicans have vowed to block her appointment if President Obama nominates her. Yet even if her nomination goes down in flames, Senate confirmation hearings would be clarifying. Americans would get to hear Ms. Warren explain why the Consumer Financial Protection Bureau has the potential to help Americans. And they would get to hear Republicans explain why the status quo — including the everyday horror of the foreclosure mess — is just fine.

It has been much noted in recent months that President Obama seems unwilling to start a fight with Republicans. Maybe that’s why he has shied away from nominating Ms. Warren to a job for which she is so clearly suited. But if protecting financial consumers — and helping the millions of Americans struggling to hold onto their homes — isn’t worth fighting for, then what is?

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FEDERAL RESERVE BANK OF SAN
FRANCISCO

E D U C A T I O N

D R . E C O N

Is the Federal Reserve a privately owned corporation?

September 2003

Yes and no. The Federal Reserve (the Fed) enjoys a unique public/private structure that operates within the government, but is still relatively independent of government to isolate the Fed from day-to-day political pressures in fulfilling its varying roles. As stated in *The Federal Reserve System Purposes & Functions*:

The Federal Reserve System is considered to be an independent central bank. It is so, however, only in the sense that its decisions do not have to be ratified by the President or anyone else in the executive branch of the government. The entire System is subject to oversight by the U.S. Congress....the Federal Reserve must work within the framework of the overall objectives of economic and financial policy established by the government.

History

Prior to the Fed's formation, the United States experienced a number of economic downturns and financial panics. To help alleviate the problems associated with these swings in the economy, President Woodrow Wilson signed the Federal Reserve Act on December 23, 1913. The act's opening paragraph outlines its varying functions:

An Act to provide for the establishment of Federal reserve banks, to furnish an elastic currency, to afford means of rediscounting commercial paper, to establish a more effective supervision of banking in the United States, and for other purposes.

Since 1913, legislation has passed to augment some of the act's original purposes and to clarify the varying roles of the Fed.

Structure

Congress set up the Federal Reserve System to make it autonomous and to isolate it from day-to-day political pressures. For example, the members of the Board of Governors are appointed to serve 14-year terms that do not coincide with presidential terms. Key components of the Federal Reserve System are:

- The *Board of Governors*—Located in Washington, D.C., Board members are appointed by the U.S. President and confirmed by the U.S. Senate. Board members and staff are civil service employees.
- The *12 regional Reserve Banks*—Located around the country,

<http://www.frbsf.org/education/publications/doctor-econ/2003/september/private-public-corporation>
the 12 Federal Reserve Banks are chartered as private corporations. Employees are not civil service.

- The *Federal Open Market Committee* (FOMC)—Composed of the Federal Reserve Governors and the Federal Reserve Bank presidents, the FOMC is charged with conducting monetary policy.

The 12 Federal Reserve Banks operate like other businesses; each has its own board of directors that selects the Reserve Bank president and first vice president, with approval from the Board of Governors. Each Branch of a Reserve Bank has its own board of directors. A majority of these directors are appointed by the Branch's Reserve Bank; the others are appointed by the Board of Governors.

Boards of directors of the Reserve Banks and their Branches provide the Federal Reserve System with a wealth of information on economic conditions in every corner of the nation. The information, along with other sources, is used by the FOMC and the Board of Governors when reaching decisions about monetary policy.

Key Responsibilities

While Congress establishes key objectives the Fed must follow, the Fed generally works independently of the federal government to administer its core responsibilities.

Those duties include:

- Conducting monetary policy
- Supervising and regulating banking and financial institutions
- Providing payments services to financial institutions

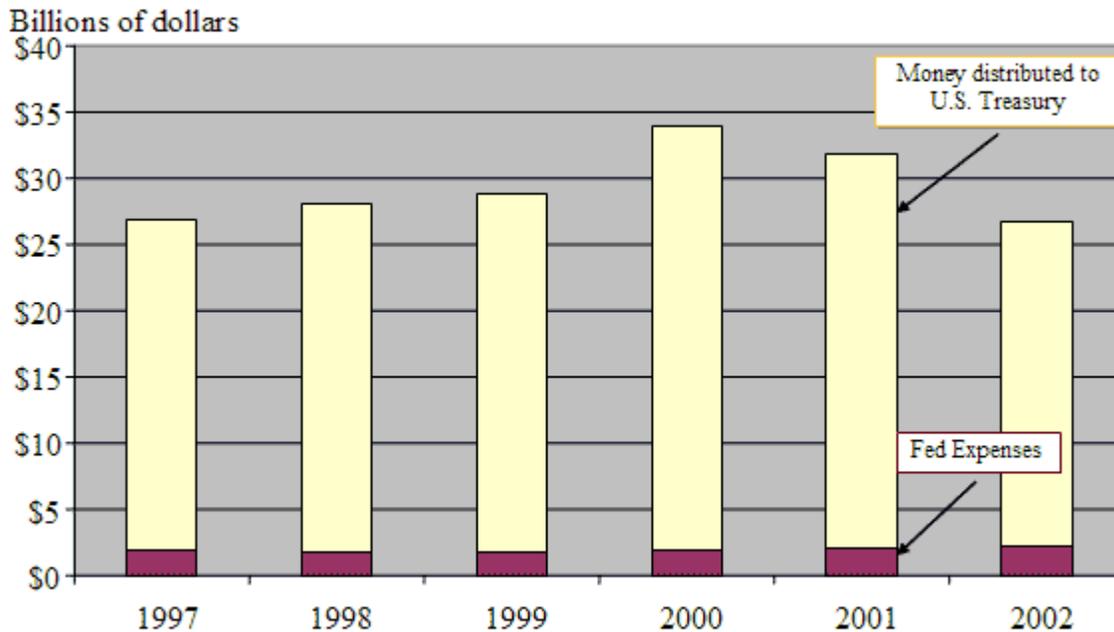
The 12 Federal Reserve Banks have “independent” research staffs that advise their Reserve Bank presidents on monetary policy and the economy. Each Reserve Bank also has regulatory responsibilities including the supervision and regulation of financial institutions. The Reserve Banks also handle the Federal Reserve System’s business operations—it is in this area that Reserve Banks operate more like private businesses, selling services like electronic funds transfers, check processing, and coin and currency services to financial institutions.

Funding

Congress also created the Federal Reserve System to be self-funding. The Fed earns interest on the interest-bearing government securities it holds in its portfolio and sells financial services to banks. This amount is reported each year in its annual report. The Fed’s earnings typically far exceed its expenses. However, unlike for profit corporations, the Fed distributes any profit (after costs) to the U.S. Treasury. In 2002, the Fed’s operating revenues were \$26.7 billion, expenses total \$2.2 billion, and \$24.5 billion was paid to the treasury as “interest on Federal Reserve Notes.” The graph below displays the flow of the Fed’s annual payments to the U.S. Treasury for the past five years.

<p align="center"

The Federal Reserve's Annual Expenses and Payments to the U.S. Treasury



Source: Federal Reserve Board 2002 Annual Report

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